SANTA BARBARA MUNICIPAL CODE

A Codification of the Ordinances
of the
City of Santa Barbara, California

Last Updated June 16, 2016

TITLE 1
General Provisions

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5700	Citation Authority of Community Service Officer Classification	July 2, 2015	Section 1.20.060

TITLE 1

GENERAL PROVISIONS

Chapter: 1.01 Adoption of Code
Chapter: 1.04 Definitions
Chapter: 1.12 Corporate Seal
Chapter: 1.16 Posting Ordinances
Chapter: 1.20 Arrest and Citations
Chapter: 1.25 Administrative Code Enforcement Procedures
Chapter: 1.28 Penalty
Chapter: 1.30 Appeals from Administrative Decisions and Time Limits for Judicial Review of Administrative Decisions
Chapter: 1.35 Monetary Claims Against the City

Chapter 1.01

ADOPTION OF CODE

Section:

1.01.010 Code Cited and Adopted.
1.01.020 Severability.

1.01.010 Code Cited and Adopted.

That certain document, copies of which are now on file in the Office of the City Clerk, being marked and designated "Santa Barbara Municipal Code" is hereby adopted by reference as the Code of the City of Santa Barbara, which document is a codification of the general ordinances of the City of Santa Barbara. (Ord. 3769, 1975; Ord. 3189 §1, 1966.)

1.01.020 Severability.

If any title, chapter, section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code. The City Council hereby declares that it would have passed this, and each title, chapter, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the titles, chapters, sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

This section shall apply to the entire Code as enacted on the date that this section first became effective (January, 1981) and as subsequently amended. (Ord. 4084, 1980.)

Chapter 1.04

DEFINITIONS

Sections:

1.04.010	**Generally.**	**1.04.170**	**Official Time.**
1.04.020	**Gender.**	**1.04.190**	**Person.**
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1.04.050	**Code.**	**1.04.210**	**Preceding, Following.**
1.04.060	**Computation of Time.**	**1.04.220**	**Property.**
1.04.070	**Council.**	**1.04.230**	**Real Property.**
1.04.080	**County.**	**1.04.240**	**Shall, May.**
1.04.090	**Day.**	**1.04.250**	**Signature or Subscription by Mark.**
1.04.100	**Daytime, Nighttime.**	**1.04.260**	**State.**
1.04.110	**In the City.**	**1.04.270**	**Tenant or Occupant.**
1.04.120	**Joint Authority.**	**1.04.280**	**Tenses.**
1.04.130	**Month.**	**1.04.290**	**Week.**
1.04.140	**Number.**	**1.04.300**	**Writing.**
1.04.150	**Oath.**	**1.04.310**	**Year.**
1.04.160	**Officer, Department, Etc.**		

1.04.010 Generally.

Unless the context otherwise requires, or unless other definitions are given for specific ordinances, or unless the Charter expressly or impliedly otherwise requires, the following words and phrases where used in the ordinances of the City of Santa Barbara shall be given the meaning and construction given in this chapter. (Ord. 3248 §1, 1967; Ord. 3132 §1(part), 1966.)

1.04.020 Gender.

The masculine gender includes the feminine and neuter. (Ord. 3132 §1(part), 1966.)

1.04.040 City.

"The City" or "this City" shall be construed as if followed by the words "of Santa Barbara". (Ord. 3132 §1(part), 1966.)

1.04.050 Code.

"The Code" or "this Code" means "the Code of the City of Santa Barbara". (Ord. 3132 §l(part), 1966.)

1.04.060 Computation of Time.

"Computation of time" means the time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday and then it is also excluded. (Ord. 3132 §1(part), 1966.)

1.04.070 Council.

"Council" means the City Council of the City of Santa Barbara. (Ord. 3132 §1(part), 1966.)

1.04.080 County.

"The County" or "this County" means the County of Santa Barbara. (Ord. 3132 §1(part), 1966.)

1.04.090 Day.

"Day" is the period of time between any midnight and the midnight following. (Ord. 3132 §1(part), 1966.)

1.04.100 Daytime, Nighttime.

"Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise. (Ord. 3132 §1(part), 1966.)

1.04.110 In the City.

"In the City" means and includes all territory over which the City now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers. (Ord. 3132 §1(part), 1966.)

1.04.120 Joint Authority.

All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers unless otherwise specified. (Ord. 3132 §1(part), 1966.)

1.04.130 Month.

"Month" means a calendar month. (Ord. 3132 §1(part), 1966.)

1.04.140 Number.

The singular number includes the plural, and the plural the singular. (Ord. 3132 §1(part), 1966.)

1.04.150 Oath.

"Oath" includes affirmation. (Ord. 3132 §1(part), 1966.)

1.04.160 Officer, Department, etc.

Every officer, department, board, commission or similar body mentioned in this Code means an officer, department, board, commission, or similar body of the City of Santa Barbara, unless otherwise specified. (Ord. 3132 §1(part), 1966.)

1.04.170 Official Time.

Whenever certain hours are named herein, they shall mean Pacific Standard Time or Daylight Savings Time as may be in current use in the City. (Ord. 3132 §1(part), 1966.)

1.04.190 Person.

"Person" includes any person, firm, association, organization, partnership, business trust, corporation or company. (Ord. 3132 §1(part), 1966.)

1.04.200 Personal Property.

"Personal property" includes every species of property, except real property, as herein defined. (Ord. 3132 §1(part), 1966.)

1.04.210 Preceding, Following.

The words "preceding" and "following" mean next before and next after, respectively. (Ord. 3132 §1(part), 1966.)

1.04.220 Property.

"Property" includes real and personal property. (Ord. 3132 §1(part), 1966.)

1.04.230 Real Property.

"Real property" includes land, tenements and hereditaments. (Ord. 3132 §1(part), 1966.)

1.04.240 Shall, May.

"Shall" is mandatory, and "may" is permissive. (Ord. 3132 §1(part), 1966.)

1.04.250 Signature or Subscription by Mark.

"Signature" or "subscription" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two (2) witnesses so sign their own names thereto. (Ord. 3132 §1(part), 1966.)

1.04.260 State.

"The State" or "this State" means the State of California. (Ord. 3132 §1(part), 1966.)

1.04.270 Tenant or Occupant.

"Tenant" or "occupant", applied to a building or land, includes owners or any person holding a written or oral lease of or who occupies, the whole or a part of such building or land, either alone or with others. (Ord. 3132 §1(part), 1966.)

1.04.280 Tenses.

The present tense includes the past and future tenses, and the future includes the present. (Ord. 3132 §1(part), 1966.)

1.04.290 Week.

A week consists of seven (7) consecutive days. (Ord. 3132 §1(part), 1966.)

1.04.300 Writing.

"Writing" includes any form of a recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise. (Ord. 3132 §1(part), 1966.)

1.04.310 Year.

"Year" shall mean a calendar year, except where otherwise provided. (Ord. 3132 §1(part), 1966.)

Chapter 1.12

CORPORATE SEAL

Section:
1.12.010 Corporate Seal.

1.12.010 Corporate Seal.

The Seal of the City shall be a circle one and three-fourths inches (1-3/4") in diameter, and there shall be upon it the words "Seal of the City of Santa Barbara, California", and the design of a bay, ship and the rising sun; and the Seal heretofore used by the City and bearing such words and design is hereby adopted as and for the corporate Seal of the City. (Prior Code §1.8.)

Chapter 1.16

POSTING ORDINANCES

Section:

1.16.010 Posting Places for Ordinances Listed.

1.16.010 Posting Places for Ordinances Listed.

The following places within the City are hereby fixed and established as the places at which there shall be posted copies of such ordinances of the City as the Council of the City may direct to be posted in lieu of publication in a newspaper:

(1) Bulletin board, at entrance to Council Chamber in City Hall, De la Guerra Plaza.

(2) Bulletin board, at the entrance to County Courthouse, which is nearest to the intersection of Anacapa and Figueroa Streets.

(3) Entrance, City Fire Station, 1802 Cliff Drive.

(4) Entrance, City Fire Station, 701 East Haley Street.

(5) Entrance, City Fire Station, 3030 De la Vina Street. (Ord. 3186 §1, 1966; prior Code §2.4.)

Chapter 1.20

ARREST AND CITATIONS

Sections:

1.20.010 Arrest - Notice to Appear in Court - Delivery.

1.20.020 Notice to Judge - Bail Fixed, Forfeited - Deposit to Treasury.

1.20.030 Warrant - Promise to Appear - Failure to Appear or Deposit Bail.

1.20.040 Violation of Promise - Misdemeanor.

1.20.050 Promise to Appear - Failure to Post Bail - Action.

1.20.060 Community Service Officer.

1.20.010 Arrest - Notice to Appear in Court - Delivery.

When any person is arrested for a violation of any City ordinance and such person is not immediately taken before a magistrate, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.

The time specified in the notice to appear must be at least ten (10) days after such arrest.

The place specified in the notice to appear shall be before the judge of the Municipal Court of the Santa Barbara Judicial District.

The officer shall deliver one (1) copy of the notice to appear to the arrested person and the arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody. (Ord. 3769, 1975; Ord. 2682 §1, 1958; prior Code §1.71.)

1.20.020 Notice to Judge - Bail Fixed, Forfeited - Deposit to Treasury.

The officer shall, as soon as practicable, file the duplicate notice with the judge of the Municipal Court. Thereupon, the judge shall fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant, and shall endorse upon the notice a statement signed by him in the form set forth in Section 815 of the Penal Code. The defendant may, prior to the date upon which he promised to appear in court, deposit with the judge the amount of bail thus set. Thereafter at the time when the case is called for arraignment before the judge, if the defendant shall not appear either in person or by counsel, the judge may declare the bail forfeited and may in his discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had all sums deposited as bail shall forthwith be paid into the County Treasury for distribution pursuant to Section 1463 of the Penal Code. (Ord. 2686 §2, 1966; prior Code §1.72.)

1.20.030 Warrant - Promise to Appear - Failure to Appear or Deposit Bail.

No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law. (Ord. 2683 §3, 1966; prior Code §1.73.)

1.20.040 Violation of Promise - Misdemeanor.

Any person willfully violating his written promise to appear in court is guilty of a misdemeanor regard-less of the disposition of the charge upon which he was originally arrested. (Ord. 2686 §4, 1966; prior Code §1.74.)

1.20.050 Promise to Appear - Failure to Post Bail - Action.

When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 1.20.020 of this Code, the judge shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised or if such person promises to appear before an officer authorized to accept bail other than the judge and fails to do so on or before the date he promised to appear, then within twenty (20) days after the delivery of such written promise to appear by the officer to the judge.

When such person violates his promise to appear before an officer authorized to receive bail other than the judge, the officer shall immediately deliver to the judge having jurisdiction over the offense charged, the written promise to appear and the complaint if any, filed by the arresting officer. (Ord. 2686 §5, 1966; prior Code §1.75.)

1.20.060 Community Service Officer.

The City may establish a Community Service Officer classification pursuant to Santa Barbara Municipal Code section 3.04.040. The Community Service Officer is authorized pursuant to California Penal Code section 836.5, and by this section, to issue a criminal citation provided that the employee has first completed an introductory course of training prescribed by the Commission on Peace Officer Standards and Training pursuant to Penal Code section 832. The Community Service Officer shall be required to wear a distinctive uniform, as prescribed by the Chief of Police. The Community Service Officer is designated as an employee who has the duty to enforce the Santa Barbara Municipal Code and issue a criminal citation to a person, without warrant, whenever such employee has reasonable cause to believe that the person has committed a misdemeanor or an infraction in the presence of the employee. (Ord. 5700, 2015.)

Chapter 1.25

ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES

Sections:

1.25.010 Purpose; Adoption of Administrative Guidelines.
1.25.020 Applicability.
1.25.030 Definitions.
1.25.040 Maintaining Public Nuisances Prohibited.
1.25.050 Abatement of Unlawful Conditions - Notice.
1.25.060 Extensions of Time.
1.25.070 Amount of Civil Fines.
1.25.080 Manner of Payment - Civil Fines.
1.25.090 Appeal of Notice of Administrative Citation.
1.25.100 Hearing Procedures.
1.25.110 Appeal Decision.
1.25.120 Right to Judicial Review.
1.25.130 Collection of Unpaid Fines.

1.25.010 Purpose; Adoption of Administrative Guidelines.

A. **Purpose.** The purpose of this Chapter is to enable the City, acting as a charter city pursuant to Article XI, Sections 5 and 7 of the state Constitution, to impose and collect civil administrative fines in conjunction with the enforcement of provisions of this Code. Notwithstanding the provisions herein, the City has and shall continue to employ the philosophy of voluntary compliance when seeking compliance with this Code. Prior to the implementation of the enforcement policies and penalties stated herein, voluntary compliance approaches shall first be used in order to educate City property owners and businesses concerning the requirements of this Code and the corrective action necessary to correct a violation of this Code, unless an immediate danger to health or safety exists.

B. **Administrative Guidelines Approved by the City Council.** Concurrently with the adoption of the ordinance establishing this Chapter, the City Administrator shall prepare and promulgate administrative guidelines which shall, among other things, establish policies for providing appropriate and adequate warnings with respect to possible Municipal Code violations to those persons who may receive an administrative citation, to provide direction to City staff for the correct process of issuing a Notice of Administrative Citation, and to establish the proper format of the Notice of Administrative Citation and for service of that Notice in a manner consistent with the requirements of due process (hereinafter referred to as the "Administrative Guidelines"). Such Administrative Guidelines shall be adopted by a resolution of the City Council. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.020 Applicability.

A. **ENFORCEMENT OF THE MUNICIPAL CODE.** This Chapter makes any violation of the provisions of the Santa Barbara Municipal Code, including but not limited to all uniform construction codes adopted by reference and as amended pursuant to Chapter 22.04 of the Code, subject to administrative fines.

B. **ADMINISTRATIVE AUTHORITY.** This Chapter establishes the procedures for the imposition, enforcement, collection, and review of civil administrative fines pursuant to California Government Code section 53069.4 and pursuant to the City's plenary police powers as a charter city.

C. **REMEDIES NOT EXCLUSIVE.** The use of the administrative enforcement remedies provided by this Chapter is solely at the City's discretion. By adopting this Chapter, the City does not intend to limit its discretion to exercise any other remedy, civil or criminal, or other administrative procedures, for the abatement of such violations that the City may select in a particular case, including procedures for the imposition of civil or criminal penalties.

D. **STRICT LIABILITY OF THE OWNER.** Because serious Code violations may impact public health, welfare, safety, and the adequacy and safety of housing, this Chapter is intended to impose strict civil liability upon the owners of real property (or the owner of a business where the violation is caused by or relates to the operation of a business) for all violations of the Santa Barbara Municipal Code which may occur in the City of Santa Barbara regardless of the existence of specific or general intent or prior knowledge of such violations and, further, regardless of any intent (or lack thereof) to violate the Code. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.030 Definitions.

The following definitions apply to the use of these terms for the purposes of this chapter:

A. **CODE VIOLATION**. Any violation of the Santa Barbara Municipal Code.

B. **DIRECTOR.** The City Department Head (or an expressly designated representative thereof) with responsibility for a particular title of this Code.

C. **HEARING ADMINISTRATOR**. The person or committee appointed by the City Administrator to serve as the hearing officer or committee for administrative appeal hearings.

D. **ISSUED**. Giving, mailing, or posting a Notice of Administrative Citation to a person where "issuance" is deemed to have occurred on the earlier of the date when a Notice of Administrative Citation is personally served on a person, the date it is mailed to a person by posting in the regular United States mail, or the date it is physically posted on real property where a property related Code violation is occurring or has occurred.

E. **NOTICE OF ADMINISTRATIVE CITATION.** An official City Municipal Code violation notice issued to a person(s) notifying them that they are in violation of the Santa Barbara Municipal Code with respect to certain real property or the operation of a certain business. In the case of an initial notice, if the violation has not been corrected by a specified date, a civil administrative fine will be imposed. Subsequent notices regarding the same or similar type of violation, within any twelve-month period, may be cause for imposing additional administrative fines without warning.

F. **PERSON**. Any of the following:

1. An individual who causes a Code violation to occur.
2. An individual who maintains or allows a Code violation to continue, by his or her action or failure to act in a lawful manner.
3. An individual whose agent, employee, or independent contractor causes a Code violation by its action or failure to act in a lawful manner.
4. An individual who is an owner of real property where a property related Code violation occurs.
5. An individual who is an owner of a business or who is the on-site manager of a business and who normally works at the site when the business is open and is responsible for the activities at such premises.

For purposes of this subsection "person" includes a natural person or a legal entity, including but not limited to the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity. There shall be a legally rebuttable presumption that the record owner of a parcel as listed on the County's latest equalized property tax assessment rolls is the person responsible for a Code violation on such parcel. In addition, where applicable, a commercial lessee, sublessee, or operator of a business on a parcel shall be presumed responsible for Code violations relating to the operation of the business (for example, sign ordinance violations) on that parcel. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.040 Maintaining Public Nuisances Prohibited.

Pursuant to the authority of California Government Code section 38771 and the City Charter, any continuing violation of the Santa Barbara Municipal Code constitutes a public nuisance. Therefore, any person owning or having possession of any real property in the City of Santa Barbara who is in violation of any provision of the Santa Barbara Municipal Code may be determined to be maintaining a public nuisance provided, however, that it shall not be the intent of the City that this Chapter preempt any private nuisance right of action or any and all other legal remedies available to private parties to abate such nuisances. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.050 Abatement of Unlawful Conditions - Notice.

A. **INSPECTIONS.** Whenever the Director has inspected a property and finds that conditions constituting a violation of the Municipal Code exist thereon, the Director may use the procedures set forth in this Chapter to enforce the provisions of the Municipal Code as authorized by law.

B. **NOTICE OF ADMINISTRATIVE CITATION ISSUANCE.** The Director may issue a Notice of Administrative Citation for a violation to any person or persons whom the Director deems appropriate if the Director has determined, through investigation, that a violation exists. A person to whom a Notice of Administrative Citation is issued shall be liable for and shall pay to the City the administrative fine or fines described in the Notice of Administrative Citation when due pursuant to the provision of this Chapter.

C. **DEVELOPMENT REVIEW CONDITIONS.** Every person who applies for and receives a permit, license, or any type of land use approval (such as, but not limited to, a development review approval, a coastal development permit, a subdivision map approval, a conditional or special use permit, a zoning requirement modification, a variance, or other discretionary approval under Title 22, Title 27 or Title 28 of the Code) shall comply with all mandatory approval conditions imposed upon the issuance of the permit, license, or other such approval. If a person violates any condition of such permit, license, or similar land use approval, that person may be issued a Notice of Administrative Citation and may be held responsible for administrative fines under the provisions of this Chapter.

D. **CONTINUING VIOLATIONS.** Each day a violation of this Code exists shall be a separate and distinct violation and may be subject to a separate administrative fine. A Notice of Administrative Citation may charge a violation for one or more days on which a violation exists and for violation of one or more applicable Code sections.

E. **PRIOR VIOLATIONS.** The City may take into consideration the fact that a person has been previously issued a Notice of Administrative Citation when the City is determining whether to accept an application or to grant any permit, license or any similar type of land use approval for that person, and such Notice of Administrative Citation may be used as evidence that the person has committed acts that are not compatible with the health, safety, and general welfare of other persons and businesses within the City.

F. **CONTENTS OF NOTICE.** The administrative guidelines as approved by the City Council pursuant to Section 1.25.010 hereof shall, among other things, identify those items of information which must be contained in the Notice of Administrative Citation issued to persons and allege a violation of the Municipal Code.

G. **SERVICE OF NOTICE.** The Notice of Administrative Citation and any amended Notice of Administrative Citation shall be served by mail, personal service, or posting in the manner provided for in the approved Administrative Guidelines.

H. **PROOF OF SERVICE.** Proof of personal service of the Notice of Administrative Citation shall be documented as provided for in the approved Administrative Guidelines. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.060 Extensions of Time.

If the Director receives a request from any person required to comply with a Notice of Administrative Citation, the Director may grant an extension of any fine due date and abatement deadline if the Director determines that such an extension of time will not create or perpetuate imminent danger to public health and safety. The Director shall have the authority to place reasonable conditions on such an extension. (Ord. 5113, 1999.)

1.25.070 Amount of Civil Fines.

A. **FINE SCHEDULE.** The amount of fines for violating particular provisions of the Code shall be set in a schedule of fines adopted by resolution by the City Council concurrently with the ordinance adopting this Chapter. The schedule may include escalating fine amounts for repeat Code violations occurring within specified periods of time.

B. **DUE DATE FOR FINES.** Fines are due on the day specified in the Notice of Administrative Citation, or, in the event of an appeal, as determined by the Hearing Administrator. (Ord. 5113, 1999.)

1.25.080 Manner of Payment - Civil Fines.

A. **PAID BY MAIL.** Fines shall be paid to the Director within thirty (30) days of the due date. Payment shall be made by check or money order. The Director, for purposes of convenience and ease of processing, may authorize payment to be made in accordance with any other method, including designating a location within the City for such payments.

B. **FURTHER VIOLATIONS.** Payment of an administrative fine shall not excuse the person from correcting the Code violation. The issuance of a Notice of Administrative Citation or the payment of a fine does not preclude the City from taking any other enforcement or legal action regarding a Code violation that is not corrected, including issuing additional Notices of Administrative Citation or the initiation of criminal or Superior Court civil abatement proceedings. (Ord. 5113, 1999.)

1.25.090 Appeal of Notice of Administrative Citation.

A. **APPEAL TO HEARING ADMINISTRATOR.** Any person aggrieved by the action of the Director in issuing a Notice of Administrative Citation pursuant to the provisions of this chapter may appeal such notice to the Hearing Administrator. If no appeal is filed within ten (10) days of the date of issuance of the Notice of Administrative Citation, the order of the Director shall be deemed final.

B. **CORRECTIONS.** Revocation of the Notice of Administrative Citation by the Hearing Administrator or voluntary abatement of the nuisance either on or prior to the Notice of Administrative Citation due date, and any authorized extensions thereto, shall cause the case to be closed.

C. **CONTESTED APPEALS.** To appeal a Notice of Administrative Citation, the person receiving the Notice (the "appellant") shall file a signed written request following the appeal procedures outlined in the Notice of Administrative Citation. An appellant may contest the Notice of Administrative Citation by denying that a violation occurred, by denying that it was not corrected within the required correction period or, if applicable, by establishing that he or she is not the owner of the real property or the owner of the business at the time the violation should have been corrected.

D. **RECEIPT OF AN APPEAL REQUEST.** To be effective, the appeal request must be received by the Director within ten (10) days of the date the Notice of Administrative Citation was issued. Where a request is mailed by the appellant, the request shall be deemed filed on the date received by the Director. The Director is authorized to designate an address on the Notice of Administrative Citation to which such appeal requests shall be mailed. (Ord. 5113, 1999.)

1.25.100 Hearing Procedures.

A. **APPLICABLE HEARING ADMINISTRATOR.** The Hearing Administrator shall be designated by the City Administrator in the Administrative Guidelines.

B. **TIME AND PLACE OF HEARINGS.** Hearings shall be conducted by the Hearing Administrator on the date, time, and place specified by the City.

C. **APPEAL RECORDS.** The Director shall ensure that the pertinent Notice of Administrative Citation is delivered to the Hearing Administrator in sufficient time prior to the appeal hearing. Before the hearing, the Director shall also make available to the appellant a copy of any additional information concerning the Notice of Administrative Citation which will be provided to the Hearing Administrator.

D. **PRESENTATION OF EVIDENCE.** The appellant shall be given the opportunity to testify and to present evidence relevant to the Code violation specified in the Notice of Administrative Citation.

E. **USE OF REPORTS AS EVIDENCE.** The Notice of Administrative Citation and any other reports prepared by City staff or by the Director concerning a Code violation or attempted correction of a Code violation that are provided to the Hearing Administrator shall be accepted by the Hearing Administrator as prima facie evidence of the Code violation and the facts stated in such documents.

F. **STAFF WITNESSES/ADDITIONAL EVIDENCE.** Neither City staff nor any other representative of the City shall be required to attend the appeal hearing, nor shall the Hearing Administrator require that there be submitted any evidence, other than the Notice of Administrative Citation, that may exist among the public records of the City with respect to the violation. However, any such appearance or submission may be made at the discretion of the Director.

G. **CONTINUANCES.** The Hearing Administrator may continue an appeal hearing if a request is made showing good cause by the appellant or the Director. All continuance requests shall either: (1) be made in person at the hearing by the appellant or his or her representative if the appellant is physically unable to attend, or (2) be made by a written request by the Director or the appellant. If the continuance is granted, a new hearing date shall be set within thirty (30) days. If the continuance is denied, the hearing shall proceed as originally scheduled, and if the appellant is not present at the hearing, the request(s) shall be deemed abandoned in accordance with subsection I below.

H. **RULES OF EVIDENCE.** The appeal hearing shall be conducted informally and the legal or formal rules of evidence need not be followed. The Hearing Administrator does not have the authority to issue a subpoena.

I. **FAILURE TO APPEAR.** The failure of the appellant to appear at the hearing, unless the hearing was continued per subsection G above, shall constitute an abandonment of the appeal, and shall constitute a failure to exhaust administrative remedies concerning the violations set forth in the Notice of Administrative Citation. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.110 Appeal Decision.

A. **NOTICE OF DECISION.** After considering all the evidence and testimony submitted at an appeal hearing, the Hearing Administrator shall issue a Notice of Decision within ten (10) business days to either uphold or revoke the Notice of Administrative Citation based upon the Hearing Administrator's conclusion of whether a violation occurred. The Notice of Decision shall be mailed by first class and certified mail, postage prepaid, return receipt requested, to the appellant or their designated representative within one (1) business day subsequent to the Hearing Administrator's issuance of the Notice of Decision. The failure by the appellant to appear at the appeal hearing shall be noted on the Notice of Decision by the Hearing Administrator. The Hearing Administrator may reduce or cancel the amount of any administrative fine or revoke the Notice of Administrative Citation in unusual cases when extenuating circumstances make doing so appropriate and in the interest of justice. The decision of the Hearing Administrator shall be final.

B. **PAYMENT OF FINE AFTER APPEAL DECISION.** The filing of an appeal shall suspend any fine assessed in the Notice of Administrative Citation. In the event that the Notice of Administrative Citation is revoked, the fine shall also be revoked. In the event that the Notice of Administrative Citation is upheld, the appellant shall both abate the violation(s) and pay the fine immediately. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.120 Right to Judicial Review.

A. **APPLICABILITY OF GOVERNMENT CODE SECTION 53069.4.** The appellant may seek judicial review of the Hearing Administrator's decision by filing a further appeal with Santa Barbara Superior Court within twenty (20) calendar days after the appellant receives a copy of the Notice of Decision, in accordance with the provisions of California Government Code section 53069.4. The appeal filed with the Court must also contain a proof of service showing a copy of the appeal was served upon the City of Santa Barbara City Attorney. The appellant must pay to the Superior Court the appropriate court filing fee when the appeal is filed.

B. **FAILURE TO EXHAUST ADMINISTRATIVE APPEAL.** No appeal is permitted from a decision where the appellant is deemed to have abandoned the contest of the Notice of Administrative Citation by an unexcused failure to appear at the appeal hearing or by the failure to request an administrative appeal hearing before the Hearing Administrator.

C. **FORWARDING OF RECORDS TO SUPERIOR COURT.** The City Attorney or the City Attorney's designee shall forward to the Superior Court within fifteen (15) days of the Court's request, the pertinent Notice of Administrative Citation documents for any case appealed to that Court. If the Superior Court revokes any Notice of Administrative Citation, the City will refund to the appellant the Superior Court filing fee paid by the appellant. (Ord. 5272, 2003; Ord. 5113, 1999.)

1.25.130 Collection of Unpaid Fines.

A. **CITY REMEDIES.** The City, at its discretion, may pursue any and all legal, equitable, and administrative remedies for the collection of unpaid civil administrative fines.

1. **Remedies Cumulative.** Pursuit of one remedy does not preclude the pursuit of any other remedies until the total fines owed by a person under this Chapter have been collected.

2. **Refusal to Issue Permits.** A City department may refuse to accept an application for a City permit or license or to refuse to issue, extend, or renew to any person, who has unpaid delinquent fines, liens, or assessments, any city permit, license, or other City approval pertaining to the property that is the subject of a Notice of Administrative Citation and an unpaid administrative fine.

3. **Suspension of Issued Permits.** Notwithstanding any other provision of the Code, any permit, license, or any type of land use approval issued by the City to a person who has unpaid administrative fines totalling $500.00 or more which remain delinquent for thirty (30) days or longer may be suspended by the department which issued the permit or other entitlement. The suspension becomes effective ten (10) days after the date the notice of the suspension is placed by the issuing department in the United States mail, postage prepaid, addressed to the person, and continues until the administrative delinquency is paid in full. The person may request an appeal/or review hearing pursuant to the specific permit, license, or other City approval procedures or ordinance if such a request is filed before the ten (10) day period ends. Continuing to operate under a suspended permit, license, or approval shall also be grounds for the Planning Commission to act pursuant to Section 28.87.360 of this Code to revoke the permit, license, or approval.

4. **Criminal Remedies.** The City Attorney, at his or her discretion, may also issue a criminal citation or complaint (infraction or misdemeanor) to any person for a Code violation when the applicable fine has not been paid.

B. **VIOLATIONS CONSTITUTE A PUBLIC NUISANCE.** The Director may pursue the remedies described in this Section whether or not the City is pursuing any other action to terminate an ongoing Code violation that was the basis for an administrative fine or to otherwise abate the violation or sanction the property owner. To compel Code compliance, the City may also seek to collect assessed fines by means of a nuisance abatement lien or special assessment against the property where a property related violation occurred in accordance with the procedures in Government Code Sections 38773.1 and 38773.5.

C. **LIEN CONDITIONS.** To recover any delinquent administrative fines as a lien or special assessment on real property, the following conditions must be met:

1. The Director must submit to and receive approval from the City Council for a resolution certifying the amounts of the liens and special assessments sought to be collected from each property owner; and

2. The total amount of the delinquent fine against the property owner must be delinquent for 60 days or more.

D. **LIEN COLLECTIONS.** The Director is authorized to take any steps necessary to enforce collection of the lien or special assessment, including but not limited to the following:

1. Request the County Recorder to record a notice of any lien or special assessment certified by resolution of the City Council.

2. Request the County Tax Collector on behalf of the City to collect any special assessments certified by resolution of the City Council.

E. **NOTICE OF LIEN COLLECTION PROCEDURES.** All Notices of Administrative Citation shall contain a notice that unpaid fines are subject to the assessment and lien collection procedures of this Chapter. This notice shall satisfy the notice requirements of Government Code Sections 38773.1 and 38773.5 when a Notice of Administrative Citation is served on the person. In addition, the Director shall by first class mail send notice to each property owner at least ten (10) days before the City Council considers the resolution to certify the amounts of the liens and special assessments stating the date, time, and location of the meeting. The lien or special assessment shall be imposed on the date the Notice of Administrative Citation for the Code violation is issued to the responsible person and shall become effective upon the recording of a Notice of Lien or Special Assessment by the County Recorder.

F. **CONTESTING CERTIFICATION OF A LIEN.** A person may contest the amount or the validity of any lien or special assessment for a civil fine at the public hearing when the City Council considers the resolution to certify the liens or assessments. Such contests shall be limited to the issue of the amount or validity of the lien or assessment and may not consider whether the underlying Code violation occurred. Pursuit of such a contest by a person is necessary to exhaust the administrative remedies concerning a legal challenge to the validity of any such lien or special assessment. (Ord. 5113, 1999.)

Chapter 1.28

PENALTY

Section:

1.28.010	**Violation of Code.**	**1.28.040**	**Nuisance.**
1.28.020	**Penalty for Misdemeanor.**	**1.28.050**	**Civil Penalty.**
1.28.030	**Penalty for Infraction.**	**1.28.060**	**Cumulative Remedies.**

1.28.010 Violation of Code.

It shall be unlawful for any person to perform any act that is prohibited, made or declared to be unlawful or an offense by this Code, or to violate any provision or fail to comply with any of the requirements of this Code. A violation of any of the provisions or failing to comply with any of the mandatory requirements of this Code shall constitute a misdemeanor except:

(1) When the violation of a provision of this Code is specifically declared to be an infraction, or

(2) Notwithstanding any other provision of this Code, any violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Except as otherwise provided, each and every day that any violation of this Code shall continue shall constitute a separate offense. The person committing or permitting such offenses may be charged with separate offenses for each such violation and punished accordingly. (Ord. 4562, 1989; Ord. 4067, 1980; Ord. 3137, §1, 1966.)

1.28.020 Penalty for Misdemeanor.

Unless otherwise specified in this Code, a misdemeanor is punishable by a fine not exceeding one thousand dollars ($1,000), imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 4408, 1986; Ord. 4067, 1980.)

1.28.030 Penalty for Infraction.

Unless otherwise specified by this Code, an infraction is punishable by (1) a fine not exceeding one hundred dollars ($100.00) for a first violation, (2) a fine not exceeding two hundred dollars ($200.00) for a second violation for the same Chapter of this Code within one year and (3) a fine not exceeding two hundred fifty dollars ($250.00) for each additional violation of the same Chapter of this Code within one year. (Ord. 4326, 1985; Ord. 4067, 1980.)

1.28.040 Nuisance.

In addition to the penalties and other methods of enforcement provided herein, any condition caused or permitted to exist in violation of any provision of this Code shall be deemed a public nuisance and may be, by this City, summarily abated as such. The City Attorney shall be authorized to commence actions and proceedings for abatement, removal or enjoinment thereof in the manner provided by law, shall take such other steps as necessary and shall apply to any court as may have jurisdiction to grant relief for such abatement, removal or enjoinment. Each day that such condition continues shall be regarded as a new and separate offense. (Ord. 4067, 1980; Ord. 3137 §1, 1966.)

1.28.050 Civil Penalty.

Any person who violates any provision of this Code may be liable for a civil penalty not to exceed two hundred fifty dollars ($250) for each day or part thereof that said violation occurs. The City Attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the City. (Ord. 4137, 1982.)

1.28.060 Cumulative Remedies.

Unless otherwise expressly provided, the remedies and penalties provided by this Chapter are cumulative to each other and to the remedies or penalties available under other laws. (Ord. 4137, 1982.)

Chapter 1.30

APPEALS FROM ADMINISTRATIVE DECISIONS AND TIME LIMITS FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

Sections:

1.30.010 Purpose.
1.30.020 Applicability of Code of Civil Procedure §1094.6.
1.30.030 Does Not Expand or Extend Statute of Limitations.
1.30.040 Finality of Administrative Decisions.
1.30.050 Appeals from Administrative Decisions.

1.30.010 Purpose.

Code of Civil Procedure §1094.6 authorizes municipalities to establish a ninety (90) day time limit for filing a petition for a writ of mandate to challenge decisions of the City and its Council, commissions, boards, officers and agents. (Ord. 4013, 1979.)

1.30.020 Applicability of Code of Civil Procedure §1094.6.

Code of Civil Procedure §1094.6 is hereby made applicable to adjudicatory administrative decisions of the City Council and City commissions, boards, committees, officers, employees and agents made, after hearing, suspending, demoting, or dismissing an officer or employee, revoking or denying any application for a permit or a license or denying an application for any retirement benefit or allowance. As used here-in, permit shall include applications for modifications, variances or conditional use permits filed pursuant to Chapters 28.92 and 28.94 of this Code. A petition for writ of mandate challenging said decisions must be filed no later than the ninetieth (90th) day following the day on which the decision becomes final. Notice of this limitation shall be given to the affected party at the time the decision becomes final. (Ord. 4013, 1979.)

1.30.030 Does Not Expand or Extend Statute of Limitations.

Nothing contained in this chapter shall expand the scope of judicial review or extend any applicable statute of limitations for the filing of any judicial action. (Ord. 4013, 1979.)

1.30.040 Finality of Administrative Decisions.

Unless another effective date for an action or decision is provided in this Code, the adjudicatory and administrative decisions of the City commissions, boards, committees, officers, employees and agents made pursuant to their duties and responsibilities are final on the day such decision is voiced, or, if a written decision is issued, the day such decision is issued in writing. (Ord. 4751, 1992.)

1.30.050 Appeals from Administrative Decisions.

Where appeals under this Section are authorized by this Code, an appeal from the decision of a City commission, board, committee, officer, employee or agent may be made to the City Council as follows:

A. A written notice of appeal, stating the grounds claimed for the appeal and identifying in particular all significant issues, facts and affected parties shall be filed with the City Clerk within ten (10) days after the day such decision is voiced, or, if a written decision is issued, within ten (10) days after the day such decision is issued in writing. The City Clerk shall require the payment of a fee for such appeal as is provided by resolution of the City Council or as may be ordered by the City Council for the matter.

B. Within twenty-one (21) days of receiving the written appeal, the City Clerk shall place a recommendation before the City Council for a decision to either:

(i) set a date for hearing on the appeal before the City Council, or

(ii) refer the appeal to another agency, officer, commission or committee for action. A copy of the report of the City Council action, mailed to the appellant and to the City commission, board, committee, officer, employee or agent affected may serve as notice of such hearing or referral.

C. At the time and place of the hearing, the City Council or the agency, officer, commission or committee designated to hear the appeal, shall hear and receive any relevant information and documents, which may include such hearsay or other evidence which ordinary persons could be expected to consider in the conduct of business affairs.

D. The City Council or the agency, officer, commission or committee designated to hear the appeal may continue the hearing from time to time as may be required, or may grant or deny the appeal, in whole or in part.

E. Unless otherwise provided by the City Council, the decision of the City Council, or of the agency, officer, commission or committee designated by the City Council to hear the appeal, shall be final on the day such decision is issued. (Ord. 4751, 1992.)

Chapter 1.35

MONETARY CLAIMS AGAINST THE CITY

Sections:

1.35.010	**Authority.**	**1.35.040**	**Claim Prerequisite to Suit.**
1.35.020	**Claims Required.**	**1.35.050**	**Suit.**
1.35.030	**Form of Claim.**	**1.35.060**	**Severability.**

1.35.010 Authority.

This Chapter 1.35 is enacted pursuant to Section 935 of the California Government Code. (Ord. 5428, 2007.)

1.35.020 Claims Required.

All claims against the city for money or damages not otherwise governed by the Government Claims Act, California Government Code Sections 900 et seq., or another state law (hereinafter in this Chapter, "claims") shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this Chapter. (Ord. 5428, 2007.)

1.35.030 Form of Claim.

All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this section. In addition, all claims shall contain the information required by California Government Code Section 910. (Ord. 5428, 2007.)

1.35.040 Claim Prerequisite to Suit.

In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the city prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of Section 1.35.020. (Ord. 5428, 2007.)

1.35.050 Suit.

Any action brought against the city upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the city shall conform with the requirements of Sections 950-951 of the California Government Code. (Ord. 5428, 2007.)

1.35.060 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. (Ord. 5428, 2007.)

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TITLE 2
Government Organization

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5686	Library Director's Authority to Promulgate and Post Facility-Specific Regulations	May 21, 2015	Section 2.28.030
5727	Council Meetings	December 24, 2015	Chapter 2.04

TITLE 2

GOVERNMENT ORGANIZATION

Chapter: 2.02 **Mayor, City Council, City Administrator, City Attorney, City Clerk, City Treasurer**
Chapter: 2.03 **Santa Barbara Municipal Election Campaign Disclosure Ordinance**
Chapter: 2.04 **Council Meetings**
Chapter: 2.05 **Ordinance Committee**
Chapter: 2.08 **Boards and Commissions**
Chapter: 2.11 **City Departments - General**
Chapter: 2.12 **Airport Department**
Chapter: 2.13 **Community Development Department**
Chapter: 2.19 **Emergency Services Department**
Chapter: 2.23 **Finance Department**
Chapter: 2.25 **Fire Department**
Chapter: 2.26 **Waterfront Department**
Chapter: 2.28 **Library Department**
Chapter: 2.30 **Parks Department**
Chapter: 2.31 **Personnel Department**
Chapter: 2.33 **Police Department**
Chapter: 2.39 **Public Works Department**
Chapter: 2.40 **Recreation Department**

Chapter 2.02

MAYOR, CITY COUNCIL, CITY ADMINISTRATOR, CITY ATTORNEY, CITY CLERK, CITY TREASURER

Sections:

2.02.010 **Mayor; Powers and Duties.**
2.02.020 **City Council; Powers and Duties.**
2.02.030 **City Administrator; Powers and Duties.**
2.02.040 **City Attorney; Powers and Duties.**
2.02.050 **City Clerk; Powers and Duties.**
2.02.060 **City Treasurer; Powers and Duties.**

2.02.010 Mayor; Powers and Duties.

The powers and duties of the Mayor are those delineated in Section 504 of Article V of the City Charter and other powers and duties consistent with the office and prescribed by the City Charter or imposed by the City Council. (Ord. 3769 §5, 1975.)

2.02.020 City Council; Powers and Duties.

The powers and duties of the City Council are delineated in Section 505 of Article V of the City Charter except as otherwise provided in the Charter. (Ord. 3769 §5, 1975.)

2.02.030 City Administrator; Powers and Duties.

The powers and duties of the City Administrator are those delineated in Section 604 of Article VI of the City Charter, other duties prescribed by the Charter, and such other duties consistent with the Charter as may be required of him by the City Council. (Ord. 3769 §5, 1975.)

2.02.040 City Attorney; Powers and Duties.

The powers and duties of the City Attorney are those delineated in Section 703 of Article VII of the City Charter, other duties prescribed by the Charter, and such other legal functions and duties as are consistent with the Charter. (Ord. 3769 §5, 1975.)

2.02.050 City Clerk; Powers and Duties.

The powers and duties of the City Clerk are those delineated in Section 704 of Article VII of the City Charter, other duties prescribed by the Charter, and such other duties consistent with the Charter as may be required by ordinance or resolution of the City Council. (Ord. 3769 §5, 1975.)

2.02.060 City Treasurer; Powers and Duties.

The powers and duties of the City Treasurer are those delineated in Section 705 of Article VII of the City Charter, other duties prescribed by the Charter, and such other duties consistent with the Charter as may be required by

ordinance or resolution of the City Council. (Ord. 3769 §5, 1975.)

Chapter 2.03

SANTA BARBARA MUNICIPAL ELECTION CAMPAIGN DISCLOSURE ORDINANCE

Section:

2.03.001 Citation.
2.03.010 Election Campaigns, Voluntary Expenditure Ceiling.
2.03.020 Definitions.
2.03.030 Candidate and Committee Status; Duration.
2.03.040 Duty to Have Campaign Treasurer; Authority of Treasurer.
2.03.050 Campaign Contribution Checking Account for Controlled Committees.
2.03.060 Lawful Use of Campaign Funds by a Committee.
2.03.070 Campaign Disbursements by Check Only; Petty Cash Fund.
2.03.080 Transfers of Funds; Carryover of Contributions.
2.03.090 Campaign and Candidate Accounting Methods.
2.03.100 Base Level of Campaign Disclosure Statements.
2.03.110 Online Electronic Disclosure of Campaign Statements and Late Contributions and Expenditures.
2.03.120 Public Disclaimers on Campaign Communications.
2.03.130 Duties of the City Clerk.
2.03.140 Enforcement – Duties, Complaints, Legal Action, Investigatory Powers.

2.03.001 Citation.

This Chapter shall be cited and known as the Santa Barbara Municipal Election Disclosure Ordinance. (Ord. 5423, 2007.)

2.03.010 Election Campaigns, Voluntary Expenditure Ceiling.

A. Pursuant to Government Code Section 85400(c), a voluntary expenditure ceiling is established for each candidate for each election to City elective office in the amount of fifty thousand ($50,000) dollars.

B. Prior to accepting any contributions, each candidate for City elective office shall file with the City Clerk a statement of acceptance or rejection of the voluntary expenditure ceiling established herein.

C. No candidate for City elective office who accepts the voluntary expenditure ceiling established herein and no controlled campaign committee of such a candidate shall make campaign expenditures in excess of the voluntary expenditure ceiling established herein.

D. Each candidate who rejects the voluntary expenditure ceiling established by this Chapter shall be subject to the contribution limit set forth in Government Code Section 85301, as the same may be amended from time to time.

E. Each candidate who accepts the voluntary expenditure ceiling established in this section shall be subject to the contribution limit set forth in Government Code Section 85402, and not the contribution limit set forth in Government Code Section 85301, as either section may be amended from time to time. In addition, as to each such candidate, the City Clerk shall provide notification to voters that the candidate has accepted the voluntary expenditure ceiling established herein, as required by Government Code Section 85602 and applicable regulations adopted pursuant to that Section.

F. Except as provided herein, the provisions of the California Political Reform Act of 1974, the California Political Reform Act of 1996, Government Code Sections 81000, et seq., and applicable regulations adopted pursuant to such acts, as the same may be amended from time to time, shall govern the interpretation and application of this Chapter.

G. The penalties and remedies for violations of this Section shall be those set forth in the provisions of the California Political Reform Act of 1974, the California Political Reform Act of 1996, Government Code Sections 81000, et seq., and applicable regulations adopted pursuant to such acts. (Ord. 5006, 1997.)

2.03.020 Definitions.

Unless otherwise defined in this section, or the contrary is stated or clearly appears from the context, the definitions of the Political Reform Act of 1974 (Government Code sections 81000 et seq.) and the definitions contained in the regulations adopted by the Fair Political Practices Commission shall govern the interpretation of this Chapter.

A. Agent. A person who acts on behalf or at the behest of any other person.

B. Assistant Treasurer. An individual designated by a committee to have the duties, responsibilities, and obligations of a treasurer as described in title 2, section 118426.1 of the California Code of Regulations.

C. Candidate. An individual who:

1. is listed on the ballot for elective City office, or

2. a person who has begun to circulate nominating petitions or authorized others to do so on his or her behalf for nomination for or election to a City office; or

3. has received a contribution or made an expenditure or authorized another person to receive a contribution or make an expenditure, with the intent to bring about his or her nomination for or election to any elective City office; or

4. is a City officeholder who becomes the subject of a recall election. A City officeholder "becomes the subject of a recall election" when the earlier of the following occurs:

a. the date a notice of intention to circulate a recall petition is published pursuant to the recall provisions of the state Elections Code; or

b. the date a statement of organization for a committee to recall the officeholder is filed with the City Clerk or the Secretary of State pursuant to state and local law.

D. Citywide General Election Date. As established in the City Charter.

E. Committee. A person acting (or any combination of two or more persons acting jointly) to raise $1,000 or more, or to make independent expenditures of $1,000 or more, within a single calendar year, on behalf of or in opposition to a candidate. Committees include the following forms: 1. controlled committees, 2. primarily formed recipient committees, and 3. general purpose recipient committees.

F. Contribution. Generally as that term is defined in California Government Code section 82015 and subject to the inclusions and exceptions contained in Title 2, section 18215 of the California Code of Regulations, except as modified by the following provisions:

1. In the event of any conflict between the state law definition and the following provisions, the following provisions shall control:

a. A contribution includes any forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute. A good faith dispute shall be presumed if the candidate or committee produces:

i. evidence that the candidate or committee protested the payment of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and

ii. evidence that the protest was based on the quality or quantity of goods delivered or services rendered.

b. A contribution does not include an independent expenditure.

c. A contribution does not include a payment made for internal communications.

G. Controlled Committee. A committee controlled directly or indirectly by a candidate or that acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if the candidate, the candidate's agent or any other committee controlled by the candidate has a significant influence on the actions or decisions of the committee.

H. Elective City Office. The office of the Mayor or City Councilmember of the City of Santa Barbara.

I. Expenditure. A payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the circumstances that it is not made for political purposes. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier. An expenditure does not include a payment for internal communications, nor does it include costs incurred for communications advocating the nomination, election, or defeat of a candidate or the qualification, passage, or defeat of a measure by a federally regulated broadcast outlet or by a regularly published newspaper, magazine, or periodical of general circulation that routinely carries news, articles, or commentary of general interest.

J. General Purpose Recipient Committee. A person who receives contributions totaling $1,000 or more during a calendar year to support or oppose more than one candidate for any public elective office. This type of committee is not controlled by a candidate.

K. Independent Expenditure. An expenditure made by any person in connection with a communication that does any of the following:

1. expressly supports or opposes the nomination, election, defeat, or recall of a clearly identified candidate; or

2. taken as a whole and in context, urges a particular result in an election for the office of Mayor or the office of City Council.

An expenditure that is made to or at the behest of a candidate or a controlled committee is not an independent expenditure.

L. Internal Communication. Any communication directed solely to members, employees, or shareholders of an organization, including communications to members of any political party, for the purpose of supporting or opposing a candidate or candidates for elective City office, specifically not to include communication activities used in connection with broadcasting, newspaper, billboard or similar type of general public communication. The meaning of internal communication is intended to be consistent with the definitions contained in California Government Code section 85312 and title 2, section 18531.7 of the California Code of Regulations. Any amendments made to these authorities shall be deemed to be an amendment to the language of this definition.

M. Payment. A payment, reimbursement, distribution, transfer, loan, advance, deposit, gift, or other rendering of money, property, services or any other thing of value, whether tangible or intangible.

N. Person. An individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, labor union, or any other organization or group of persons acting in concert.

O. "Political Purpose." The purpose of influencing or attempting to influence the action of the voters for or against the nomination, election, defeat, or recall of any candidate or elected City officer.

P. Primarily Formed Recipient Committee. A person, entity, or organization that receives contributions totaling $1,000 or more during a calendar year to support or oppose a single candidate for a City election. This type of committee is not controlled by a Candidate.

Q. Shared Management. An organizational structure in which there is common management and control of two or more general purpose recipient committees. In determining whether there is common management and control, consideration shall be given to the following factors:

1. The same person or substantially the same person manages the operation of the different general purpose recipient committees;
2. There are common or commingled funds or assets;
3. The general purpose recipient committees share the use of the same offices or employees, or otherwise share activities, resources, or personnel on a regular basis;
4. There is otherwise a regular and close working relationship between the general purpose recipient committees.

R. Sponsor of a Committee. A person, except a candidate, to whom any of the following applies:

1. The committee receives 80 percent or more of its contributions either from the person or from the person's members, officers, employees or shareholders;
2. The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees;
3. The person provides, alone or in combination with other organizations, all or nearly all of the administrative services for the committee; or
4. The person sets, alone or in combination with other organizations, the policies for soliciting contributions or making expenditures of committee funds.

S. Sponsored Committee. A committee, other than a controlled committee, which has one or more sponsors. (Ord. 5423, 2007.)

2.03.030 Candidate and Committee Status; Duration.

A. Candidate Status. For purposes of this Chapter, an individual who is a Candidate retains the status of Candidate until that status is terminated pursuant to California Government Code section 84214.

B. Committee Status. For purposes of this Chapter, a Committee retains the status of Committee until that status is terminated pursuant to California Government Code section 84214. (Ord. 5423, 2007.)

2.03.040 Duty to Have Campaign Treasurer; Authority of Treasurer.

A. Duty of Campaign Treasurer. Every Candidate and every Committee shall have a Treasurer. A Candidate may designate himself or herself as Treasurer. A Committee may designate an Assistant Treasurer to perform the duties and responsibilities of the Treasurer in the event of a temporary vacancy in the office of the Treasurer or in the event the Treasurer is unavailable. Only an individual may be designated as a Treasurer or Assistant Treasurer.

B. Authority of Campaign Treasurer. It is unlawful for any expenditure to be made by or on behalf of a Committee without the express authorization of the Treasurer of that Committee. It is unlawful for any contribution to be accepted by a Committee or any expenditure to be made on behalf of a Committee at a time when the office of the Treasurer is vacant. (Ord. 5423, 2007.)

2.03.050 Campaign Contribution Checking Account for Controlled Committees.

A. Checking Account. Every Controlled Committee that accepts contributions shall establish one Campaign Contribution checking account at an office of a bank or other financial institution providing checking account services located in the City of Santa Barbara. The Committee shall comply with the following in connection with the Campaign checking account:

1. Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the City Clerk on the same forms and in the time and manner required by California Government Code section 81000 et seq.
2. All contributions of money or checks, or anything of value converted by such controlled committee to money or a check, shall be placed in the controlled committee's checking account within thirty business days, except that no contribution shall be deposited to a campaign contribution checking account without the receipt by the controlled committee of all information required by California Government Code section 84211. Any information that has not been provided shall be requested, in writing, by the campaign treasurer within ten business days of receipt of the money or check.
3. Any contribution not deposited within thirty business days shall be returned to the contributor as soon as possible after the thirtieth business day, but no later than thirty-five business days of receipt of the money or check. (Ord. 5423, 2007.)

2.03.060 Lawful Use of Campaign Funds by a Committee.

Uses of campaign funds held by any Committee formed in accordance with this Chapter shall be governed by title 9, chapter 9.5, article 4 of the California Government Code, commencing with section 89510. It is unlawful to use Campaign funds in any manner that would violate these provisions of the California Government Code. (Ord. 5423, 2007.)

2.03.070 Campaign Disbursements by Check Only; Petty Cash Fund.

A. Use of Checks. It is unlawful for any funds to be disbursed from a Controlled Committee's campaign contribution checking account unless such disbursement is done by check signed by the candidate, the candidate's campaign treasurer, assistant treasurer, or other designated agent of the campaign treasurer.

B. Petty Cash Fund. A petty cash fund may be established for each Controlled Committee checking account under the following conditions:

1. No more than $100 may be held in the petty cash fund at any one time.
2. No expenditure that totals $100 or more may be made from the petty cash fund.
3. Expenditures from a petty cash fund are deemed to be expenditures from the campaign checking account. (Ord. 5423, 2007.)

2.03.080 Transfers of Funds; Carryover of Contributions.

A. Transfers Generally. A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective City office of the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method.

B. Carryover of Contributions. Notwithstanding subsection A of this section, a candidate for elective City office may carry over contributions raised in connection with one election for elective City office to pay campaign expenditures incurred in connection with a subsequent election for the same elective City office.

C. Consistency with State Regulations. It is the intent of this section that transfers and carryovers of a candidate's campaign funds be consistent with the provisions of law set forth in title 2, sections 18536 and 18537.1 of the California Code of Regulations. (Ord. 5423, 2007.)

2.03.090 Campaign and Candidate Accounting Methods.

A. Required Accounting Records. In addition to any other requirements of this Chapter, every candidate or committee that accepts contributions for a City election shall maintain a record of each of the following:

1. any contribution received by the candidate or committee and deposited into the campaign contribution checking account; and
2. any disbursement made from the campaign contribution checking account.

B. Specific Records Required. The records required by subsection A above shall include, but not be limited to, all of the following:

1. the name and address of the contributor; and
2. the amount of the contribution, and the date on which it was received or offered; and
3. if the contribution is made by check, a legible photocopy of the check; and
4. if the contribution offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash contribution was deposited into the campaign contribution checking account; and
5. legible photocopies or originals of all bank records pertaining to the campaign contribution checking account; and
6. if a contribution is made by the candidate to his or her own campaign, a statement disclosing the source of the funds; and
7. if a contribution is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate; and
8. for each disbursement made from or check drawn on the campaign contribution checking account, the canceled check, the bank statement showing the disbursement, the name of the payee of each check, itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting document for which funds were disbursed.

C. Records Retention Period. The records required by this section shall be kept by the candidate or committee treasurer for a period of four years following the date that the campaign statement to which they relate is filed.

D. Official Access to Records. Each candidate and committee shall deliver, on demand, to any public officer having authority to enforce this Chapter, a written authorization permitting the officer to have access to all records pertaining to the campaign contribution checking account.

E. Delivery of Records. Each candidate and committee shall, on demand, make available to any public officer having authority to enforce this Chapter all records required by this Chapter to be maintained by the candidate or committee. (Ord. 5423, 2007.)

2.03.100 Base Level of Campaign Disclosure Statements.

Each candidate and committee shall file campaign statements at the time and in the manner required by California Government Code section 81000 et seq. and Title 2 of the California Code of Regulations, and shall comply with the following additional local disclosure and disclosure filing requirements:

A. Additional Pre-Election Campaign Statements. In addition to the campaign statements to be filed pursuant to the Political Reform Act, as amended, candidates for City elective office, their controlled committees and committees primarily formed to support or oppose these candidates shall file a pre-election statement on the Friday before a City election, whether general or special. This statement shall have a closing date of midnight on the Wednesday before the election and shall cover activity and payments occurring through that day.

B. Contributors Listed in Alphabetical Order. All candidate and committee campaign disclosure statements that are generated from the output of a computer software program shall be generated with the names of all contributors listed in alphabetical order by last name. Treasurers for any committee that files handwritten campaign disclosure statements shall make reasonable good faith efforts to list the names of all contributors in alphabetical order by last name.

C. Attribution to Contributor After the Fact. A general purpose recipient committee attributing contributions totaling $100 or more to the same individual for purposes of supporting or opposing a candidate in an election shall, within three months of the attribution, separately disclose such contributions on a campaign statement filed with the City Clerk by supplying all identifying information regarding the contributor, reporting the date of the attribution as the "date received," showing the amount attributed to the individual at that time, identifying the applicable candidate and election for which the attribution was made, and indicating that the contribution is being re-reported per Santa Barbara Municipal Code section 2.03.090.

D. Supplemental Filing. A general purpose recipient committee that submits all of the information required by subsection (C) in a supplemental document attached to a campaign statement filed with the City Clerk will be deemed to have complied with the provisions of subsection (C).

E. Reporting of Internal Communications. Any payment made by a political party for internal communications to its members who are registered with that party, and that would otherwise qualify as a contribution or expenditure, shall be reported on that political party's campaign disclosure statement in a manner that identifies the payment as an "internal communication."

F. Manner of Reporting Contributions. Contributions shall be reported in a manner consistent with the provisions of Title 2, section 18421.1 of the California Code of Regulations, except that a monetary contribution is deemed to have been made or received only after a candidate or committee obtains:

1. possession or control of the check or other negotiable instrument by which the contribution is made, and
2. possession of all of the information required by California Government Code section 84211.

G. Sponsor Reporting. Sponsors and sponsored committees participating in City elections are subject to the reporting obligations set forth in title 2, section 18419 of the California Code of Regulations.

H. Mandatory Reporting Obligation. It is unlawful to fail to comply with the disclosure requirements of California Government Code section 81000 et seq., the disclosure requirements of Title 2 of the California Code of Regulations, and the additional local disclosure requirements of this Chapter. (Ord. 5423, 2007.)

2.03.110 Online Electronic Disclosure of Campaign Statements and Late Contributions and Expenditures.

A. Online Reporting of Campaign Statements. Each Candidate and Committee that has received contributions or made expenditures of $5,000 or more in connection with a City election shall use the electronic filing and disclosure system established by the City Clerk's Office in order to file online copies of each campaign disclosure statement required by section 2.03.090 on the date such reports are due in accordance with the state Political Reform Act and, as to the additional local filing, by the local filing date. Once a Candidate or Committee is required to file campaign disclosure statements online, that Candidate or Committee shall continue to file statements online until the Committee has officially terminated in accordance with this Chapter.

Online filings shall be made in accordance with requirements (in the manner established) of regulations adopted by the City Clerk for the City's electronic campaign disclosure filing system created and maintained by the City Clerk for these purposes.

B. Voluntary Online Reporting. Any Candidate or Committee not required to file online pursuant to section (A) hereof may do so voluntarily.

C. Late Contribution Reporting – Online Disclosure. A contribution of five hundred dollars ($500) or more in the aggregate received from one (1) source after the closing date for filing for the last pre-election disclosure reporting period provided for in the Political Reform Act (and Title 2 of the California Code of Regulations) shall be reported online to the City Clerk's Office on the appropriate City form within twenty-four (24) hours of the receipt of the contribution by electronic filing with the Clerk's Office.

The recipient of the contribution shall also report the full name of the contributor, his or her street address, city, state, zip code, occupation (or profession), and the name of his or her employer, or if self-employed, the name of the business employing the contributor. The contribution shall also be included on the next report required to be filed under the Political Reform Act.

D. Late Independent Expenditures Reports. A committee (other than a controlled committee) that makes an independent expenditure of five hundred dollars ($500) or more after the closing date for filing for the last pre-election disclosure reporting period provided for in the Political Reform Act (and Title 2 of the California Code of Regulations) shall be reported online to the City Clerk's Office on the appropriate City form within twenty-four (24) hours of the making of the expenditure by electronic filing with the Clerk's Office.
The expenditure shall be itemized by name, street address, city, state, zip code, the political purpose, the candidate or ballot measure opposed or supported, and the amount of the expenditure. This information shall also be included on the next report filed under the Political Reform Act.

E. Late Filing Penalties. In addition to any late filing penalties that may be imposed for the late filing of a paper copy pursuant to the California Political Reform Act or to other provisions of this Chapter, the person who fails to comply with the online filing requirement of this Section shall be subject to an additional late filing penalty of $25 per day per applicable contribution or expenditure after the deadline for the filing of the online copy.
(Ord. 5612, 2013; Ord. 5423, 2007.)

2.03.120 Public Disclaimers on Campaign Communications.

A. Base Disclaimer. Any candidate or committee that pays for a campaign communication shall print, display or incorporate the following words anywhere within the communication:

"Paid for by" immediately followed by the name, address and city of that candidate or committee.

If the sender of a mass mailing campaign communication is a controlled committee, the name of the person controlling the committee shall also be included. If an acronym is used to specify a committee name, the full name of any sponsoring organization of the committee shall be included in the campaign communication disclaimer required by this section.

B. Additional Requirements For Campaign Communications Funded By Independent Expenditures.

1. Independent Communications. Campaign communications funded by an independent expenditure supporting or opposing City candidates shall include the phrase "Not authorized by a City candidate," and shall also include the name of any contributor of $2,000 or more to a committee funding the independent expenditure in the six months prior to the date of that payment in the phrase "Major Funding Provided By [Name of Contributor(s)]." Payments of $2,000 or more that are earmarked for any other candidate or ballot measure outside of the City of Santa Barbara need not be disclosed.

2. Disclosing Contributors. Campaign communications funded by an independent expenditure supporting or opposing City measures shall include the name of any contributor of $2,000 or more to a committee funding the independent expenditure in the six months prior to the date of that payment in the phrase "Major Funding Provided by [Name of Contributor(s)]." Payments of $2,000 or more that are earmarked for any other candidate or ballot measure outside of the City of Santa Barbara need not be disclosed.

C. Printing and Statement Requirements. The disclosures required by this section shall be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice, as specified below:

1. For printed campaign communications that measure no more than twenty-four inches by thirty-six inches, all disclosure statements required by this section shall be printed using a typeface that is easily legible to an average reader or viewer, but is not less than 12-point type in contrasting color to the background on which it appears. For oversize printed campaign communications, all disclosure statements shall constitute at least five percent of the height of the material and printed in contrasting color.

2. For video broadcasts including television, satellite and cable campaign communications, the information shall be both written and spoken either at the beginning or at the end of the communication, except that if the disclosure statement is written for at least five seconds of a broadcast of thirty seconds or less, or ten seconds of a sixty second broadcast, a spoken disclosure statement is not required. The written disclosure statement shall be of sufficient size to be readily legible to an average viewer and air for not less than four seconds.

3. For audio, telephone call, or radio advertisement campaign communications, the disclosures shall be spoken in a clearly audible manner at the same speed and volume as the rest of the telephone call or radio advertisement at the beginning or end of the communication and shall last at least three seconds. The requirement of Subsection A shall be satisfied by using the words "on behalf of" immediately followed by the name of the candidate or committee that pays for the communications.

D. Definition of Campaign Communications. For purposes of this section, "campaign communication" means any of the following items:

1. More than 200 substantially similar pieces of campaign literature distributed within a calendar month, including, but not limited to, mailers, flyers, facsimiles, pamphlets, door hangers, e-mails, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger;
2. Posters, yard or street signs, billboards, supergraphic signs and similar items;
3. Television, cable, satellite and radio broadcasts;
4. Newspaper, magazine, internet website banners and similar advertisements;
5. 200 or more substantially similar live or recorded telephone calls made within a calendar month.

E. Exclusions. For purposes of this section, "campaign communication" does not include the following: small promotional items such as pens, pencils, clothing, mugs, potholders, skywriting or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface, or communications paid for by a newspaper, radio station, television station or other recognized news medium, and communications from an organization to its members, other than a communication from a political party to its members.

F. Requirement for Supplemental Information. Campaign communications must be amended when a new person qualifies as a disclosable contributor or when the committee's name changes. Broadcast advertisement disclosures must be amended within five calendar days after a new person qualifies as a disclosable contributor or a committee's name changes. A committee shall be deemed to have complied with this section if the amended advertisement is mailed, containing a request that the advertisement immediately be replaced, to all affected broadcast stations by overnight mail no later than the fifth day. For printed campaign communications and other material, disclosure information must be amended to reflect accurate disclosure information every time an order to reproduce the communication is placed.

G. Copies to City Clerk. Each candidate, and each committee making independent expenditures or member communications, who sends a mailing or distributes more than 200 substantially similar pieces of campaign literature, shall send a copy of the mailing or other literature to the City Clerk at the same time the mailing or other literature is given to the Post Office or otherwise distributed. During the election campaign, the Clerk's Office shall merely serve as a repository for this literature and shall not judge or comment on the contents of the literature. (Ord. 5423, 2007.)

2.03.130 Duties of the City Clerk.

In addition to other duties required of the City Clerk under the terms of this Chapter, the City Clerk shall also be responsible for the following:

1. to supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all candidates and committees, and to all other persons required to report.
2. to determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.
3. to report, at the City Clerk's discretion, apparent violations of this Chapter and applicable state law to the Fair Political Practices Commission.
4. Compile and maintain a current list of all statements or parts of statements filed with the office pertaining to each candidate.
5. to develop a system of online campaign statement reporting, including regulations and public information necessary for its effectiveness and workability, and to make it accessible to those individuals obligated to utilize online reporting pursuant to this Chapter.
6. Cooperate and work with the City Attorney's Office in the performance of the duties of the Clerk as prescribed in this Chapter and applicable state law. (Ord. 5423, 2007.)

2.03.140 Enforcement – Duties, Complaints, Legal Action, Investigatory Powers.

A. Filing of Complaints. Any person who believes that a violation of any portion of this Chapter has occurred may file a complaint with the City Clerk.

B. Investigatory Powers. The City Clerk, with the assistance of the City Attorney's Office, shall have such investigative powers as are necessary for the performance of the duties prescribed in this Chapter. The Clerk may demand and shall be furnished records of campaign contributions and expenses at any time.

C. Administrative Enforcement. The City may elect to enforce the provisions of this Chapter administratively pursuant to Title One of the Municipal Code, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction. (Ord. 5423, 2007.)

[This Chapter, as amended, became effective beginning with the election of November 4, 2008.]

Chapter 2.04

COUNCIL MEETINGS

Sections:

2.04.010 Regular Meeting Schedule.
2.04.020 Rules of Procedure.
2.04.030 Decorum.
2.04.040 Ordinances, Resolutions and Contracts.

2.04.010 Regular Meeting Schedule.

Regular meetings of the City Council shall be held in the Council Chambers in the City Hall on each Tuesday of each week at a time set by resolution. (Ord. 4972, 1996; Ord. 3596 §1, 1973; Ord. 3368 §1, 1969; Ord. 3298 §1, 1968; Ord. 2755 §1, 1960; prior Code §2.1.)

2.04.020 Rules of Procedure.

A. The City Council shall from time to time adopt by resolution rules of procedure governing the conduct of City Council meetings.

B. The rules of procedure adopted pursuant to this chapter are deemed to be procedural only, and the failure to strictly observe such rules shall not affect the jurisdiction of the City Council or invalidate any action taken at a meeting that is otherwise held in conformity with law. (Ord. 5727, 2015; Ord. 3363 §1, 1969.)

2.04.060 Decorum.

A. Councilmembers. While the City Council is in session, each Councilmember must preserve order and decorum, and a Councilmember shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the City Council nor disturb any Councilmember while speaking or refuse to obey the orders of the Mayor.

B. Persons addressing the City Council and persons in attendance at City Council meetings. All persons addressing the City Council or in attendance at a City Council meeting shall comply with the rules of procedure adopted by resolution pursuant to this chapter. Any person in the audience who engages in disorderly conduct such as hand clapping, stamping of feet, whistling, using profane language, yelling and similar demonstrations, which conduct disturbs the peace and actually disrupts the good order of the meeting, or who refuses to comply with the lawful orders of the Mayor, shall be, upon instructions from the Mayor, removed from the meeting by the sergeant-at-arms.

C. Enforcement of decorum. The Chief of Police, or such member or members of the Police Department as he or she may designate, shall be sergeant-at-arms of the City Council and shall carry out all orders given by the Mayor for the purpose of maintaining order and decorum at the Council meetings. Any Councilmember may move to require the Mayor to enforce the rules, and the affirmative vote of a majority of the Council shall require the Mayor to do so.

D. Authorized persons within rail. No person except City officials, their representatives and news media representatives, shall be permitted within the rail in front of the Council Chambers, without the express consent of the Mayor. (Ord. 5727, 2015; Ord. 3363 §3, 1969.)

2.04.080 Ordinances, Resolutions and Contracts.

A. All ordinances shall be prepared for presentation to the City Council pursuant to the provisions of this chapter. All ordinances shall be prepared by the City Attorney.

B. All ordinances, resolutions, and contract documents shall, before presentation to the Council, have been approved as to form and legality by the City Attorney and shall have been examined and approved for administration by the City Administrator, subject to any time limit imposed by this Code.

C. At the time of introduction or adoption of an ordinance or a resolution, it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmembers present. Such consent may be expressed by a statement by the Mayor to the effect that if there is no objection, the further reading of the ordinance or resolution shall be waived. All emergency ordinances must be read in full. (Ord. 5727, 2015; Ord. 3533 §1, 1972; Ord. 3363 §5, 1969.)

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Chapter 2.05

ORDINANCE COMMITTEE

Sections:

2.05.010 Ordinance Committee Established.
2.05.020 Appointment and Term of Office.
2.05.030 Function of the Committee.
2.05.040 Public Meetings.
2.05.050 Exempt Ordinances.
2.05.060 Presentation of Ordinance Concepts to Ordinance Committee.
2.05.070 Reference to City Attorney for Drafting.
2.05.080 Reference to City Administrator and Further Action by Committee.
2.05.090 Time Limit for Consideration by Committee.

2.05.010 Ordinance Committee Established.

A standing Ordinance Committee composed of three (3) members of the City Council is established. (Ord. 3533 §2(part), 1972.)

2.05.020 Appointment and Term of Office.

The members of the Ordinance Committee shall be appointed by the City Council for such term and according to procedures provided, from time to time, by resolution of the City Council. The City Council shall designate one (1) of its members as the chairperson of said Committee. (Ord. 4888, 1994; Ord. 4044, 1980; Ord. 3964 §1, 1978; Ord. 3752, 1975; Ord. 3533 §2, 1972.)

2.05.030 Function of the Committee.

Subject to the provisions hereinafter set forth, the Ordinance Committee shall initiate the drafting of all ordinances adding, amending or repealing sections of the Municipal Code of the City. (Ord. 3533 §2(part), 1972.)

2.05.040 Public Meetings.

Meetings of the Ordinance Committee shall be noticed and publicly held. Nevertheless, as it is composed of less than a quorum of the City Council, that exemption from the above stated rule set forth in Government Code Section 54952.3 may be invoked by a majority vote of the Committee at any time. (Ord. 3533 §2(part), 1972.)

2.05.050 Exempt Ordinances.

The following categories of ordinances shall be exempt from the provisions of this chapter, and shall be introduced as ordered by the City Council without reference to the Ordinance Committee:

(a) Ordinances calling or otherwise relating to an election;

(b) Improvement proceeding ordinances adopted under some special law or procedural ordinance relating thereto;

(c) Ordinances declaring the amount of money necessary to be raised by taxation, or fixing the rate of property taxation, or levying the annual tax upon property;

(d) Emergency ordinances, as defined in the City Charter;

(e) Ordinances approving the sale, transfer, disposition or encumbrance of City land subject to referendum;

(f) Ordinances approving a contract or lease or extension thereof by which the City is bound for a longer period than five (5) years and subject to referendum;

(g) Ordinances awarding a franchise;

(h) Ordinances approving the City's budget;

(i) Ordinances establishing position control or salary scales or amounts;

(j) Any ordinance which, in the opinion of the City Attorney, is ministerial in nature and not involving substantive revision or establishment of City legislation. (Ord. 3533 §2(part), 1972.)

2.05.060 Presentation of Ordinance Concepts to Ordinance Committee.

The Ordinance Committee shall consider for introduction of an ordinance those matters referred to it by a City Council member, the City Attorney, the City Administrator, or by one (1) or more members of the Ordinance Committee. (Ord. 3752, 1975.)

2.05.070 Reference to City Attorney for Drafting.

After consideration of material presented in support of or in opposition to a proposed ordinance, at a public meeting subject to public notice requirements of Government Code Sections 54950, et seq., the Ordinance Committee may forward the material to the City Attorney with a request that the latter draft in due form an ordinance expressing the substance of the legislation desired by the proponent thereof, as modified during study by the Ordinance Committee. (Ord. 3533 §2(part), 1972.)

2.05.080 Reference to City Administrator and Further Action by Committee.

The City Attorney shall draft the proposed ordinance as requested by the Committee and send copies to the City Administrator and to the Committee. The City Administrator shall review the proposed ordinance, and prepare and forward to the Committee written comments thereon. Upon receipt from the City Administrator of such review and comment, or if not received within thirty (30) days from the date of referral, the Ordinance Committee shall by majority vote determine to submit the subject ordinance with or without revision to the City Council, or shall determine to table the ordinance without submission. If to be submitted, the ordinance shall be introduced by a member of the Ordinance Committee at the next regular meeting of the City Council feasible to allow such final redrafting by the City Attorney as may be required. (Ord. 3533 §2(part), 1972.)

2.05.090 Time Limit for Consideration by Committee.

After a matter has been pending with the Ordinance Committee for a period of thirty (30) days, a member of the Ordinance Committee or three (3) members of the City Council at a regularly scheduled Council meeting may request that the proposed ordinance be passed out of Committee and brought before the Council as a whole for introduction. In that event, the City Attorney shall prepare the proposed ordinance for introduction at the next regularly scheduled Council meeting. (Ord. 3752, 1975; Ord. 3533 §2(part), 1972.)

Chapter 2.08

BOARDS AND COMMISSIONS

Sections:

2.08.010 Authority.
2.08.020 Enumeration and Index.

2.08.010 Authority.

Pursuant to the authority granted the City Council in Section 800, Article VIII of the Santa Barbara City Charter, the City Council has created additional boards and commissions as in the Council's judgment are required. (Ord. 3904 §13, 1977; Ord. 3768 §1, 1975.)

2.08.020 Enumeration and Index.

A. BOARD OF AIRPORT COMMISSIONERS: The appointment of members and their function is delineated in Chapter 18.44 of the Santa Barbara Municipal Code and Section 812 of Article VIII of the City Charter.

B. ARCHITECTURAL BOARD OF REVIEW: The appointment of members and their function is delineated in Chapter 22.68 of the Santa Barbara Municipal Code and Section 814 of Article VIII of the City Charter.

C. BOARD OF CIVIL SERVICE COMMISSIONERS: The appointment of members and their function is delineated in Section 808 of Article VIII of the City Charter.

D. BOARD OF HARBOR COMMISSIONERS: The appointment of members and their function is delineated in Section 811 of Article VIII of the City Charter and Chapter 17.06 of the Santa Barbara Municipal Code.

E. LIBRARY BOARD: The appointment of members and their function is delineated in Section 807 of Article VIII of the City Charter.

F. PARKS AND RECREATION COMMISSION: The appointment of members and their function is delineated in Section 809 of Article VIII of the City Charter.

G. BOARD OF FIRE AND POLICE PENSION COMMISSIONERS: The appointment of members and their function is delineated in Section 815 of Article VIII of the City Charter.

H. PLANNING COMMISSION: The appointment of members and their function is delineated in Section 806 of Article VIII of the City Charter.

I. BOARD OF FIRE AND POLICE COMMISSIONERS: The appointment of members and their function is delineated in Section 816 of Article VIII of the City Charter.

J. BOARD OF WATER COMMISSIONERS: The appointment of members and their function is delineated in Section 813 of Article VIII of the City Charter. (Ord. 5512, 2010; Ord. 4272, 1984; Ord. 3904, §13, 1977; Ord. 3768, §1, 1975.)

Chapter 2.11

CITY DEPARTMENTS - GENERAL

Section:
2.11.010 Authority.

2.11.010 Authority.

Pursuant to the authority conferred by Section 702 of Article VII of the City Charter, the City Council may authorize and create additional administrative departments, divisions, offices and agencies within City government. The administrative departments, divisions, offices and agencies created are subject to the powers granted the City Council by Section 702 of Article VII of the City Charter. (Ord. 3741, 1975.)

Chapter 2.12

AIRPORT DEPARTMENT

Sections:
2.12.010 Created.
2.12.020 Organization of Department.
2.12.030 Duties of Director.
2.12.040 Function of Department.
2.12.050 Absence or Disability of Director.

2.12.010 Created.

An Airport Department is hereby created which shall be under the direction of the Airport Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3919 §2, 1977.)

2.12.020 Organization of Department.

The Airport Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3919 §2, 1977.)

2.12.030 Duties of Director.

The Airport Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department and for the performance of the functions of the Department, subject to the supervision of the City Administrator. (Ord. 3919 §2, 1977.)

2.12.040 Function of Department.

The function of the Department is the administration of matters pertaining to the Airport and any other functions assigned by the City Administrator. (Ord. 3919 §2, 1977.)

2.12.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Airport Director, a member of the Airport Department designated by the City Administrator, shall perform the duties and exercise the powers of the Airport Director. (Ord. 3919 §2, 1977.)

Chapter 2.13

COMMUNITY DEVELOPMENT DEPARTMENT

Sections:

2.13.010 Created.
2.13.020 Organization of Department.
2.13.030 Duties of Director.
2.13.040 Function of Department.
2.13.050 Absence or Disability of Director.
2.13.060 Designation of Chief of Building and Zoning.
2.13.070 Planning Commission - Compensation.

2.13.010 Created.

A Community Development Department is hereby created which shall be under the direction of the Community Development Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3749 §1, 1975.)

2.13.020 Organization of Department.

The Community Development Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3749 §1, 1975.)

2.13.030 Duties of Director.

The Community Development Director shall be responsible for the supervision and control of all personnel, materials and equipment assigned to the Community Development Department and for the performance of the functions of the Department subject to the supervision of the City Administrator. (Ord. 3749 §1, 1975.)

2.13.040 Function of Department.

The function of the Department is the administration of matters pertaining to land use, planning, building, zoning, the environment, housing and redevelopment for the City, and any other functions assigned by the City Administrator. (Ord. 3749 §1, 1975.)

2.13.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Community Development Director, a member of the Community Development Department, designated by the City Administrator, shall perform the duties and exercise the powers of the Community Development Director. (Ord. 3749 §1, 1975.)

2.13.060 Designation of Chief of Building and Zoning.

The Community Development Director, subject to the approval of the City Administrator, shall designate himself or another person to act as the Chief of Building and Zoning and may authorize delegation in whole or in part the duties and responsibilities of that position. The Chief of Building and Zoning and his authorized designees shall act as the Building Official of the City, the Zoning Official or Zoning Administrator of the City and shall perform such other duties as assigned by the Director. Whenever in this Code the title of Director of Land Use Controls is used it shall mean the Chief of Building and Zoning. (Ord. 3939 §1, 1978.)

2.13.070 Planning Commission - Compensation.

Pursuant to Section 801 of the City Charter, a member of the Planning Commission may, upon the request of individual commissioners, receive compensation of $50.00 for each meeting attended by that member including regular and special meetings. (Ord. 5160, 2000; Ord. 4602, 1989; Ord. 4470, 1987.)

Chapter 2.19

EMERGENCY SERVICES DEPARTMENT

Sections:

2.19.010 Created.
2.19.020 Organization of Department.
2.19.030 Duties of Director and Coordinator.
2.19.040 Function of Department.

2.19.010 Created.

An Emergency Services Department is hereby created which shall be under the direction of the Emergency Services Director, who shall be the City Administrator. (Ord. 3767, 1975.)

2.19.020 Organization of Department.

(a) The Emergency Services Director shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department.

(b) The Emergency Services Coordinator shall be responsible for day to day administration of the Department.

(c) The Emergency Services Council: the organization of the Council is delineated in Chapter 9.116 of Title 9 of the Santa Barbara Municipal Code. (Ord. 3767, 1975.)

2.19.030 Duties of Director and Coordinator.

The duties of the Director and Coordinator are delineated in Chapter 9.116 of Title 9 of the Santa Barbara Municipal Code. (Ord. 3767, 1975.)

2.19.040 Function of Department.

The function of the Emergency Services Department is delineated in Chapter 9.116 of Title 9 of the Santa Barbara Municipal Code. (Ord. 3767, 1975.)

Chapter 2.23

FINANCE DEPARTMENT

Sections:

2.23.010 Created.
2.23.020 Organization of Department.
2.23.030 Duties of Director.
2.23.040 Function of Department.
2.23.050 Absence or Disability of Director of Finance.

2.23.010 Created.

A Finance Department is hereby created which shall be under the direction of the Director of Finance, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3755 §2, 1975.)

2.23.020 Organization of Department.

The Director of Finance, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3755 §2, 1975.)

2.23.030 Duties of Director.

The Director of Finance shall be responsible for the supervision and control of all personnel, materials and equipment assigned to the Finance Department and for the performance of the duties of the Director of the Department as delineated in Article 7, Section 706 of the City Charter, other duties prescribed by the Charter and such other duties consistent with the Charter. (Ord. 3755 §2, 1975.)

2.23.040 Function of Department.

The function of the Department is the administration of matters pertaining to accounting and reporting of fiscal affairs for the City in compliance with generally accepted municipal government accounting practices and procedures not inconsistent with the City Charter, and any other functions assigned by the City Administrator. (Ord. 3755 §2, 1975.)

2.23.050 Absence or Disability of Director of Finance.

In the case of the temporary absence or disability of the Director of Finance, a member of the Finance Department, designated by the City Administrator, shall perform the duties and exercise the powers of the Director of Finance. (Ord. 3755 §2, 1975.)

Chapter 2.25

FIRE DEPARTMENT

Sections:

2.25.010 Created.
2.25.020 Organization of Department.
2.25.030 Duties of Chief.
2.25.040 Function of Department.
2.25.050 Absence or Disability of Chief.

2.25.010 Created.

A Fire Department is hereby created which shall be under the direction of a Fire Chief, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3749, 1975.)

2.25.020 Organization of Department.

The Fire Chief, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3749, 1975.)

2.25.030 Duties of Chief.

The Fire Chief shall be responsible for the supervision and control of all personnel, materials and equipment assigned to the Fire Department and for the performance of the functions of the Department subject to the supervision of the City Administrator. (Ord. 3749, 1975.)

2.25.040 Function of Department.

The function of the Department is the administration of matters pertaining to fire protection for the City and any other functions assigned by the City Administrator. (Ord. 3749, 1975.)

2.25.050 Absence or Disability of Chief.

In the case of temporary absence or disability of the Fire Chief, a member of the Fire Department, designated by the City Administrator, shall perform the duties and exercise the powers of the Fire Chief. (Ord. 3749, 1975.)

Chapter 2.26

WATERFRONT DEPARTMENT

Sections:

2.26.010 Created.
2.26.020 Organization of Department.
2.26.030 Duties of Waterfront Director.
2.26.040 Function of Department.
2.26.050 Absence or Disability of Waterfront Director.

2.26.010 Created.

A Waterfront Department is hereby created which shall be under the direction of the Waterfront Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 4272, 1984; Ord. 4074, 1980; Ord. 3919 §3, 1977.)

2.26.020 Organization of Department.

The Waterfront Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 4272, 1984; Ord. 4074, 1980; Ord. 3919 §3, 1977.)

2.26.030 Duties of Waterfront Director.

The Waterfront Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department and for the performance of the functions of the Department, subject to the supervision of the City Administrator. (Ord. 4272, 1984; Ord. 4074, 1980; Ord. 3919 §3, 1977.)

2.26.040 Function of Department.

The function of the Department is the administration of matters pertaining to the Harbor, Stearns Wharf and the Waterfront parking lots and any other functions assigned by the City Administrator. (Ord. 4272, 1984; Ord. 3919 §3, 1977.)

2.26.050 Absence or Disability of Waterfront Director.

In the case of the temporary absence or disability of the Waterfront Director, a member of the Waterfront Department designated by the City Administrator, shall perform the duties and exercise the powers of the Waterfront Director. (Ord. 4272, 1984; Ord. 4074, 1980; Ord. 3919 §3, 1977.)

Chapter 2.28

LIBRARY DEPARTMENT

Sections:

2.28.010 Created.
2.28.020 Organization of Department.
2.28.030 Duties of Director.
2.28.040 Function of Department.
2.28.050 Absence or Disability of Director.

2.28.010 Created.

A Library Department is hereby created which shall be under the direction of the Library Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3919 §4, 1977.)

2.28.020 Organization of Department.

The Library Director, subject to the approval of the City Administrator shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3919 §4, 1977.)

2.28.030 Duties of Director.

The Library Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department, and for the performance of the functions of the Department, subject to the supervision of the City Administrator. The Library Director shall have the authority to promulgate and post facility-specific regulations. No person shall violate any such regulations. Any person found to be in violation of a facility-specific regulation promulgated by the Library Director shall be subject to removal from the facility upon request of the Library Director or his or her designee. Such request, when made to law enforcement after refusal to comply, shall be a basis for forcible removal, citation or arrest. (Ord. 5686, 2015; Ord. 3919 §4, 1977.)

2.28.040 Function of Department.

The function of the Department is the administration of matters pertaining to the libraries, and any other functions assigned by the City Administrator. (Ord. 3919 §4, 1977.)

2.28.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Library Director, a member of the Library Department designated by the City Administrator, shall perform the duties and exercise the powers of the Library Director. (Ord. 3919 §4, 1977.)

Chapter 2.30

PARKS DEPARTMENT

Sections:

2.30.010 Created.
2.30.020 Organization of Department.
2.30.030 Duties of Director.
2.30.040 Function of Department.
2.30.050 Absence or Disability of Director.

2.30.010 Created.

A Parks Department is hereby created which shall be under the direction of the Parks Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3919 §5, 1977.)

2.30.020 Organization of Department.

The Parks Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3919 §5, 1977.)

2.30.030 Duties of Director.

The Parks Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department and for the performance of the functions of the department, subject to the supervision of the City Administrator. (Ord. 3919 §5, 1977.)

2.30.040 Function of Department.

The function of the Department is the administration of matters pertaining to parks, and any other functions assigned by the City Administrator. (Ord. 3919 §5, 1977.)

2.30.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Parks Director, a member of the Parks Department designated by the City Administrator, shall perform the duties and exercise the powers of the Parks Director. (Ord. 3919 §5, 1977.)

Chapter 2.31

PERSONNEL DEPARTMENT

Sections:

2.31.010 Created.
2.31.020 Organization of Department.
2.31.030 Duties of Director.
2.31.040 Function of Department.
2.31.050 Absence or Disability of Director.

2.31.010 Created.

A Personnel Department is hereby created which shall be under the direction of the Personnel Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3755 §3, 1975.)

2.31.020 Organization of Department.

The Personnel Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the function of the Department. (Ord. 3755 §3, 1975.)

2.31.030 Duties of Director.

The Personnel Director shall be responsible for the supervision and control of all personnel, materials and equipment assigned to the Department and for the performance of the functions of the Department subject to the supervision of the City Administrator. (Ord. 3755 §3, 1975.)

2.31.040 Function of Department.

The function of the Department is the administration of matters pertaining to the Civil Service System; labor relations; safety and loss control; the Affirmative Action Program; general personnel practices other than those relating to officers and employees directly appointed by the City Council, or assistants, deputies and employees appointed by those officers and employees directly appointed by the City Council; and any other functions assigned by the City Administrator. (Ord. 3755 §3, 1975.)

2.31.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Personnel Director, a member of the Personnel Department, designated by the City Administrator, shall perform the duties and exercise the powers of the Personnel Director. (Ord. 3755 §3, 1975.)

Chapter 2.33

POLICE DEPARTMENT

Sections:

2.33.010 Created.
2.33.020 Organization of Department.
2.33.030 Duties of Chief.
2.33.040 Function of Department.
2.33.050 Absence or Disability of Chief.

2.33.010 Created.

A Police Department is hereby created which shall be under the direction of the Police Chief, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3767, 1975.)

2.33.020 Organization of Department.

The Police Chief, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3767, 1975.)

2.33.030 Duties of Chief.

The Police Chief shall be responsible for the supervision and control of all personnel, materials and equipment assigned to the Police Department and for the performance of the functions of the Department subject to the supervision of the City Administrator. (Ord. 3767, 1975.)

2.33.040 Function of Department.

The function of the Department is the administration of those police matters pertaining to public peace, safety and protection for the City. (Ord. 3767, 1975.)

2.33.050 Absence or Disability of Chief.

In the case of the temporary absence or disability of the Police Chief, a member of the Police Department, designated by the City Administrator, shall perform the duties and exercise the powers of the Police Chief. (Ord. 3767, 1975.)

Chapter 2.39

PUBLIC WORKS DEPARTMENT

Sections:

2.39.010 Created.
2.39.020 Organization of Department.
2.39.030 Duties of Director.
2.39.040 Function of Department.
2.39.050 Absence or Disability of Director.

2.39.010 Created.

A Public Works Department is hereby created which shall be under the direction of the Public Works Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3749, 1975.)

2.39.020 Organization of Department.

The Public Works Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3749, 1975.)

2.39.030 Duties of Director.

The Public Works Director shall be responsible for the supervision and control of all personnel, materials and equipment assigned to the Public Works Department and for the performance of the functions of the Department subject to the supervision of the City Administrator. (Ord. 3749, 1975.)

2.39.040 Function of Department.

The function of the Public Works Department is the administration of the Water Department and matters pertaining to water resources, refuse collection, public streets and transportation, maintenance of City facilities, intra-city and engineering services, and any other functions assigned by the City Administrator. (Ord. 3749, 1975.)

2.39.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Public Works Director, a member of the Public Works Department, designated by the City Administrator, shall perform the duties and exercise the powers of the Public Works Director. (Ord. 3749, 1975.)

Chapter 2.40

RECREATION DEPARTMENT

Sections:

2.40.010 Created.
2.40.020 Organization of Department.
2.40.030 Duties of Director.
2.40.040 Function of Department.
2.40.050 Absence or Disability of Director.

2.40.010 Created.

A Recreation Department is hereby created which shall be under the direction of the Recreation Director, who shall be appointed by the City Administrator upon approval of the City Council. (Ord. 3919 §6, 1977.)

2.40.020 Organization of Department.

The Recreation Director, subject to the approval of the City Administrator, shall organize and maintain such divisions in the Department as necessary to economically and efficiently carry out the functions of the Department. (Ord. 3919 §6, 1977.)

2.40.030 Duties of Director.

The Recreation Director shall be responsible for the supervision and control of all personnel, materials, and equipment assigned to the Department and for the performance of the functions of the Department, subject to the supervision of the City Administrator. (Ord. 3919 §6, 1977.)

2.40.040 Function of Department.

The function of the Department is the administration of matters pertaining to recreation, and any other functions assigned by the City Administrator. (Ord. 3919 §6, 1977.)

2.40.050 Absence or Disability of Director.

In the case of the temporary absence or disability of the Recreation Director, a member of the Recreation Department designated by the City Administrator, shall perform the duties and exercise the powers of the Recreation Director. (Ord. 3919 §6, 1977.)

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TITLE 3
Personnel

This title was most recently updated by the following ordinance:

Ordinance No.	Subject	Effective Date	Code Site
5520	Employment of Domestic Partners in Same City Department or Division	June 24, 2010	Section 3.16.073
5553	Certification of Eligibles, Police Department Vacancies	July 21, 2011	Section 3.16.200

TITLE 3

PERSONNEL

Chapter: 3.04 Personnel and Salary Classification
Chapter: 3.08 Employee Benefits
Chapter: 3.12 Employer-Employee Relations
Chapter: 3.16 Civil Service System

Chapter 3.04

PERSONNEL AND SALARY CLASSIFICATION

Sections:

3.04.010 Short Title.
3.04.020 Definition of Terms.
3.04.030 Qualifications of Employees - Advancement for Extraordinary Qualifications.
3.04.040 Classification of Positions.
3.04.050 Allocation of Positions.
3.04.055 Trainee-Level Positions.
3.04.060 Use of Class Titles.
3.04.070 Application of Compensation Plan to Positions.
3.04.080 Initial Adjustments to Compensation Plan.
3.04.100 Salary Rate - Promotion.
3.04.110 Salary Rate - Demotion.
3.04.115 Effective Date of Step Increase, Promotion, Demotion and Reclassification.
3.04.120 Salary Rate - Transfer.
3.04.130 Fire and Police Officers Acting in Higher Rank.
3.04.140 Incumbents Receiving Compensation in Excess of the Maximum.
3.04.150 Cumulation of Service in One Class of Position.
3.04.160 Hourly Employment.
3.04.161 Unclassified Part-Time Employees.
3.04.190 Payment Period.
3.04.210 Compensation Plan, Objectives.
3.04.220 Compensation, Policies.
3.04.240 Management Compensation Plan.
3.04.250 Compensation Plan, Controlling Factors.

3.04.010 Short Title.

This chapter shall be known as the "Basic Salary Ordinance". (Ord. 2906 §1, 1963.)

3.04.020 Definition of Terms.

The words and terms defined in this section shall have the following meanings in this chapter and in any other ordinance classifying and fixing the salaries and compensation or authorizing the employment of personnel in any department or office of the City.

(1) "City service" or "service of the City" means all positions in all departments as herein defined, that are subject to control and regulation by the City Council.

(2) "Classified service" means all positions in the City service except those specifically placed in the exempt service.

(3) "Exempt service" means all positions of elective and appointive officials specifically designated by the City Council to be exempt from the classification plan.

(4) "Class" or "class of positions" means a definitely recognized kind of employment in the City service designated to embrace all positions having duties and responsibilities sufficiently similar so that the same requirements as to education, experience, knowledge and ability may be demanded of incumbents and so the same schedule of compensation may be made to apply with equity.

(5) "Title", "class title" or "title of class" means the designation given to or name applied to a class or to each position allocated to the class and to the legally appointed incumbent of each position allocated to the class. Its meaning is set forth in the corresponding definition and the class specification, and it is always to be used and understood in that sense, even though it may, previously have had a broader, narrower or different significance.

(6) "Position" means a group of current duties and responsibilities assigned or delegated by competent authority, requiring the full or part-time services of one (1) person.

(7) "Employee" means a person legally occupying a position in the City service.

(8) "Allocation" means the official determination of the class in which a position shall be deemed to exist and the assignment of an individual position to an appropriate class.

(9) "Reallocation" means a reassignment or change in allocation of any individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level on the basis of substantial changes in the kind, difficulty or responsibility of duties performed in such a position.

(10) "Compensation" means the salary, wages, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position, but does not include any allowance authorized and incurred as incidents to employment.

(11) "Continuous service" means employment with the City without break or interruption; in computing continuous service for the purposes of this chapter, neither military leaves nor leaves of absence on account of illness, whether with or without pay, shall be construed as a break in employment or service. Other absences aggregating in excess of ninety (90) days in any period of twelve (12) months, including layoffs on account of lack of work, lack of funds, or abolishment of positions shall be construed as breaking "continuous service".

(12) "Anniversary date" means the existing anniversary date for present officers and employees, and the first date of the month following date of employment of subsequent officers and employees unless the employment begins on the first day of the month in which case day of employment applies.

(13) "Base pay" means the minimum compensation regularly payable to an employee as set forth in the current salary resolution or ordinance at the time that added compensation is paid under this chapter, but shall not include overtime, expenses, hazardous duty pay (motorcycle), service betterment pay, or any other allowance added to the base pay. (Ord. 3654 §1, 1974; Ord. 2906 §2, 1963.)

3.04.030 Qualifications of Employees - Advancement for Extraordinary Qualifications.

No person shall be hereafter employed in or appointed to any position requiring full-time or part-time service, and which position is included in the classified plan for which a class specification exists establishing desirable qualifications, unless said person possesses in full the desirable qualifications prescribed for that class; provided, however, if qualified persons cannot be recruited, the City Administrator, with the approval of the Council, shall authorize the appointment of persons having less than the desirable qualifications.

In the event an employee entering upon City employment is found to possess extraordinary qualifications for a position through former training and/or experience, the City Administrator with the approval of the Council, may authorize the employment at any step of the appropriate salary range above Step "A". In such event, the employee shall serve a probationary period as elsewhere provided but he shall not succeed to the next higher step in the pay range until he has completed one (1) continuous year of service in the step at which he entered, and upon written recommendation of the department head to the City Administrator as provided in Section 3.04.070(c); provided, that department heads may at any time be advanced to a step other than the next succeeding step upon recommendation of the City Administrator and concurrence by the City Council, and provided further that in the event the City Administrator fails or refuses to make such recommendation, the Council may, by four-fifths (4/5) vote, advance such department head to a step other than such next succeeding step, and this chapter shall be deemed to be retroactive in its operation to January 1, 1965. (Ord. 3849, 1976; Ord. 3030, 1965; Ord. 2906, 1963.)

3.04.040 Classification of Positions.

(a) The provisions of this chapter shall apply to both the unclassified and classified services except as the unclassified service is exempt by the Charter.

(b) The classification of positions for the purposes of this chapter shall be as contained in the official book of class specifications. The official book of specifications shall be maintained by the City Administrator or Personnel Officer.

(c) The classification of positions may be amended by the addition, division, consolidation or abolishment of classes on recommendation of the City Administrator and adoption by the City Council. (Ord. 2906 §4, 1963.)

3.04.050 Allocation of Positions.

Each position shall be allocated to its appropriate class on the basis of duties and responsibilities. The present allocation of positions may be changed by the City Administrator provided the proposed change conforms with this chapter, with the established classification plan, and with the approved budget. (Ord. 2906 §5, 1963.)

3.04.055 Trainee-Level Positions.

Provision is hereby made for trainee-level positions in the unclassified service of the City. Such positions may be utilized temporarily only in lieu of filling regular authorized full-time and/or permanent part-time vacancies in either the classified or the unclassified service. Trainee appointments may be made upon the recommendation of the Personnel Director and approval of the City Administrator for periods of one (1) year or less.

Positions may be filled at the trainee level only by persons who possess or will gain during the period of their appointment the minimum qualifications for regular appointment. Such trainees must, however, qualify for regular or permanent part-time employment as provided elsewhere in this chapter. A trainee who fails to so qualify will be terminated upon or before the expiration of the appointment.

The intent of the trainee provision is to provide entry level employment opportunities in the City service in furtherance of positive employee development and affirmative action.

Trainee-level positions shall be compensated at a rate not to exceed eighty percent (80%) of the wage rate established by ordinance or resolution for the appropriate regular position. Trainee responsibilities shall be those outlined in substance on the appropriate regular position job descriptions recognizing, however, that employee development and skills acquisition are involved. (Ord. 3780, 1975.)

3.04.060 Use of Class Titles.

The title of the class to which any position is allocated shall be used in all official personnel records and in all official personnel transactions of the City. (Ord. 2906 §6, 1963.)

3.04.070 Application of Compensation Plan to Positions.

(a) The salaries or rates of compensation prescribed are fixed on the basis of full-time service in full-time positions, unless otherwise designated.

(b) The rates of pay prescribed shall be deemed to include pay in every form, except for necessary expenses authorized and incurred incident to employment, or except as herein provided.

(c) The letters A, B, C, D and E, respectively, denote the various steps in the pay range. The entrance step shall be A, except as provided in Section 3.04.030. Advancement to the second higher step above the entrance step shall be made upon successful completion of a probationary period of six (6) months, and on the basis of a written recommendation by the department head to the City Administrator. Thereafter, advancement to higher salary range steps shall be made on the basis of a written recommendation by the department head to the City Administrator, following the completion of a year of service in the lower step of the range.

(d) Where a salary range for a given class or for several classes is revised upward or downward, the incumbents of positions in classes affected shall have their existing salary adjusted to the same relative step in the new salary range. (Ord. 2906 §7, 1963.)

3.04.080 Initial Adjustments to Compensation Plan.

Subject to the provisions of this chapter, the salary ranges set out in this chapter shall be applicable to all positions allocated to classes listed in this chapter. From and after the date the ordinance codified in this chapter becomes effective, each employee in the City service shall be paid the salary or compensation for services rendered in behalf of the City in accordance with the salary range prescribed for the class of position to which his position is allocated.

Persons who are employees on the effective date of the ordinance codified in this chapter shall be allocated to the class and position deemed proper and shall be placed at a salary step in the applicable salary range, all in accordance with a resolution of the City Council. (Ord. 2906 §8, 1963.)

3.04.100 Salary Rate - Promotion.

In case of the promotion of any employee in the City service to a position in a class with a higher salary range, such employee shall be entitled to receive the rate of compensation in the entrance step of the class to which he has been promoted, provided that in the event such employee possesses extraordinary qualifications through long tenure and previous experience in his department, the City Administrator may, with the approval of the City Council, authorize the promotion of such employee to be at any step other than such entrance step. In cases where the salary range overlaps, promotion shall be effected at the next higher step in the range of the new class. (Ord. 2913 §1(part), 1963; Ord. 2906 §9(a), 1963.)

3.04.110 Salary Rate - Demotion.

In the case of the demotion of any employee in the City service to a class with a lower salary range, such employee shall be entitled to retain the salary step in the lower range corresponding to that which he was receiving in the higher class before such demotion; in such cases the employee shall retain his original anniversary date. (Ord. 2913 §1(part), 1963; Ord. 2906 §9(b), 1963.)

3.04.115 Effective Date of Step Increase, Promotion, Demotion and Reclassification.

All step increases, promotions, demotions and reclassifications and the salary rates therefor shall become effective on the first day of the first pay period following the completion date of the personnel action by the appointing power. (Ord. 3866, 1976.)

3.04.120 Salary Rate - Transfer.

In the case of the transfer of any employee from one position to another in the same class, or to another class to which the same salary range is applicable, the employee shall remain at the same salary step and shall retain his original anniversary date. (Ord. 2913 §1(part), 1963; Ord. 2906 §9(c), 1963.)

3.04.130 Fire and Police Officers Acting in Higher Rank.

At any time the City Administrator, upon the recommendation of the department head and Personnel Director, may order any member of the Police or Fire Department holding a lower rank therein to serve as an acting officer of a higher rank and may order that he be paid the compensation of such higher rank which duties he is to perform, and thereupon he shall be paid the compensation of such higher officer or rank so long as he performs duties as such; provided, however, that such appointment as an acting higher
officer can be made only when a vacancy exists in the higher position or when the person holding the higher rank is absent on extended leave due to illness or occupational accident or injury. While acting in such higher office, all of the aforementioned members of the Police Department or Fire Department shall have the duties and shall exercise the powers of the office which they are designated to fill as acting officer. (Ord. 3833, 1976.)

3.04.140 Incumbents Receiving Compensation in Excess of the Maximum.

The enactment of the ordinance codified in this chapter shall not affect the compensation of those employees who at the time the ordinance codified in this chapter is adopted are receiving in excess of the maximum step in the range for their respective classes, and such employees may continue to receive such compensation. (Ord. 2906 §10, 1963.)

3.04.150 Cumulation of Service in One Class of Position.

Whenever an employee accepts work under a different class of position or in exempt series in the City service, the character and nature of which work is similar and the responsibilities are equal or superior to the work such employee has been performing, and later returns to his former position, his term of employment under such different class of position shall apply on and be added to his term of service in the former class upon his return to same, provided his employment in the City service has been continuous from the date on which the employee accepts work in such different class. (Ord. 2906 §11, 1963.)

3.04.160 Hourly Employment.

A. HOURLY EMPLOYEE DEFINED. "Hourly employee" means an employee in the unclassified service, who works either full-time or part-time, so long as the number of hours worked is less than 1,000 hours in any City fiscal year.

B. ANNUAL HOURLY LIMITATION. The hour limitation for hourly employees set forth in subparagraph A hereof shall be computed on the basis of all employment for the City, including employment for different City departments occurring within the same fiscal year. When and as determined appropriate by the City Administrator and upon the recommendation of a Department Head, the City Administrator may, in writing, waive this annual hourly limitation stated herein for specific projects or operational needs of known duration.

C. HOURLY EMPLOYEE COMPENSATION AND BENEFITS. The actual compensation for hourly employees shall be determined as provided in the City's official salary schedules. Hourly employees shall only be entitled to the compensation or benefits provided for in this Section, or as provided in an applicable, duly approved collective bargaining agreement between the City and a recognized employee organization, or as mandated by State or Federal laws. (Ord. 5413, 2007; Ord. 3925 §1, 1977; Ord. 3267, 1968.)

3.04.161 Unclassified Part-Time Employees.

A. UNCLASSIFIED PART-TIME EMPLOYEE DEFINED. A part-time employee category in the unclassified service is established. An "unclassified part-time employee" means an employee who occupies a position officially authorized by the City Council to work at least 20 hours but not more than 30 hours in any calendar week.

B. COMPENSATION. Unclassified part-time employees shall be compensated at an hourly rate, as provided in the City's official salary schedules.
benefits in the following categories:

C. STEP RAISES. Unclassified part-time employees are eligible for step increases under the same terms and conditions that apply to full-time employees except that the period of employment required for advancement from one salary step to the next salary step shall be the number of hours equivalent to 1 year of full-time employment as defined by Section 3.08.030.

D. BENEFITS. Unclassified part-time employees shall be entitled to and shall receive the benefits set forth in a duly approved collective bargaining agreement with a recognized employee organization which is applicable to the position which they hold. In the event that an unclassified part-time employee is not covered by a collective bargaining agreement, the unclassified part-time employee shall receive:

1. The benefits, except for sick and vacation leave, applicable to a full-time position in the same classification, prorated to the percent of time the unclassified part-time employee is regularly scheduled to work, rounded up to the nearest 10%.
2. Sick and vacation leave, prorated to the percent of time the unclassified part-time employee actually works, rounded up to the nearest 10%.

E. RETIREMENT BENEFITS. Part-time unclassified employees shall be eligible for retirement benefits and shall contribute to the retirement fund as set forth by the State Public Employees Retirement System.
(Ord. 5413, 2007; Ord. 3493 §2, 1971.)

3.04.190 Payment Period.

All salaries and compensation herein provided shall be paid biweekly unless otherwise provided by ordinance, provided that employees who may be hired on occasional or emergency work shall be entitled to receive their salaries or wages on the completion of the work for which they were hired. (Ord. 3866, 1976.)

3.04.210 Compensation Plan, Objectives.

In keeping with the philosophy that the City should be a model employer and provide good salaries and benefits for all employees; and in order to provide understandable methods of salary setting which will result in compensation reasonable to employees, management and taxpayers, the salary administration policies and procedures for the City shall be as provided in Sections 3.04.220 to 3.04.240, inclusive of this chapter. (Ord. 3357 §1, 1969.)

3.04.220 Compensation, Policies.

The compensation plan of the City shall be established and maintained so as to:

(a) Enable the City to attract and retain competent employees;

(b) Provide for equitable monetary recognition of differences in duties and responsibilities between classes of positions; and

(c) Provide logical relationships to salaries paid for comparable work in appropriate areas in both public and private employment. (Ord. 3357 §2, 1969.)

3.04.240 Management Compensation Plan.

A. MANAGEMENT COMPENSATION PLAN. As provided in Section 1211 of the City Charter, a Management Compensation Plan consists of the application of those salary and fringe benefit policies provided by ordinance, resolution or administrative procedure to management employees.

B. MANAGEMENT EMPLOYEE DEFINED. "Management employees" mean City officers, department heads, other management employees designated as such by the City Administrator with the approval of the City Council, and professional attorneys, which shall be those employees appointed by the City Attorney as his or her deputies or assistants.

C. PURPOSE OF MANAGEMENT COMPENSATION PLAN. The creation of this plan is intended to encourage the development of professional management skills in the City service, responsive to the policies of the City Council, the direction of the City Administrator and the City Attorney, and the needs of the citizenry. It is also intended to provide a reasonable degree of security to such employees.

D. EXEMPTIONS FROM CERTAIN PAYS. Employees designated as management are exempt from overtime and stand-by pay, as defined by this Code, unless otherwise authorized by the City Council.
(Ord. 5413, 2007; Ord. 3654 §2, 1974.)

3.04.250 Compensation Plan, Controlling Factors.

Changes occur in the organization structure of the City and important changes occur in the demands for certain skills. Many of these changes take place gradually. Consideration shall be given to the following factors, among others, in determining the appropriateness of the compensation for a given classification:

(1) Experience required;
(2) Education and training required;
(3) Complexity of work involved;
(4) Responsibility assigned;
(5) Public contacts involved;
(6) Supervision received and exercised;
(7) Special skills required;
(8) Employee turn-over, recruitment difficulties, quality and quantity of job applicants;
(9) The ability of the City to pay.

(Ord. 3357 §4, 1969; Ord. 3654 §2, 1974.)

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Chapter 3.08

EMPLOYEE BENEFITS

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3.08.010 Title.

This chapter shall be known as the "Employee Benefits Ordinance of the City of Santa Barbara". (Ord. 3655 §1, 1974.)

3.08.020 Definitions.

(1) "Regular Salary or Wage" means all compensation provided an employee in accordance with the City's current Salary Resolution, and Sections 3.04.220 and 3.04.250 of the Municipal Code.

(2) "Overtime Work" means work in excess of the work week provided in §3.08.030.

(3) "Management Employees" means City officers, department heads, and other employees designated as management employees by the City Administrator pursuant to §3.04.230(a).

(4) "General Employees" means those full-time probationary and regular employees of the City in the constituent job classifications of the "general employees bargaining unit" as such unit is recognized by the City Administrator pursuant to §3.12.090 of the Municipal Code.

(5) "Police Department Employee" means those full-time probationary and regular employees in the constituent job classifications of the "Police Employees Bargaining Unit" as such unit is recognized by the City Administrator pursuant to §3.12.090 of the Municipal Code.

(6) "Fire Department Employees" means those full-time probationary and regular employees in the constituent job classifications of the "Fire Employees Bargaining Unit" as such unit is recognized by the City Administrator pursuant to §3.12.090 of the Municipal Code. (Ord. 3655 §1, 1974.)

3.08.030 Work Week.

Full-time employees shall work a minimum of forty (40) hours per seven (7) day week, except members of the Fire Department, whose standard duty week shall be as follows:

through June 30, 1975	fifty-eight and eight-tenths (58.8) on duty shift hours when averaged over a one (1) year period.
July 1, 1975 - June 30, 1976	fifty-seven and four-tenths (57.4) on duty shift hours when averaged over a one (1) year period.
July 1, 1976 and thereafter	fifty-six (56) on duty shift hours when averaged over a one (1) year period.

(Ord. 3655 §1, 1974.)

3.08.040 Overtime.

A department head or division head may require any employee in his department or division to work overtime for more than the regular number of hours in an assigned work day or week when public necessity or convenience requires such work. (Ord. 3655 §1, 1974.)

3.08.050 Compensation for Overtime.

(a) General Employees:

1. Whenever cash payment for overtime is mandated by the Federal Fair Labor Standards Act or any other similar statute applicable to the City of Santa Barbara, general employees, except those covered by (d) of this section, who work more than forty (40) hours in any seven (7) day or one hundred sixty-eight (168) hours work week shall receive overtime compensation by cash payment at the rate of 1-1/2 times their regular salary or wage.
2. At all other times, general employees shall be entitled to receive overtime compensation as provided in (d) of this section.

(b) Public Safety Employees: Police Department and Fire Department employees not covered by (c) of this section who work overtime shall be compensated by the following:

1. Compensatory time off as provided in Section 3.08.060; (or)
2. Cash payment if specifically authorized by the City Administrator pursuant to Section 3.08.070.

(c) Management Employees: Management employees shall not be entitled under this section to any compensation for overtime work.

(d) Employees Exempted from the Overtime Provisions of the Fair Labor Standards Act: Employees designated by the City Administrator as exempt from the overtime provisions of the Federal Fair Labor Standards Act shall receive the following compensation for overtime work:

1. Compensatory time off as provided in Section 3.08.060; (or)
2. Cash payment if specifically authorized by the City Administrator pursuant to Section 3.08.070. (Ord. 3719 §3, 1975; Ord. 3655 §1, 1974.)

3.08.060 Compensatory Time Off.

Except as provided in Section 3.08.050 compensatory time off shall be earned and accumulated, and may be taken off at a straight time rate at the discretion of the employee's department head. (Ord. 3655 §1, 1974.)

3.08.070 Authorization for Paid Overtime.

Except as provided in Section 3.08.060, no employees shall receive cash payment for overtime work unless said payment has been first authorized by the City Administrator pursuant to this section. To request authorization from the City Administrator to pay employees for overtime, the department head must notify the City Administrator in writing of the reasons requiring overtime, the members and titles of positions affected, and the probable period of time the overtime will be worked. The request must be made before the overtime is worked. Such paid overtime shall be at a straight time rate. (Ord. 3655 §1, 1974.)

3.08.075 Stand-By Pay.

(a) General Employees: When any general employee is officially designated by the department head to remain available to return to work, at any time during specific hours outside of normal working hours, the employee shall receive two (2) hours of straight time or compensatory time off for each eight (8) hours on stand-by, or fraction thereof.

(b) Police Department Employees: When a Police Department employee is on officially designated stand-by duty and such designation is made at least forty-eight (48) hours prior to commencement of that duty, the employee shall receive one (1) hour of pay for eight (8) hours of duty or fraction thereof. When the stand-by assignment is madewithin forty-eight (48) hours of the commencement of the duty, the employee shall receive two (2) hours of pay for eight (8) hours of duty or fraction thereof. Such pay shall be at straight time and shall be paid or taken as compensatory time at the discretion of the Chief of Police. (Ord. 3655 §1, 1974.)

3.08.080 Vacation - Accrual and Computation.

Full-time employees, other than temporary employees, shall be entitled to accrue and receive vacation with pay in accordance with the following schedule:

(a) Officers, department heads, acting department heads and such other management personnel as designated by the City Administrator pursuant to Section 3.04.230 of the Municipal Code:

Length of Continuous Service	Vacation Entitlement
0 through 3rd year	4.6 hours per complete biweekly pay period of service rendered.
4th and 5th years	6.2 hours per complete biweekly pay period of service rendered.
6 years and over	7.7 hours per complete biweekly pay period of service rendered.

At least forty (40) hours of said vacation shall be taken every six (6) months or shall be lost. If conditions prevent such usage, the City Administrator may approve the accumulating of said forty (40) hours subject to the limitation provided in Section 3.08.120.

(b) For other employees designated as "Management" pursuant to Section 3.04.230 of the Municipal Code:

Length of Continuous Service	Vacation Entitlement
0 through 3rd year	3.1 hours per complete biweekly pay period of service rendered.
4th and 5th years	4.6 hours per complete biweekly pay period of service rendered.
6th through 10th years	6.2 hours per complete biweekly pay period of service rendered.
11 years and over	7.7 hours per complete biweekly pay period of service rendered.

(c) For sworn firefighters not designated as "Management" pursuant to Section 3.04.230 of the Municipal Code working shifts in excess of 40 hours per week:

Length of Continuous Service	Vacation Entitlement
0 through 9th year	Eleven (11) working shifts per calendar year.
10 years and over	Seventeen (17) working shifts per calendar year.

(d) Police Department employees shall be entitled to accrue and receive vacation with pay in accordance with the schedule provided in Subsection (e).

(e) General employees shall be entitled to accrue and receive vacation with pay according to the following schedule:

Length of Continuous Service	Vacation Entitlement
0 through 5th year	3.1 hours per complete biweekly pay period of service rendered.
6th through 10th year	4.6 hours per complete biweekly pay period of service rendered.
11th through 24th year	6.2 hours per complete biweekly pay period of service rendered.
24 years and over	7.7 hours per complete biweekly pay period of service rendered.

(f) Prior continuous service of any persons presently employed by the City shall be taken into account in computing vacation entitlement as provided in this section. (Ord. 3866, 1976.)

3.08.090 Vacation Scheduling.

Vacation shall be scheduled by the department head to provide adequate staffing. Such scheduling shall be subject to the needs of the City, but shall take into account employee seniority and choice. (Ord. 3655 §1, 1974.)

3.08.095 Jury Duty Leave.

In the event that an employee of the City is required by a court of competent jurisdiction to perform jury duty and that requirement causes the employee to be away from his regularly assigned work schedule, said jury duty shall be considered leave with pay without interruption of service on the condition that the employee pay to the City Treasurer all compensation he receives for the jury duty.

Responsibility for proper administration of this section shall rest with the department head. (Ord. 3850 §1, 1976.)

3.08.100 Procedure for Payment of Compensation Upon Separation or Death.

A. SEPARATION. An employee separating from the service of the City for any reason shall receive all compensation which may be due and owing to him or her, including all unused accrued vacation time.

B. DEATH. In case of the death of an employee, the employee's estate shall be paid all compensation, including any unused vacation time, which may be due and owing. (Ord. 5413, 2007; Ord. 3655 §1, 1974.)

3.08.110 Holiday - Falling Within Vacation Time.

In the event that one (1) or more municipal holidays shall fall within a vacation leave, and the officer or employee is entitled to and eligible for such holidays, the days shall not be charged against accrued vacation leave and the leave shall be extended accordingly. Any officer or employee who is compelled by the nature of the duties involved to work on any holiday for which the officer or employee is eligible, shall receive compensating time off on a day or days which would normally constitute a working day for that officer or employee. (Ord. 3655 §1, 1974.)

3.08.120 Accumulation Limits of Vacation Time.

Vacation time accrued during any calendar year may be accumulated, but must be used in the following calendar year or is lost. Provided, however, that accumulated vacation time, not exceeding an aggregate total of one hundred sixty (160) hours, may be carried over beyond the end of calendar years following the year of its accrual with the written approval of the department head and the City Administrator. Such approval shall be recorded in the personnel file of the officer or employee concerned. Fire Department employees shall be entitled to carry over twenty (20) days of vacation under the procedure provided above. (Ord. 3866, 1976; Ord. 3655 §1, 1974.)

3.08.130 Legal Holidays.

The following days are declared to be legal holidays for all full-time employees in the City service, other than sworn Police personnel and Police Department employees designated by the Chief of Police:

(l) January 1st.
(2) February 12th.
(3) The third Monday in February.
(4) The last Monday in May.
(5) July 4th.
(6) The first Monday in September.
(7) September 9th.
(8) The second Monday in October.
(9) November 11, known as "Veteran's Day".
(10) December 25th.
(11) Every day on which an election is held throughout the State.
(12) The Thursday in November appointed as Thanksgiving Day.

If January 1st, February 12th, July 4th, September 9th, November 11th or December 25th falls on a Sunday, the following Monday shall be observed as a holiday.

If any of the above holidays falls on a Saturday, the preceding Friday shall be observed as a holiday for all employees other than Fire Department employees and those Police Department employees designated below.

Sworn police personnel and Police Department personnel designated by the Chief of Police shall observe one(1) day per month, scheduled in advance, as a holiday. Such days shall be designated in advance by the Chief of Police, bearing in mind first the needs of the City and then the desire of the employee.

An employee, other than a sworn Fire Department employee or Police Department employee designated above, whose regular day off falls on a day which is celebrated as a holiday by other employees shall be entitled to equivalent time off to be determined by the department head for the holiday and the regular day off. Any such employee whose regular work day falls on a holiday which is not observed by other City employees would not be entitled to such holiday time off.

All of the above mentioned holidays shall be observed by the closing of all municipal offices, provided that these offices shall be made available for any necessary stand-by or emergency employees required to work on any such holiday.

When any of the aforementioned holidays fall on Saturday, or Sunday, no temporary employee shall receive payment for such holiday unless he works on such day and in that event he shall be paid regular full-time straight salary or receive time off equivalent to such day. All City employees on a monthly rate shall receive equal number of holidays as set forth above. Work on any of the aforementioned holidays by employees paid on a monthly basis shall be overtime and such employees shall receive straight time pay or equivalent time off for such work in a manner consistent with §3.08.050. Such equivalent time off shall be taken at such time as may be mutually agreed upon by such employee and his department head, provided such equivalent time off must be taken at the earliest practicable time following such holiday, and further provided that any such equivalent time off must be taken prior to the end of the next succeeding calendar year. (Ord. 3692, 1974; Ord. 3655 §1, 1974.)

3.08.140 Sick Leave - Accrual.

All City employees, other than Fire Department employees, shall accrue 3.7 hours of sick leave at full salary for each complete biweekly pay period.

Fire Department employees shall accrue sick leave in the amounts and at the percentages of full salary in accordance with the following schedule:

Percentage of Compensation:

(a) After four (4) months of continuous service, sick leave not exceeding one (1) week at 75%

(b) After one (1) year of continuous service, sick leave not exceeding two (2) weeks at 100%

(c) After two (2) years of continuous service, sick leave not exceeding three (3) weeks, the first two (2) weeks at 100%
and a third week at..... 65%

(Ord. 3866, 1976; Ord. 3655 §1, 1974.)

3.08.150 Sick Leave - Accumulation.

(a) All City employees shall be credited with such full salary (100%) sick leave as shall remain to the employee's credit on the last day of each calendar year. For all City employees, excluding Fire Department employees, such accumulated sick leave shall not exceed a total of seven hundred twenty (720) hours and is replenishable. For Fire Department employees, such accumulated sick leave shall not exceed a total of ninety (90) days and is replenishable.

(b) After five (5) years of continuous service, an employee, except Fire Department employees, may accumulate additional sick leave at the rate of sixteen (16) hours at full salary for each additional year of continuous service, provided such accumulation shall not exceed two hundred forty (240) hours, and is not replenishable. After five (5) years of continuous service, Fire Department employees may accumulate additional sick leave at the rate of two (2) days at full salary for each additional year of continuous service, provided such accumulation shall not exceed thirty (30) days and is not replenishable. (Ord. 3866, 1976; Ord. 3655 §1, 1974.)

3.08.160 Sick Leave - Administration.

(a) Sick leave authorized for Fire Department employees pursuant to Section 3.08.140 be allowed in the following order:

(1) Current sick leave provided in Subsections (a), (b) or (c), as applicable, except current sixty-five percent (65%) sick leave provided in Subsection (c).

(2) Additional one hundred percent (100%) sick leave provided in Section 3.08.150 (a).

(3) Accumulated one hundred percent (100%) non-replenishable sick leave provided under Section 3.08.150 (b).

(4) Current sixty-five percent (65%) sick leave provided in Subsection (c).

(b) Sick leave authorized for other employees pursuant to the provisions of Section 3.08.140 of the Municipal Code shall be allowed in the following order:

(1) Current accrued and accumulated one hundred percent (100%) sick leave pursuant to §§3.08.140 and 3.08.150(a);

(2) Accumulated one hundred percent (100%) non-replenishable sick leave provided under Section 3.08.150 (b);

(3) Other one hundred percent (100%) sick leave previously authorized and accrued prior to January 1, 1974, provided however, such sick leave shall not carry over beyond December 31, 1974;

(c) All individuals employed by the City prior to January 1, 1974, shall be credited, as of said date, with all sick leave accrued and unused during the 1973 calendar year. (Ord. 3655, 1974.)

3.08.170 Evidence Provided for Payments of Sick Leave.

No sick leave payment shall be made except after satisfactory evidence of illness covering the period of absence has been accepted and approved by the head of the department in which the absentee is employed. If any officer or employee, other than Fire Department employees, is absent from work for more than twenty-four (24) working hours on sick leave, he shall present to his department head a statement from a physician attesting to the fact that such absence was necessary because of said sickness. The statement shall be permanently filed by the department head. Fire Department employees shall be required to present a physician's statement when absent from work on sick leave for more than two (2) consecutive twenty-four (24) hour working shifts.

Under no circumstances is sick leave to be used in lieu of or in addition to, or as vacation.

Responsibility for proper administration of this chapter shall rest with each department head and improper use of sick leave benefits shall be cause for employee dismissal from the City service. (Ord. 3866, 1976; Ord. 3655 §1, 1974.)

3.08.180 Sick Leave - Continuous Illness Extending Over Calendar Year.

Where an illness is continuous and extends from one (1) calendar year into the next, the employee shall be entitled to complete the period of sick leave to which he was entitled at the commencement of such illness. (Ord. 3655 §1, 1974.)

3.08.190 Combining Sick Leave and Vacation Time.

Vacation time and sick leave time may be combined in case of exceptional illness of any employee in the discretion of the department head or City Administrator. (Ord. 3655 §1, 1974.)

3.08.200 Bereavement Leave.

In case of death of a member of an employee's immediate family, the employee shall be granted three (3) working days leave with pay. The employee shall be eligible to receive two (2) additional days leave with pay, up to a maximum of five (5) days, subject to the approval of the department head. Employees of the Fire Department assigned to shift work shall be granted leave not to exceed two (2) shifts off with pay.

Immediate family is defined as mother, father, brother, sister, spouse, child, grandparents by blood or marriage, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law or person standing in loco parentis.

The intent of bereavement leave is to provide employees with adequate time to be with their immediate family during a period of anguish, whether it be at the time of death, preparation of funeral arrangements and/or to attend a funeral.

Responsibility for proper administration of this section shall rest with each department head. (Ord. 3655 §1, 1974.)

3.08.210 Leave of Absence - Schedule - Granting by City Administrator - Compensation.

Whenever any person entitled to benefits under the provisions of Sections 3.08.140 through 3.08.190 shall have been in the service of the City continuously for five (5) years or more, upon his written application approved by his department head or the City Administrator and accompanied by a report from a medical doctor, stating the extent and nature of the illness of the applicant and approximate time required for recovery, the City Administrator may grant to such person an extra leave of absence because of illness in addition to that provided by Sections 3.08.140 through 3.08.190. Such leave of absence shall be in accordance with the following schedule:

Service in Years, Active and Continuous	Maximum Number of Months of Extra Leave Allowable
5 – 10	3
10 – 15	6 (including the above 3)
15 – 20	9 (including the above 6)
20 plus	12 (including the above 9)

During such period of extra leave, such person shall receive an amount equal to fifty percent (50%) of his regular salary or wages. (Ord. 3655 §1, 1974.)

3.08.220 Injury in the Course of Employment - Workers' Compensation - Payments from City.

Where sickness or injury is sustained in the course of employment with the City, such officer or employee shall be compensated under the provisions of the Workers' Compensation Insurance and Safety Act of the State and not under the provisions of this chapter; provided, however, that if during the first three (3) calendar days of necessary absence for such cause, the disabled person shall be qualified for and receive payments under the above-mentioned act, he shall also receive from the City a sum which, when added to the disability payment under the aforesaid act, shall make a total equal to the full salary of such officer or employee at the time of his injury. However, if during the first three (3) day period he does not qualify for disability payments under the Act, such officer or employee shall receive one hundred percent (100%) of his salary or wages for that period. If said absence is subsequently determined not to have been sustained in the course of employment with the City, it shall be charged against the employee's accumulated sick leave. Such benefit shall accrue for each such disability but shall not entitle a person to more than one (1) week's pay in cases of recurring disability from the same cause; it is further provided that in the event any employee sustains such illness or injury from the performance of duties within the scope of his employment with the City, he shall also receive from the City during such disability for an additional period not exceeding twelve (12) months for policemen or firemen, and not exceeding three (3) months for other full-time employees, in addition to the disability payment payable under the Workers' Compensation Insurance and Safety Act of the State, a sum which, when added to the disability payment payable under the aforesaid act shall make a total equal to the full salary of such employee at the time of his injury; provided, however, that when any such employee shall be retired from active service or employment because of such disability, then in such event, the provisions of this chapter shall not apply and such person shall be entitled only to the benefits set forth in the City Charter. (Ord. 3655 §1, 1974.)

3.08.230 Payment of Salaries and Filling of Positions During Absences.

Where an officer or employee is absent from the duties of his position because of vacation or illness and receives any moneys whatsoever from the City pursuant to the provisions of this chapter, such sums shall be paid from moneys appropriated for the payment of the salary or wage of the position such person fills. The position of an officer or employee who is absent on an approved leave which shall include but not be limited to sick leave, vacation, or leave without pay shall be considered filled for the duration of such approved leave. Notwithstanding the above, where an officer or employee is absent from the duties of his position because of an industrial injury or illness and he has exhausted his leave rights under Section 4850 of the Labor Code of the State of California and is receiving benefits pursuant to Section 21025.2 of the Government Code of the State of California prior to the effective date of retirement, his position shall be considered vacant and may be filled by the appointing authority pursuant to Chapter 3.16 of the Municipal Code of the City of Santa Barbara. (Ord. 3925 §2, 1977.)

3.08.240 Leave of Absence Without Pay - Approval of City Administrator.

A leave of absence without pay may be granted to any officer or employee of the City by appointing officer or board; provided, that in the event such leave be requested for a longer period than seven (7) calendar days, such request in all cases shall be presented to and approved by the City Administrator before it may be granted. (Ord. 3655 §1, 1974.)

3.08.250 Computing Continuous Service.

For the purpose of computing continuous service, leaves of absence on account of illness whether with or without pay shall not be construed as a break or interruption in service. Other leaves of absence or layoffs on account of lack of work or funds or other reasons totalling in excess of ninety (90) consecutive calendar days shall be construed as breaking continuous service. (Ord. 3655 §1, 1974.)

3.08.260 Transportation Allowance for Officials and Employees for Use of Privately Owned Vehicles.

Each official or employee, other than the Mayor and City Councilmembers using any vehicle not owned by the City, for transportation purposes in the proper discharge of his duties as such official or employee, shall be allowed and shall receive a transportation allowance in addition to compensation paid such official or employee as salary or wages. Said allowance shall be established by resolution of the City Council. (Ord. 4047, 1980; Ord. 3931, 1977; Ord. 3655, 1974.)

3.08.265 Reimbursement to Mayor and City Councilmembers for Local Use of Privately Owned Automotive Vehicles.

Due to increased and increasing activity by the Mayor and City Councilmembers in the local pursuit of public business requiring the use of automotive vehicles, it is deemed that such use by said elected officials of City-owned vehicles for City business is a justifiable utilization of public property. A study of relative costs by the City's financial staff indicates that the cost of providing such City-owned vehicles to the Mayor and Councilmembers for local use, however, would appreciably exceed the cost of fair and reasonable reimbursement to said elected officials for such portion of their use of privately owned vehicles as is devoted to duties on behalf of the public.

Pursuant to Section 502 of the Charter of the City of Santa Barbara, therefore, the Mayor and each Councilmember is entitled to a vehicle allowance to cover the routine and ordinary costs, including mileage and depreciation, of operating privately owned automotive vehicles in the necessary local performance of public duty. The vehicle allowance shall be paid to the Mayor and each City Councilmember monthly by the City. The base monthly vehicle allowance for the Mayor will be $405 per month and for Councilmembers will be $280 per month. Said vehicle allowances will henceforth be indexed, on a percentage basis, with changes in the standard mileage rate as established by Internal Revenue Service (IRS) regulations. Therefore, when the IRS increases the mileage reimbursement rate, the monthly vehicle allowance will be adjusted upward or downward by an equal percentage.

Payments made pursuant to this section are hereby determined to constitute reimbursement for actual costs and expenses incurred in the official and regular discharge and performance of duties pertaining to City business. No such payment shall be deemed to represent compensation, salary, allowance, bonus, or any other form of payment for the rendering of personal services on behalf of the City. (Ord. 4612, 1990; Ord. 4324, 1985; Ord. 4276, 1984; Ord. 4047, 1980; Ord. 3655 §1, 1974.)

3.08.270 Presentment of Mileage Claims and Vouchers.

Mileage claims authorized by Section 3.08.260 shall be duly presented and filed each month for mileage of the preceding month. (Ord. 3655 §1, 1974.)

3.08.280 Authority to Use Automobile on City Business - City Administrator.

Prior to the use by any official or employee, other than the Mayor and City Councilmembers of the City of an automobile, allowance for which is to be paid for as provided by this chapter, there shall first be certified to such official or employee by the City Administrator, written authority to use an automobile in the performance of such official's or employee's duties as an official or employee of the City and to receive the transportation allowance therefor provided for by this chapter and a copy of such written authority shall be upon the issuance thereof by the City Administrator filed with the City Auditor and with the City Treasurer. (Ord. 3655 §1, 1974.)

3.08.290 Record of Mileage.

Each official or employee, other than the Mayor and City Councilmembers, receiving the allowance provided for by this chapter shall keep records of the mileage allowed by this chapter in such a way as to enable verification thereof being made. (Ord. 3655 §1, 1974.)

3.08.300 Additional Compensation Not Allowed.

No official or employee of the City using an automobile as allowed by this chapter shall receive from the City any other allowance for compensation for such use than that provided by this chapter, except that the City may reimburse up to a maximum of One Hundred Dollars ($100) for repair expense incurred by the official or employee when a privately owned vehicle is damaged by collision or receives other accidental damage subject to the following conditions:

1. Vehicle was used with the written permission or authorization of the City Administrator under Section 3.08.280 of the Code.
2. The amount claimed is actual loss to the official or employee because it is not recoverable either directly from or through the insurance coverage of any of the parties involved in the accident.
3. Claim is presented within one hundred (100) days of date of accident. (Ord. 3714 §1, 1974; Ord. 3655 §1, 1974.)

3.08.310 Bonds Required by Persons Handling City Funds.

Any and all employees of the City of the different departments thereof, who in the regular course of their employment, handle funds belonging to the City shall give a bond to the City. (Ord. 3655 §1, 1974.)

3.08.320 Amount of Bonds.

The following named officers of the City shall give bonds in the following amounts:

(1)	City Administrator	$ 5,000.00
(2)	City Treasurer	100,000.00
(3)	Director of Finance	100,000.00
(4)	City Attorney	5,000.00
(5)	City Clerk	5,000.00
(6)	Chief of Police	5,000.00
(7)	Public Works Director	5,000.00

(Ord. 3714 §1, 1974; Ord. 3655 §1, 1974.)

3.08.330 Excluded Personnel - Temporary, Part-Time, Seasonal.

Temporary, part-time or seasonal employees paid on an hourly basis are excluded from the provisions of §§3.08.080 to 3.08.120 inclusive. (Ord. 3655 §1, 1974.)

3.08.340 Officers Who Must Live Within City Limits.

In accordance with the provisions of the City Charter, the Mayor, members of the City Council, the City Administrator, and any member of an appointed board or commission of the City shall have his permanent residence within the City, except as otherwise provided in this Code. (Ord. 3655 §1, 1974.)

3.08.350 Permanent Residence Defined.

For the purpose of this chapter the words "permanent residence" shall be deemed to be that place where the officer or employee maintains his home for himself and his family, and from which he has no present intention of removing or to which he has a general intention to return from any temporary location. (Ord. 3655 §1, 1974.)

Chapter 3.12

EMPLOYER-EMPLOYEE RELATIONS

Sections:

3.12.010	**Statement of Purpose.**	**3.12.100**	**Recognition of Employee Organizations as Majority Representative - Formal Recognition.**
3.12.020	**Definitions.**	**3.12.120**	**Revocation of Recognition.**
3.12.030	**Employee Rights.**	**3.12.130**	**Memorandum of Understanding.**
3.12.040	**City Rights.**	**3.12.140**	**Rules and Regulations.**
3.12.050	**Meet and Confer in Good Faith - Scope.**	**3.12.150**	**Construction.**
3.12.060	**Consultation in Good Faith - Scope.**	**3.12.160**	**Time Off for Employee Representatives.**
3.12.070	**Advance Notice.**	**3.12.170**	**Separability.**
3.12.080	**Petition for Recognition.**		
3.12.090	**Appropriate Unit.**		
3.12.095	**Procedure for Modification of Established Appropriate Unit.**		

3.12.010 Statement of Purpose.

The purpose of this Chapter is to implement Chapter 10, Division 4, Title 1, of the Government Code of the State of California (Sections 3500, et seq.), captioned "Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations for resolving disputes regarding wages, hours and other terms and conditions of employment. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.020 Definitions.

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

(a) "Appropriate unit" means a unit established pursuant to Section 3.12.090 of this Chapter;

(b) "City" means the City of Santa Barbara, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management employee as herein defined;

(c) "Consult or consultation in good faith" means to communicate verbally or in writing for the purpose of presenting and obtaining views or advising of intended actions;

(d) "Employee" means any person regularly employed by the City except those persons elected by popular vote;

(e) "Employee, confidential" means an employee who is privy to decisions of City management affecting employer-employee relations;

(f) "Employee, management" means any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the Chief Executive Officer and department heads;

(g) "Employee organization" means any organization which includes employees of the City and which has as one of its purposes representing such employees in their employment relations with the City;

(h) "Recognized employee organization" means an employee organization which has been acknowledged by the Municipal Employee Relations Officer as an employee organization that represents employees of the City.

The rights accompanying recognition are either:

(1) "Formal Recognition" which is the right to meet and confer in good faith as the majority representative in an appropriate unit, or

(2) "Informal recognition" which is the right to consultation in good faith by all recognized employee organizations;

(i) "Employer-employee relations" means the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations;

(j) "Majority representative" means an employee organization, or its duly authorized representative, that has been granted formal recognition by the Municipal Employee Relations Officer as representing the majority of employees in an appropriate unit;

(k) "Meet and confer in good faith" (sometimes referred to herein as "meet and confer" or "meeting and conferring") means performance by duly authorized City representatives and duly authorized representatives of a recognized employee organization of their mutual obligation to meet at reasonable times, and to confer in good faith regarding matters within the scope of representation, including wages, hours and other terms and conditions of employment in an effort to:

(1) Reach agreement on those matters within the authority of such representatives by a memorandum of understanding,

(2) Reach agreement on what will be recommended to the City Council on those matters within the decision making authority of the City Council.

This does not require either party to agree to a proposal or to make a concession;

(l) "Municipal Employee Relations Officer" means the City Administrator or his duly authorized representative;

(m) "Scope of representation" means all matters relating to employment conditions and employer--employee relations, including but not limited to, wages, hours and other terms and conditions of employment. City rights (Section 3.12.040) are excluded from the scope of representation. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.030 Employee Rights.

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his exercise of these rights. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.040 City Rights.

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of economic reasons or for cause as provided in Section 1007 of the City Charter; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.050 Meet and Confer in Good Faith - Scope.

(a) The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit.

(b) The City shall not be required to meet and confer in good faith on any subject pre-empted by Federal or State law, nor shall it be required to meet and confer in good faith on employee or City rights as defined in Sections 3.12.030 and 3.12.040. (Ord 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.060 Consultation in Good Faith - Scope.

All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, are subject to consultation. The City, through its representatives, shall consult in good faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.070 Advance Notice.

Reasonable written notice shall be given to each recognized employee organization affected of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be introduced to or by the City Council, or any committee of the City Council, or by any board or commission of the City, and each shall be given the opportunity to meet with such body prior to adoption. Emergency resolutions and ordinances are excepted, but employee representatives shall be notified of such resolutions and ordinances as soon as possible. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.080 Petition for Recognition.

There are two (2) levels of employee organization recognition, formal and informal. The recognition requirements of each are set forth below:

(a) "Formal recognition" means the right to meet and confer in good faith as majority representative: An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

(1) Name and address of the employee organization,
(2) Names and titles of its officers,
(3) Names of employee organization representatives who are authorized to speak on behalf of its members,
(4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City,
(5) A statement whether the employee organization is a Chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state, national or international organization,
(6) A copy of the employee organization's constitution and by-laws currently in effect,
(7) A designation of those persons, not exceeding three (3) in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose,
(8) A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin,
(9) The job classification or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein,
(10) A statement on appropriate City forms provided for this purpose that the employee organization has in its possession written proof, dated within six (6) months of the date upon which the petition is filed, to establish that at least thirty (30) percent of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.
(i) Effective upon adoption of the ordinance codified herein, any employee organization that has been formally recognized by the City Council shall be deemed to have been recognized for purposes of Section 3.12.080,
(11) A request that the Municipal Employee Relations Officer recognize the employee organization as the majority representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation,
(b) "Informal recognition" means the right to consult in good faith: An employee organization that seeks recognition for purposes of consultation in good faith shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:
(1) All of the information enumerated in (a)(1) through (a)(8) of this section, inclusive,
(2) A request that the Municipal Employee Relations Officer recognize the employee organization for the purpose of consultation in good faith,
(c) Any other employee organization may file an intervener petition pursuant to the requirements set forth in Section 3.12.120(c) within fifteen (15) days after a petition for recognition is received by the City.
(d) The Municipal Employee Relations Officer shall grant recognition, in writing, to all employee organizations who have complied with Section 3.12.080(a) or (b). Employee organizations seeking formal recognition as majority representative must, in addition, satisfy the requirement of Section 3.12.100(a)(1) below. No employee may be represented by more than one (1) recognized employee organization for the purposes of this Chapter. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.090 Appropriate Unit.

(a) The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this decision is whether there is a community of interest among such employees. The following factors are to be considered in making such determination:
(1) Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Chapter;
(2) The history of employee relations:
(i) In the unit,
(ii) Among other employees of the City, and
(iii) In similar public employment;
(3) The effect of the unit on the efficient operation of the City and sound employer-employee relations;
(4) The extent to which employees have common skills, working conditions, job duties or similar educational requirements
(5) The effect on the existing classification among two (2) or more units.
Provided, however, no unit shall be established solely on the basis to the extent to which employees in the proposed unit have organized.
(b) In the establishment of appropriate units:
(1) Professional employees shall not be denied the right to be represented separately from non--professional employees, and

(2) After meeting and conferring with formally recognized employee groups, certain management and confidential employees may be designated for the purposes of preventing such employees from representing a unit of non-management and non-professional employees on matters within the scope of representation.

(c) If, after considering the above criteria, the Municipal Employee Relations Officer denies recognition to a unit requesting such recognition, an appeal from his decision may be filed with the Board of Civil Service Commissioners. The appeal must be in writing, stating specific reasons why the unit should be recognized, and must be filed with the Secretary to the Board (Personnel Director) within fifteen (15) days after the unit requesting recognition receives notice of denial of recognition from the Municipal Employee Relations Officer. Upon receipt of the appeal for recognition, the Board shall set a hearing date within twenty (20) days, and written notice of the time and place thereof shall be given to the unit in person or by mail at least ten (10) days before the hearing. The decision of the Board shall be binding, but a unit whose request has been denied by the Board may repetition for recognition after twelve (12) months have elapsed since such decision. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

(d) The Municipal Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section.

3.12.095 Procedure for Modification of Established Appropriate Unit.

Requests by employee organizations or groups of employees for modifications of established appropriate unit may be considered by the Municipal Employee Relations Officer only during the open period specified in Sec. 3.12.120. Such requests shall be submitted in the form of a Petition for Recognition pursuant to the requirements set forth in Sections 3.12.080 3.12.090. The Municipal Employee Relations Officer shall process such petitions as other Petitions for Recognition under Sec. 3.12.080 and Sec 3.12.090,including the right of appeal contained in 3.12.090(c).

Any other employee organization may file an intervener petition pursuant to Section 3.12.120(c) when a petition includes a request for recognition.

The Municipal Employee Relations Officer may propose during the open period specified in Sec.3.12.120 that an appropriate unit be modified. The Municipal Employee Relations Officer shall give written notice of each proposed modification to any affected employee organization and shall hold a meeting concerning proposed modification, at which time all affected employee organizations shall be heard. Thereafter the Municipal Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sec. 3.12.090, and shall give written notice of such determination to the affected employee organizations. The Municipal Employee Relations Officer's determination may be appealed as provided in Section 3.12.090 (c). If a unit is modified pursuant to the motion of the Municipal Employee Relations Officer hereunder, an employee organization may thereafter file a Petition for Recognition seeking to become the recognized employee organization for such new appropriate unit or units pursuant to Sec. 3.12.080.

3.12.100 Recognition of Employee Organizations as Majority Representative - Formal Recognition.

(a) The Municipal Employee Relations Officer may:

(1) Determine the majority representative of City employees in an appropriate unit by arranging for a secret ballot election or by any other reasonable method which is based upon written proof, and is designed to ascertain the free choice of a majority of such employees. The employee organization found to represent a majority of the employees in an appropriate unit shall be granted formal recognition and is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation for employees in such unit. This shall not preclude other employee organizations, or individual employees, from consulting with management representatives on employer-employee relations matters of concern to them;

(2) Revoke the recognition rights of a majority representative which has been found by secret ballot election no longer to be the majority representative pursuant to Section 3.12.120.

(b) The recognition rights of the majority representative designated in accordance with this section shall not be subject to challenge for a period of twelve (12) months following the date of such recognition. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.120 Revocation of Recognition.

(a) Initiated by Petition. Any group of employees of an appropriate unit represented by a formally recognized employee organization may initiate the process of revoking that organization's recognition by filing a revocation of recognition petition with the Municipal Employee Relations Officer. Said petition shall meet the requirements set forth in Section 3.12.080. The petition may only be filed during an "open period", defined as (i) the month of March of any year following the first twelve months of recognition, or (ii) the thirty (30) day period beginning one hundred twenty (120) days prior to the termination date of the Memorandum of Understanding affecting that unit then having been in effect less than three years, whichever is later.

A revocation of recognition petition may be combined with a petition for recognition by adhering to the requirements of Section 3.12.080 as well as those requirements in this section. Following receipt of a revocation of recognition petition the Municipal Employee Relations Officer shall make a written determination to accept or reject the petition. The Employee Relations Officer shall notify the affected labor organizations of his determination. An appeal of this determination may be filed with the Board of Civil Service Commissioners, as provided in Section 3.12.090(c).

(b) Election. Upon the determination of a revocation petition's acceptance or rejection, or upon decision by the Board, the Municipal Employee Relations Officer shall promptly schedule an election among the employees of each affected unit to decide the question in accordance with Section 3.12.100. Such election shall take place no sooner than thirty (30) days following the determination of the Municipal Employee Relations Officer or alternately the decision of the Board of Civil Service Commissioners.

(c) Intervener Petition. Within fifteen (15) days of the filing of a revocation petition which combines a request for recognition, any other employee organization may file an intervener petition for recognition as to the affected unit pursuant to Section 3.12.080. Such a petition must include written proof dated within six months of the date of filing, of employee approval equal to at least ten percent (10%) of employees within the unit.

(d) New Representative. Within fifteen (15) days of the filing of a revocation of recognition petition or issuance of a notice by the Municipal Employee Relations Officer that revocation proceedings have commenced, any other employee organization may file a Petition for Recognition as to any affected appropriate unit pursuant to Section 3.12.080. Any election to be held as to that Petition may be held concurrently with the election on the issue or revocation of recognition.

(e) No Impact on MOU. Neither the revocation of recognition of an employee organization, nor the recognition of a different employee organization, shall have any effect on an Memorandum of Understanding then in effect. Any employee organization which is formally recognized as to a unit during the term of an MOU shall be bound by all of the terms and conditions of that MOU. (Ord. 4537. 1988.)

3.12.130 Memorandum of Understanding.

When the meeting and conferring process is concluded between the City and a formally recognized employee organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the duly authorized City representative and the majority representatives.

As to those matters within the authority of the City Council, the memorandum of decision shall be submitted to the City Council for determination. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.140 Rules and Regulations.

The City Council may adopt such rules and regulations necessary to implement the provisions of this Chapter and Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.). (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.150 Construction.

(a) Nothing in this Chapter shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions.

(b) The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Chapter.

(c) Nothing contained in this Chapter shall abrogate any Written agreement between any employee organization and the City in effect on the effective date of this Chapter. All such agreements shall continue in effect for the duration of the term specified therein unless modified or rescinded by mutual agreement of the parties thereto.

(d) The provisions of this Chapter are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.), as amended in 1968. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.160 Time Off for Employee Representatives.

(a) Employee representatives shall be allowed reasonable time off to meet and confer with employer representatives.

(b) One (1) member from each formally recognized employee association shall be granted up to three (3) working days or two (2) shifts off in the case of members of the Fire Department, with pay, once annually to attend state, regional or national conferences or conventions of employee associations of which said employee is a member. No other expense incurred by attendance at said conference or convention shall be paid by the City. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

3.12.170 Separability.

If any provision of this Chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

Chapter 3.16

CIVIL SERVICE SYSTEM

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3.16.040 Violation of Chapter.
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3.16.010 Purpose.

The purpose of this chapter is to implement the Civil Service System established by Article X of the City Charter. (Ord. 3267 §1(part), 1968.)

3.16.020 Definitions.

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

A. **ADVANCEMENT**. A salary increase within the limits of pay range established for a class.

B. **ALLOCATION**. The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

C. **APPOINTING POWER**. The officer appointed by the City Council, the City Administrator or the person authorized by the City Administrator or the City Council, in accordance with the provisions of the City Charter, as the case may be, who has the authority to make the appointment to the position involved in the particular instance.

D. **BOARD**. The Board of Civil Service Commissioners.

E. **CHARTER**. The 1967 Charter of the City.

F. **CLASS**. All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion and salary.

G. **CLASSIFIED SERVICE**. The classified service as defined in Section 1001 of the Charter.

H. **DEMOTION**. The movement of an employee from one class to another class having a lower salary range.

I. **ELIGIBLE**. A person whose name is on an employment list.

J. **EMPLOYMENT DECISION**. A written determination by the appointing power to certify for employment, employ, promote, advance, assign or transfer an individual who has applied for employment or affecting an existing City employee.

K. **EMPLOYMENT LISTS**.

1. OPEN EMPLOYMENT LIST. A list of names of persons who have taken an open competitive examination for a class in the classified service and have qualified.

2. PROMOTIONAL EMPLOYMENT LIST. A list of names of persons who have taken a promotional examination for a class in the classified service and have qualified.

L. **EXAMINATIONS**.

1. OPEN COMPETITIVE EXAMINATION. An examination for a particular class which is open to all persons meeting the qualifications for the class.

2. PROMOTIONAL EXAMINATION. An examination for a particular class, admission to the examination being limited to City employees who meet the qualifications for the class.

3. CONTINUOUS EXAMINATION. An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one (1) year.

M. **MARITAL STATUS**. An individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.

N. **PERMANENT EMPLOYEE**. An employee who has successfully completed his probationary period and has been retained as provided in this Chapter.

O. **PROBATIONARY PERIOD**. A working test period of one (1) year during which an employee is required to demonstrate his fitness for the duties to which he is appointed by actual performance of the duties of the position.

P. **PROMOTION**. The movement of an employee from one class to another class having a higher salary range.

Q. **PROVISIONAL APPOINTMENT**. An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.

R. **RELATIVES**. Persons who are related to each other within the third degree of consanguinity.

S. **SPOUSE**. A partner in marriage as defined in California Civil Code Section 4100. (Ord. 4564, 1989; Ord. 3836, 1976; Ord. 3425 §§1, 2, 1970; Ord. 3267 §1(part), 1968.)

3.16.040 Violation of Chapter.

Violations of the provisions of this chapter shall be grounds for rejections, suspensions, demotions, or dismissal. (Ord. 3267 §1(part), 1968.)

3.16.050 Announcement.

All examinations for classes in the classified service shall be publicized by posting announcements in the City Hall, on official bulletin boards, and by such other methods as the Personnel Director deems advisable. The announcement shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information. (Ord. 3267 §1(part), 1968.)

3.16.060 Application Forms.

Applications shall be made as prescribed on the examination announcements. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one (1) or more examining physicians, references and fingerprinting. All applications must be signed by the person applying. (Ord. 3267 §1(part), 1968.)

3.16.065 Veteran's Preference.

Any person who is a veteran as defined in Section 18973 of the Government Code of the State of California and who shall have been other than dishonorably discharged, released from a veteran's hospital, or completed veteran's paid schooling in the five (5) years immediately preceding the date an open competitive examination for a class or position not designated as management is announced shall be eligible to receive a preferential credit of five (5) points added to the total score earned in the examination; provided, however, that the veteran must meet the minimum qualifications set for entrance in the examination and must first attain a passing score in each phase of the examination.

Disabled veterans and widows of veterans shall also be eligible under the same conditions as outlined above to receive preferential credit of ten (10) points and five (5) points, respectively. However, there shall be no five (5) year statute of limitation applied to such persons.

Preference shall not apply to promotional examinations, nor shall it apply to any personnel transaction such as dismissal, demotion, suspension, transfer, or lay-off.

To claim veteran's preference credit an applicant must apply for such credit in the space provided on the application form and must submit evidence as the Personnel Department may require at time of filing application. (Ord. 3925 §3, 1977; Ord. 3525, 1972.)

3.16.070 Disqualification.

The Personnel Director shall reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications shall be rejected if the applicant is physically unfit for the performance of duties of the position to which he seeks appointment; is addicted to the use of narcotics or drugs; habitually uses intoxicating liquor in excess; has been dismissed or has resigned in order to avoid dismissal, for good cause from any public or private service; or has made any false statement of any material fact, or practiced any deception or fraud in his application or in the examination process. Defective applications may be returned to the applicant with notice to amend the same providing the time limit for receiving applications has not expired. Cause for rejection of an application as provided in this section shall also be cause for refusal to examine, for refusal to certify as an eligible and for removal from an employment list.

Except as otherwise provided herein, conviction (including pleas of guilty and nolo contendere) of a felony or a misdemeanor shall be prima facie disqualification of an applicant for employment by the City of Santa Barbara; provided, however, that the Personnel Director may disregard such conviction if it is found and determined by the Personnel Director that mitigating circumstances exist. In making such determination, the Personnel Director shall consider the following factors:

(a) the classification, including its sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction;

(b) the nature and seriousness of the offense;

(c) the circumstances surrounding the conviction;

(d) the length of time elapsed since the conviction;

(e) the age of the person at the time of the conviction;

(f) the presence or absence of rehabilitation or efforts at rehabilitation.

The Personnel Director shall give notice of disqualification to an applicant disqualified under this provision. Such notice shall be in writing and delivered personally or mailed to the applicant at the address shown on the application for employment. (Ord. 3910, 1977; Ord. 3376 §1, 1969; Ord. 3267 §1(part), 1968.)

3.16.070.5 Access to Criminal History Information.

Pursuant to Section 11105 of the Penal Code of the State of California, the following officers of the City of Santa Barbara are hereby authorized to have access to and to utilize State summary criminal history information when it is needed to assist them in fulfilling employment duties set forth in this chapter: City Administrator, Director of Personnel and Risk Management, and his deputies, and legal counsel. (Ord. 3910, 1977; Ord. 3376, 1969; Ord. 3267, 1968.)

3.16.072 Inquiries Regarding Spouses and Relatives.

A. **IMPERMISSIBLE INQUIRIES**. It is unlawful to ask an applicant for City employment to disclose his or her marital status as part of a pre-employment inquiry unless pursuant to a legally permissible inquiry.

B. **PERMISSIBLE INQUIRIES**. It is lawful to ask an applicant to state whether he or she has a spouse or relative who is presently employed by the City or whether he or she has ever used another name, but such information may not be used as a basis for an employment decision except as stated in City Charter Section 710 or Section 3.16.073 of this Code. (Ord. 4564, 1989.)

3.16.073 Employee Selection.

A. **EMPLOYMENT OF SPOUSE, REGISTERED DOMESTIC PARTNER, AND RELATIVES**. An employment decision shall not be based on whether an individual has a spouse, registered domestic partner, or relative presently employed by the City except in accordance with City Charter Section 710 and the following criteria:

1. For business reasons of supervision, safety, security or morale, the City Administrator, after consulting with the Personnel Officer and the department head, may refuse to place a spouse, registered domestic partner, or relative under the direct supervision of the other spouse, registered domestic partner, or a relative.

2. For business reasons of supervision, safety, security or morale, the City Administrator, after consulting with the Personnel Officer and the department head, may refuse to place both spouses, both registered domestic partners, or the two relatives in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples, registered domestic partners, or relatives than for other persons.

B. **ACCOMMODATIONS FOR CITY EMPLOYEES WHO MARRY OR WHO REGISTER AS DOMESTIC PARTNERS**. If two (2) City employees marry or register as domestic partners, the City Administrator shall make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security, or morale. If the City Administrator is unable to make an acceptable accommodation which sufficiently minimizes the problems of supervision, safety, security or morale, it may require the two City employees who have married or who have registered as domestic partners to decide which one of them will resign from City employment within 60 days of being notified of the City Administrator's inability to make a reasonable accommodation.

C. **REGISTERED DOMESTIC PARTNERS – DEFINED**. For the purposes of this section, a "registered domestic partner" shall refer to domestic partners who have registered in any of the following ways:

1. with the Santa Barbara City Clerk's Office pursuant to Chapter 9.135 of the Santa Barbara Municipal Code;
2. with the State of California Secretary of State's Office as the term is defined in State Family Code Section 297; or
3. with another municipal, county, or state domestic partner registry authorized and maintained by a governmental entity within the United States.

D. **CHARTER SECTION 710 AND NEPOTISM**. For the purposes of City Charter Section 710, use of the term "marriage" shall include those persons who are registered domestic partners as defined and used in this Section 3.16.073. (Ord. 5520, 2010; Ord. 4564, 1989.)

3.16.075 Physical Standards.

The Board, with the recommendation of the Personnel Director, shall establish medical and physical standards for the various classes of positions in the classified service. Each person receiving an original appointment to a permanent position in the classified service shall be required to meet the medical and physical standards prescribed by the Board and shall be required to take a medical and physical examination, at no expense to the person, to determine whether or not he meets such standards; provided, however, that the Board may waive the requirement for such examination in the case of temporary employment. The Personnel Director shall designate the physician to make an examination. If the person is found by a designated physician not to meet the prescribed standards, his name shall be:

(a) Withheld from placement on the employment list by the Personnel Director; or
(b) Removed from the employment list by the Personnel Director; or
(c) Withheld from certification by the Personnel Director.

In the event of employment in advance of medical and physical examination, a person found by a designated physician not to meet the prescribed standards shall be separated unless granted an adequate waiver.

The board may in the exercise of its discretion grant a waiver of medical and physical standards. Such waiver may be:

(a) Permanent in nature in cases where a waiver of minor physical defects will clearly serve the interests of the City and such waiver is recommended by the examining physician and the Personnel Director, or
(b) Temporary in nature, subject to the attainment of the required standards within such period of time and upon such conditions as may be prescribed by the Board. A person failing to comply with the terms of such temporary waiver shall be separated on order of the Personnel Director. (Ord. 3267 §1(part), 1968.)

3.16.080 Nature and Types of Examinations.

The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Personnel Director and the department head, fairly measure the relative capacities of the class to which they seek to be appointed. Examination shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, or any combination of these or other tests. (Ord. 3267 §1(part), 1968.)

3.16.085 Pre-employment Information.

In an examination for employment, the Personnel Director shall require as a prerequisite to such employment the taking of fingerprints of all applicants achieving a position on the employment list. The Personnel Director may make special inquiry into past records of all applicants and any other investigation deemed necessary. (Ord. 3267 §1(part), 1968.)

3.16.090 Promotional Examinations.

Promotional examinations shall be conducted whenever the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 3.16.080 of this chapter, or any combination of them. Only City employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations. (Ord. 3704 §1, 1974; Ord. 3267 §1(part), 1968.)

3.16.100 Continuous Examination.

Open competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Sections 3.16.140 to 3.16.170, inclusive. (Ord. 3267 §1(part), 1968.)

3.16.110 Conduct of Examination.

The City Council may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Personnel Director shall insure that such duties are performed. The Personnel Director shall arrange for the use of public buildings and equipment for the conduct of examinations. (Ord. 3267 §1(part), 1968.)

3.16.120 Scoring Examinations and Qualifying Scores.

A candidate's score in a given examination shall be the average of his scores on each competitive part of the examination, weighed as shown in the examination announcement. Failure in one (1) part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination.

The Personnel Director may, at his discretion, include as a part of the examination, tests which are qualifying only. (Ord. 3267 §1(part), 1968.)

3.16.130 Notification of Examination Results.

Each candidate in an examination shall be given written notice of the results thereof, and if successful, of his final earned score and/or rank on the employment list. (Ord. 3267 §1(part), 1968.)

3.16.140 Employment Lists.

As soon as possible after the completion of an examination, the Personnel Director shall prepare and keep available an employment list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score. (Ord. 3267 §1(part), 1968.)

3.16.150 Duration of Lists.

The Personnel Director may extend an employment list for additional periods, but in no event shall an employment list remain in effect for more than two (2) years.

Promotional lists shall remain in effect for one (l) year unless sooner exhausted, open competitive lists shall remain in effect six (6) months unless sooner exhausted or extended, but in no event shall an employee list (open or promotional) remain in effect for more than two (2) years except that eligibles selected for acting positions from a specific eligibility list pursuant to Section 3.04.130, who have held that position for a period of not less than twelve (12) months, shall retain the same relative ranking on said list or any new list replacing said list.

Names placed on continuous lists shall be merged with any others already on the list in order of final scores and shall remain on the list for six (6) months if the eligible is not an employee, and shall remain on the list for one (1) year if the eligible is an employee. (Ord. 3838, 1976.)

3.16.155 Test Review.

All candidates who take a written test (other than a form or standardized test) will be allowed to look at the key copy of the test for five (5) City Hall working days immediately following the date the written test was proctored.

A second review period will occur after candidates are notified of the results of the examination. After candidates receive notice that they did not qualify on a written test, they will have five (5) City Hall working days after receiving such notice to review the key copy and their own test paper. For purposes of this second review period, those who passed the written test will not be allowed to review the test nor to see their test paper until they have been notified of the final result of the entire examination.

Candidates may spend no more time reviewing the key copy and their test papers than half of the time that was allowed for the written test. (Ord. 3525 §3, 1972.)

3.16.160 Reinstatement Lists.

The names of probationary and permanent employees who have been laid off shall be placed on appropriate reinstatement lists, as provided in Section 1008 of the Charter. (Ord. 3925 §3, 1977; Ord. 3267 §1(part), 1968.)

3.16.170 Removal of Names from List.

The name of any person appearing on an employment, reinstatement, or promotional list shall be removed by the Personnel Director, if the eligible person requests that his name be removed and the request is confirmed in writing by the eligible person or the Personnel Department, or if he fails to respond to a notice of certification mailed to his last known address, or for any of the reasons specified in Section 3.16.070 of this chapter. The person affected shall be notified of the removal of his name by a notice mailed to his last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists. (Ord. 3956 §1, 1978; Ord. 3838, 1976.)

3.16.175 Inactive List.

Notwithstanding the provisions of Section 3.16.170 of this chapter the name of an eligible who is not available for immediate certification may, upon request in writing to the Personnel Director, be placed on an inactive list, and may be restored to the active list from which it was removed upon request of the eligible provided the list is still in existence. (Ord. 3267 §1(part), 1968.)

3.16.180 Types of Appointment.

All vacancies in the classified service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligibles certified by the Personnel Director from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with this chapter. (Ord. 3267 §1(part), 1968.)

3.16.190 Notice to Personnel Director.

Whenever a vacancy in the classified service is to be filled, the appointing power shall notify the Personnel Director in the manner prescribed. If there is no reinstatement list available for the class, the appointing power shall have the right to decide whether to fill the vacancy by re-employment, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list. (Ord. 3956 §2, 1978; Ord. 3267 §1(part), 1968.)

3.16.200 Certification of Eligibles.

If it is not possible to fill a vacancy by reinstatement, the appointing power may fill such vacancy by re-employment, transfer, or demotion, or by certification from an appropriate employment list, provided that eligibles are available.

When the appointing power requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Human Resources Manager shall certify to the appointing authority, in alphabetical order, the names (according to final score) of nine (9) more eligibles (including tie scores) than the number of vacancies.

In the case of Fire Inspector I, the Human Resources Manager shall certify from either a promotional employment list or from an open employment list, in alphabetical order, the names (according to final score) of nineteen (19) more eligibles (including tie scores) than the number of vacancies.

In the case of Firefighter, Police Officer, Public Safety Dispatcher I, Public Safety Dispatcher II, and Parking Enforcement Officer, the Human Resources Manager shall certify from either a promotional employment list or from an open employment list, the names of all eligibles in final score order.

For the positions of Fire Engineer, Fire Captain, Fire Inspector II and Fire Inspector III, the Human Resources Manager shall certify to the appointing authority, in alphabetical order, the names of four (4) more eligibles (including tie scores) than the number of vacancies.

Any eligible whose name is certified three (3) times to an appointing power, and has not been appointed, may be removed from the eligible list at the discretion of the Human Resources Manager. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a promotion employment list or on an open employment list, the appointing power may make an appointment from among such eligibles or may request the Human Resources Manager to establish a new list. When so requested the Human Resources Manager shall hold a new examination and establish a new employment list.

Those persons whose names are placed on an eligible list by reasons of transfer, reinstatement, or by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar, shall be certified at the request of the appointing authority in addition to the names certified from the appropriate employment list, except vacancies in the Treatment and Patrol bargaining unit shall not be filled from eligibles placed on the certification list by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar. Such additional names shall have no rank or standing on the eligible list. (Ord. 5553, 2011; Ord. 5346, 2005; Ord. 5176, 2001; Ord. 5174, 2001; Ord. 5066, 1998; Ord. 4578, 1989; Ord. 4462, 1987; Ord. 3956 §3, 1978; Ord. 3525 §4, 1972.)

3.16.210 Appointment.

After interview and investigation, the appointing power shall make appointments from among those certified, and shall immediately notify the Personnel Director of the persons appointed. The person accepting appointment shall present himself to the Personnel Director, or his designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and presents himself for duty within such period of time as the appointing power shall prescribe he shall be deemed to be appointed, otherwise, he shall be deemed to have declined the appointment. (Ord. 3267 §1(part), 1968.)

3.16.220 Provisional Appointment.

When there are less than three (3) individuals willing to accept appointment on appropriate employment lists, a provisional appointment may be made by the appointing power of a person meeting the minimum training and experience qualifications for the position. An employment list shall be established within six (6) months for any permanent position filled by provisional appointment. The City Administrator, with the approval of the City Council, may extend the period for any provisional appointment for not more than thirty (30) days by any one action. When a provisional appointment is to be extended the City Council shall direct the City Clerk to record such action in the minutes of the meeting of the Council.

No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment of any open competitive promotional lists, for service rendered under a provisional appointment.

A provisional employee may be removed at any time without the right of appeal or hearing. (Ord. 3267 §1(part), 1968.)

3.16.230 Appointment Pending Suspension or Period of Review.

During the period of suspension of an employee or pending final action or proceedings to review suspension, demotion or discharge of an employee, such vacancy may be filled by the appointing power subject to the provisions of this chapter and the Charter. (Ord. 3267 §1(part), 1968.)

3.16.240 Regular Appointment Following Probationary Period.

All original and promotional appointments shall be tentative and subject to a probationary period of one (1) year of actual service. If the service of the probationary employee has been satisfactory to the appointing power, then the appointing power shall file with the Personnel Director a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed (prior to the expiration of the probationary period) the employee will be deemed to be unsatisfactory and his employment terminated at the expiration of the probationary period. (Ord. 3267 §1(part), 1968.)

3.16.250 Objective of Probationary Period.

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to this position. (Ord. 3267 §1(part), 1968.)

3.16.260 Rejection of Probationer.

During the probationary period, an employee may be rejected at any time by the appointing power without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Director. A rejected probationer must make a request in writing to the Personnel Director within fifteen (15) days to be returned to the eligible list, as provided in Section 1004 of the Charter. (Ord. 3267 §1(part), 1968.)

3.16.270 Rejection Following Promotion.

Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that his services have been satisfactory, shall be reinstated to the position from which he was promoted unless charges are filed and he is discharged in the manner provided in this chapter and in the Charter. (Ord. 3267 §1(part), 1968.)

3.16.280 Transfer.

No person shall be transferred to a position for which he does not possess the minimum qualifications. Upon notice to the Personnel Director, an employee may be transferred by the appointing power at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department heads must consent thereto unless the City Administrator orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in this chapter and the Charter. (Ord. 3267 §1(part), 1968.)

3.16.290 Promotion.

Insofar as consistent with the best interests of the service, all vacancies in the classified service shall be filled by promotion from within the classified service, after a promotional or open competitive examination has been given and an employment list established. (Ord. 3425 §4, 1970; Ord. 3267 §1(part), 1968.)

3.16.300 Demotion.

The appointing power may demote a permanent employee for any ground authorized by Section 1007 of the Charter. Upon request of the employee, and with the consent of the appointing power, demotion may be made to a vacant position. No employee shall be demoted to a position for which he does not possess the minimum qualifications. Written notice of the demotion shall be given the employee before or within three (3) days after the effective date of the demotion, and a copy filed with the Personnel Director. (Ord. 3267 §1(part), 1968.)

3.16.310 Suspension.

The appointing power may suspend a permanent employee from his position at any time for grounds specified in Section 1007 of the Charter. Written notice of the suspension shall be given the employee before or within three (3) days after the effective date of the suspension, and a copy filed with the Personnel Director. Suspension without pay shall not exceed sixty (60) calendar days, during any continuous twelve (12) month period; provided, however, that an employee may be suspended for a period of time in excess of sixty (60) days pending a court determination of criminal charges brought against such employee. (Ord. 3267 §1(part), 1968.)

3.16.320 Re-employment.

With the approval of the appointing power and the Personnel Director, a permanent or probationary employee who has resigned with a good record may be re-employed within one (1) year of the effective date of resignation, to a vacant position in the same, comparable, or lower related class for which the qualifications are substantially similar or less than those qualifications for the position from which the employee resigned. The Personnel Director shall determine whether or not the employee meets the qualifications for a comparable or lower related class as set forth on the appropriate job description. (Ord. 3925 §3, 1977; Ord. 3267 §1(part), 1968.)

3.16.330 Disability.

The appointing power may require an employee or a prospective employee to submit to medical, physical, or psychiatric examination(s), to be paid for by the City, to evaluate the capacity of the employee to perform the work of his position. The employee may submit medical or other evidence to the examining physician or to the appointing power. When the appointing power, after considering the conclusions of the medical, physical and psychiatric examination(s) and other pertinent information, concludes that the employee is unable to perform the work of his present position, the appointing power may demote or transfer the employee to another position or may terminate the employment of the employee. The employee may appeal an action of demotion, transfer or dismissal taken under this section, to the Board of Civil Service Commissioners. The proceedings specified in Section 1007 of the Charter shall govern any such appeal. (Ord. 3525 §5, 1972; Ord. 3267 §1(part), 1968.)

3.16.340 Discharge.

A permanent employee in the classified service may be discharged at any time by the appointing power for grounds specified in Section 1007 of the Charter. Whenever it is the intention of the appointing power to discharge an employee in the classified service, the Personnel Director shall be notified. Any employee who has been discharged shall be entitled to receive a written statement of the reasons for such action and to a hearing if he so requests, as provided in this chapter and the Charter. (Ord. 3267 §1(part), 1968.)

3.16.350 Lay-off.

An employee may be laid off in accordance with provisions of Section 1008 of the Charter. In reducing personnel and laying off any employee in the classified service through the abolition of his position, the City Council shall observe the seniority rule by department, by classification and by total time with the City.

In the case of the larger departments of Community Development and Public Works the seniority rule by division, by classification and by total time with the City shall be observed.

Any employee laid off will not necessarily move to a lower related classification unless there is a vacancy. Every effort will be made to place employees affected in other City positions, and inter--departmental transfers will take place whenever possible. An appointing authority, however, will retain the right not to appoint an employee laid off from another department than his own.

In accordance with the provisions of the City Charter, any employee laid off shall have return rights to the position from which he was laid off for a period of two (2) years, if such position is reinstated in the classified service. The Personnel Department shall retain the names of those employees laid off, and shall notify such employees by registered mail if the position is reinstated within the two (2) year period. Upon receipt of the notice by registered mail the employee shall have ninety (90) days within which he may accept or reject the offer of reinstatement. If the offer of reinstatement is accepted, such employee shall be rehired at the same salary step he was in at the time of being laid off. If the offer of reinstatement is rejected, the employee shall be considered to have waived his rights to reinstatement, and his name shall be removed from the reinstatement list. (Ord. 3925 §3, 1977; Ord. 3820, 1976; Ord. 3525, 1972.)

3.16.360 Right of Appeal.

In accordance with the provisions of Section 3.16.370 of this chapter, any employee in the classified service shall have the right of appeal on any decision which affects the employment of the individual employee. This right of appeal shall not apply to matters which affect all employees equally, in part or whole, or those matters necessary for the operation of the department nor those for which appeal is provided by Sections 3.16.300 through 3.16.350 inclusive, and Section 1007 of the Charter. (Ord. 3267 §1(part), 1968.)

3.16.365 Pre-discipline Procedures.

Prior to the discharge, demotion, or suspension of any permanent employee in the classified service pursuant to provisions of the City Charter and this Code, the following procedures shall be complied with:

(1) Written notice of the proposed disciplinary action shall be given to the employee. Such notice shall include a statement of the reason(s) for the proposed action and the charge(s) being considered.

(2) The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practicable, he shall be supplied with a copy of the documents.

(3) Within five (5) working days after the employee has had the review opportunity provided above, he shall have the right to respond, orally or in writing, or both, at his option, to the appointing authority concerning the proposed action.

Notwithstanding the provisions of this section, upon the recommendation of the Personnel Director, the City Administrator may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or hearings as may be required to determine if disciplinary action is to be taken. (Ord. 3830, 1976.)

3.16.370 Settling Grievances.

Any employee who has a grievance shall first try to get it settled through discussion with his immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution at the lowest possible level of supervision.

If after such discussion the employee does not believe the grievance has been satisfactorily resolved, he may file a formal appeal in writing to his department head within ten (10) calendar days after receiving the informal decision of his immediate supervisor.

The department head receiving the formal appeal shall render his written decision and comment to the employee within ten (10) calendar days after receiving the appeal.

If after receipt of the written decision of the department head the employee is still dissatisfied he may appeal the decision of the department head to the City Administrator. Such appeal shall be made by filing a written appeal to the City Administrator within five (5) days after receipt of the written decision of the department head. The City Administrator shall review the decision of the department head, and his decision, which shall be rendered within fifteen (15) days after the appeal is made, shall be final. The City Administrator may request the advice of the Board in any grievance proceeding, but he shall not be bound to follow any recommendation of the Board. (Ord. 3267 §1(part), 1968.)

3.16.380 Extension of Time Limits.

The time limits specified in Section 3.16.370 may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.

Employees shall be assured freedom from reprisal for using the grievance procedure. (Ord. 3267 §1(part), 1968.)

3.16.410 Existing Rules.

All rules and regulations relating to City personnel or to the personnel of particular departments in the City which are not in conflict with this chapter or the Charter shall remain in full force and effect. (Ord. 3267 §1(part), 1968.)

3.16.420 Subpoena Power of the Board.

The Board shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), constitutes a misdemeanor, and shall be punishable as provided by Section 515 of the Charter. (Ord. 3267 §1(part), 1968.)

3.16.430 Effective Date of System.

The Civil Service System of the City shall be deemed to have commenced on the effective date of the Charter of the City. (Ord. 3267 §1(part), 1968.)

3.16.440 Hearing Procedures.

(a) Right to a Hearing. Any person entitled to a hearing before the Board of Civil Service Commissioners under Section 1007 and Section 808(d) of the Charter or this chapter may petition for a hearing before the Board.

(b) Petition for Hearing. Such petition shall be in writing, signed by the petitioner or his representative, giving his mailing address, the action which he appeals, and shall detail the facts upon which his case is based. A general denial of the allegations contained in the Statement of Charges furnished petitioner pursuant to Section 1007 of the Charter shall be deemed an adequate statement of the required facts and reasons.

(c) Time Within Which Petition Must Be Filed. A petition for hearing must be filed with the City Clerk for delivery to the Board of Civil Service Commissioners within ten (10) days of receipt of the Statement of Charges by the petitioner. The Board may extend the time or grant a hearing where the petition is filed after said ten (10) day period, where good cause is shown, and it is shown that other parties are not likely to suffer substantial hardship from the delay.

(d) Hearing Board. On receiving a petition which complies with the foregoing rule, the Board shall determine whether the matter will be heard before the entire Board or by three (3) or more members of the Board as designated by the chairman.

The term "Hearing Board" as used in this chapter shall mean the Board of Civil Service Commissioners, or those members thereof named or appointed under this section to hear any appeal.

(e) Hearing Officer. For all hearings on the discharge, suspension, or demotion of a City employee, a hearing officer shall be appointed. The hearing officer shall be an attorney admitted to practice in the State of California. The hearing officer shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the Hearing Board on matters of law.

(f) Notice. The Hearing Board shall set the matter for hearing and shall give petitioner at least ten (10) days' notice in writing of the date and place of such hearing. In hearings in which an action of a department or division head is at issue similar notice shall be given to the department head.

(g) Evidence. The following evidentiary rules shall apply to hearings conducted under this section:

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

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

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

(h) Burden of Proof. In hearings on discharges, reductions, or suspensions, the burden of proof shall be on the appointing power. In all other types of hearings the burden of proof shall be on the petitioner.

(i) Exclusion of Witnesses. The Board may at its discretion exclude witnesses not under examination, except the Personnel Director, the petitioner or person to be discharged or reduced, the appointing power and counsel.

(j) Appearance of Petitioner. The appearance of the petitioner shall be required at all hearings, provided, however, the Hearing Board shall have discretion to consent to the absence of the petitioner upon a showing of good cause therefor.

Unexcused absence of the petitioner at such a hearing may, in the discretion of the Hearing Board, be deemed a withdrawal of the petition and consent to the action or ruling from which the appeal was taken.

(k) Findings and Decision. If the hearing, as hereinbefore described, is not before the full Board, the Hearing Board shall submit a written or oral report to the full Board for its approval. If the Board accepts such report, it need not read the record of the hearing. If the Board declines to accept such report, it must read the record or hold a hearing de novo.

The Board may either adopt the report made by the Hearing Board and reduce the same to writing to serve as findings, or it may draft its own findings. The findings shall not be signed by the Board until five (5) business days after they have been posted to the petitioner. Notice of the decision and findings of fact and conclusions of law shall be mailed promptly to the petitioner. The petitioner shall have five (5) business days after the Board mails the findings of fact and conclusions of law to object in writing to said findings of fact and conclusions of law.

If objections to the findings are filed with the Board within the time specified above and the Board believes that the objections or parts thereof have validity, then the Board may amend said findings, or take such further action as it deems appropriate.

If no objection to said findings and conclusions is received by the Board within said five (5) business days, the findings and conclusions and decision shall be final and conclusive.

(l) Report of Hearings. Hearings on discharges, reductions, and suspensions shall be conducted with a stenographic reporter and whenever possible a mechanical recording machine.

(m) Transcripts of Hearings. Transcripts of hearings shall be furnished to any person on payment of the cost of preparing such transcripts.

(n) Continuances. The Hearing Board may grant a continuance of any hearing upon such terms and conditions as it may deem proper, including in its discretion the condition that the petitioner shall be deemed to have waived salary for the period of the continuance, if the continuance is at the petitioner's request. Any request for continuance made less than twenty-four (24) hours prior to the time set for the hearing will be denied unless good cause is shown for the continuance.

(o) Class Actions. The Board may, at its discretion, grant to any two (2) or more persons whose appeals are heard pursuant to this chapter, or to the appointing power, the right to consolidate such appeals as a class action.

The granting of authority for such class action shall be contingent upon showing by petitioners or their representatives or by the appointing power that the appeals in question present common questions of fact and law, and the separate hearings upon such appeals would result in unnecessary multiplicity of hearings before the Board of its appointed hearing officers.

Any petitioner who would otherwise be included in a proposed class action hearing shall have the right to appear before the Board and request that his appeal be heard separately from appeals involved in the class action. Such request must be filed with the City Clerk not less than five (5) days prior to the date set for the consolidated hearing and may be denied by the Board if it determines that good cause does not exist for holding a separate hearing. (Ord. 3713 §1, 1974.)

3.16.450 Investigations.

(a) Authority. Pursuant to Section 808(c) of the Charter the Board shall have the power, upon request of the City Council or upon its own motion, to make investigations concerning the administration of personnel or conditions of employment in the municipal service and report its findings to the City Council and City Administrator.

(b) Procedures. When an investigation is initiated, either by City Council request or by the Board's own motion, the Board shall initially take the following actions:

1. Direct the Personnel Director to investigate the matter and report his findings to the Board; or
2. Direct one (1) or two (2) of its members to investigate the matter and report their findings to the full Board.

Except as provided hereafter, the Board shall accept the findings of either of the above and forward it to the City Council and the City Administrator. In the event that the report received by the Board from either of the above is determined by the Board to be incomplete or unsatisfactory, the Board as a whole may conduct its own investigation and forward its findings to the City Council and the City Administrator. (Ord. 3713 §1, 1974.)

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TITLE 4
Revenue, Finance and Purchasing

This title was most recently updated by the following ordinance:

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

TITLE 4

REVENUE, FINANCE AND PURCHASING

Sections:

Chapter: 4.04 **Annexation Fees and Charges**
Chapter: 4.08 **Transient Occupancy Tax**
Chapter: 4.09 **Additional Transient Occupancy Tax for Improvement of Waters and Creeks**
Chapter: 4.12 **Sales and Use Tax**
Chapter: 4.16 **Special Gas Tax Street Improvement Fund**
Chapter: 4.20 **Real Property Transfer Tax**
Chapter: 4.24 **Utility Services Tax**
Chapter: 4.26 **Telecommunications and Video Users' Tax Reduction and Modernization Ordinance**
Chapter: 4.28 **Sale of Real Property**
Chapter: 4.32 **Special Funds**
Chapter: 4.36 **Parking and Business Improvement Area Tax**
Chapter: 4:37 **Downtown Parking and Business Improvement Area Assessment District**
Chapter: 4.38 **Business Improvement Area Tax**
Chapter: 4.39 **Downtown Parking and Business Improvement Area Charges**
Chapter: 4.40 **Revenue Bonds**
Chapter: 4.42 **Old Town Business Improvement Area Tax**
Chapter: 4.43 **Old Town Parking and Business Improvement Area Charges**
Chapter: 4.52 **Purchasing**
Chapter: 4.60 **Public Works Benefit Assessment District**
Chapter: 4.65 **Seismic Safety Assessment District Program**
Chapter: 4.70 **Formation of Community Facilities Districts**

Chapter 4.04

ANNEXATION FEES AND CHARGES

Sections:

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

4.04.010 Establishment of Annexation "Buy-In" Fee Requirement.

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

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

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

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

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

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

(1) On all publicly owned property in the annexed territory.

(2) On all tax-exempt property in the annexed territory.

(3) On all property in the annexed territory when the annexation is initiated by the City Council rather than by petition of the property owners.

(4) On all property in the annexed territory when the number of registered voters in said territory is equal to or greater than fifty percent (50%) of the number of registered voters in the City and the City Council determines that the public interest would be served by waiving the annexation fees.

(5) On real properties within the annexed territory with existing development that have no additional development potential, as determined by the Community Development Director.

(6) On all housing units dedicated and occupied as low, moderate or middle income housing units as a result of a public subsidy or the City granting a land use incentive consistent with the City's Affordable Housing Policies and Procedures Manual. (Ord. 5133, 1999; Ord. 4075, 1980; Ord. 4060, 1980; Ord. 3699, 1974.)

Chapter 4.08

TRANSIENT OCCUPANCY TAX

Sections:

4.08.010 Title.
4.08.020 Definitions.
4.08.030 Tax Imposed - Payment - Debt.
4.08.050 Operator's Duties - Collection.
4.08.060 Registration - Certificate - Display.
4.08.070 Reporting and Remitting - Director of Finance.
4.08.080 Penalties and Interest - Original Delinquency.
4.08.090 Penalties and Interest - Continued Delinquency.
4.08.100 Penalties and Interest - Fraud.
4.08.110 Penalties and Interest - Interest.
4.08.120 Penalties Merged with Tax.
4.08.130 Failure to Collect and Report Tax - Determination of Tax by Director of Finance.
4.08.140 Appeal.
4.08.150 Records.
4.08.160 Refund - Filing Claim.
4.08.170 Refund - Overpayment.
4.08.180 Refund - Transient.
4.08.185 Refund - Restrictions on Transient Occupancy Tax.
4.08.190 Refund - Proof of Entitlement.
4.08.200 Actions to Collect - Debt to City.
4.08.210 Misdemeanor - Failure or Refusal to Return - False or Fraudulent Report.

4.08.010 Title.

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

4.08.020 Definitions.

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

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

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

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

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

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

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

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

4.08.030 Tax Imposed - Payment - Debt.

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

4.08.050 Operator's Duties - Collection.

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

4.08.060 Registration - Certificate - Display.

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

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

4.08.070 Reporting and Remitting - Director of Finance.

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

4.08.080 Penalties and Interest - Original Delinquency.

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

4.08.090 Penalties and Interest - Continued Delinquency.

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

4.08.100 Penalties and Interest - Fraud.

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

4.08.110 Penalties and Interest - Interest.

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

4.08.120 Penalties Merged with Tax.

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

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

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

4.08.140 Appeal.

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

4.08.150 Records.

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

4.08.160 Refund - Filing Claim.

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

4.08.170 Refund - Overpayment.

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

4.08.180 Refund - Transient.

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

4.08.185 Refund - Restrictions on Transient Occupancy Tax.

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

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

4.08.190 Refund - Proof of Entitlement.

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

4.08.200 Actions to Collect - Debt to City.

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

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

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

Chapter 4.09

ADDITIONAL TRANSIENT OCCUPANCY TAX OR IMPROVEMENT OF WATERS AND CREEKS

Sections:

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

4.09.010 Tax Imposed, Payment, Debt.

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

4.09.020 Use of Tax Proceeds.

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

4.09.030 Applicable Definitions and Procedures.

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

Chapter 4.12

SALES AND USE TAX

Sections:

4.12.010	**Short Title.**	**4.12.100**	**Limitations on Adoption of State Law.**
4.12.020	**Rate.**	**4.12.110**	**Permit Not Required.**
4.12.030	**Operative Date.**	**4.12.130**	**Exclusions and Exemptions.**
4.12.040	**Purpose.**	**4.12.135**	**Exclusions and Exemptions.**
4.12.050	**Contract with State.**	**4.12.150**	**Amendments.**
4.12.060	**Sales Tax.**	**4.12.160**	**Enjoining Collection Forbidden.**
4.12.070	**Place of Sale.**	**4.12.170**	**Penalties.**
4.12.080	**Use Tax.**	**4.12.180**	**Severability.**
4.12.090	**Adoption of Provisions of State Law.**	**4.12.190**	**Repeals.**

4.12.010 Short Title.

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

4.12.020 Rate.

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

4.12.030 Operative Date.

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

4.12.040 Purpose.

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

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

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

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

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

4.12.050 Contract with State.

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

4.12.060 Sales Tax.

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

4.12.070 Place of Sale.

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

4.12.080 Use Tax.

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

4.12.090 Adoption of Provisions of State Law.

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

4.12.100 Limitations on Adoption of State Law.

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

4.12.110 Permit Not Required.

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

4.12.130 Exclusions and Exemptions.

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

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

4.12.135 Exclusions and Exemptions.

1. The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.
2. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state shall be exempt from the tax due under this Chapter.
3. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.
4. The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes is exempted from the use tax.
5. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.
6. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax.
7. This section shall become operative and shall entirely supercede section 4.12.130 on the operative date of any act of the Legislature of the State of California which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i) (7) and (i) (8) of Section 7202 as those subdivisions read on October 1, 1983. (Ord. 4243, 1983.)

4.12.150 Amendments.

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

4.12.160 Enjoining Collection Forbidden.

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

4.12.170 Penalties.

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

4.12.180 Severability.

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

4.12.190 Repeals.

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

Chapter 4.16

SPECIAL GAS TAX
STREET IMPROVEMENT FUND

Sections:

4.16.010 Created.
4.16.020 Moneys to be Paid into Fund.
4.16.030 Expenditure of Moneys in Fund.

4.16.010 Created.

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

4.16.020 Moneys to be Paid into Fund.

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

4.16.030 Expenditure of Moneys in Fund.

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

Chapter 4.20

REAL PROPERTY TRANSFER TAX

Sections:

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

4.20.010 Title.

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

4.20.020 Tax Imposed.

There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City of Santa Barbara shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars ($100.00), a tax at the rate of twenty-seven and one-half cents ($0.275) for each five hundred dollars ($500.00) or fractional part thereof. (Ord. 3260 §1(part), 1967.)

4.20.030 Paid by Whom.

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

4.20.040 Securing Debt Exempt.

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

4.20.050 Governmental Agencies Exempt.

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

4.20.060 Reorganization or Adjustments Exempt.

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

(a) Confirmed under the Federal Bankruptcy Act, as amended;

(b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;

(c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

(d) Whereby a mere change in identity, form, or place of organization is effected.

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

4.20.070 SEC Conveyances Exempt.

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

(a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utilities Holding Act of 1935;

(b) Such order specifies the property which is ordered to be conveyed;

(c) Such conveyance is made in obedience to such order. (Ord. 3260 §1(part), 1967.)

4.20.080 Realty Partnerships Exempt.

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

(1) Such partnership (or other partnership) is considered a continuing partnership within the meaning of Section 709 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

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

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

4.20.090 Administration.

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

4.20.100 Refunds.

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

Chapter 4.24

UTILITY SERVICES TAX

Sections:

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

4.24.010 Definitions.

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

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

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

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

D. "Tax Collector." The City Treasurer.

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

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

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

4.24.020 Telephone Tax.

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

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

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

4.24.030 Electricity Tax.

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

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

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

4.24.040 Gas Tax.

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

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

4.24.050 Water Tax.

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

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

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

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

4.24.060 Garbage Collection Tax.

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

4.24.070 Cable Television Tax.

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

4.24.080 Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

4.24.090 Collection of Tax.

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

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

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

4.24.100 Reporting and Remitting.

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

4.24.110 Penalty.

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

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

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

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

4.24.120 Actions to Collect.

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

4.24.130 Failure to Pay Tax - Administrative Remedy.

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

4.24.140 Assessment - Administrative Remedy.

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

4.24.150 Records.

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

4.24.160 Refunds.

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

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

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

4.24.170 Severability.

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

4.24.190 Appropriation and Use of Funds.

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

Chapter 4.26

TELECOMMUNICATIONS AND VIDEO USERS' TAX REDUCTION AND MODERNIZATION ORDINANCE

Sections:

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4.26.010 Ordinance Title.

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

4.26.020 Definitions.

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

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

1. "Conference bridging service" which means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.
2. "Detailed telecommunications billing service" which means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
3. "Directory assistance" which means an ancillary service of providing telephone number information, and/or address information.
4. "Vertical service" which means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.
5. "Voice mail service" which means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

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

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

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

E. MONTH. A calendar month.

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

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

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

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

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

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

L. SERVICE ADDRESS. Any of the following:

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

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

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

O. STATE. The state of California.

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

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

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

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

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

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

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

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

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

4.26.030 Constitutional, Statutory, and Other Exemptions.

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

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

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

4.26.040 Telecommunications Users' Tax.

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

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

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

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

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

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

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

4.26.050 Video Users' Tax.

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

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

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

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

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

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

4.26.060 Bundling Taxable Items with Non-Taxable Items.

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

4.26.070 Substantial Nexus/Minimum Contacts.

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

4.26.080 Duty to Collect – Procedures.

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

1. The tax shall be collected by service suppliers insofar as practicable at the same time as, and along with, the collection of the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which was accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a service user has notified the service supplier of refusal to pay the tax imposed on said charges, Section 4.26.120 shall apply.
2. The duty of a service supplier to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this Chapter. Where a service user receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

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

4.26.090 Collection Penalties – Service Suppliers.

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

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

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

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

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

4.26.100 Actions to Collect.

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

4.26.110 Deficiency Determination and Assessment – Tax Application Errors.

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

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

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

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

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

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

4.26.120 Administrative Remedy – Non-Paying Service Users.

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

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

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

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

4.26.130 Additional Powers and Duties of the Tax Administrator.

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

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

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

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

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

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

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

4.26.140 Records.

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

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

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

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

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

4.26.150 Refunds.

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

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

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

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

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

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

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

4.26.170 Appeals.

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

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

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

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

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

4.26.180 No Injunction/Writ of Mandate.

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

4.26.190 Notice of Changes to Ordinance.

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

4.26.200 Effect of State and Federal Reference/Authorization.

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

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

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

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

4.26.220 Interaction with Prior Tax.

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

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

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

4.26.230 Remedies Cumulative.

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

Chapter 4.28

SALE OF REAL PROPERTY

Sections:

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

4.28.010 Authorization to Sell.

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

4.28.020 Notice Inviting Bids - Publication - Contents.

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

4.28.030 Bid Reading - Oral Bids - Sale Announcement.

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

Chapter 4.32

SPECIAL FUNDS

Section:
4.32.010 Established - Designated.

4.32.010 Established - Designated.

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

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

Chapter 4.36

PARKING AND BUSINESS IMPROVEMENT AREA TAX

Sections:

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

4.36.010 Area Established.

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

4.36.020 Definitions.

As used in this chapter:

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

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

(c) "Gross floor area" means all of the area within the perimeter walls of a building, including but not limited to, partitions, restrooms, storage rooms, file rooms and work rooms. A mezzanine shall be considered separate floor area. Gross floor area does not include interior patios or uncovered pedestrian walks;

(d) "Improvement area" or "area" means the Parking and Business Improvement Area established herein pursuant to the Parking and Business Improvement Area Law of 1965. (Ord. 3463 §1, 1971.)

4.36.030 Tax Imposed - Zones Designated.

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

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

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

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

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

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

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

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

4.36.040 Tax Rates.

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

(1) Retail and/or wholesale businesses:

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

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

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

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

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

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

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

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

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

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

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

4.36.050 Exclusions.

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

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

4.36.060 Off-premises Businesses.

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

4.36.070 Savings and Loan Associations.

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

4.36.080 Credit Against Additional Annual Business Tax.

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

4.36.090 Exemptions Within Blocks 321 and 313.

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

4.36.100 Payment When.

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

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

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

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

4.36.110 Failure to Pay Tax - Penalty.

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

4.36.130 Use of Revenues.

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

4.36.140 Information Confidential.

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

4.36.150 Tax Deemed Debt to City.

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

4.36.160 Failure to Pay Tax - Determination of Tax Due.

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

4.36.170 Appeal.

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

4.36.180 Records - Inspection.

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

4.36.190 Violation.

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

4.36.200 Enforcement.

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

4.36.210 Boundaries.

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

4.36.220 Severability.

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

Chapter 4.37

DOWNTOWN PARKING AND BUSINESS IMPROVEMENT AREA ASSESSMENT DISTRICT

Sections:

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

4.37.010 Area Established.

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

4.37.015 Findings.

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

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

4.37.020 Definitions.

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

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

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

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

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

4.37.030 Assessment Imposed - Zones Designated.

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

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

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

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

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

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

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

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

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

4.37.040 Assessment Rates.

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

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

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

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

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

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

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

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

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

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

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

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

VI. EDUCATIONAL FACILITIES AND MISCELLANEOUS CLASSIFICATIONS.

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

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

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

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

4.37.050 Exclusions.

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

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

4.37.060 Off-premises Businesses.

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

4.37.080 Credit Against Additional Annual Business Assessment.

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

4.37.090 Payment When.

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

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

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

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

4.37.100 Failure to Pay Assessment - Penalty.

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

4.37.110 Information Confidential.

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

4.37.120 Assessment Deemed Debt to City.

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

4.37.130 Failure to Pay Assessment - Determination of Assessment Due.

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

4.37.140 Records - Inspection.

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

4.37.145 Annual Assessment Report and Assessment Resolution.

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

4.37.150 Enforcement.

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

4.37.160 Boundaries.

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

4.37.170 Severability.

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

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

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

Chapter 4.38

BUSINESS IMPROVEMENT AREA TAX

Sections:

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

4.38.010 Title and Establishment.

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

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

4.38.020 Definitions.

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

4.38.030 Improvement Area.

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

4.38.040 Businesses Subject to Tax.

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

4.38.050 Tax Rates and Due Dates.

(a) Tax Rates.

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

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

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

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

4.38.060 Disputes, Late Payment Penalties and Collections.

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

4.38.070 Uses.

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

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

4.38.080 Severability.

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

4.38.090 Suspension of Collection of Taxes.

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

Chapter 4.39

DOWNTOWN PARKING AND BUSINESS IMPROVEMENT AREA CHARGES

Sections:

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

4.39.010 Establishment of Area.

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

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

4.39.020 Definitions.

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

4.39.030 Boundaries of Improvement Area.

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

4.39.040 Businesses Subject to Charge.

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

4.39.050 Charges and Due Dates.

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

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

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

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

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

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

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

4.39.060 Disputes, Late Payment Penalties and Collections.

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

4.39.070 Uses.

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

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

4.39.080 Finding of Benefit.

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

4.39.090 Severability.

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

4.39.100 Charges for 1985 Calendar Year.

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

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

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

4.39.110 Subject to Amendments.

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

Chapter 4.40

REVENUE BONDS

Sections:

4.40.010 Issuance of Revenue Bonds.
4.40.020 Procedure.

4.40.010 Issuance of Revenue Bonds.

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

4.40.020 Procedure.

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

Chapter 4.42

OLD TOWN BUSINESS IMPROVEMENT AREA TAX

Sections:

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

4.42.010 Title and Establishment.

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

4.42.020 Definitions.

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

4.42.030 Improvement Area.

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

4.42.040 Businesses Subject to Tax.

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

4.42.050 Tax Rates and Due Dates.

(a) Tax Rates.

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

a. Every business located on State Street shall pay a tax equal to 100% of the business tax imposed by Chapter 5.04 of the Municipal Code, not to exceed $125.00 per year.

b. Every business not located on State Street shall pay a tax equal to 75% of the business tax imposed in Chapter 5.04 of the Municipal Code, not to exceed $125.00 per year.

c. Subject to subsections a. and b. above, when more than one (1) type of business is conducted at the same address, the owner shall pay a tax equal to the business tax imposed by §5.04.390 of the Municipal Code, or, if no such tax is imposed, a tax equal to the highest business tax imposed by Chapter 5.04 on a business conducted at the address, not to exceed $125.00 per year.

d. Subject to subsections a. and b. above, when multiple business taxes are imposed by Chapter 5.04 on businesses operated by one (1) owner at different addresses, the owner shall pay a tax equal to the business tax imposed by §5.04.390 at each address, or, if no such tax is imposed, a tax equal to the highest tax imposed by Chapter 5.04 at each address, not to exceed $125.00 per year at each address.

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

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

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

4.42.060 Disputes, Late Payment Penalties and Collections.

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

4.42.070 Uses.

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

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

4.42.080 Severability.

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

4.42.090 Suspension of Collection of Taxes.

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

Chapter 4.43

OLD TOWN PARKING AND BUSINESS IMPROVEMENT AREA CHARGES

Sections:

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

4.43.010 Establishment of Area.

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

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

4.43.020 Definitions.

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

4.43.030 Boundaries of Improvement Area.

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

4.43.040 Businesses Subject to Charges.

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

4.43.050 Charges and Due Dates.

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

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

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

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

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

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

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

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

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

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

4.43.060 Disputes, Late Payment Penalties and Collections.

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

4.43.070 Uses.

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

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

4.43.080 Finding of Benefit.

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

4.43.090 Severability.

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

4.43.100 Charges for 1985 Calendar Year.

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

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

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

4.43.110 Subject to Amendments.

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

Chapter 4.52

PURCHASING

Sections:

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

4.52.010 System Adopted - Purpose.

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

4.52.020 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

4.52.030 Purchasing Agent - Duties.

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

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

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

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

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

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

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

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

4.52.040 Estimates of Requirements.

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

4.52.050 Contracting Authority.

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

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

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

4.52.055 Exceptions to Competitive Bidding.

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

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

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

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

4.52.060 Contracts Up to $75,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.52.080 Emergency Purchases.

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

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

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

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

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

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

4.52.090 Inspection and Testing.

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

4.52.100 Central Stores.

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

4.52.110 Information Technology Purchases.

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

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

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

4.52.120 Contract Splitting Prohibited.

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

4.52.130 Surplus Personal Property.

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

4.52.140 Cooperative Purchasing.

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

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

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

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

4.52.150 Future Expenditures.

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

4.52.160 Public Works Contracts.

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

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

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

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

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

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

4.52.165 Public Works Contracts.

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

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

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

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

4.52.170 Library Books and Periodicals.

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

4.52.180 Professional Services.

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

4.52.190 Debarment.

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

Chapter 4.60

PUBLIC WORKS BENEFIT ASSESSMENT DISTRICT

Sections:

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

4.60.010 Definitions.

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

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

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

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

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

1. The costs of preparation of any engineer's report, plans, specifications, descriptions, estimates, maps, diagrams and assessments relating to any proceeding hereunder;

2. The costs of printing, advertising and the giving of published, posted and mailed notices;

3. Compensation, if any, to reimburse the City or payable to the county or any other entity, appointed to collect assessments for costs of collection of assessments;

4. Compensation of any engineer, attorney or other professional employed to render services in proceedings pursuant to this chapter;

5. Any other expenses incidental to an improvement;

6. The costs of any acquisition of land, rights-of-way, easements, or other interests therein necessary or appropriate in connection with an improvement;

7. The payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new benefit assessment district, provided that such payment shall be included in the new assessment levied pursuant to this Chapter on such parcel: and

8. Any expenses incidental to the issuance of bonds, notes or other means of financing improvements, including interest owing for a period not to exceed the estimated completion of the improvements plus one year.

E. INCLUDING. Unless otherwise expressly limited, means including without limitation and shall not operate to limit the generality of any words preceding such term or to exclude items dissimilar to those words following such term.

F. PROPERTY OWNER. Any person shown as the owner of land on the last equalized county assessment roll, and where land is subject to a recorded written agreement of sale or conveyance, any person shown therein as purchaser.

G. PUBLIC AGENCY. The State or federal government, any city, any city and county, any county or any other public corporation or entity formed pursuant to charter, general law or special act, for the performance of governmental or proprietary functions within limited boundaries, and any department, board, commission, independent agency or instrumentality of any of the foregoing.

H. PUBLIC SERVICE. The provision of any service to members of the public by the City, including fire protection, police protection, public transportation, public parking, parks and recreational areas, highway improvement, sewage and wastewater treatment, flood protection, drainage, lighting, electric supply, water supply, gas supply, landscaping, land stabilization, geologic hazard prevention and control and rubbish collection.

I. PUBLIC UTILITY. Any public utility subject to the jurisdiction of and regulated by the Public Utilities Commission of the State of California.

J. PUBLIC WORK. Any tangible asset used for a public service, a public purpose or a public purpose incidental to a public service, and includes any real property or any ownership or leasehold interest therein, including rights-of-way and easements, necessary or appropriate in connection therewith, and any use or capacity rights in any of the foregoing.

K. RESOLUTION. Includes any formal official action of a public agency, so denominated, or ordinances thereof. (Ord. 4472, 1987)

4.60.020 Alternative Procedure.

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

4.60.030 Liberal Construction of Chapter; Validity; Finality.

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

4.60.040 Benefit Assessment District; Benefited Territory.

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

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

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

4.60.060 Extension of Work and Boundaries of Benefit Assessment District.

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

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

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

4.60.080 Acquisition of Property; Assessment Costs.

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

4.60.090 Notice.

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

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

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

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

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

4.60.100 Formation of a Benefit Assessment District.

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

1. Request the City Council to institute proceedings for the formation of a benefit assessment district pursuant to this Chapter;
2. describe the boundaries of the territory of the proposed benefit assessment district;
3. describe the proposed improvements; and
4. be signed by property owners of not less than sixty percent (60%) of the area of land proposed to be included within the benefit assessment district. If the City Council finds that the petition is signed by the requisite number of property owners proposed to be included within the benefit assessment district, that finding shall be final and conclusive.

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

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

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

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

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

1. A description of the proposed improvements which are not already installed. Such description need not be detailed, but shall be sufficient if it shows or describes the general nature, location, and extent of the improvements. If the benefit assessment district is divided into zones, the description shall indicate the class and type of improvements to be provided for each such zone.
2. A general description of improvements already installed and any other property necessary or convenient for the operation of the improvements if such property is to be acquired as part of the improvement.
3. An estimate of the costs of the improvements, including an estimate of any incidental expenses. The estimate of the costs of the improvements shall contain estimates for all of the following:
   a. the total costs for improvements to be made being the total costs of acquiring, installing, construction, reconstructing, extending, repairing or improving or otherwise enhancing all proposed public works plus, if the proposed benefit assessment district is to participate in maintenance, operation or servicing of the proposed public works, the total estimated costs of maintaining, operating and servicing all existing and proposed public works, including all incidental expenses;
   b. the amount of any contributions to be made from sources other than assessments levied pursuant to this Chapter; and
   c. the net amount to be assessed upon assessable lands within the benefit assessment district, being the total costs for improvements, as referred to in Subsection (a), decreased by the amounts, if any, referred to in Subsection (b).
4. A diagram for the benefit assessment district which shall show (a) the exterior boundaries of the benefit assessment district, and (b) the boundaries of any zones within the benefit assessment district. Each lot or parcel shall be identified by a distinctive number or letter.
5. Proposed assessments for the net estimated costs of the improvements and incidental expenses upon the several subdivisions of land in the benefit assessment district in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement.

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

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

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

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

1. Declare the intention of the Council to order the formation of a benefit assessment district to levy and collect assessments;
2. Generally describe the improvements;
3. Refer to the proposed benefit assessment district by its distinctive designation and refer to the report of the engineer, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the benefit assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the benefit assessment district; and
4. Give notice of, and fix a time and place for, a public hearing by the City Council on the question of the formation of the benefit assessment district and the levy of the proposed assessment at which hearing protests to the improvements or the assessment will be considered.

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

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

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

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

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

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

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

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

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

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

4.60.110 Changes of Organization for Benefit Assessment District.

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

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

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

B. Proceedings for a change of organization may be:

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

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

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

4.60.120 Collection and Enforcement of Assessments.

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

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

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

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

4.60.130 Financial Provisions.

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

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

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

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

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

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

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

4.60.140 Bonds.

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

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

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

4.60.150 Assessment of Public Property.

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

4.60.160 Limitation of Action.

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

4.60.170 Judicial Validation.

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

4.60.180 Performance of Work.

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

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

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

(Ord. 4472, 1987.)

Chapter 4.65

SEISMIC SAFETY ASSESSMENT DISTRICT PROGRAM

Sections:

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

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

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

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

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

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

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

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

4.65.040 Municipal Improvement Act of 1913 - Amendments and Deletions.

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

A. Definitions.

1. Section 10003 of the California Streets and Highways Code is amended to read that "Municipality" and "City" shall mean the City of Santa Barbara, California.

2. Section 10004 of the California Streets and Highways Code is amended to read that "Legislative body" shall mean the City Council of the City of Santa Barbara.

3. Section 10010 of the California Streets and Highways Code is amended to read that "Acquisition" (or any of its variants) shall mean and includes one or more of the following:

a. All or any portion of any privately owned works, improvements, appliances or facilities, necessary to bring unreinforced masonry buildings in the City into compliance with the Regulations. Said improvements may be acquisitions hereunder whether or not they are in existence and installed in place on or before the date of adoption of the resolution of intention for the acquisition thereof;

b. Electric current, gas or other illuminating agent for power or lighting service incidental to the works described in subsection (a);

c. Any real property, rights-of-way, easements or interests in real property, acquired or to be acquired by gift, purchase or eminent domain, and which are necessary or convenient in connection with the construction or operation of any work or improvement described in subsection (a);

d. The payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new assessment district. The cost of such payment shall be included in the new assessment on such parcel. This subdivision shall be applicable only in cases where such acquisition is incidental to other acquisitions or improvements.

4. Acquire - Acquisition. As used herein with respect to any improvements, the term "acquire" or the term "acquisition" shall refer to improvements to be financed hereunder to be acquired by the owner of the property to be improved, and shall not refer to the acquisition by the City of any improvements or property.

B. Substantive Changes.

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

"Section 10100. Authorized improvements. Whenever the public convenience and necessity require, the City may pay the cost of all work and improvements, whether acquired, owned, installed, constructed, authorized or undertaken by any Owner which are necessary or incidental to comply with the Regulations.

2. Section 10112 of the California Streets and Highways Code is amended to read as follows:

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

3. Paragraph (b) of Section 10204 of the California Streets and Highways Code is amended to read as follows:

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

4. Section 10301 of the California Streets and Highways Code is amended to read as follows:

"Section 10301. Hearing of protests; time and place; notice. After preliminarily approving the report, the legislative body by resolution shall appoint a time and place for hearing protests to the proposed improvements and acquisitions and shall direct the clerk of the legislative body to give notice of the hearing as provided in this Chapter, and shall designate a newspaper of general circulation in which the notice shall be published. The hearing shall be held not less than 30 days after the passage of the resolution."

5. Sections 10009, 10104 and 10700-10706 of the California Streets and Highways Code are not incorporated in this Chapter and shall not be applicable to the doing of work, the acquisition of improvements, and the issuance of bonds pursuant to this Chapter. (Ord. 4735, 1991.)

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

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

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

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

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

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

B. Substantive Changes.

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

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

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

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

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

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

United States of America
State of California
County of Santa Barbara

REGISTERED Number	REGISTERED $

LIMITED OBLIGATION IMPROVEMENT BOND
City of Santa Barbara

SERIES NO._____

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NUMBER

PRINCIPAL AMOUNT:
REGISTERED OWNER:

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

the payment of the bonds issued upon the unpaid portion of assessments made for the acquisition, work, and improvements more fully described in proceedings taken pursuant to Resolution of Intention No. ____, adopted by the Council of the City on the ___ day of _____ , 19___ (as later amended), pay to the registered owner set forth above or registered assigns, on the maturity date stated above, the principal sum set forth above, in lawful money of the United States of America and in like manner will pay interest from the interest payment date next preceding the date on which this bond is authenticated, unless this bond is authenticated and registered as of an interest payment date, in which event it shall bear interest from such interest payment date, or unless this bond is authenticated and registered prior to _____, 19____ (first interest payment date), in which event it shall bear interest from its date, until payment of such principal sum shall have been discharged, at the rate per annum stated above, payable semiannually on February 1 and August 1 in each year commencing on August 1, 19__. Both the principal hereof and redemption premium hereon are payable at _____ as Transfer Agent, Registrar, and Paying Agent, in _____, California, and the interest hereon is payable by check or draft mailed to the owner hereof at the owner's address as it appears on the records of the _____ (City or registration agent) or at such address as may have been filed with the _____ (City or registration agent) for that purpose, as of the 15th day of the month immediately preceding each interest payment date.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there are not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity, interest thereon will run until maturity.

This bond shall not be entitled to any benefit under the Act or the Resolution Authorizing Issuance of Bonds (the "Resolution of Issuance"), or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the _____ (issuing agency or registration agent).

IN WITNESS WHEREOF, said City of Santa Barbara has caused this bond to be signed in facsimile by the Treasurer of said City and by its Clerk, and has caused its corporate seal to be reproduced in facsimile hereon all as of the _____day of _____19_____.

CITY OF SANTA BARBARA

_____ _____

Clerk Treasurer

[SEAL]

Certificate of Authentication and Registration.

This is one of the bonds described in the within mentioned Resolution of Issuance, which has been authenticated and registered on _____By_____

ADDITIONAL PROVISIONS OF THE BOND

This bond is one of several annual series of bonds of like date, tenor, and effect, but differing in amounts, maturities, and interest rates, issued by the City under the Act and the Resolution of Issuance, for the purpose of providing means for paying for the improvements described in the proceedings, and is secured by the moneys in said redemption fund and by the unpaid portion of said assessments made for the payment of said improvements, and, including principal and interest, is payable exclusively out of said fund.

This bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of _____(issuing agency or its registration agent), subject to the terms and conditions provided in the Resolution of Issuance, including the payment of certain charges, if any, upon surrender and cancellation of this bond. Upon such transfer, a new registered bond or bonds, of any authorized denomination or denominations, of the same maturity, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither the issuing agency nor the registration agent shall be required to make such exchange or registration of transfer of bonds after the 15th day of the month immediately preceding any interest payment date.

The issuing agency and the registration agent may treat the owner hereof as the absolute owner for all purposes, and the issuing agency and the registration agent shall not be affected by any notice to the contrary.

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

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

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

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

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

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

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

(1) All matured interest payments shall be made before the principal of any bonds is paid.

(2) Interest on bonds of earlier maturity shall be paid before interest on bonds of later maturity.

(3) Within a single maturity, interest on lower-numbered bonds shall be paid before interest on higher-numbered bonds.

(4) The principal of bonds shall be paid in the order in which the bonds are presented for payment. Any bond which is presented but not paid shall be assigned a serial number according to the order of presentment and shall be returned to the bondholder.

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

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

4.65.070 Tax Exempt Status.

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

4.65.080 Scope and Construction of Chapter Provisions.

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

4.65.090 Reference to Division.

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

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

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

4.65.110 Construction of Chapter; Validation of Proceedings and Assessments.

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

4.65.120 Amendments.

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

4.65.130 Inconsistent Provisions.

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

4.65.140 Chapter to be Liberally Construed.

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

4.65.150 No Liability of City.

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

Chapter 4.70

FORMATION OF COMMUNITY FACILITIES DISTRICTS

Sections:

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

4.70.010 Local Community Facilities Districts - Purposes.

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

4.70.020 Procedures for Establishing Local Community Facilities Districts.

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

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

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

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

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

6. Section 53324 of the California Government Code is not incorporated in this Chapter, and shall not be applicable to proceedings conducted hereunder.

7. Section 53326 of the California Government Code is amended to provide that:

a. the minimum time to election in paragraph (a) thereof is set at 60 days, rather than 90 days; and

b. when the legislative body so provides in the resolution of intention (§53321), the resolution of formation (§53325.1) and the resolution setting forth the proposed bonded indebtedness (if any, §53351), then in any election held under paragraph (b) or paragraph (c) of Section 53326, each landowner shall have one vote for each dollar of the maximum proposed special tax (rounded to the nearest whole dollar) for which such landowner would be responsible if the taxes were levied at the maximum initial rates proposed in the resolution of formation. In situations in which the rate and method of apportionment of the special tax provides that the maximum tax rates of the various parcels will change significantly in proportion to each other over time, the City Council may select the maximum tax rates from other than the initial year as the basis for the assignment of votes, in order to best approximate fairness in the sole judgment of the City Council.

c. there is no requirement, under paragraph (b), that the Council determine that any facilities financed by the district are necessary to meet increased demands placed upon the City as a result of development or rehabilitation occurring in the district.

8. Section 53327 of the California Government Code is amended to provide that:

a. No rebuttal arguments will be permitted; and

b. The City Council may appoint the canvassing board; and

c. The City Council may appoint the City Clerk as the official to conduct the election.

9. Section 53340 of the California Government Code is amended to provide that the City Council may in all cases act by resolution, and no ordinance shall be required.

10. Section 53364.2 of the California Government Code is not incorporated in this Chapter and shall not be applicable to proceedings conducted hereunder. (Ord. 4845, 1994; Ord. 4834, 1993.)

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

A. Prior to the time the City Council calls an election under Govt. Code §53326(b), it shall have received a certification from an engineer, consultant, or member of City staff, based on information certified by the person to be correct or to be the best information reasonably available, setting forth the number of registered voters residing within the Local Community Facilities District as of any date within ninety days prior to the close of the public hearing.

B. Prior to the time the City Council calls an election under Govt. Code §53326(b) or (c), it shall have received a certification from an engineer, consultant, or member of City staff, based on information certified by the person to be correct or to be the best information reasonably available, setting forth the names and addresses of all owners of land within the Local Community Facilities District, the total number of acres owned by each such owner, and the number of votes each such owner is entitled to cast in accordance with this Chapter. The Council may make changes or corrections to the certification if it has or receives better or more current information than that on which the certification was based.

C. In calling an election pursuant to §53326(b) or (c), the City Council shall designate the qualified electors and the number of votes each is entitled to cast in accordance with the certification described in paragraph B hereof.

D. When an election is called pursuant to §53326(b) or (c), and it is proposed to issue bonds, the resolution setting forth the proposed bonded indebtedness (Govt. Code §53351) shall, in addition to the other requirements, specify a deadline for the receipt of ballot arguments by the elections official. Publication under Govt. Code §53352 need be accomplished only once, but it must appear in the newspaper at least 10 days prior to the deadline specified. If no bonds are proposed, the resolution calling the election shall be published in place of the resolution setting forth the bonded indebtedness, and shall include the deadline.

E. The deadline for submittal of ballot arguments shall be publicly announced by the Mayor or Mayor Pro Tem at the time of the adoption of the resolution calling the election.

F. The general law governing ballot arguments for city elections shall govern the length of arguments, any limitations on their content, and the procedures for signatures and verification. There shall be no rebuttal arguments.

G. The City Attorney shall be responsible for preparing the impartial analysis. It shall be delivered to the elections official at least 5 days before the deadline for receipt of ballot arguments, and shall be immediately available for inspection by the public in the office of the elections official.

H. If the election is to be conducted by mailed-ballot, and if the City Clerk is appointed as the elections official, the ballots, ballot pamphlets, and ballot and return envelopes may be prepared by photocopy or similar process, and no special paper or format is required.

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

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

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

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

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

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

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

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

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

TITLE 5
Business Taxes and Permits

This title was most recently updated by the following ordinance:

Ordinance No.	Subject	Effective Date	Code Site
5677	Business Tax Exemption for Artists	January 15, 2015	Section 5.04.735
5718	News Rack Regulations	October 15, 2015	Chapter 5.66

TITLE 5

BUSINESS TAXES AND PERMITS

Chapter: 5.01 **Tax and Permit Inspector**
Chapter: 5.04 **Business Taxes**
Chapter: 5.06 **Business Tax Incentive, Etc.**
Chapter: 5.07 **Private Patrol Operators**
Chapter: 5.09 **Use of Tables on Public Sidewalks for Non-commercial Purposes**
Chapter: 5.15 **Motion Picture and Television Production**
Chapter: 5.16 **Motion Picture Operators**
Chapter: 5.20 **Dance Permits**
Chapter: 5.24 **Handbills**
Chapter: 5.28 **Pedicabs**
Chapter: 5.29 **Paratransit Service**
Chapter: 5.30 **Towing of Vehicles**
Chapter: 5.32 **Peddlers**
Chapter: 5.40 **Fortunetelling**
Chapter: 5.44 **Junk Dealers, Pawnbrokers and Secondhand Dealers**
Chapter: 5.48 **Boxing, Sparring or Wrestling Matches**
Chapter: 5.52 **Auctions and Auctioneers**
Chapter: 5.62 **Cable Television**
Chapter: 5.64 **Coin-operated Devices and Vending Machines**
Chapter: 5.66 **News Racks**
Chapter: 5.68 **Pool and Billiard Rooms**
Chapter: 5.72 **Circuses and Carnivals**
Chapter: 5.76 **Baths, Sauna Baths, Massage Parlors and Similar Businesses**

Chapter 5.01

TAX AND PERMIT INSPECTOR

Sections:

5.01.010 **Authorization for Duties.**
5.01.020 **Duties Generally.**

5.01.010 Authorization for Duties.

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

5.01.020 Duties Generally.

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

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

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

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

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

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

Chapter 5.04

BUSINESS TAXES

Sections:

5.04.010 Definitions.
5.04.020 Conformance to Zoning.
5.04.030 Nuisance Prohibited.
5.04.040 Revenue Measure.
5.04.060 Compliance Required by Businesses.
5.04.070 Businesses Not Listed - Fee.
5.04.080 Branch Establishments - Separate Tax.
5.04.090 Concessions.
5.04.100 Location Change - Tax Validity - Procedure.
5.04.110 Civil Liability - Action by City.
5.04.120 Mistake in Computation - Effect on Action to Collect.
5.04.130 Duty of Tax and Permit Inspector - Issuance.
5.04.140 Transfer of Receipt Prohibited.
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5.04.160 Fee Payment in Advance.
5.04.170 Due and Payable - Renewal.
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5.04.420 Tax - Businesses and Professions Enumerated.
5.04.425 Residential Rentals.
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5.04.430 Tax - Real Estate Brokers and Agents.
5.04.435 Tax - Real Estate Brokers, Salespersons and Agents Not Having a Business Office in the City.
5.04.440 Tax - Real Estate Developer.
5.04.450 Tax - Wholesale and Retail Delivery by Vehicle - No Fixed Place of Business.
5.04.460 Tax - Flat Amount - Businesses Enumerated.
5.04.470 Tax - Billboard.
5.04.480 Tax - Trucking - Hauling.
5.04.490 Tax - Transporting Persons for Hire.
5.04.500 Tax - Bowling Alleys and Poolrooms.
5.04.520 Tax - Peddlers of Personal Property.
5.04.530 Tax - Peddlers of Nursery Products, Food, Meat and Produce.
5.04.540 Tax - Miscellaneous Peddlers.
5.04.550 Tax - Peddlers Advertising.
5.04.560 Tax - Menagerie, Dog or Pony Show.
5.04.570 Tax - Acrobatic or Theatrical Exhibitions.
5.04.580 Tax - Circus.
5.04.590 Tax - Fair or Carnival.
5.04.600 Tax - Junk Collector.
5.04.610 Tax - Handbills.
5.04.620 Tax - Photographers - Transient.
5.04.630 Tax - Solicitors, Canvassers.
5.04.640 Tax - Wrestling or Boxing.
5.04.650 Tax - Museums.
5.04.660 Tax - Sellers of Home-grown Products.
5.04.670 Exemptions - Constitution or Statutes of the United States or of the State of California.
5.04.680 Exemptions - Franchised Public Utility.
5.04.690 Exemptions - Charitable, Educational or Religious Organization.
5.04.700 Claim for Exemption.
5.04.710 Exemption - Issuance of Receipt.
5.04.720 Exemption - Revocation.
5.04.730 Certain Businesses with Annual Gross Receipts of One Thousand Two Hundred Dollars ($1,200.00) or Less.
5.04.735 Artists Tax Exemption.
5.04.740 Minors - Sixteen (16) Years and Under - Exemption.
5.04.750 Disabled Veterans - Exemption.
5.04.760 Disabled Persons - Exemption.
5.04.770 Both Criminal and Civil Action Authorized for Failure to Pay.
5.04.780 Rules and Regulations.
5.04.790 Posting and Keeping Receipt.
5.04.795 Records - Inspection.
5.04.800 Penalty for Violation.
5.04.830 Tax Rate Reduction - Previously Paid Taxes.

5.04.010 Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.04.020 Conformance to Zoning.

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

5.04.030 Nuisance Prohibited.

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

5.04.040 Revenue Measure.

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

5.04.060 Compliance Required by Businesses.

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

5.04.070 Businesses Not Listed - Fee.

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

5.04.080 Branch Establishments - Separate Tax.

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

5.04.090 Concessions.

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

5.04.100 Location Change - Tax Validity - Procedure.

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

5.04.110 Civil Liability - Action by City.

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

5.04.120 Mistake in Computation - Effect on Action to Collect.

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

5.04.130 Duty of Tax and Permit Inspector - Issuance.

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

5.04.140 Transfer of Receipt Prohibited.

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

5.04.150 Duplicate Receipt - Fee.

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

5.04.160 Fee Payment in Advance.

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

5.04.170 Due and Payable - Renewal.

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

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

5.04.180 Delinquent When.

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

5.04.190 Yearly Computation.

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

5.04.210 Applications - When Made.

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

5.04.220 Application - Contents - Issuance.

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

5.04.225 Application - Professionals Listed.

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

5.04.230 Application - Estimates to be Included - Overpayment.

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

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

5.04.250 Fixed Sum Tax - Renewal.

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

5.04.260 Variable Sum Tax - Renewal.

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

5.04.270 Corrected Application and Statements.

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

5.04.280 Information Confidential - Disclosure.

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

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

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

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

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

5.04.310 Failure to Pay Determined Amount - Hearing - Notice.

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

5.04.320 Accrual of Penalties.

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

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

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

5.04.340 Refunds.

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

5.04.350 Enforcement of Chapter.

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

5.04.352 Enforcement of Chapter - Subcontracting.

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

5.04.354 Enforcement of Chapter - Real Estate Brokers.

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

5.04.360 Conviction Will Not Excuse Payment.

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

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

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

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

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

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

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

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

CLASSIFICATION "A"

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

CLASSIFICATION "B"

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

RATES

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

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

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

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

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

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

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

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

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

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

5.04.410 Tax - Contractors.

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

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

5.04.415 Posting of Names and Business Tax Numbers - Contractors.

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

5.04.420 Tax - Businesses and Professions Enumerated.

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

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

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

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

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

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

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

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

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

5.04.425 Residential Rentals.

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

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

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

5.04.426 Commercial Rentals.

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

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

5.04.430 Tax - Real Estate Brokers and Agents.

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

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

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

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

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

5.04.440 Tax - Real Estate Developer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.04.460 Tax - Flat Amount - Businesses Enumerated.

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

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

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

5.04.470 Tax - Billboard.

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

5.04.480 Tax - Trucking - Hauling.

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

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

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

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

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

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

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

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

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

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

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

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

5.04.490 Tax - Transporting Persons for Hire.

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

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

(1) Wholly within the City;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.04.500 Tax - Bowling Alleys and Poolrooms.

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

5.04.520 Tax - Peddlers of Personal Property.

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

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

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

5.04.540 Tax - Miscellaneous Peddlers.

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

5.04.550 Tax - Peddlers Advertising.

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

5.04.560 Tax - Menagerie, Dog or Pony Show.

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

5.04.570 Tax - Acrobatic or Theatrical Exhibitions.

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

5.04.580 Tax - Circus.

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

5.04.590 Tax - Fair or Carnival.

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

5.04.600 Tax - Junk Collector.

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

5.04.610 Tax - Handbills.

(a) Temporary handbill distributor.

Every person carrying on the business of handbill distribution pursuant to a temporary handbill permit issued pursuant to §5.24.050(1) shall pay a minimum tax fee of five dollars ($5.00) to distribute not more than four thousand (4,000) handbills within ten (10) days, and for each one thousand (1,000) in excess thereof, an additional fee of one dollar ($1.00).

(b) Private handbill distribution system.

Every person carrying on the business of handbill distribution pursuant to a private handbill distribution system permit issued pursuant to §5.24.050(2) shall pay the tax required by §5.04.420. (Ord. 3619, 1974; Ord. 2930, 1963.)

5.04.620 Tax - Photographers - Transient.

Every person carrying on the business of a photographer, who has no fixed place of business within the City, shall pay an annual tax of sixty dollars ($60.00).

Every person engaged in the business of soliciting or canvassing or taking orders, for the taking or making of photographs or views, who does not have a fixed place of business within the City, shall pay a tax of five dollars ($5.00) per day for each such canvasser, solicitor or photographer. (Ord. 2930 §37, 1963.)

5.04.630 Tax - Solicitors, Canvassers.

Every person carrying on the business of soliciting or canvassing or taking orders for any goods, wares or merchandise, or any other thing at retail, and not having a fixed place of business in the City, or is not an agent of a principal having a fixed place of business in the City, shall pay a tax of five dollars ($5.00) per day for each such canvasser or solicitor. (Ord. 2930 §38, 1963.)

5.04.640 Tax - Wrestling or Boxing.

Every person carrying on the business of conducting wrestling or boxing exhibitions shall pay a permit fee as provided in Section 5.48.040. (Ord. 3140 §2, 1966; Ord. 2930 §39, 1963.)

5.04.650 Tax - Museums.

Every person carrying on the business of conducting a museum which charges a fixed admission fee, shall pay an annual tax as prescribed by Section 5.04.390; museums without a fixed admission fee shall pay an annual tax of twenty-five dollars ($25.00) per year, except that no tax shall be required for any museum operated by a governmental entity or by any school or church. (Ord. 4330, 1985; Ord. 2930 §40, 1963.)

5.04.660 Tax - Sellers of Home-grown Products.

Every farmer, poultry man or horticulturist, carrying on the business of selling at wholesale or retail produce grown or raised wholly by himself or his immediate family in Santa Barbara County, shall pay an annual tax of five dollars ($5.00). This provision shall not apply to nurseries or other commercial establishments which buy produce for resale as well as selling their own products. (Ord. 2930 §41, 1963.)

5.04.670 Exemptions - Constitution or Statutes of the United States or of the State of California.

Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment to municipal corporations of such taxes herein prescribed. (Ord. 2930 §42(a)(part), 1963.)

5.04.680 Exemptions - Franchised Public Utility.

Any public utility operating under a franchise from this City and paying a franchise tax is subject to the provisions of this chapter to the extent of any retail sales of merchandise in which such utility may engage in this city. (Ord. 2930 §42(a)(part), 1963.)

5.04.690 Exemptions - Charitable, Educational or Religious Organization.

(a) The provisions of this chapter shall not be deemed or construed to require the payment of a tax to conduct, manage or carry on any business, occupation or activity, from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes or from which profit is not derived, either directly or indirectly, by any individual, firm or corporation; nor shall any tax be required for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects within the City whenever the receipts of any such entertainment, concert, exhibition or lecture are to be appropriated to any church or school, or to any religious or benevolent purpose; nor shall any tax be required for the conducting of any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, State, County or municipal organization or association, whenever the receipts of any such entertainment, dance, concert, exhibition or lecture are to be appropriated for the purpose and objects for which such association or organization was formed, and from which profit is not derived, either directly or indirectly, by an individual, firm or corporation; provided, however, that nothing in this section contained shall be deemed to exempt any such institution or organization from complying with the provisions of this chapter, or other ordinances of this City requiring a permit from the City Council or any commission or officer to conduct, manage or carry on any profession, trade, calling or occupation.

(b) The payment of necessary expenses incurred for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects shall not be deemed to be profit derived by any individual, firm or corporation for the purposes of this section. (Ord. 2930 §42(b), 1963.)

5.04.700 Claim for Exemption.

Any person claiming an exemption pursuant to this chapter, shall file a verified statement with the Tax and Permit Inspector, stating the facts upon which exemption is claimed. (Ord. 2930 §42(c), 1963.)

5.04.710 Exemption - Issuance of Receipt.

The Tax and Permit Inspector shall, upon a proper showing contained in the verified statement, issue a receipt to such person claiming exemption under Section 5.04.690 without payment to the City of the tax required by this chapter. (Ord. 2930 §42(d), 1963.)

5.04.720 Exemption - Revocation.

The Tax and Permit Inspector may revoke any receipt granted pursuant to the provisions of Sections 5.04.680 - 5.04.710 upon information that the individual or entity is not entitled to the exemption as provided herein. (Ord. 2930 §42(e), 1963.)

5.04.730 Certain Businesses with Annual Gross Receipts of One Thousand Two Hundred Dollars ($1,200.00) or Less.

Notwithstanding any other provision of this chapter, where any person is required to pay a business tax under this chapter measured by the annual gross receipts of such person's business, then, where such gross receipts are one thousand two hundred dollars ($1,200.00) or less, the amount of the tax to be paid shall be five dollars ($5.00). (Ord. 2937 §4, 1963; Ord. 2930 §43, 1963.)

5.04.735 Artists Tax Exemption.

Notwithstanding any other provision of this chapter, Artists, as the term is used in section 5.04.420, shall not be taxed if their annual gross receipts are less than five thousand dollars ($5,000.00). Artists with gross annual receipts of five thousand dollars ($5,000.00) or more shall be taxed in accordance with section 5.04.390 or 5.04.420, as applicable. (Ord. 5677, 2014.)

5.04.740 Minors - Sixteen (16) Years and Under - Exemption.

Every natural person of the age of sixteen (16) years or under, whose annual gross receipts from any and all businesses are five hundred dollars ($500.00) or less, shall not be required to pay a business tax under the provisions of this chapter. (Ord. 2930 §44, 1963.)

5.04.750 Disabled Veterans - Exemption.

Any veteran, who is unable to obtain a livelihood by manual labor due to physical disability, may, at the discretion of the Tax and Permit Inspector, pay a tax to hawk or peddle any goods, wares or merchandise without payment of any tax, by applying to the Tax and Permit Inspector and producing a certificate from a local physician showing the applicant to be physically disabled, evidence of being a legal voter of the State of California, and a copy of an honorable discharge. (Ord. 2930 §45, 1963.)

5.04.760 Disabled Persons - Exemption.

Any person who is unable to obtain a livelihood by manual labor due to a physical disability, may, at the discretion of the Tax and Permit Inspector, obtain a receipt under the provisions of this chapter, without payment of any tax, by applying to the Tax and Permit Inspector and producing a certificate from a local physician showing the applicant to be physically disabled. (Ord. 2930 §46, 1963.)

5.04.770 Both Criminal and Civil Action Authorized for Failure to Pay.

The conviction and imprisonment of any person for engaging in any business without first complying with the provisions of this chapter shall not relieve such person from paying the tax imposed by this chapter. All remedies prescribed hereunder shall be cumulative and the use of one (1) or more remedies by the City shall not bar the use of other remedies for the purpose of enforcing the provisions of this chapter. (Ord. 2930 §47, 1963.)

5.04.780 Rules and Regulations.

The City Council hereby reserves the right to adopt by resolution any rules and regulations providing for the administration of this chapter. (Ord. 2930 §48, 1963.)

5.04.790 Posting and Keeping Receipt.

All receipts issued under the provisions of this chapter must be kept and posted in the following manner:

(1) Any payee transacting and carrying on business at a fixed place of business within the City shall keep the receipt posted in a conspicuous place upon the premises where such business is carried on.

(2) Any payee transacting and carrying on business but not operating at a fixed place of business in this City, shall keep the receipt upon his person at all times while transacting and carrying on such business. (Ord. 2930 §49, 1963.)

5.04.795 Records - Inspection.

It shall be the duty of every person liable for the payment to the City of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for, which records Tax and Permit Inspector shall have the right to inspect at all reasonable times. (Ord. 3951, 1978.)

5.04.800 Penalty for Violation.

Any person violating any of the provisions of this chapter, or knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring the receipt for payment of tax or permit herein provided for, shall be deemed guilty of a misdemeanor. (Ord. 2930 §50, 1963.)

5.04.830 Tax Rate Reduction - Previously Paid Taxes.

If any person has already paid the annual taxes required to be paid for the privilege of doing business on and after July 1, 1964, the Tax and Permit Inspector shall allow and give to such person a credit against the taxes next required to be paid for a renewal receipt in an amount equal to five percent (5%) of that portion of the taxes paid which was for the privilege of doing business on and after July 1, 1964; or, if no renewal receipt is to be issued, then such person shall be entitled to a refund of an amount equal to five percent (5%) of that portion of the taxes paid which was for the privilege of doing business on and after July 1, 1964, upon his filing a claim for such refund in the Finance Office not later than one (1) year from the expiration of the period for which the taxes were paid. (Ord. 2992 §2(part), 1964; Ord. 2930 §51(c), 1963.)

Chapter 5.06

BUSINESS TAX INCENTIVE, ETC.

Sections:

5.06.010	**Purpose.**	**5.06.060**	**Preemption of Ordinance.**
5.06.020	**Definitions.**	**5.06.070**	**Criteria of Conversion.**
5.06.030	**Reduction of Business Tax - When.**	**5.06.080**	**Automatic Repeal of Chapter.**
5.06.040	**Computation of Tax Reduction.**	**5.06.090**	**Effect of Transfer of Motor Vehicle.**
5.06.050	**Form of Application.**		

5.06.010 Purpose.

The City Council of the City of Santa Barbara finds that air quality in the City and surrounding area now violates Federal Air Quality Standards on a significant number of days each year, that motor vehicle emissions contribute a greater quantity of pollutants than any other source, that commercial and fleet vehicles registered in the City contribute a significant part of the pollutants from all motor vehicles and that the health, safety and welfare of the residents of the City are seriously affected by deterioration in air quality. It is the purpose of this chapter to reduce the quantity of emissions from commercial and fleet vehicles by providing a reduction in business tax to owners of such vehicles to encourage conversion to a gaseous fuel system emitting low levels of pollutant. (Ord. 3588, 1973.)

5.06.020 Definitions.

As used is this chapter, the words and terms defined in this section shall have the following meanings:

(1) "Gaseous fuel system" means a fuel system which permits a motor vehicle equipped with such system to be operated on compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

(2) "Motor vehicle" means any vehicle which legally operates upon the streets and highways and is powered by an internal combustion engine fueled by gasoline before conversion.

(3) "Conversion" means installation in a motor vehicle of a kit or device resulting in the substitution of a gaseous fuel for gasoline.

(4) "State of California Conversion Certificate" means a currently valid certificate of compliance issued pursuant to California Vehicle Code Section 4000.1 and which indicates conversion. (Ord. 3588, 1973.)

5.06.030 Reduction of Business Tax - When.

Any person or entity owning and operating one (1) or more motor vehicles for the purposes of a business taxed under Chapter 5.04 of this Code shall, upon application as hereinafter in this chapter provided, be allowed a reduction in business tax provided that such motor vehicle or vehicles is or are converted to a gaseous fuel system. Such reduction in tax shall commence with the original payment or repayment of a business tax following the effective date of this ordinance and upon such application being made. (Ord. 3588, 1973.)

5.06.040 Computation of Tax Reduction.

Business tax reduction pursuant to this chapter shall be computed at fifty percent (50%) of the vehicle day schedules set forth in Sections 5.04.480 and 5.04.490 of this Code. Such reduction, however, shall not be limited to individuals operating businesses of trucking, hauling or transporting persons for hire, but shall for the purpose of this chapter apply to all those who have paid business taxes. Notwithstanding the above, it is hereby provided:

(a) That no reduction pursuant to this chapter shall exceed an amount equal to fifty percent (50%) of the total business tax due before reduction, and

(b) That no reduction shall exceed the sum of fifty dollars ($50.00) on account of any one (1) motor vehicle during the total period of years during which said motor vehicle is operated. (Ord. 3588, 1973.)

5.06.050 Form of Application.

A business tax payee applying for reduction of business tax pursuant to this chapter shall do so on a form to be provided by the City Treasurer, which form shall include a certification by the applicant under penalty of perjury that the information provided is true and complete. The said applicant shall also present a State of California conversion certificate, pertaining to the motor vehicle or vehicles on account of which application is made. (Ord. 3588, 1973.)

5.06.060 Preemption of Ordinance.

This chapter shall not apply as to any motor vehicle the conversion of which shall be required by any Federal or State legislation or regulation. (Ord. 3588, 1973.)

5.06.070 Criteria of Conversion.

For the purposes of this chapter, a conversion must at least meet the standards set forth in California State Revenue & Taxation Code Section 8657. (Ord. 3588, 1973.)

5.06.080 Automatic Repeal of Chapter.

This chapter shall terminate, and shall have no further force or effect five (5) years from the date of its adoption unless extended prior to the expiration of said period; provided that, reduction in business tax first allowed prior to the expiration of said period shall continue beyond said period until the maximum reduction of fifty dollars ($50.00) is obtained for any one (1) motor vehicle. (Ord. 3588, 1973.)

5.06.090 Effect of Transfer of Motor Vehicle.

If a converted motor vehicle is transferred from one (1) business tax payee to another, the transferee shall receive, in the manner prescribed above, the balance, if any, of the reduction of business tax up to the maximum of fifty dollars ($50.00) allowed for one (1) motor vehicle. (Ord. 3588, 1973.)

Chapter 5.07

PRIVATE PATROL OPERATORS

Sections:

5.07.010	**Definitions.**	**5.07.070**	**Duration of Registration and Renewal.**
5.07.020	**Legislative Intent.**	**5.07.080**	**Business Tax Applies.**
5.07.030	**Registration Required.**	**5.07.090**	**Modification of Approved Uniforms and Vehicles.**
5.07.040	**Registration Procedure.**	**5.07.100**	**Revocation of Registration.**
5.07.050	**Commission Agenda.**		
5.07.060	**Commission Action.**		

5.07.010 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning.

A. PRIVATE PATROL OPERATOR. Any person, partnership, corporation, firm, agency or other organization which provides security or investigative services within the City of Santa Barbara wholly or partially through the use of personnel attired in distinctive uniforms and/or vehicles with distinctive markings.

B. COMMISSION. The Fire and Police Commission of the City of Santa Barbara. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.020 Legislative Intent.

This ordinance is adopted to ensure that the uniforms and vehicles used by employees of private patrol operators are clearly distinguishable from those used by the Santa Barbara Police Department and other law enforcement agencies in the South Coast area of Santa Barbara County. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.030 Registration Required.

No private patrol operator shall provide services within the City of Santa Barbara without first having registered with the Commission in the manner provided in this Chapter. (Ord. 4499, 1988; Ord. 3748,1975.)

5.07.040 Registration Procedure.

Any person, partnership, corporation, firm, agency or other organization desiring to be a private patrol operator in the City of Santa Barbara shall register with the secretary of the Commission. The registration submittal shall contain at least the following information:

A. Name of registrant.
B. Business address of registrant.
C. Description of the type of private patrol operation which registrant plans to conduct.
D. Number of uniformed employees registrant plans to perform services in the City of Santa Barbara.
E. Description of employees' uniform including, but not limited to the following information:
   1. color of clothing;
   2. color and design of badge to be worn by employees;
   3. color, design and location on the uniform of any distinctive patches.
F. Description of all distinctively marked vehicles to be used in the City of Santa Barbara, including, but not limited to the following:
   1. color;
   2. description and location on the vehicle of any distinctive insignia;
   3. description and location on the vehicle of any emergency lights.
G. Number of distinctively marked vehicles to be used by the applicant in the City of Santa Barbara.
H. A copy of the registrant's current state license. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.050 Commission Agenda.

A registration for a private patrol operator permit shall be placed on the next agenda of the Commission which has not been finalized at the time the registration is filed. (Ord. 4499. 1988; Ord. 3748, 1975.)

5.07.060 Commission Action.

The Commission shall review all registrations for private patrol permits to determine whether the uniforms and vehicles to be used by the registrant are clearly distinguishable from those used by the Santa Barbara Police Department and other law enforcement agencies in the South Coast area of Santa Barbara County. If the Commission determines that said uniforms and vehicles are not clearly distinguishable, it shall order the registrant to modify the uniforms and vehicles in a manner which the Commission determines will make them clearly distinguishable from those used by the Santa Barbara Police Department and other law enforcement agencies in the South Coast area of Santa Barbara County. No registrant may utilize a uniform or vehicle which has not been approved by the Commission pursuant to this section. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.070 Duration of Registration and Renewal.

A private patrol operator registration shall be valid for one (1) year and may be renewed annually by the Police Chief by the registrant filing a statement with the secretary of the Commission declaring under penalty of perjury that the uniforms and vehicles used by the registrant in the City of Santa Barbara are the same as those approved by the Commission. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.080 Business Tax Applies.

Nothing in this Chapter shall be construed to excuse the payment of the normal business tax required by Chapter 5.04 of this Code. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.090 Modification of Approved Uniforms and Vehicles.

No registrant shall modify, change, or alter the uniforms and vehicles approved by the Commission without first applying to the Commission and receiving its determination that its uniforms and vehicles as modified, changed or altered are clearly distinguishable from those used by the Police Department of the City of Santa Barbara and other law enforcement agencies in the South Coast area of Santa Barbara County. (Ord. 4499, 1988; Ord. 3748, 1975.)

5.07.100 Revocation of Registration.

A private patrol operator registration may be revoked by the Commission if it determines that the uniforms and vehicles used by the permittee in the City of Santa Barbara are not the same as those approved by the Commission. Prior written notice of the date of Commission meeting at which the Commission will consider revoking the permittee's registration and an opportunity to be heard shall be provided to the registrant. (Ord. 4499, 1988; Ord. 3748, 1975.)

Chapter 5.09

USE OF TABLES ON PUBLIC SIDEWALKS FOR NON-COMMERCIAL PURPOSES

Sections:

5.09.010 Tables on Sidewalks - Permit Required.
5.09.020 Application - Conditions.
5.09.030 Permit - Duration - Renewal.
5.09.040 Application - Contents.
5.09.050 Application Fee.
5.09.060 Permit - Issuance.
5.09.070 Permit - Non-transferable.
5.09.080 Permit - No Authorization to Trespass.
5.09.090 Permit Suspension or Revocation - Notice and Hearing.
5.09.100 Application for Permit - Appeal on Denial or Revocation.

5.09.010 Tables on Sidewalks - Permit Required.

No person shall place on or upon any public sidewalk or walkway within the corporate limits of the City, on or upon any sidewalk or walkway within the City held open to the use of the general public, any table, desk, counter or similar device as an adjunct to any non-commercial activity of a charitable or political nature, as the same is defined in Sections 5.08.010(1) and 5.08.020 of Chapter 5.08 of this Code, without having first secured a permit therefor. (Ord. 3446 §1(part), 1970.)

5.09.020 Application - Conditions.

Any permit required by Section 5.09.010 issued by the Tax and Permit Inspector upon application therefor, shall be issued upon the following mandatory conditions:

(a) All permitted tables, desks, counters or similar devices shall be placed and located in such manner as not to obstruct the free movement of pedestrian traffic, and so as not to interfere with the entry-way or exit-way of any business establishment;

(b) No table, desk, counter or similar device shall be placed closer than one hundred feet (100') to one another on the same side of the street in any one (1) block, and there shall be no more than a total of three (3) tables, desks or similar devices on the same side of the street in any one (1) block;

(c) No permit shall be issued under this chapter for periods during which celebrations, parades or similar events are being held which customarily cause the congregation of crowds of spectators in the area in which the applicant wishes to place any table, desk or counter;

(d) No permit shall be issued under this chapter for the periods of the Santa Barbara Arts and Crafts Show established under Chapter 15.08 of the Municipal Code for the sidewalk adjacent to the Show. (Ord. 3776, 1975; Ord. 3446 §1(part), 1970.)

5.09.030 Permit - Duration - Renewal.

No permit issued pursuant to this chapter shall be valid for a period longer than thirty (30) days. Any permit which has expired may be renewed by the permittee if, during the prior permit period, the permittee has complied with all the provisions, conditions and regulations of this chapter. (Ord. 3446 §1(part), 1970.)

5.09.040 Application - Contents.

Any person desiring a permit as required under this chapter shall file a verified application therefor with the Tax and Permit Inspector containing the following information:

(a) The name, address and telephone number of the person applying for the permit;

(b) The name, address and telephone number of the organization, if any, for whose benefit the permit is being sought; together with the name, address and telephone number of the principal officer of the organization;

(c) The proposed locations of any and all tables, desks, counters or similar devices which the applicant seeks to maintain;

(d) The total period of time and the hours during each day during which the applicant intends to maintain the tables, desks or counters;

(e) The nature of the proposed activity which the applicant seeks to undertake. (Ord. 3446 §1(part), 1970.)

5.09.050 Application Fee.

The applicant shall, in addition to the application required by this chapter, submit an application fee of one dollar ($1.00) for each table which he proposes to maintain. (Ord. 3446 §1(part), 1970.)

5.09.060 Permit - Issuance.

The Tax and Permit Inspector shall issue the permit provided for in this chapter, unless it is found that one (1) or more of the statements in the application are untrue. (Ord. 3446 §1(part), 1970.)

5.09.070 Permit - Non-transferable.

No permit issued under this chapter shall be transferable. (Ord. 3446 §1(part), 1970.)

5.09.080 Permit - No Authorization to Trespass.

No permit issued under this chapter shall constitute a license or authorization by the City to enter into or to trespass upon any private premises or property without the consent of the owner thereof. (Ord. 3446 §1(part), 1970.)

5.09.090 Permit Suspension or Revocation - Notice and Hearing.

Whenever it shall be shown or whenever the Tax and Permit Inspector has knowledge that any person to whom a permit has been issued under this chapter has violated any of the provisions of this chapter or while maintaining any permitted table, desk or counter has violated any penal law, or that any permittee or any agent or representative of such permittee, has made any misrepresentation concerning activities for which any table, desk or counter is maintained, the Tax and Permit Inspector may immediately suspend the permit issued and give the permittee written notice, in person or by registered special delivery mail of a hearing before a hearing board composed of the Tax and Permit Inspector, the City Attorney or his authorized delegate and the City Administrator or his authorized delegate, to be held within five (5) days of such suspension to determine whether or not the permit should be revoked. This notice must contain a statement of the facts upon which the Tax and Permit Inspector has acted in suspending the permit. At the hearing the permittee, and any other interested person, shall have the right to present evidence as to the facts upon which the Tax and Permit Inspector based the suspension of the permit, and any other facts which may aid the hearing board in determining whether this chapter or other law has been violated or whether a misrepresentation has been made. If, after such hearing, the hearing board finds that this chapter or other law has been violated or that misrepresentation has occurred, the Tax and Permit Inspector shall within two (2) days after the hearing, file in his office for public inspection and serve personally or by mail upon the permittee and all interested persons participating in the hearing, a written statement of the facts upon which the hearing board based such finding and shall immediately revoke the permit. If, after such hearing, the hearing board finds that this chapter or other law has not been violated or that misrepresentation has occurred, the Tax and Permit Inspector shall within two (2) days after the hearing, mail or give to the permittee a written statement canceling the suspension of the permit and stating that no violation or misrepresentation was found to have been committed. (Ord. 3766, 1975; Ord. 3446 §1(part), 1970.)

5.09.100 Application for Permit - Appeal on Denial or Revocation.

If any person is aggrieved by any ruling on any application filed pursuant to the provisions of this chapter, or by any revocation, such aggrieved person may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3446 §1(part), 1970.)

Chapter 5.15

MOTION PICTURE AND TELEVISION PRODUCTION

Sections:

5.15.010 Definition and Exemption.
5.15.020 Permit for Business of Taking Motion Pictures.
5.15.030 Rules and Regulations.
5.15.040 Appeal Process.

5.15.010 Definition and Exemption.

For the purposes of this chapter, the activity "motion picture and television production" includes cine-matography, videotaping and other similar processes. Motion picture and television production of current news activities are exempt from the provisions of this chapter. (Ord. 4026, 1979.)

5.15.020 Permit for Business of Taking Motion Pictures.

a. Every person engaged in the business of motion picture or television production in the City of Santa Barbara shall have a valid permit for such activity. The permit fees and exemptions shall be established by resolution.

b. If the applicant would not be required to have a business license except for the activity relating to the business of motion picture or television production, the permit shall serve in place of said business license and the permittee shall not be required to have a separate business license. (Ord. 4026, 1979.)

5.15.030 Rules and Regulations.

The City Administrator is hereby authorized to establish conditions for the issuance of such permits and to adopt rules and regulations for activities conducted pursuant to such permits. Such rules and regulations shall be approved by resolution of the City Council, but the City Administrator is authorized to adopt temporary rules and regulations for a period not to exceed thirty (30) days. (Ord. 4026, 1979.)

5.15.040 Appeal Process.

Any person denied a permit under this chapter may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4026, 1979.)

Chapter 5.16

MOTION PICTURE OPERATORS

Sections:

5.16.010	**Permit - Required - Examination of Applicant.**	**5.16.040**	**Permit - Cancellation - Rights of Operator.**
5.16.020	**Permit - Appearance of Applicant Before Examining Board.**	**5.16.050**	**Permit - Issuance Restrictions.**
		5.16.060	**Examining Board - Meetings.**
5.16.030	**Permit - Duration - Nontransferable.**	**5.16.070**	**Examining Board - Composition.**
		5.16.080	**Examining Board - Compensation.**

5.16.010 Examination of Applicant.

It shall be unlawful for any person to take charge of the operation of any motion picture operating booth or operate any motion picture apparatus in a motion picture operating booth within the City, who shall not first have taken an examination and secured a permit provided. (Prior Code §30.1.)

5.16.020 Permit - Appearance of Applicant Before Examining Board.

Each applicant for a permit to operate any motion picture booth or apparatus as provided in Section 5.16.010 shall appear before an examining board, as provided in Section 5.16.060, and shall satisfy such board of his fitness to operate such apparatus. (Prior Code §30.2.)

5.16.030 Permit - Duration - Nontransferable.

The motion picture operator's permit required in Section 5.16.010, shall be for a period of one (1) year from the date thereof and shall be nontransferable. (Prior Code §30.3.)

5.16.040 Permit - Cancellation - Rights of Operator.

The examining board mentioned in this chapter shall have the authority to cancel the permit of any operator upon satisfactory proof of his unfitness, but not until due notice to the holder is given at least five (5) days prior to the date set for a hearing, and he shall have the right to be present with counsel and witnesses, and offer in his own behalf, such testimony as may be pertinent. (Prior Code §30.4.)

5.16.050 Permit - Issuance Restrictions.

The permit required by this chapter shall not be issued to any person who is under the age of seventeen (17) years, nor to any person who is an habitual user of alcoholic liquor or narcotic drugs. (Prior Code §30.5.)

5.16.060 Examining Board - Meetings.

The examining board shall meet at such times as it may in its discretion determine; provided, however, that every applicant for a permit under this chapter shall be examined within thirty (30) days of the date of the filing of his application with the examining board. (Prior Code §30.6.)

5.16.070 Examining Board - Composition.

The examining board shall consist of the Chief of the Fire Department, the City Electrical Inspector and a third person to be designated by them. (Prior Code §30.7).

5.16.080 Examining Board - Compensation.

The members of the examining board shall serve without compensation. (Prior Code §30.8).

Chapter 5.20

DANCE PERMITS

Sections:

5.20.010 Definitions.
5.20.020 Public Dance Permit Required.
5.20.030 Exclusions from Dance Permit Requirement.
5.20.050 Application for City Dance Permit.
5.20.060 Public Noticing of Dance Permit Applications.
5.20.070 Issuance of Certain Dance Permits – Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.
5.20.080 Permissible Dance Permit Conditions.
5.20.090 Appeal From Denial or From Conditional Approvals or From a Renewal Application.
5.20.100 Duration of Dance Permits.
5.20.110 Renewal of Dance Permits.
5.20.120 Display of Dance Permits.
5.20.130 Dance Permits Not Transferable.
5.20.140 Dance Permittee Reporting of ABC License Violations.
5.20.150 Suspension or Revocation of a Dance Permit.
5.20.160 New Permit Application After Revocation or Denial.
5.20.170 No Outdoor Dancing – Nightclub Permits.
5.20.180 Pre-Approval Application Process.
5.20.190 Adoption of Rules and Regulations; Application/Renewal Fees.

5.20.010 Definitions.

For the purposes of this Chapter, the following words and phrases used herein are defined as follows:

A. ABC LICENSE. The license issued by the California Department of Alcoholic Beverage Control for the sale and consumption of alcoholic beverages.

B. APPLICANT. A person as defined by this Chapter who seeks the issuance of a dance permit.

C. DANCE OR DANCING. Movement of the human body and feet in rhythm generally to music.

D. DANCE ESTABLISHMENT. A person or business who conducts a public dance or public dances.

E. DANCE PATRONS. Customers, invitees, or members of the public that attend a public dance.

F. DANCE PERMIT. Either a Limited Dance Permit, a Live Entertainment Dance Permit, or a Nightclub Dance Permit.

G. ENTERTAINMENT DISTRICT. The area of the City defined in the City of Santa Barbara's General Plan as the Entertainment District, which is bounded by Sola Street on the north, Santa Barbara Street on the east, Chapala Street on the west, and Cabrillo Boulevard on the south.

H. LIMITED DANCE PERMIT. A Dance Permit issued to a dance establishment which requests such a permit, and which provides that the following permit restrictions apply:

1. The permit allows no more than twelve (12) public dances on twelve (12) separate days per year;
2. Dancing at the establishment must end prior to midnight on each occasion;
3. Such other conditions which the Chief may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures.

I. LIVE ENTERTAINMENT DANCE PERMIT. A Live Entertainment Dance Permit issued to a dance establishment which requests such a permit, and which provides that the following permit restrictions apply:

1. The music (including singing) provided for the dancing is performed live exclusively and is not pre-recorded;
2. The music (including singing) provided for the dancing is not amplified in any way and is exclusively acoustic music;
3. The dance establishment does not offer dancing more than three (3) nights per week;
4. Such other conditions which the Chief of Police may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures;
5. Dancing within the establishment will not continue beyond one o'clock a.m. each day that dancing and live music is offered at the establishment.

J. NIGHTCLUB DANCE PERMIT. A dance permit issued by the City, which is not classified as or restricted like a Limited Dance Permit or a Live Entertainment Dance Permit.

K. PERSON. Includes both the singular and the plural, and shall mean any individual, business, firm, company, corporation, association, partnership, legal entity, or society (exclusive of public agencies), including the authorized agents thereof.

L. PUBLIC DANCE. Any gathering of persons in or upon any nonresidential or commercial premises where dancing occurs, either as the main purpose for such gathering or as an incident to the conduct of another business, and to which the public is admitted. (Ord. 5445, 2008.)

5.20.020 Public Dance Permit Required.

No person shall conduct or operate a public dance in the City of Santa Barbara without first obtaining a City dance permit as required by this Chapter. (Ord. 5445, 2008.)

5.20.030 Exclusions from Dance Permit Requirement.

A City dance permit under Section 5.20.020 of this Chapter is not required for the following activities:

A. DANCES AT CITY FACILITIES. Any public dance conducted in a park or recreational facility owned or operated by the City of Santa Barbara, where the City facility has been properly reserved for a private non-commercial function and the dancing has been otherwise expressly permitted by the City for that facility;

B. CLUB DANCES. Any public dance conducted by or sponsored by any club or similar association organized for charitable, dramatic, or literary purposes, where the club or association has pre-established association membership and it holds regular meetings for purposes other than dancing, provided the net proceeds from the public dances are used exclusively for the purposes which the club or association has been officially established;

C. NONPROFIT YOUTH DANCES. Any public dance sponsored by any nonprofit public benefit organization (as established pursuant to state law) whose primary objective is the sponsoring of youth activities so long as all of the following requirements are met:

1. No person eighteen (18) years of age or older may be in attendance, unless such person is a bona fide student at, or member of, the sponsoring agency or organization;
2. No alcoholic beverages are served or available at the premises where the dance is held;
3. Chaperones from the sponsoring agency are present on the premises at the rate of two adults (who are at least twenty-five years of age or older) for every one hundred guests;
4. The dance ends by midnight, and the establishment and the adjoining parking lots are promptly vacated no later than 12:30 a.m. after the dance.

D. PRIVATE CLUB DANCES. Dancing occasionally provided for members and their guests at a private club having a pre-established membership, where admission to the dance is not open to the general public and where the dance is not held within premises licensed as a restaurant or premises licensed by the ABC for the public sale of alcohol to the general public. For purposes of this Section, "private club" shall mean a corporation or association operated solely for objects of national, social, fraternal, patriotic, political, or athletic nature, in which membership is by application and regular dues are charged, and the facilities of the club belong to members, and the operation of which is not primarily for monetary gain;

E. PRIVATE PARTIES. Dancing occasionally provided for invited guests only at a private non-commercial event such as a wedding reception, an anniversary party, private banquet, or similar private or family celebration, where there is no admission charge and where the invitation is not concurrent with the event or party;

F. CITY-SPONSORED DANCES AND DANCE LESSONS. A dance or dance lessons provided or sponsored by the City of Santa Barbara.

G. CHURCH DANCES. Dancing occasionally conducted or sponsored by any religious or other corporation or organization exempt from taxation pursuant to Internal Revenue Code Section 501, where all net proceeds from the dance (including all net proceeds from refreshments sold or served at the dance) are used exclusively for the charitable, religious, or benevolent purposes of such corporation or organization;

H. SCHOOL PERFORMANCES. Performances or student recitals by students or performers at educational institutions (as defined by the Education Code), where such performances are part of an educational or instructional curriculum or program;

I. THEATRICAL PERFORMANCES. Dancing on a stage as part of a theater performance in a play or a similar dramatic or musical theater production or in connection with performances permitted pursuant to subparagraph (A)(2) of Santa Barbara Municipal Code Section 28.81.020;

J. PRIVATE DANCE INSTRUCTION. Dance lessons or dance instruction by a business, provided such lessons or instruction begin and end prior to 9:00 p.m. each day.

K. PHYSICAL FITNESS CENTERS. Physical exercise to music provided by an athletic club, gym, or similar physical fitness center. (Ord. 5445, 2008.)

5.20.050 Application for City Dance Permit.

A. DANCE PERMIT APPLICATIONS. An application for any type of dance permit shall be filed with the Chief of Police on the required departmental application form, which form shall provide at least all of the following information:

1. The name and permanent address of the applicant and all persons having any financial interest in the dance establishment, including all partners, members, or stockholders thereof, and including the owner of the real property where the public dancing is to be located;
2. The maximum number of persons who are expected to be present within the dance establishment at any one time;
3. For a new business establishment, the proposed opening date, and hours and days of operation of the dance establishment, in particular those days and hours when dance music will be provided;

4. For Limited Dance Permit applications, the dates and hours when dancing will occur and, for Live Entertainment permit applications, the days of the week for which dancing is proposed;

5. A detailed architectural site or floor plan (drawn to scale) depicting the interior of the dance establishment, including, in particular, the location, size and number of dance floors, all windows, doors and exits, and all tables and chairs and other seating within the establishment;

6. For a Nightclub Dance Permit application, a noise mitigation site plan (drawn to scale) of the interior of the dance establishment, including, in particular, the locations and specifications of all speakers, televisions, video monitors, and all other audio and amplification equipment, and disc jockey booth, as well as the location of any stage or other area where musicians will perform along with a narrative explanation of how the establishment will mitigate adverse noise impacts on surrounding properties during the operation of the nightclub;

7. For a Nightclub Dance Permit application, a business plan for the operation of the dance establishment, such as statement of the applicant's business goals for the dance establishment, the age group of the patrons the business will seek to attract, the type of music which will generally be played, and a general description of the applicant's plan for achieving its business goals;

8. For a Nightclub Dance Permit application, a comprehensive security plan for allowing the establishment to maintain order at all times, including, but not limited to, the following plan information:

a. The number of designated security personnel to be available on the premises depending or based on weekday or weekend nights.

b. A security site plan (including a scaled drawing) depicting and describing the proposed security arrangements and showing where security personnel will be stationed during the hours of 8:00 p.m. until closing each night.

c. The designation of a security manager (or managers) by name and the cell phone contact numbers for such managers, which information shall be kept current with the Police Department at all times by the permittee;

9. The name or names of the those persons (including cell phone contact numbers) designated by the owners of the establishment as having the day to day management and supervision authority over the proposed dance establishment (as the designated "general manager(s)"), which manager information and phone numbers shall be kept current with the Police Department by the applicant at all times;

10. Whether or not the applicant or any other person(s) having an interest in the establishment (including the designated security managers) have been convicted of a misdemeanor or felony offense, and if so, the nature of such offense(s), and the sentence(s) received therefor, including whether any person so convicted remains on probation or parole;

11. A "Land Use/Building Permit Clearance" form or other required approval issued by the Community Development Department, certifying in writing that the zoning for the dance establishment premises allows such a use as that being proposed and that all required building and other uniform construction code permits necessary to legally operate the establishment have been duly obtained, and all City-approved final inspections have been received;

12. Completed Police Department fingerprinting for the applicant(s) (including all persons having an ownership interest in the dance establishment to be permitted), as well as fingerprinting for the required designated security managers and the establishment's designated general manager(s);

13. The submission to the Police Department of a written inspection report on the dance permit establishment location prepared by the City Fire Marshal in order to allow the Department to assess and review the dance establishment's compliance with the California Fire Code requirements as adopted by the City; and

14. Such other information as the Police Chief shall deem necessary for the proper processing and review of the application. (Ord. 5445, 2008.)

5.20.060 Public Noticing of Dance Permit Applications.

A. NIGHTCLUB DANCE PERMIT NOTICING. Notice of the required Board of Fire and Police Commissioners public hearing regarding the issuance of a Nightclub Dance Permit shall be provided to the public by the applicant in each of the following ways:

1. Mailed Notices to Neighbors. Written notice of the Board hearing shall be sent by first class United States mail (postage prepaid) not less than ten calendar days prior to the scheduled Board hearing to all owners of real property as shown on the latest equalized assessment roll within a radius of two hundred feet (200') from the real property parcel for which the Nightclub Dance Permit is proposed.

2. Posting the Exterior of the Premises. The applicant shall post a notice on the exterior of the establishment for which the Nightclub Dance Permit is sought at least fourteen (14) calendar days prior to the Board hearing, and for no less than ten consecutive days, in a visible location in a manner as required by the Chief of Police.

3. Contents of Required Public Notice and Posting. The Chief of Police will provide an applicant with the required form of the notice to be mailed and of the posted notice necessary to provide public noticing required by this Section, and only such forms of notice shall be used for this purpose as established in the approved Dance Permit Ordinance guidelines.

B. LIMITED DANCE AND LIVE ENTERTAINMENT DANCE PERMIT NOTICING. Public noticing of a dance permit application for a Limited Dance Permit or for a Live Entertainment Dance Permit need only be provided by posting of the notice in accordance with subparagraph (A)(2) above, unless the Chief of Police determines that additional public notice requirements (including mailed notices) consistent with this Chapter are appropriate under the circumstances of the particular application. (Ord. 5445, 2008.)

5.20.070 Issuance of Certain Dance Permits - Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.

A. ISSUANCE OR RENEWAL OF A LIMITED DANCE PERMIT OR A LIVE ENTERTAINMENT DANCE PERMIT BY THE CHIEF OF POLICE.

1. Issuance. Upon the completion of the required public posting of an application for a Limited or Live Entertainment Dance Permit as established by Section 5.60.060(B), an application for a Limited Dance Permit or for a Live Entertainment Dance Permit shall be issued in the first instance by the Chief of Police (or the Chief's designated departmental representative) after the completion of a public meeting on the application at a date, time, and location established for the meeting by the Chief and as stated in the public noticing for the dance permit application.

2. Conditions of Approval; One Year Validity; Process for Renewal. Limited and Live Entertainment Dance Permits may be conditioned as deemed appropriate by the Chief of Police in accordance with the standard permit conditions provided for in Section 5.20.080 hereof. Limited Dance Permits and Live Entertainment Dance Permits issued under this subparagraph shall be valid for a period not to exceed one year and may be renewed annually upon application by the permittee filed not less than thirty (30) days prior to the expiration date of the permit. Upon a denial of a permit, or refusal of an applicant to accept a required condition of approval, the Chief shall provide the applicant with written explanation of the reasons for the denial or for the condition, and such reasons shall be one or more the grounds for denial set forth in subsection C hereof.

3. Renewal Applications. A renewal of a Limited or Live Entertainment Dance Permit need not require a new application, provided that original application information remains current and correct and the renewal request is consistent with the requirements established for such requests in the Dance Permit guidelines authorized by this Chapter.

4. Referral of a Limited or Live Entertainment Dance Permit to the Board. The Chief of Police, when appropriate, may refer an original application (or a renewal application) for a Limited or Live Entertainment Dance Permit for premises located within the City's Entertainment District to the City's Board of Fire and Police Commissioners for action on the application consistent with the requirements of this Chapter.

B. APPROVAL, CONDITIONAL APPROVAL, OR DENIAL OF A NIGHTCLUB DANCE PERMIT APPLICATION. Within 45 days of the filing of a completed application for a Nightclub Dance Permit (as such completion is determined by the Chief of Police), and upon the completion of the public noticing required by Section 5.60.060, the Board of Fire and Police Commissioners shall review the application for a Nightclub Dance Permit and either issue the permit, issue the permit with appropriate conditions consistent with Section 5.20.080 hereof, or deny the application for a Nightclub dance permit.

C. GROUNDS FOR DENIAL OF A NIGHTCLUB DANCE PERMIT. The Board shall deny an application for a Nightclub Dance Permit only when it has evidence sufficient to make or one or more of the following findings for denial:

1. The applicant has made a false statement of material fact on the dance permit application or has omitted a material fact as part of the dance permit application.
2. The applicant or any person designated by the applicant to exercise on-site managerial control over the nightclub has been convicted of a crime which is substantially related to the qualifications, functions, or required duties of a permittee, within the past five years.
3. The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location, such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property.
4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure; or b. it lacks the appropriate and necessary ingress and egress for entering or exiting the structure in terms of its occupancy limitations and the applicable fire code requirements.
5. The proposed plan for maintaining security at the nightclub is inadequate. (Ord. 5445, 2008.)

5.20.080 Permissible Dance Permit Conditions.

A. IMPOSITION OF CONDITIONS. The Chief of Police (or his designee) or the Board may, upon issuing a Dance Permit, impose the following permit conditions relating to the operation of the dance establishment:

1. A condition limiting the days, hours and location of the operation of the dance establishment and establishing that dancing shall not be permitted under any circumstances between the hours of 1:30 a.m. and 8:00 a.m.;

2. A condition restricting separate entrances, exits, and restroom facilities on the premises, or other similar restrictions designed to prevent minors from obtaining alcohol are required;

3. A condition on the number of persons allowed on the premises at any one time;

4. A condition requiring full compliance with the security and noise mitigation plans as approved;

5. A condition mandating that the closure of certain doors and windows is required and, if necessary, the appropriate hours for such closures;

6. Conditions describing the circumstances under which the Chief of Police must receive advance notice of a particular dance event or a business promotion if that event/promotion is not held as part of the regularly scheduled events of the business;

7. Any additional conditions or measures the establishment must undertake as security precautions in order to control the conduct of patrons as necessary to minimize or prevent disorderly conduct or fighting or overcrowding within the permit establishment;

8. A condition imposing those measures the permittee must undertake to remove litter attributable to the establishment (including litter in and around the establishment);

9. Such other conditions or measures related to public health, safety, and welfare as the Chief of Police may deem appropriate, which may be needed to maintain appropriate security within the establishment (and public areas immediately adjacent to the establishment) or needed to minimize adverse noise impacts on the neighboring property owners or residents. (Ord. 5445, 2008.)

5.20.090 Appeal From Denial or From Conditional Approvals or From a Renewal Application.

A. NIGHTCLUB DANCE PERMIT APPEALS. The denial or approval (including any conditions imposed thereon) of any application for a Nightclub Dance Permit under this Chapter by the Board of Fire and Police Commissioners may be appealed to the City Council by the applicant or by any interested person pursuant to the provisions of Section 1.30.050 of this Code. This right of appeal shall also include an action taken by the City with respect to the renewal or non-renewal of a Nightclub Dance Permit.

B. LIMITED PERMIT OR LIVE ENTERTAINMENT PERMIT APPEALS. The denial or the approval (including any conditions imposed thereon) on any application (including a renewal application) for a Limited Dance Permit or a Live Entertainment Dance Permit by the Chief of Police may be appealed to the City Administrator, which decision on appeal shall be final. The City Administrator is hereby authorized to refer such an appeal to a more appropriate hearing officer or body in the manner described in subsection (b) of SBMC Section 1.30.050, as the City Administrator may deem appropriate. Such a referral may be for the purposes of obtaining a recommendation on the appeal or for other appropriate action on the appeal. This right of appeal shall also include any action taken by the City on a Limited or Live Entertainment Dance Permit renewal application. (Ord. 5445, 2008.)

5.20.100 Duration of Dance Permits.

A. NEW PERMITS - ONE YEAR DURATION. A dance permit issued pursuant to this Chapter shall be valid for one year from the date of issuance.

B. DATE OF EXPIRATION FOR PERMITS VALID AS OF THE ADOPTION OF THIS CHAPTER. Unless an earlier expiration date is specified in a valid dance permit itself, a dance permit issued on or before the effective date of the ordinance enacting this Chapter shall be valid for one year following the anniversary date of the original issuance of the establishment's valid dance permit. (Ord. 5445, 2008.)

5.20.110 Renewal of Dance Permits.

A. RENEWAL APPLICATION. A dance permittee may apply for dance permit renewal by submitting an application for administrative renewal to the Police Chief not less than 30 days prior to the expiration of any dance permit.

B. EXPIRATION STAYED. If a timely and complete application for renewal is filed, the dance permit's expiration date may be stayed at the discretion of the Chief of Police until a decision on the renewal application has been issued by the Chief.

C. POLICE CHIEF TO RENEW. The Police Chief shall review and approve the renewal of a dance permit if the Chief determines that no circumstances existed during the term of the prior valid dance permit, which circumstances would justify the suspension or revocation of the permit as specified in Section 5.20.150, or which circumstances necessitate revisions to the conditions of approval imposed on the Permit.

D. REFERRAL OF RENEWAL APPLICATION TO BOARD. Notwithstanding the above, the Police Chief may refer a decision on the renewal or non-renewal of a Nightclub Dance Permit to the Board of Fire and Police Commissioners for a hearing and decision on renewal application in the first instance and in a manner consistent with the requirements for an original Nightclub Dance Permit application. (Ord. 5445, 2008.)

5.20.120 Display of Dance Permits.

A dance permit issued pursuant to this Chapter shall at all times be publicly displayed in a conspicuous place within the dance establishment for which it was issued. In addition, a copy of the Permit and any conditions of approval shall be immediately produced and made available upon the request of any City fire inspector or City police officer. (Ord. 5445, 2008.)

5.20.130 Dance Permits Not Transferable.

A. TRANSFERS GENERALLY. Dance Permits issued pursuant to this Chapter are not transferable or assignable to another person or location whether by operation of law or otherwise. A transfer or assignment includes, but is not limited to, the following:

1. Partnership and LLC Transfers. If a permittee is a partnership, or a California limited liability company, a transfer of capital interest to a new partner or partners (or members) which computed alone or cumulatively with previous transfers would result or has resulted in the transfer of ownership of more than a twenty-five percent (25%) interest in the capital of the partnership or limited liability company.

2. Corporations. The transfer of more than twenty-five percent of the voting stock in a corporation which is either itself the permittee or is a general partner in a partnership which is the permittee.

B. CHANGES IN "DBA" STATEMENT. Any changes made by an applicant or permittee to the "doing business as" statement of the dance permit establishment shall be reported to the Police Department in writing within 30 days of such a change. (Ord. 5445, 2008.)

5.20.140 Dance Permittee Reporting of ABC License Violations.

A dance permittee shall report all ABC license violations occurring at the permitted business to the Chief of Police within 48 hours of the issuance of the notice of violation by the ABC to the permittee or the permittee's agent. (Ord. 5445, 2008.)

5.20.150 Suspension or Revocation of a Dance Permit.

A. SUSPENSION OF PERMIT BY POLICE CHIEF. The Police Chief may act to temporarily suspend any dance permit issued pursuant to this Chapter when, in the Chief's determination, a person holding a permit has violated any condition imposed on the issuance on the permit, or where the operation of the dance establishment has occurred in a way that constitutes an ongoing public nuisance.

A suspension shall be valid for a period not to exceed sixty (60) days from the date of the suspension unless, in the case of a Nightclub permit, a suspension is appealed by the permittee to the Board of Fire and Police Commissioners pursuant to this section, or the permittee has received a notice of revocation during the sixty (60) day suspension period, in which case the suspension shall be until the Board completes a revocation hearing and issues a written decision on revocation if such a hearing is requested by the permittee in a timely fashion.

B. REVOCATION OF A DANCE PERMIT. The Police Chief may, at the Chief's discretion, issue a written notice of intent to revoke a dance permit to a dance permittee. Such an intent to revoke shall be based only upon the Chief's receipt of information that one of the grounds for revocation listed herein has occurred. A notice of revocation shall be effective not less than ten (10) days after the issuance of a notice of intent to revoke.

C. APPEAL OF A SUSPENSION/REVOCATION DETERMINATION. A permittee who has received a notice of intent to suspend or a notice of intent to revoke a dance permit may appeal the proposed suspension or revocation to the Board of Fire and Police Commissioners by filing a written notice of appeal with the Chief of Police within 10 days of the date of the mailing of the notice of revocation or of the notice of suspension.

D. SUSPENSION/REVOCATION APPEAL HEARING. An appeal of the proposed suspension or revocation of a dance permit shall be conducted by the Board in accordance with the requirements of SBMC Chapter 1.30.

E. GROUNDS FOR SUSPENSION OR REVOCATION. The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or

2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or

3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the sale of alcohol to persons under 21 years of age) as determined by the ABC; or

4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of California Fire Code occupancy requirements have occurred on more than one occasion; or

5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or

6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration or the security plan.

F. APPEAL OF REVOCATION OF NIGHTCLUB PERMIT; REQUIREMENT FOR PRIOR MEDIATION.

1. Right to an Appeal Hearing by the City Council. The decision of the Board revoking or suspending a Nightclub Dance Permit may be appealed by the Permittee to the City Council pursuant to Section 1.30.050 of this Code.

2. Required Participation In Mediation. No such Nightclub Permit appeal shall be heard by the City Council unless, prior to the Council appeal hearing date, the appellant (where the appellant is not the dance permittee) shall have offered to participate in a private mediation process with the permittee in order to determine if the appellant's concerns with the permit application (or its operation) can be appropriately addressed by mutual agreement entered into by mediation, and such mediation has been completed. Such a mediation shall take the form described in Municipal Code Section 22.76.070 of this Code and the regulations adopted pursuant to this Chapter. The written recommendation of the mediator shall be forwarded to the City Council in connection with any Council appeal hearing. (Ord. 5445, 2008.)

5.20.160 New Permit Application After Revocation or Denial.

A. NO NEW APPLICATION - REVOCATION. When a dance permit is revoked or the initial application is denied, no new application for a dance permit from the same person or persons as the permittee for the same type of dance permit shall be allowed within one (1) year after such revocation or denial. (Ord. 5445, 2008.)

5.20.170 No Outdoor Dancing – Nightclub Permits.

No outdoor dancing may be permitted under a Nightclub Dance Permit or Live Entertainment Dance Permit issued for a location within the City's Entertainment District. (Ord. 5445, 2008.)

5.20.180 Pre-Approval Application Process.

An applicant for a dance permit which is not in legal possession or control of the real property upon which proposed dancing establishment would be operated may, at the applicant's discretion, apply pursuant to this Chapter for the conditional issuance of a dance permit, which permit shall, thereafter, be deemed issued only upon a written request to do so signed by the owner of the real property and by the applicant and provided to the Chief of Police. (Ord. 5445, 2008.)

5.20.190 Adoption of Rules and Regulations; Application/Renewal Fees.

The Chief of Police may adopt reasonable rules and regulations (including the setting of appropriate application and renewal fees and the establishment of required application forms) not inconsistent with this Chapter, for the public noticing of application, and for the review, granting, renewal, or denial of permits hereunder and the conduct of the permitted dance activities, which rules, regulations and fees shall be subject to the approval of the City Council by resolution. Copies of such rules and regulations shall be furnished to each dance permittee with the issuance of a dance permit and shall include an enforcement matrix chart describing a process for progressive administrative actions with respect to complaints about dance establishments and violations of this Chapter. (Ord. 5445, 2008.)

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Chapter 5.24

HANDBILLS

Sections:

5.24.010	**Definitions.**	**5.24.060**	**Permit Regulations.**
5.24.020	**Data Required on Handbills.**	**5.24.070**	**Permit Fee.**
5.24.030	**Where Distribution is Prohibited.**	**5.24.080**	**Permit Revocation.**
5.24.040	**Permit - Required in Addition to Other Provisions.**	**5.24.085**	**Separate Violation.**
		5.24.087	**Infraction.**
5.24.050	**Types of Permit.**	**5.24.090**	**Scope of Chapter.**

5.24.010 Definitions.

(1) Handbill - For the purposes of this chapter the word "handbill" means any commercial dodger, advertising circular, folder, booklet, letter, pamphlet, sheet, poster, sticker or banner.

(2) "Private handbill distribution system" means a business which has been determined by the Finance Director to be operated to distribute handbills in the City of Santa Barbara on a continuing, regular and routine basis. (Ord. 4765, 1992; Ord. 3839, 1976; Ord. 3695, 1974.)

5.24.020 Data Required on Handbills.

No person shall distribute or cause the distribution of any handbill, which does not have printed on the cover or face thereof or on the container thereof, the name, address and phone number of the distributor. In addition, the person, firm or organization causing the handbill to be distributed shall be clearly set forth therein. (Ord. 4079, 1980; Ord. 3695, 1974.)

5.24.030 Where Distribution is Prohibited.

No person shall distribute or cause the distribution of any handbill to any premises which has posted thereon in a conspicuous place, a sign of at least twelve (12) square inches in area, bearing the words "no advertising", unless the person distributing the handbill has first received the written permission of the person occupying or having control of such premises authorizing such distribution. (Ord. 4079, 1980; Ord. 3695, 1974.)

5.24.040 Permit - Required in Addition to Other Provisions.

It shall be unlawful for any person to commence, carry on or engage in the business of distributing handbills or to distribute handbills in the City, without complying with each and all of the provisions of this Chapter and without first having secured a permit from the Finance Director. "Person" as used in this section shall mean the permittee and not its employees or agents, provided, however, that its employees or agents, while distributing handbills, shall have in their possession a copy of the business tax receipt or handbill permit issued to said permittee pursuant to the provisions of this chapter. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.050 Types of Permit.

The following permits may be issued by the Finance Director pursuant to the provisions of this chapter:

(1) Temporary permit: Each such permit shall plainly state the number of handbills authorized to be distributed. Under the authority of such permit, the permittee may employ any number of persons to distribute such handbills not exceeding in the aggregate the number authorized by such permit, without further permit or tax as to such employees. Each such permit shall become null and void after the authorized number of handbills shall have been distributed and in any event shall expire on the tenth (10th) day after issuance.

(2) Annual permit: Each such permit shall be issued to a person, firm or organization upon a determination by the Finance Director pursuant to §5.24.010(2) that said person, firm or organization is operating a private handbill distribution system and upon the payment of the required permit fee. Said permit shall be valid for a period of one (1) year, unless revoked, and may be renewed annually. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.060 Permit Regulations.

Each recipient of a temporary or annual handbill permit shall comply with the following regulations:

(1) The permit holder shall cause its agents and employees to deliver the handbills only by placing them on the door-knobs or otherwise harmlessly attaching them to the building.

(2) The permit holder shall cause its agents and employees when distributing handbills to collect all visible material previously distributed by such permittee. The presence of such visible material shall be presumed to mean that said residence or business is vacant and said permittee shall cause no further material to be left thereat unless and until affirmative signs of occupancy are apparent.

(3) The permit holder shall cause its agents and employees to refrain from making deliveries at known vacant buildings or premises for which there have been requests to cease delivery.

(4) The permit holder shall take effective means to prevent the placement of handbills on streets, sidewalks and other public areas. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.070 Permit Fee.

No permit shall be issued under this chapter until a tax shall have first been paid to the Finance Director in accordance with Chapter 5.04. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.080 Permit Revocation.

In the event that the permittee or any of its agents or employees fail to comply with any or all of the provisions of this Chapter, its permit may be revoked by the issuing authority. (Ord. 4765, 1992; Ord. 3695, 1974.)

5.24.085 Separate Violation.

Each day that a violation of this chapter occurs shall be considered a separate offense. (Ord. 4035, 1980.)

5.24.087 Infraction.

The violation of any provision of this chapter shall constitute an infraction. (Ord. 4067, 1980; Ord. 4035, 1980.)

5.24.090 Scope of Chapter.

This chapter shall apply only to handbills distributed to a residence or home. (Ord. 3839, 1976.)

Chapter 5.28

PEDICABS

Section:

5.28.010 Purpose.
5.28.020 Definitions.
5.28.030 Permit Requirement to Operate Pedicab.
5.28.040 Application for Pedicab Operating Permit.
5.28.050 Pedicab Operating Permit Fee.
5.28.060 Duration of Validity of Pedicab Operating Permit.
5.28.070 Pedicab Operating Permit Renewal.
5.28.080 Denial of Pedicab Operating Permit.
5.28.090 Suspension or Revocation of Pedicab Operating Permit.
5.28.100 Identification Badges Issued to Pedicab Operators with a Pedicab Operating Permit.
5.28.110 Pedicab Decal.
5.28.120 Application for Pedicab Decal.
5.28.140 Requirements for Issuance of Pedicab Decal.
5.28.150 Pedicab Decal Fee.
5.28.160 Duration of Validity of Pedicab Decal.
5.28.170 Pedicab Decal Renewal.
5.28.180 Denial of Pedicab Decal for Failure to Comply with Chapter.
5.28.190 Suspension or Revocation of Pedicab Decal.
5.28.200 Other Laws Applicable to Pedicab Owners and Operators.
5.28.210 Report of Accidents.
5.28.220 Minimum Age for Pedicab Operators.
5.28.230 Driver's License Requirement to Operate Pedicab.
5.28.240 Business License Requirement to Operate Pedicab.
5.28.250 Equipment Regulations for the Operation of Pedicabs.
5.28.260 Insurance Requirements.
5.28.270 Right of Appeal to the Fire and Police Commission from Denial of Issuance of Pedicab Operating Permit or Decal.
5.28.280 Right of Appeal to Fire and Police Commission from Suspension or Revocation of Pedicab Operating Permit or Decal.
5.28.290 Procedure Upon Appeal.
5.28.300 Enforcement Authority.
5.28.310 Enforcement Remedies.
5.28.320 Strict Liability Offenses.
5.28.330 City Held Harmless.
5.28.340 General Pedicab Operation.

5.28.010 Purpose.

The Council finds that pedicabs have become an increasingly popular form of nonmotorized transportation for hire in the City of Santa Barbara. This Chapter is adopted in response to concerns due to this increasing prevalence of pedicabs. Regulations governing pedicabs, operators, and owners are necessary to protect the general safety and welfare of passengers using pedicabs for hire and pedestrians. (Ord. 5253, 2002.)

5.28.020 Definitions.

For purposes of this Chapter:

A. **City**. The City of Santa Barbara.

B. **Darkness**. Any time from one-half hour after sunset to one-half hour before sunrise and any time when visibility is not sufficient to render clearly discernible any person or vehicle on the highway at a distance of 1000 feet.

C. **Decal**. The numbered decal issued by the City to a pedicab owner for display on the pedicab to indicate that the pedicab is permitted to operate.

D. **Identification Badge**. A badge that identifies the operator with a color passport-size photo.

E. **Operator**. Any individual who operates a pedicab within the City of Santa Barbara.

F. **Owner**. Any person who owns a pedicab.

G. **Pedicab**.

1. A bicycle that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and that is used for transporting passengers for receipt of any form of consideration; or

2. A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting, passengers on seats attached to the trailer, sidecar, or similar device, that is operated by an individual, and that is used for transporting passengers for receipt of any form of consideration.

H. **Pedicab Operating Permit**. A written permit issued by the City authorizing a person to operate a pedicab.

I. **Person**. As used herein includes both singular and plural, and shall mean any individual, firm, corporation,

association, partnership, or society exclusive of public agencies.

J. **Police Chief**. The Chief of Police for the City of Santa Barbara. (Ord. 5253, 2002.)

5.28.030 Permit Requirement to Operate Pedicab.

It shall be unlawful for any person to operate a pedicab within the City without first having obtained a pedicab operating permit issued by the City pursuant to this Chapter. Pedicab operating permits are the property of the City and are not transferable to any other operator. (Ord. 5253, 2002.)

5.28.040 Application for Pedicab Operating Permit.

A. Before operating a pedicab, an applicant shall apply for a pedicab operating permit in person.
B. The pedicab operating permit application form shall be in a form prescribed by the Police Chief.
C. The applicant shall provide the following information to complete the application under oath or affirmation:
   1. The applicant's full name and residence address;
   2. The applicant's date of birth; and
   3. The applicant's valid California or other United States driver's license.
D. The applicant shall provide the following material to complete the application:
   1. Proof that the applicant is eighteen years or older;
   2. Proof of ability to drive lawfully in the United States;
   3. Proof of a valid City of Santa Barbara business license;
   4. Two recent color passport-sized photographs; and,
   5. Such other material as the Police Chief may require and is approved by the Fire and Police Commission.
E. When an application has been denied, the applicant may not reapply for pedicab operating permit for one (1) calendar year from the date of denial, unless denial is without prejudice.
F. The Police Chief shall investigate the facts stated in an application for a pedicab operating permit and other relevant data. (Ord. 5253, 2002.)

5.28.050 Pedicab Operating Permit Fee.

The City shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of pedicab operating permits. (Ord. 5253, 2002.)

5.28.060 Duration of Validity of Pedicab Operating Permit.

Pedicab operating permits shall be valid for a period of one year from date of issuance. (Ord. No. 5253, 2002.)

5.28.070 Pedicab Operating Permit Renewal.

Pedicab operating permits shall be renewable annually upon filing and approval of a new application and payment of a pedicab operating permit fee as determined by the City Council. (Ord. 5253, 2002.)

5.28.080 Denial of Pedicab Operating Permit.

The Police Chief may deny issuance of a pedicab operating permit if an applicant:
A. Fails to comply with the requirements of this Chapter;
B. Misrepresents facts relevant to the fitness of the applicant;
C. Does not possess a valid driver's license issued by a state in the United States;
D. Has any type of driving restrictions issued by the State of California;
E. Is currently required to register pursuant to California Penal Code section 290;
F. Has been convicted of a crime involving moral turpitude, or narcotics; or
G. Has been convicted for hit and run, driving a vehicle recklessly or while under the influence of intoxicating alcohol or drugs within the three (3) years immediately preceding application for a pedicab operating permit. (Ord. 5253, 2002.)

5.28.090 Suspension or Revocation of Pedicab Operating Permit.

A. The Police Chief may suspend, for a period not to exceed 30 days, and may revoke a pedicab operating permit if the operator:
   1. Misrepresents facts relevant to the fitness of the operator if such misrepresentation becomes known after a permit has been issued;
   2. Violates the traffic laws of the City, County or State;
   3. Is convicted for misdemeanor reckless driving;
   4. Drives a pedicab known to the operator not to be in good order and repair;
   5. Knowingly falsifies material and relevant facts on an application for a pedicab operating permit;

6. Is convicted or pleads nolo contendere to the violation of any law involving alcohol;
7. Is convicted or pleads nolo contendere to the violation of any law involving moral turpitude;
8. Operates any vehicle in a manner which constitutes a misdemeanor under the laws of the State of California; or
9. Repeatedly fails to comply with the applicable provisions of this Chapter or the rules and regulations prescribed by the Police Chief.

B. The Police Chief shall immediately suspend, for a period not to exceed 30 days, the pedicab operating permit of any operator upon the receipt of information reasonably sufficient and reliable to establish that the operator has committed a violation of law involving:
1. a felony;
2. a sex offense;
3. soliciting for prostitution;
4. a narcotics offense; or
5. has had a license to drive issued by the State of California either suspended or revoked by the State.

C. The Police Chief shall immediately revoke the pedicab operating permit if that operator has been found guilty by final judgment of a court of competent jurisdiction of a violation of the law involving:
1. a felony;
2. a sex offense;
3. soliciting for prostitution; or
4. a narcotics offense.

D. Upon suspension or revocation, the operator shall immediately surrender the pedicab operating permit to the Chief of Police. In the event of suspension, the Police Chief shall return the pedicab operating permit to its operator immediately after termination of the suspension period. (Ord. 5253, 2002.)

5.28.100 Identification Badges Issued to Pedicab Operators With a Pedicab Operating Permit.

A. The City shall issue an identification badge to an individual after that individual has been issued a pedicab operating permit.

B. While the pedicab is in operation, the pedicab operator shall wear the identification badge at all times on his or her person, in a manner clearly visible to the public.

C. It shall be unlawful for a pedicab operator to fail to wear an identification badge, in a manner clearly visible to the public, while operating a pedicab.

D. Identification badges are the property of the City and are not transferable to any other operator. In the event that an operator's pedicab operating permit is suspended or revoked, the operator shall also immediately surrender the identification badge to the Chief of Police. In the event of a suspension, the Police Chief shall return the identification badge to its holder immediately after termination of the suspension period. (Ord. 5253, 2002.)

5.28.110 Pedicab Decal.

A. It shall be unlawful for any owner to lease, rent, or allow a pedicab to be operated for hire within the City without first having obtained a decal issued pursuant to this Chapter. The decal shall be affixed to the pedicab on the rear or back side of the pedicab in a manner clearly visible to the public.

B. It shall be unlawful for any person to operate a pedicab that does not have a valid decal affixed to it.

C. Decals are the property of the City and are not transferable to any other pedicab. (Ord. 5253, 2002.)

5.28.120 Application for Pedicab Decal.

A. Before allowing a pedicab to be operated for hire, an owner shall obtain a pedicab decal.

B. The pedicab decal application form shall be prescribed by the Police Chief.

C. The applicant shall provide the following information to complete the application:
1. The full name and address of the applicant;
2. The name and address of all legal and registered owners of the pedicab; and
3. A description of the vehicle, including trade name, if any, serial number or owner identification number, and body style.

D. Applicants shall also provide proof of insurance in accordance with section 5.28.260 herein. (Ord. 5253, 2002.)

5.28.140 Requirements for Issuance of Pedicab Decal.

Pedicab decals will be issued only when a pedicab meets all of the following requirements:

A. A battery-operated headlight capable of projecting a beam of white light for a distance of 300 feet shall be permanently affixed to the pedicab;

B. Battery-operated taillights shall be permanently affixed on the right and the left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 500 feet to the rear of the pedicab; and

C. Those requirements related to bicycles listed in California Vehicle Code section 21201. (Ord. 5253, 2002.)

5.28.150 Pedicab Decal Fee.

The City shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of pedicab decals. (Ord. 5253, 2002.)

5.28.160 Duration of Validity of Pedicab Decal.

Pedicab decals shall be valid for a period of one year from date of issuance. (Ord. 5253, 2002.)

5.28.170 Pedicab Decal Renewal.

Pedicab decals shall be renewable annually upon filing of a new application and payment of a pedicab decal fee. (Ord. 5253, 2002.)

5.28.180 Denial of Pedicab Decal for Failure to Comply with Chapter.

The City may deny issuance of a pedicab decal if the Police Chief determines that the pedicab does not meet the requirements of this Chapter or applicable State law. (Ord. 5253, 2002.)

5.28.190 Suspension or Revocation of Pedicab Decal.

A. Decals may be suspended by the Police Chief for a period of one to thirty days or revoked at any time if the owner:

1. Fails to comply with the applicable provisions of this chapter or the rules and regulations prescribed by the Police Chief;
2. Fails to maintain insurance as required by Section 5.28.260;
3. Fails to notify the Police Chief thirty (30) days prior to the effective date of liability insurance cancellation or change of insurer;
4. Fails to maintain pedicabs in good order and repair as prescribed herein;
5. Provides false statements on an application for a decal;
6. Fails to pay any fees or damages lawfully assessed upon the ownership or operation of any pedicab licensed under this Chapter; or
7. Violates any of the provisions of this Chapter or any applicable City, State, or Federal laws, rules, or regulations.

B. Decals which have been suspended shall forthwith be surrendered to the Police Chief for a period covering the term of suspension. The Police Chief shall return the decal to its holder immediately after termination of the suspension period.

C. Decals which have been revoked shall forthwith be surrendered to the Police Chief by the holder thereof.

D. The Police Chief shall notify in writing and by certified mail, any decal holder whose permit has been suspended or revoked. Such notice shall state any and all reasons for such action as well as all laws or regulations violated by the decal holder. (Ord. 5253, 2002.)

5.28.200 Other Laws Applicable to Pedicab Owners and Operators.

Pedicab owner operators are subject to all applicable City, County, State, and Federal laws, rules, and regulations. (Ord. 5253, 2002.)

5.28.210 Report of Accidents.

Each holder of a decal and pedicab operating permit involved in any accident resulting in property damage or personal injury of any kind, shall within forty-eight (48) hours thereof give written report thereof to the Police Chief. A copy of a report required under State law shall be deemed sufficient for such purposes; otherwise, such report shall contain all information required with respect to reports otherwise required under state law as to amounts involved. (Ord. 5253, 2002.)

5.28.220 Minimum Age for Pedicab Operators.

It is unlawful for any individual under the age of eighteen to operate a pedicab. (Ord. 5253, 2002.)

5.28.230 Driver's License Requirement to Operate Pedicab.

A. It is unlawful for any individual without a motor vehicle driver's license issued by a state in the United States to operate any pedicab within the City.

B. While the pedicab is in operation, the pedicab operator shall have his or her valid driver's license on his or

her person at all times. (Ord. 5253, 2002.)

5.28.240 Business License Requirement to Operate Pedicab.

It shall be unlawful for a person to operate a pedicab without first obtaining a business license. (Ord. 5253, 2002.)

5.28.250 Equipment Regulations for the Operation of Pedicabs.

A. It shall be unlawful for any person to operate, or cause to be operated, a pedicab during the hours of darkness, without a permanently affixed headlight capable of projecting a beam of white light for a distance of 300 feet.

B. It is unlawful for any person to operate, or cause to be operated, a pedicab during the hours of darkness, without using permanently affixed battery-operated taillights mounted on the right and left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 500 feet to the rear of the pedicab.

C. It is unlawful for any person to operate, or cause to be operated, a pedicab in an unsafe operating condition. (Ord. 5253, 2002.)

5.28.260 Insurance Requirements.

It shall be a condition precedent to the issuance of a decal that a completed certificate of insurance, on a form provided by the City, be filed with the City Clerk by the owner. Said certificate shall provide evidence of insurance in amounts and with conditions acceptable to the City. The owner's insurance shall remain in full force, at a level at least equal to the minimum requirements of the City, or the owner's decal shall be subject to revocation or suspension pursuant to this Chapter. (Ord. 5253, 2002.)

5.28.270 Right of Appeal to the Fire and Police Commission from Denial of Issuance of Pedicab Operating Permit or Decal.

A. The Police Chief shall notify the applicant that the issuance of his or her pedicab operating permit or decal has been denied. The Police Chief shall also notify the applicant of the right to appeal the denial to the Fire and Police Commission. Any written appeal shall be filed with the Police Chief within ten calendar days after service of notice of denial. Service shall be by regular postal service or personal delivery. The applicant shall set forth in the appeal the reason why the denial is not proper.

B. If no appeal is filed within the time allowed, the decision of the Police Chief to not issue the pedicab operating permit or decal shall be considered final.

C. The Fire and Police Commission shall hear an appeal within fifteen (15) days after a notice of appeal is filed with the Police Chief as required by this subsection.

D. A denial shall remain in effect until a duly filed appeal is heard by the Fire and Police Commission. The Fire and Police Commission shall suspend a pedicab operating permit for as long as a license to drive and vehicle issued by the State of California is suspended or revoked by the State. In the case of suspension for any other reason under this section, the Fire and Police Commission shall consider the propriety of the suspension and may either rescind or continue the suspension as may be required to protect public safety, peace and welfare. (Ord. 5253, 2002.)

5.28.280 Right of Appeal to Fire and Police Commission from Suspension or Revocation of Pedicab Operating Permit or Decal.

A. The City shall notify the pedicab operator or owner that his or her pedicab operating permit or decal has been suspended or revoked. The Police Chief shall also notify the pedicab owner or operator of the right to appeal the suspension or revocation to the Fire and Police Commission. Any written appeal shall be filed within ten calendar days after service of notice of suspension or revocation. The pedicab operator or owner shall set forth in the appeal the reason why the suspension or revocation is not proper.

B. If no appeal is filed within the time allowed, the pedicab operating permit or decal shall be considered suspended or revoked and the pedicab operator or owner shall immediately surrender the pedicab operating permit or decal in the manner prescribed by the City.

C. Once a timely appeal is filed, the suspension or revocation of the operating permit or decal shall be stayed pending the final determination by the Fire and Police Commission. (Ord. 5253, 2002.)

5.28.290 Procedure Upon Appeal.

A. If an applicant served with a notice of denial, suspension, or revocation chooses to appeal, he or she shall file an appeal within ten calendar days from the service of the notice.

B. Appeals to the Board of Fire and Police Commissioners

1. Any decision of the Police Chief which is a denial to issue or a suspension or revocation of any pedicab operating permit or decal shall not become final until fifteen (15) days after the date of transmittal of the written notice to the person affected by such decision, during which period the party to the action may appeal the decision in the manner provided herein at any time prior to the expiration date of the fifteen (15) day period. If no appeal is taken before the expiration of the fifteen (15) day period, the decision of the Police Chief shall be final.

2. The appeal of any decision shall be in writing signed by the party to the action briefly setting forth the reasons why such decision is not proper, stating an address at which the appellant will receive notices and filed with the Clerk of the City.

3. Upon filing an appeal, the party to the action shall be entitled to a hearing by the Fire and Police Commission within thirty (30) days after the date of filing the appeal.

4. The appellant (or a representative) shall have the right to present his or her case in person.

5. The Fire and Police Commission shall consider the case record as well as any statements offered by interested parties. The hearing will be conducted according to administrative rules relating to evidence and witnesses as adopted by the Commission.

6. If the Fire and Police Commission refuses to issue or restore a pedicab operating permit or decal, the party to the action, or such party's agent, shall not file a new application within three hundred sixty five (365) days from the date of final action by the Board of Fire and Police Commissioners.

7. If the Fire and Police Commission suspends a pedicab operating permit or decal, the Police Chief shall determine a period of suspension of not more than thirty (30) days, which is in accordance with the schedule of penalties developed by the Tax and Permit Inspector.

8. If the Fire and Police Commission’s action is to grant or restore a decal or permit, the Commission shall direct the Police Chief to issue or restore the certificate or license.

C. Appeals to the City Council

1. Appeals to the City Council from the decision of the Fire and Police Commission shall be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5253, 2002.)

5.28.300 Enforcement Authority.

The City is authorized to administer and enforce the provisions of this Chapter. The City may exercise any enforcement powers as provided in this code. (Ord. 5253, 2002.)

5.28.310 Enforcement Remedies.

Violations of this Chapter may be prosecuted as infractions or misdemeanors subject to the fines and custody provided in Municipal Code Chapter 1.20. The City Attorney may also seek injunctive relief and civil penalties in the Superior Court or pursue any administrative remedy provided in Chapter 1.25 of this Code. (Ord. 5253, 2002.)

5.28.320 Strict Liability Offenses.

Violations of this Chapter shall be treated as strict liability offenses. (Ord. 5253, 2002.)

5.28.330 City Held Harmless.

A decal holder shall, and by acceptance of the permit does, agree to hereby indemnify and hold the City of Santa Barbara, its officers, employees and agents from any and all damages, claims, liabilities, costs, suits, or other expense resulting from and arising out of said decal holder's operations. (Ord. 5253, 2002.)

5.28.340 General Pedicab Operation.

A. Any pedicab permitted by the City as a pedicab shall be operated according to the pedicab provisions of this Chapter.

B. Each operator shall carry in the vehicle a current map of the City. Upon request, the operator shall make the map available to the passenger.

C. Every pedicab shall have permanently affixed to the outside thereof, in a place readily to be seen by passengers, a frame covered with clear plastic, enclosing a card upon which shall be printed in plain, legible letters the schedule of rates authorized for carriage in such pedicab.

D. An operator shall not deceive any passenger who rides in the vehicle, or who expresses a desire to ride in such vehicle, as to that passenger's destination or the rate to be charged.

E. Every vehicle while in operation for the solicitation or transportation of passengers shall be attended by the operator at all times except when such driver is actually engaged in loading or unloading the vehicle, or in answering telephones in connection with the business.

F. An operator shall not leave the pedicab operating permit in an unattended or unsecured pedicab.

G. No owner or operator of a pedicab shall knowingly permit such pedicab to be used for unlawful purposes or knowingly to transport persons therein to places for such purposes.

H. It shall be the duty of the operator to give any passenger so requesting, a receipt in writing signed by the operator.

I. Operators shall not stop to load or unload passengers or their belongings in the intersection of any street or any marked crosswalks. No pedicab shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

J. An operator shall assist a passenger in and out of a pedicab when requested; however, a driver is not required to lift a passenger.

K. No operator shall transport any more persons, including the operator, than the manufacturer's designated seating capacity for the pedicab.

L. All operators shall comply with all reasonable and lawful requests of a passenger as to the speed of travel and the route to be taken.

M. Cruising is permitted, but only when such movements do not usually obstruct the normal flow of traffic. If it is determined by the Police Chief upon review of actual traffic data that cruising significantly obstructs the normal flow of traffic at certain locations or times, the City Administrator may, by administrative order, prohibit cruising at such locations or times.

N. Every pedicab shall be operated in accordance with the laws of this State, the provisions of this Chapter and other ordinances and laws of the city, with due regard to the safety, comfort and convenience of passengers and the general public.

O. The Police Chief is empowered to make regulations necessary to make effective the provisions of the Chapter, to cover emergencies or special conditions. In the event that after ninety (90) days the experimental regulations have proved satisfactory, they may be placed into effect permanently by authorization of the Fire and Police Commission. (Ord. 5253, 2002.)

Chapter 5.29

PARATRANSIT SERVICE

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5.29.005 Applicability of Chapter.

No person, as defined herein, who engages in the business of providing paratransit services shall do so without first having complied with the conditions and regulations of this Chapter. (Ord. 4206, 1983.)

5.29.010 Definitions.

A. ASSOCIATION. Any group of two or more owners, as defined herein, operating vehicles licensed hereunder under unified control and having a common trade name and common color scheme.

B. CHIEF OF POLICE. The police chief for the City of Santa Barbara, or his or her designee.

C. CITY. The City of Santa Barbara.

D. CRUISE or CRUISING. The movement over the public streets of a city of a taxi driver, not at the time actually transporting a passenger for hire or parcel for hire, in search of or solicitation of prospective passengers; except, however, the term shall not include a taxi proceeding to answer a call for taxi service from an intending passenger, and taxis returning to the nearest authorized taxi stand or company garage by the most direct route, after having discharged a passenger or passengers.

E. DEMAND RESPONSIVE SERVICE. A form of paratransit services characterized by flexible routing and scheduling modified to meet the specific travel needs of users.

F. DRIVER. Any person who operates a vehicle licensed hereunder whether as agent, employee or otherwise of an owner, or under the direction of an owner as defined herein.

G. DRIVER'S PERMIT. A certificate which authorizes operation of a paratransit vehicle.

H. GROUP RIDE. Shared use of a vehicle where all of the passengers enter at the same point of origin and disembark at the same destination either on call or by prearrangement and pay a single fare for the trip.

I. INDEPENDENT GARAGE. Any garage or mechanic engaged in auto repair licensed by the State and not affiliated or associated with the taxi owner or driver whose taxis are being inspected.

J. LESSEE. Any person who enters into an approved lease as defined herein.

K. LIMOUSINE. Every motor vehicle designed to carry passengers, of private appearance (except as to license plates), need not be equipped with a taximeter; and used for the transportation of persons for hire over and along public streets, under the direction of passengers or persons hiring such limousine, of which the charge or fee for its use is based upon rates per hour, per trip, per mile, per day, per week, or per month.

L. LIMOUSINE TAXI. Any vehicle of distinctive color or insignia which provides taxi service, is equipped with a taximeter, and is over 18 feet in length.

M. MANIFEST. A daily record prepared by a taxi driver of all paid and non-paid trips.

N. OWNER. Any person, firm, corporation or other form of business organization having proprietary control, or right to proprietary control, of any vehicle engaged in the business of providing paratransit service, as defined herein.

O. OWNER'S PERMIT. A certificate which authorizes operation of a paratransit service in the City and which is issued to any person, firm, corporation or other form of business organization having proprietary control of any vehicle engaged in the business of providing paratransit services.

P. PARATRANSIT SERVICE. Taxi, shared-ride, limousine and other transportation services for which a fee is charged and which does not involve self-driving.

Q. PERSON. Both singular and plural shall mean and include any individual, firm, corporation, association, partnership or society, exclusive of public agencies.

R. PREMIUM TAXI SERVICE. Exclusive use of a taxi by one passenger at a time, with the time of pickup and origin and destination points specified by the passenger.

S. SHARED TAXI SERVICE. Nonexclusive use of a taxi vehicle by two or more passengers traveling between different origin and destination points.

T. TAXI. Any vehicle of distinctive color or insignia which provides taxi service and is equipped with a taximeter.

U. TAXIMETER. Any instrument or device in a vehicle which registers and calculates at pre-determined rates the charge for hire of such vehicle in dollars and cents in accordance with the distance traveled and/or time elapsed.

V. TAXI SERVICE. Any public passenger transportation service available for hire on call or demand over the public streets of the city, in a vehicle of distinctive color or insignia, operated by a driver licensed hereunder, and which is equipped with a taximeter. Such service shall not be provided over a defined route but between such points and over such routes as may be directed by the passenger or person hiring the same, and irrespective of whether the operations extend beyond the boundary of the city.

W. TAXI STAND. Any portion of a street designed for the exclusive use of taxis while waiting for employment.

X. WAITING TIME. Time spent while a taxi is waiting and available to a passenger beginning 5 minutes after the time of arrival at the place to which it has been called; or time spent at the special instance and request of a passenger after such passenger has first engaged and entered a taxi to make a trip. (Ord. 5360, 2005; Ord. 5254, 2002; Ord. 4206, 1983.)

5.29.015 Exemption.

A vehicle is exempt from this Chapter if it is:

A. licensed and regulated by the California Public Utilities Commission or

B. is operated by a governmental entity. (Ord. 4206, 1983.)

5.29.020 Permit Required.

It shall be unlawful to operate any paratransit service within the City without first having obtained an owner's permit from the City. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.025 Owner's Permit Application.

An applicant (or authorized agent) for an owner's permit shall file with the Chief of Police a sworn application for such a permit stating the following information:

A. The full name and the home and business address of the applicant or, if the applicant is a corporation, a certified copy of the Articles of Incorporation, the names and business addresses of all officers, directors and stockholders owning or controlling 10% or more of the stock of such corporation and the percentage of ownership of each of said stockholders. If the applicant is a partnership, the application shall include a copy of the applicant’s certificate or statement of partnership and a list of all general and/or limited partners of the applicant. If the applicant is a limited liability company, the application shall include a certified copy of the applicant’s articles of organization and a list of all managers and members of the applicant.

B. The trade name(s), if any, and the telephone number(s) under which the applicant does or proposes to do business.

C. A City certificate of insurance establishing compliance with Section 5.29.310 of this Code and proof that all required insurance policies have been paid for thirty (30) days in advance.

D. The number of vehicles actually owned and/or the number of vehicles proposed to be operated by the applicant on the date of application.

E. The seating capacity and design of the vehicle(s) and the registered and legal owner of each and every vehicle.

F. The character and location of maintenance and administrative facilities to be used, if any.

G. A description of the communications systems to be used.

H. A description of services to be rendered, and hours of operation.
I. An agreement by the applicant to maintain a driver's daily manifest for each and every vehicle.
J. A sample, proposed driver's daily manifest.
K. Any previous denial, revocation or suspension by any public agency in the State of California of a certificate, permit, or license applied for or held by the applicant or any person, as defined herein, having a financial interest in the applicant's proposed business. Such information shall also state the reason for the denial, revocation or suspension.
L. The brand name(s), model number(s) and other identifying information showing the types of taximeters to be used as required by Section 5.29.100.
M. A certificate or other written evidence that the Santa Barbara County Weights and Measures Department or a state registered device repairman has tested and certified, not more than six months preceding the application date, the accuracy of the taximeter attached to the taxicab and that meters which will be made operative are affixed with valid annual accuracy seals.
N. The specific experience of the applicant in the transportation of passengers for hire.
O. The applicant's schedule of rates, with a statement indicating charging of rates by taximeter, if any.
P. A proposed color scheme and/or insignia which shall be unique and easily distinguishable from color schemes or insignia approved for use by other applicants.
Q. Any other pertinent information the Chief of Police may require.
R. Any additional information that the applicant wishes to submit in support of the application.
S. A state certificate of compliance or other writing dated not more than six months preceding the application date, issued by a state-certified examiner or examiners, and evidencing that each taxicab complies with prevailing equipment standards as specified by the Chief of Police. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.030 Issuance.

After consideration of the factors prescribed in this Chapter, the Chief of Police shall grant an owner's permit for the number of vehicles applied for (or a lesser number) or refuse to issue an owner's permit. If the application is denied, the unsuccessful applicant shall be notified within 10 days from the date of denial by certified mail, directed to the address shown on the application, stating the specific reasons for denial. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.040 Form.

The owner's permit shall state the following:
A. The name, address and trade name, if any.
B. The number of vehicles the operation of which is authorized by the permit for operation.
C. The dates of issuance and expiration.
D. That the owner's permit is being issued subject to the provisions of this Chapter and all of the laws and ordinances governing the operation of such vehicles.
E. The type of service licensed. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.045 Permit Term.

Every owner's permit issued shall be valid from the date of issuance until the date of expiration or until surrendered, revoked or suspended as provided herein. (Ord. 4206, 1983.)

5.29.050 Determination of Owner's Permit Issuance.

The Chief of Police shall issue an owner's permit unless application of 5.29.060 requires denial. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.060 Denial of Owner's Permit.

An owner's permit application shall be denied for any of the following reasons:
A. Failure to comply with Sections 5.29.020 and/or 5.29.025.
B. Conviction of a felony or violation of any narcotics law or of any law involving moral turpitude within three (3) years preceding the date of the application.
C. If the proposed color scheme or insignia to be used on the vehicles is the same or confusingly similar to that which has already been approved. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.070 Revocation or Suspension of Owner's Permit.

A. Owner's permits may be suspended by the Chief of Police for a period of one to thirty days or revoked by the Board of Police and Fire Commissioners for any of the following reasons:

1. Failure to maintain insurance as required by this Chapter, including renewal of insurance prior to the expiration date of the policy.
2. Failure to notify the Chief of Police thirty (30) days prior to the effective date of liability insurance cancellation or change of insurer.
3. Failure to maintain vehicles in good order and repair as prescribed herein.
4. False statements on an application for an owner's permit.
5. Failure to pay any fees or damages lawfully assessed upon the ownership or operation of any vehicle licensed under this Chapter.
6. Failure to maintain driver's daily manifests or falsifying such manifests.
7. Repeated violations by the owner's permit holder or such permit holder's drivers of the traffic laws of the city, county or state.
8. Violation of any of the provisions of this Chapter.
9. Knowingly maintaining any taximeter which is inaccurate and results in overcharges to any passenger.

B. The owner's permit shall be suspended as follows at any time the insurance policy is not renewed or otherwise not in effect by 3 p.m. on the last business day prior to the expiration date of the policy as required by this Section:
1. if for a period of no less than three (3) days for the first violation in a one (1) year period;
2. fifteen (15) days for the second violation in a one (1) year period; and
3. revoked for the third violation in a one (1) year period.

C. Owner's permits which have been suspended shall forthwith be surrendered to the Chief of Police for a period covering the term of suspension. The Chief of Police shall return the permit to its holder immediately after termination of the suspension period.

D. Owner's permits which have been revoked shall forthwith be surrendered to the Chief of Police by the holder thereof.

E. The Chief of Police shall notify in writing and by certified mail, any owner's permit holder whose permit has been suspended or revoked. Such notice shall state any and all reasons for such action as well as all laws or regulations violated by the owner's permit holder. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.080 Penalties.

In addition to the general penalty provision contained in this Code, the City Council may, by resolution, adopt a schedule of penalties for specific violations of this Chapter. (Ord. 4206, 1983.)

5.29.090 Owner's Permit - Not Transferable.

An owner's permit shall not be assigned, transferred, hypothecated, pledged or mortgaged. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.100 Taximeter.

A taxi equipped with a taximeter previously approved by the Chief of Police (and not displaying an "off duty" sign) shall comply with the following:

A. It shall be unlawful for any person to operate or to cause a taxi for hire to accept any passenger for hire or to carry any paying passenger unless the taximeter has been approved by the Director of the Department of Agriculture, as authorized under Section 12107 of the California Business and Professions Code and any other laws or regulations granting such authority. Such taximeter shall be in operation at all times when any such person other than the driver/operator is riding therein.

B. It shall be the duty of every owner operating a taxi to keep the taximeter in proper condition so that it shall, at all times, accurately indicate the correct charge for the distance traveled and waiting time.

C. Every person using a taximeter shall comply with the provisions of the California Administrative Code, Title 4, Article 1, and Division 5 of the California Business and Professions Code.

D. The taximeter shall be set in operation at the time a passenger enters the taxi and stopped when the taxi is halted to discharge such passenger.

E. No passengers shall be grouped together without the expressed consent of the first passenger who hires the taxi. If consent to group is granted, the fare to be charged shall be determined upon mutual agreement by the driver and the prospective passengers prior to boarding a taxi.

F. No charge shall be made for premature response to a call.

G. The taximeter shall be certified annually by the County of Santa Barbara Sealer of Weights and Measures. The date of certification shall not be more than thirteen (13) months old.

H. The taximeter shall not charge a fare greater than the posted rate. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.110 Taxi Fares.

Effective December 31, 2005, all taxis shall post their rates on the exterior of the taxi, on both sides of the vehicle. If a taxi has one or more rates, the taxi shall post the maximum rate or all rates. The size of the lettering used and the placement of the rate(s) shall be in a standard manner approved by the Chief of Police. (Ord. 5360, 2005.)

5.29.115 Exclusive Use of Taxis.

A. Any person who hires a taxi shall have the exclusive right to use the taxi. There shall be no additional charges for any of the person's companions or personal belongings.
B. No owner or driver shall carry or solicit, or permit to be carried or solicited, any additional passengers unless the person first hiring the taxicab consents to the acceptance of such additional passenger.
C. No owner or driver shall carry personal passengers in the taxicab when operating as a vehicle for hire, including minors under the care of the driver. (Ord. 5360, 2005.)

5.29.120 Color Scheme and Insignia.

A. Every vehicle covered by an owner's permit shall have a distinctive color scheme or combination of colors and/or insignia as depicted in its application and approved by the Chief of Police.
B. No vehicle shall be operated until said vehicle is painted the approved color scheme or combination of colors and insignia.
C. Changes in color scheme or insignia shall have the prior approval of the Chief of Police.
D. Every vehicle regulated by this Chapter and operating in the City shall have the company name and company telephone number plainly painted in letters at least three (3) inches in height on each side of the vehicle in a color different and easily distinguishable from the vehicle. There shall also be painted on the vehicle's front and rear exterior the number of the license assigned to said vehicle as provided in Section 5.29.170. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.125 Commercial Signs and Advertisements.

In addition to the identification required by Section 5.29.170, the following signs or advertisements may be affixed onto vehicles:
A. Advertising signs conforming to the rules and regulations of the City Sign Code which shall not in any way obstruct the view of the vehicle's insignia and identification number.
B. A sign device which shall identify, at any given time, whether the vehicle is off-duty or for hire or vacant and the type of transportation service being rendered or proposed to be rendered.
C. No advertising shall be allowed on the roof top of any vehicle licensed under this Chapter, nor shall any advertising be illuminated except as permitted hereunder. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.130 Taxi Stands.

A. This Section shall not apply to airport taxi stands.
B. The City may designate areas on public streets to be used as taxi stands pursuant to Chapter 10.48.
C. All taxi stands are to be available for the use of all licensed taxis operating, with the exception of limousine taxis, within the City on a first come, first served basis. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.135 Permit Required to Operate any Paratransit Service at Airport Terminal.

A. No person shall operate a paratransit service vehicle that is carrying passengers from the Airport Terminal unless a permit authorizing same has been issued by the Airport Director pursuant to Title 18 of this Code.
B. Except for discharging passengers, no person shall park or stand, at the Airport Terminal, a vehicle used for the purpose of carrying passengers for hire unless a permit authorizing same has been issued by the Airport Director.
C. No person shall, at the Airport Terminal, solicit or invite any person to ride in a vehicle used for the purpose of carrying passengers for hire, either by driving slowly past a loading entrance of the terminal building or by any other act or utterance calculated to induce that person to engage the vehicle unless said vehicle operator is the holder of a permit authorizing same by the Airport Director. (Ord. 4206, 1983.)

5.29.140 Vehicle Maintenance.

A. Every vehicle shall be so constructed and maintained as to promote and protect public safety. Every vehicle shall be structurally sound as to all its parts and shall be painted to give reasonable protection to all painted surfaces from structural deterioration. All marks of identification on vehicles shall be permanent and clearly legible at all times.

B. Every vehicle shall be kept in clean, sanitary condition and shall be cleaned at least once every day when operated. The interior of the vehicle shall be cleaned thoroughly with suitable antiseptic solution whenever necessary. It shall be the driver's responsibility to clean the interior and all windows of the vehicles as required while it is in use.

C. Every vehicle licensed hereunder shall at all times be maintained with the following equipment in good operating condition:

1. A frame or holder for the proper display of the public vehicle driver's permit shall face the passengers and shall be located at all times in plain view and readily visible to passengers.

2. Special equipment approved by the Chief of Police which will signal the need for law enforcement assistance. Each paratransit service owner permit holder shall instruct drivers in the purpose and methods of use of the signal equipment.

3. A sign provided by the Chief of Police made of heavy material and not smaller than twenty-four (24) square inches securely attached and clearly visible to the passenger area at all times, providing in letters as large as the size of the sign will reasonably allow, all of the following information: the name, address and telephone number of the Chief of Police regulating the operation of the vehicle, who may be notified in the event of a citizen complaint alleging violation of this Code, including matters pertaining to overcharges, unsafe vehicle operation, unsanitary vehicle condition, or vehicle defects which present a real and immediate risk to public safety.

4. In addition to the above required equipment, all taxis shall be also equipped with the following:

a. A taximeter.

b. A working light within the passenger compartment.

c. A fire extinguisher securely mounted and readily available to the driver as approved by the Fire Chief.

D. All taxis shall be inspected every four (4) months by an independent garage. The taxi inspection form shall require that the independent garage is not affiliated or associated with the taxi owner or driver. Once the inspection is completed, the signed taxi inspection form shall be submitted to the Chief of Police no later than fifteen (15) days from the date of the inspection.

E. The Chief of Police shall have the right at any time, after displaying proper identification, to inspect any permitted vehicle for the purpose of ascertaining whether or not any of the provisions of this Chapter are being violated. The Chief of Police has authority to designate specific equipment requirements and to require additional inspections of paratransit vehicles.

F. Any vehicle which is found, after any inspection, to be unsafe or unsanitary may be immediately ordered out of service, and before again being placed in service shall be put in condition as prescribed by this chapter. Prior to the return of any such vehicle to service, the owner's permit holder shall notify the Chief of Police in writing or by telephone that the withdrawn vehicle cited is in compliance and returned to service.

G. No taxi shall be equipped with any shades or curtains which can be manipulated in such a way as to shield the occupants or the driver from observation or obstruct the rear-view mirror.

H. The center partition, if any, between the driver's compartment and the passenger compartment shall be designed and constructed of shatterproof glass or plastic. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.150 Evidence of Mechanical Condition.

A. Upon receipt of a citizen's complaint regarding the mechanical condition of a taxi, the Chief of Police may require the owner to furnish evidence regarding the mechanical condition of any taxi specifically identified in the citizen's complaint. The Chief of Police may require that said evidence be furnished in order to determine whether said taxi is in safe operating condition, and/or whether said taxi(s) has or have all equipment and identification required by this Code. The Chief of Police may require said evidence to be furnished by either or both of the following:

1. A visual inspection of the taxi by a member of the Police Department; or

2. A sworn statement by the proprietor of an independent garage, which statement indicates whether said taxi is in safe operating condition and in compliance with this Code.

B. Upon determination by the Chief of Police that any vehicle allowed to be operated under an owner's permit is not in safe operating condition, and upon order that such vehicle not be used in taxi service until safely repaired, the owner and driver of such taxi shall no longer operate it until it has been repaired. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.160 Report of Accidents.

Each holder of an owner's permit and the driver of a taxi involved in any accident while operating a taxi, resulting in property damage or personal injury of any kind, shall within forty-eight (48) hours thereof give written report thereof to the Chief of Police. A copy of a report required under state law shall be deemed sufficient for such purposes; otherwise, such report shall contain all information required with respect to reports otherwise required under state law as to amounts involved. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.170 Vehicle Permit and Identification Number.

A. For each vehicle covered by an owner's permit, a vehicle permit with an identification number shall be assigned by the Chief of Police.
B. The vehicle identification number shall be displayed on the vehicle's front and rear exterior, plainly printed in letters of at least three (3) inches in height, and visible to each passenger. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.175 Applicability of Government Code Section 53075.5.

The provisions of Section 53075.5 of the California Government Code, as now or hereafter amended, shall apply to the issuance, denial, surrender, suspension, and revocation of a public vehicle driver's permit pursuant to this Chapter. (Ord. 4974, 1996.)

5.29.180 Public Vehicle Driver's Permit.

A. It shall be unlawful for any person to drive a vehicle regulated pursuant to this Chapter unless such person obtains a City public vehicle driver's permit in addition to those motor vehicle driver's licenses required by the State of California.
B. Application for such a permit shall be made in person to the Chief of Police.
C. The applicant shall provide requested information under oath or affirmation on forms supplied by the Chief of Police.
D. When an application has been denied, the applicant may not reapply for a public vehicle driver's permit for one (1) calendar year from the date of denial, unless denial was without prejudice.
E. The Chief of Police shall investigate the facts stated in an application for a public vehicle driver's permit and other relevant data. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.185 Public Vehicle Driver's Permit Application.

An applicant for a public vehicle driver’s permit shall appear in person and file with the Chief of Police a sworn application for such a permit stating, including or affixing the following:
A. The full name and address of the driver applicant.
B. The residence addresses of the driver applicant for the preceding five (5) years.
C. The names and business addresses of the driver applicant’s employers during the preceding five (5) years.
D. A statement as to whether any license, permit or certificate issued to the applicant has been denied, revoked or suspended by any public authority. The circumstances of said denial, revocation, or suspension shall also be fully explained.
E. A statement as to whether or not the driver applicant has been convicted of any crime, whether a felony or misdemeanor, or violation of any municipal ordinance (other than minor traffic and parking offenses), and if so, the nature of the offense and the punishment or penalty assessed for the conviction.
F. The name and business number of the taxi company by whom the applicant will be employed or engaged under contract as a taxi driver.
G. The endorsement by the owner employing the applicant as a taxi driver that the applicant has acquired proficient knowledge of the traffic laws of the State of California and the City, and of the streets of the City, and to safely operate a taxi in the City.
H. Proof of Compliance with Federal and State controlled substance and alcohol testing requirements, including proof that the driver has tested negative for controlled substances and for alcohol.
I. Proof of current City Business License Tax Certificate.
J. A signed statement from the hiring taxi company that they have thoroughly reviewed and discussed the City of Santa Barbara Paratransit Ordinance and any associated rules and regulations with the driver.
K. Such additional information as may be required by the Chief of Police. (Ord. 5360, 2005.)

5.29.190 Denial.

A public vehicle driver's permit shall not be issued to any person for whom any of the following is applicable:
A. Has been a licensed driver for less than 6 months in the United States.
B. Does not possess a valid Class C driver's license issued by the State of California.
C. Is less than twenty-one (21) years of age, unless the applicant possesses a valid Class B driver's license issued by the State of California and is 18 years or older.
D. Is currently required to register pursuant to Section 290 of the California Penal Code or is required to register in another state or country as a sex offender in a manner comparable to Penal Code Section 290.
E. Has been convicted of a crime involving moral turpitude, narcotics or dangerous drugs, unless a period of not less than three (3) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.
F. Has been convicted for driving a vehicle recklessly within the two (2) years immediately preceding application for a permit or renewal.

G. Has been convicted of operating a vehicle while under the influence of alcohol or drugs two (2) or more times within seven (7) years immediately preceding the application for a permit or a renewal application, or one (1) time within one (1) year immediately preceding application for a permit or renewal.

H. Has a history of chronic alcohol-related criminal convictions, as evidenced by three (3) or more public intoxication convictions within two (2) years immediately preceding an application for or renewal of permit.

I. Has two (2) or more moving violation convictions within one (1) year immediately preceding an application for a permit, or three (3) moving violation convictions within one (1) year, or four (4) moving violation convictions within two (2) years for renewal. ”Moving violation” conviction shall mean those violations set forth in State Vehicle Code Section 12810.

J. Has been convicted of a felony or misdemeanor hit and run.

K. Has falsified or omitted material and relevant facts on the public vehicle driver’s permit application.

L. Has failed to comply with all applicable provisions of Section 5.29.175 of this Chapter. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4277, 1984; Ord. 4206, 1983.)

5.29.200 Issuance of Public Vehicle Driver's Permit.

A. If the Chief of Police finds that the driver applicant is duly qualified, the Chief of Police shall promptly and expeditiously issue a public vehicle driver's permit to the applicant.

B. A permit card shall contain a recent picture of the permittee, affixed in such a manner that another picture cannot be substituted without detection. The driver's permit shall also contain the driver's full name, permit number, and the expiration date of such permit. The Chief of Police shall furnish a driver's permit which shall at all times be conspicuously displayed in a suitable container in the vehicle the driver is operating. It shall be unlawful to operate a vehicle licensed under this Chapter without the driver's public vehicle driver's permit being conspicuously displayed in said vehicle.

C. Unless voided by operation of Section 5.29.175 of this Chapter, or surrendered, suspended or revoked, driver's permits shall be valid for one (1) year from the date of issuance. Driver's permits may be renewed for a two (2) year period provided:

1. That the Chief of Police's investigation of the driver's traffic and criminal record reveals no criminal or traffic violation during the period the permit was valid, and

2. The previous permit has not expired or become void by operation of Section 5.29.175 of this Chapter.

If the investigation reveals a violation under subsection 1. above, the permit may be renewed for one (1) year only. If it reveals a violation under subsection 2. above, a new application will be required.

D. The permit is the property of the City and is not transferable to any other driver. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4206, 1983.)

5.29.210 Change of Address or Employer.

Upon change of name, address, telephone number or employer, a driver shall notify the owner's permit holder and the Chief of Police in writing within five (5) days. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.215 Leave of Absence.

A driver and the company owner shall notify the Chief of Police in writing no less than five (5) days before a driver begins any leave of absence from employment with an owner lasting for a period of more than thirty (30) days. If during a driver’s leave of absence the driver’s permit expires, renewal fees shall be paid prior to the leave of absence or prior to the expiration date of the driver’s permit. Any driver whose leave of absence is for a period of one (1) year or longer shall be required to reapply as a new driver. (Ord. 5360, 2005.)

5.29.220 Surrender, Suspension, Revocation of Public Vehicle Driver's Permit.

A. The Chief of Police may suspend or revoke the public vehicle driver's permit of any person licensed under this Chapter for a period not to exceed thirty (30) days for any of the following:

1. Repeated and persistent violations of the traffic and parking laws of the City or the state Vehicle Code.
2. Conviction for misdemeanor or felony reckless driving.
3. Driving any vehicle known to the driver not to be in good order and repair.
4. Violation of Section 5.29.100 in any twelve (12) month period.
5. Falsifying or omitting material and relevant facts on an application for a public vehicle driver's permit.
6. Conviction or plea of nolo contendere to the violation of any law involving alcohol.
7. Conviction or plea of nolo contendere to the violation of any law involving moral turpitude.
8. Operating any vehicle in a manner which constitutes a misdemeanor under the laws of the State of California.
9. Conviction of a misdemeanor or felony “crime of violence” defined as a crime that by its nature poses a substantial risk of the use, attempted use, or threatened use of physical force against another person or property of another. A crime of violence may include, but is not limited to, the following crimes: domestic abuse, murder, manslaughter, criminal vehicular homicide and injury, assault, sexual assault, use of drugs to injure or to facilitate crime, robbery, burglary, kidnapping, false imprisonment, incest, rape, neglect or endangerment of a child, arson, terrorist threats, or stalking.

10. Repeated violations of this Chapter.

B. The Chief of Police shall immediately suspend the public vehicle driver's permit of any driver upon the receipt of information reasonably sufficient and reliable to establish that the driver:

1. has been formally accused of a violation of law involving:
   a. a felony;
   b. a sex offense;
   c. a prostitution solicitation offense;
   d. a narcotics offense;
   e. a crime of violence as defined by this Section;
   f. a reckless driving offense;
   g. a hit and run offense;
   h. a driving under the influence of alcohol or drugs offense;
   i. a public intoxication offense; or
2. has had a license to drive issued by the State of California suspended by the State.

C. Such a suspension shall remain in effect until there has been a final judgment of conviction by a court of competent jurisdiction; the entry of a plea agreement entering a plea of guilty or no-contest shall constitute a conviction.

D. The Chief of Police shall immediately revoke the public vehicle driver's permit of any driver if that permit has become void by operation of Section 5.29.175 of this Chapter, or if that driver:

1. has been found guilty by final judgment of a court of competent jurisdiction, as defined by this Section, of a violation of the law involving:
   a. a felony;
   b. a sex offense;
   c. a prostitution solicitation offense;
   d. a narcotics offense;
   e. a crime of violence offense as defined by this Section; or
   f. a hit and run offense; or
2. has had a license to drive issued by the State of California revoked by the State.

E. If the required insurance policy is cancelled for either the owner or the driver of a taxi, both the owner and the driver shall be suspended for no less than three (3) days for the first violation in a one (1) year period, fifteen (15) days for the second violation in a one (1) year period, and revoked for the third violation in a one (1) year period.

F. A driver may appeal a suspension or revocation under this Section to the Board of Fire and Police Commissioners if the notice of appeal is filed with the Chief of Police within the (10) days after written notice of suspension is provided to the driver. The Board of Fire and Police Commissioners shall hear an appeal after a notice of appeal is filed with the Police Chief, as required by this Subsection, at the next regular meeting of the Board of Fire and Police Commissioners.

G. A suspension shall remain in effect until a duly filed appeal is heard by the Board of Fire and Police Commissioners. The Board of Fire and Police Commissioners shall suspend a driver's permit for as long as a license to drive and vehicle issued by the State of California is suspended or revoked by the State. In the case of suspension for any other reason under this Section, the Board of Fire and Police Commissioners shall consider the propriety of the suspension and may either rescind or continue the suspension as may be required to protect public safety, peace and welfare.

H. Any decision, except under 5.29.220.C, shall be effective immediately upon service of written notice of the decision and reasons therefore. A driver whose permit has been suspended or revoked by the Chief of Police shall be notified in writing within five (5) days by certified mail directed to the last known address on record with the City. Such written notice shall state the reasons for the suspension or revocation. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4206, 1983.)

5.29.230 Fees.

In addition to City business taxes as provided by Chapter 5.04 of this Code, non-refundable fees shall be paid when any application is made under the provisions of this Chapter. For each application required pursuant to this Chapter, application fees will be set forth in a resolution of the City Council. (Ord. 4206, 1983.)

5.29.240 Records Required.

A. Every driver shall maintain a daily manifest which records:

1. The time the vehicle went on and off duty.
2. The vehicle identification number and driver's full name.
3. All trips made each day showing time and place of origin and destination of each trip, and the number of passengers transported during each trip.
4. The amount of fare charged for each trip.

B. All such completed manifests shall be returned to the owner permit holder by the driver at the conclusion of the driver's work period. If the driver changes vehicles during any work period, such driver shall maintain a separate manifest for that portion of the work period in which another vehicle is used. The forms for such records shall be furnished to the driver by the owner and shall be subject to the approval of the Chief of Police. It shall be unlawful to maintain an incomplete manifest.

C. Every owner's permit holder shall retain and preserve all driver manifests in a safe place for at least one hundred eighty (180) days and the same shall be made available upon demand for inspection by the Chief of Police.

D. Any article found in a vehicle shall be returned to the passenger owning it, if the passenger's identity is known to the driver; otherwise, it shall be reported on the daily manifest and, within 24 hours of the loss it shall be deposited at the Santa Barbara Police Department. Any articles taken in lieu of fare shall also be reported on the manifest and deposited with the company owner.

E. The Chief of Police shall require that each owner shall report the terms of all agreements between owners and between owner and drivers and other parties which provide for payment for any or all of the following: for use of vehicle(s), rental payment for use of colors, rental payment for use of radio equipment, payment for dispatching service, obligation of drivers to perform unpaid services for owner's permit holders or owner. The Chief of Police shall be promptly informed of the terms of such agreements. All changes in the agreements shall be reported within thirty (30) days of their approval by the parties.

F. At all reasonable times, an owner's permit holder shall permit the Chief of Police to examine all business property of said owner's permit holder relating to the paratransit service for which such person was licensed, whether such property be situated within or without the City.

G. Records shall be made of each order for service taken by telephone and shall include:

1. Location of requested pickup.
2. Identification of order taker.
3. Date and time of order.
4. Identification of dispatcher.
5. Identification of vehicle dispatched.
6. Time of dispatch.

Such records shall be kept for at least ninety (90) days. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.250 Appeal Procedure.

A. **Appeals to the Board of Fire and Police Commissioners**

1. Any decision of the Chief of Police denying a permit, or denying an amendment to a permit, or imposing a suspension or revocation of any owner's or driver's permit shall not become final until fifteen (15) days after the date of transmittal of the written notice to the person affected by such decision, during which period the party to the action may appeal the decision in the manner provided herein at any time prior to the expiration date of the fifteen (15) day period. If no appeal is taken before the expiration of the fifteen (15) day period, the decision of the Chief of Police shall be final.

2. The appeal of any decision shall be in writing signed by the party to the action briefly setting forth the reasons why such decision is not proper, stating an address at which the appellant will receive notices, and filed with the Clerk of the City.

3. Upon filing an appeal, the party to the action shall be entitled to a hearing by the Board of Fire and Police Commissioners at the next regular meeting.

4. The appellant or appellant's representative shall have the right to present his or her case in person.

5. The Board of Fire and Police Commissioners shall consider the case record as well as any statements offered by interested parties. The hearing will be conducted according to administrative rules relating to evidence and witnesses as adopted by the Commission.

6. If the Board of Fire and Police Commissioners refuses to issue, amend or restore a license or an owner's permit, the party to the action or such party's agent shall not file a new application within three hundred sixty five (365) days from the date of final action by the Board of Fire and Police Commissioners.

7. If the Board of Fire and Police Commissioners suspends an owner's permit or a license, the Chief of Police shall determine a period of suspension of not more than thirty (30) days, which is in accordance with the schedule of penalties developed by the Chief of Police.

8. If the Board of Fire and Police Commissioners' action is to grant or restore a certificate or a license, the Commission shall direct the Chief of Police to issue or restore the certificate or license.

B. **Appeals to the City Council**

1. Appeals to the City Council from the decision of the Board of Fire and Police Commissioners shall be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5360, 2005; Ord. 5136, 1999; Ord. 4206, 1983.)

5.29.260 Leasing or Renting.

A. Any owner's permit holder may lease or rent any vehicles licensed to operate as taxis under the provisions of this Chapter to holders of driver's permits, provided that any and all lease or rental agreements shall be made on lease or rent forms approved by the Chief of Police. Copies of such forms shall be provided to all lessees.

B. Lease of vehicles under this section shall in no way relieve any owner's permit holder and lessee from responsibility of full compliance with all the provisions of this chapter.

C. All chapter provisions applicable to an owner's permit holder shall also apply to a lessor, and any violations of such provisions by lessor shall be considered a violation by the owner's permit holder and shall carry the penalty prescribed.

D. All chapter provisions applicable to a taxi driver shall also apply to a lessee, and any violations of such provisions by a lessee shall carry the prescribed penalty.

E. Owner's permit holders entering into lease arrangements shall notify in writing the Chief of Police and provide the following information:

1. The number of taxis operating under lease agreements.
2. The vehicle identification numbers.
3. The full name and address of the lessee.
4. A photocopy of the lease or rental agreement as signed by both lessor and lessee.
5. Any other pertinent information.

F. It shall be unlawful to lease or rent a vehicle to any person other than a holder of a valid driver's permit issued under this Chapter.

G. It shall be unlawful for a lessee to fail to maintain an accurate daily manifest as prescribed by Section 5.29.240 of this Chapter. The lessee shall deliver such records to the lessor who shall be responsible for their retention as specified in Section 5.29.240 of this Chapter.

H. The cost of maintenance of the vehicle, repair, or towing costs covered under a lease or rental agreement shall be the responsibility of the lessor.

I. An owner's permit holder who leases or rents taxis shall have such taxis painted with the identifying color scheme and/or insignia, and such taxis shall be fully insured as provided by Section 5.29.310.

J. Any violation of this section either by lessor or lessee shall be cause for suspension or revocation of the lessor's permit and the lessee's permit. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.270 Driver-Owners.

A. An owner's permit holder may contract for the operation of a vehicle owned by the driver-owner under the provisions of this chapter, provided that any and all contract agreements shall be made on forms approved by the Chief of Police.

B. Operation of vehicles under this section shall in no way relieve any owner's permit holder and driver-owner from responsibility of full compliance with all the provisions of this Chapter.

C. All provisions of this Chapter applicable to owner's permit holders shall also apply to a driver-owner, and any violations of such provisions by such contractor shall be considered a violation by the owner's permit holder and shall carry the penalty prescribed.

D. All provisions of this Chapter applicable to a taxi driver shall also apply to a driver-owner, and any violation of such provisions by a driver-owner shall carry the prescribed penalty.

E. Owner's permit holders entering into contract agreements with driver-owners shall notify in writing the Chief of Police and provide the following information:

1. The number of taxis operating under contract agreements.
2. The vehicle identification number(s).
3. The full name and home address of the owner.
4. A photocopy of the contract agreement as signed by the owner's permit holder and driver-owner.
5. Any other pertinent information.

F. It shall be unlawful to contract with a driver-owner for the operation of a vehicle unless such driver-owner is a licensed driver as provided under this Chapter.

G. It shall be unlawful for a driver-owner to fail to maintain an accurate daily manifest as prescribed by Section 5.29.240 of this Chapter. The driver-owner shall deliver such records to the owner's permit holder who shall be responsible for their retention as specified in Section 5.29.240 of this Chapter.

H. It is the responsibility of the owner's permit holder to insure that the vehicle is maintained by the driver-owner as prescribed by Section 5.29.140.

I. An owner's permit holder who contracts with a driver-owner for the operation of taxis shall insure that such taxis are painted with the approved identifying color scheme and/or insignia, and such taxis shall be fully insured as provided by Section 5.29.310 of this Chapter.

J. Any violation of this section either by an owner's permit holder or driver-owner shall be cause for suspension or revocation of the owner's permit holder's permit. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.290 Required Indemnification.

An owner's permit holder shall, and by acceptance of the permit does, agree in writing to indemnify and hold the City of Santa Barbara, its officers, employees and agents harmless from any and all damages, claims, liabilities, costs, suits, or other expense resulting from and arising out of said permit holder's operations. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.300 Operation of Paratransit Service Vehicles.

Any vehicle licensed by the City as a paratransit vehicle shall be operated according to the provisions of this Section.

A. Each driver shall carry in the vehicle a current map of the City. Upon request, the driver shall make the map available to the passenger.

B. A driver shall not deceive any passenger who rides in the vehicle, or who expresses a desire to ride in such vehicle, as to that passenger's destination or the rate to be charged.

C. Every vehicle while in operation for the solicitation or transportation of passengers shall be attended by the driver at all times except when such driver is actually engaged in loading or unloading the vehicle, or in answering telephones in connection with the business.

D. A driver shall not leave the public vehicle driver's permit in an unattended or unsecured vehicle.

E. No owner or driver of a vehicle shall knowingly permit such vehicle to be used for unlawful purposes or knowingly to transport persons therein to places for such purposes.

F. It shall be the duty of the driver to give any passenger so requesting a receipt in writing signed by the driver.

G. Drivers shall not stop to load or unload passengers or their belongings in the intersection of any street or any marked crosswalks. No vehicle shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

H. A driver shall assist a passenger in and out of a vehicle when requested; however, a driver is not required to lift a passenger.

I. No driver of any vehicle shall operate a vehicle, nor shall owner's permit holders or their agents require drivers to operate, more than ten (10) hours in any consecutive twenty-four (24) hour period.

J. No driver of any vehicle shall transport any more persons, including the driver, than the manufacturer's designated seating capacity for the vehicle.

K. A taxi may be operated in any other mode of demand responsive transportation service, and when so operating shall comply with all provisions of this Chapter regulating such other forms of service.

L. When providing taxi service, the driver shall transport a passenger to the designated destination by the shortest, most direct, accessible and reasonable route unless otherwise directed by the passenger, in which case the directions of the passenger shall be followed. Further, a driver shall not transport any passenger or cause such passenger to be transported to a place other than as directed by such passenger.

M. All drivers shall comply with all reasonable and lawful requests of a passenger as to the speed of travel and the route to be taken.

N. Cruising is permitted, but only when such movements do not usually obstruct the normal flow of traffic. If it is determined by the Chief of Police upon review of actual traffic data that cruising significantly obstructs the normal flow of traffic at certain locations or times, the City Administrator may, by administrative order, prohibit cruising at such locations or times.

O. Every vehicle shall be operated in accordance with the laws of this State, the provisions of this Chapter and other ordinances and laws of the City, with due regard to the safety, comfort and convenience of passengers and the general public.

P. The Chief of Police is empowered to make regulations necessary to make effective the provisions of this Chapter, and to cover emergencies or special conditions. In the event that after ninety (90) days the experimental regulations have proved satisfactory, they may be placed into effect permanently by authorization of the Board of Fire and Police Commissioners.

Q. It shall be unlawful for any driver of any vehicle to refuse service to a prospective passenger or to take any action to actively discourage any person unless:

1. It shall be readily apparent that the person presents a hazard to the driver.
2. The person is unable to pay the lawful fare upon request.

R. It shall be unlawful for any driver of any paratransit service vehicle licensed by the City to use any tobacco product while passengers are in the vehicle as set forth in Chapter 9.20 of this Code. (Ord. 5360, 2005; Ord. 4206, 1983.)

5.29.310 Insurance Requirements.

A. It shall be a condition precedent to the issuance of an owner's permit that a completed certificate of insurance, on a form provided by the City, be filed with the City Clerk. All insurance policies must be renewed by 3 p.m. of the last business day prior to the expiration date of the current insurance policy. Said certificate shall provide evidence of insurance in amounts and with conditions acceptable to the City. The owner's insurance shall remain in full force, at a level at least equal to the minimum requirements of the City, or the owner's permit shall be subject to revocation or suspension pursuant to this Chapter.

B. Insurance policies that are not renewed, or that are not in place by 3 p.m. of the last business day prior to the expiration date of the current policy, will result in all vehicles under the owner’s permit being suspended for a period of no less than three (3) days as set forth in Section 5.29.220 of this Chapter.

C. If insurance policies are cancelled for either the owner or driver for lack of payment, then both driver and owner’s permits will be suspended for three (3) days for the first violation in a one (1) year period; and for fifteen (15) days for the second violation in a one (1) year period; and revoked for one (1) year for the third violation in a one (1) year period. (Ord. 5360, 2005; Ord. 4206, 1983; supersedes Chapter 5.28.)

Chapter 5.30

TOWING OF VEHICLES

Sections:

5.30.010 Definitions.
5.30.020 Permits and Exemptions.
5.30.030 Requirements and Duties.
5.30.040 Signs and Notices, Rates and Charges.
5.30.050 Release of Vehicles, Payment, Notice, Protest.
5.30.060 Itemized Statement.
5.30.070 Prohibitions.
5.30.080 Applications and Issuance.
5.30.090 Appeal.
5.30.100 Grounds for Suspension or Revocation.
5.30.110 Notice and Hearing for Suspension or Revocation.
5.30.120 Rules and Regulations.
5.30.130 Insurance.
5.30.140 Hold Harmless and Indemnification.

5.30.010 Definitions.

For the purpose of this chapter, certain words are defined:

(a) "Applicant" means a person who applies for a towing permit pursuant to this chapter.

(b) "Board" means the Board of Fire and Police Commissioners of the City of Santa Barbara.

(c) "Emergency towing" means the towing of a vehicle when requested by an officer of any law enforcement agency acting under authority of law or any City official or employee acting in his official capacity.

(d) "Non-emergency towing" means the towing of a vehicle (1) that has been involved in a collision, but has been removed from the scene; (2) that has experienced mechanical failure, but is not on the road-way or has been removed from the roadway and no longer constitutes a hazard; or (3) that, being mechanically operative, is towed for convenience.

(e) "Involuntary towing" means towing of a vehicle pursuant to the provisions of California Vehicle Code §22650 et seq. when requested by someone other than the legal owner, registered owner, driver or other person in control of a vehicle.

(f) "Permittee" means any person issued a towing permit pursuant to this chapter.

(g) "Service" means formal delivery of a document and shall be deemed to be completed when a document has been (1) personally delivered, or (2) has been enclosed in a sealed envelope addressed to the applicant or permittee with postage thereon fully prepaid and said envelope has been deposited in a United States mailbox.

(h) "Towing Operation" means the activity of towing vehicles for compensation within the City. Towing operations shall include the storing of vehicles and all other services performed incident to towing. (Ord. 3970, 1978.)

5.30.020 Permits and Exemptions.

(a) Permit Required, Term and Fee. No person shall engage in, manage, conduct or operate a towing operation business without a towing permit which shall be obtained from the offices of the Tax and Permit Inspector. The period for issuance of a towing permit shall be three (3) years and the fee for such permit shall be established by resolution of the City Council.

(b) Exemptions. The provisions of this chapter shall not apply to any towing operation that provides tow service:

(1) Exclusively to members of an association, automobile club, or similar organization and receives remuneration only from the sponsoring association, automobile club or similar organization;

(2) Without charge or fee for other vehicles owned or operated by the individual or organization furnishing the tow services;

(3) For other vehicles owned or operated by the individual or organization furnishing the tow service, but which are being operated under terms of a rent or lease agreement or contract, and such towing is performed on a non-profit basis or said fee is a part of the rent or lease agreement or contract; and

(c) Imposition of Conditions-Towing Operation Permit. In granting any permit under this chapter, the Board may impose such reasonable conditions relative to the activities of towing operations as it may be necessary for the protection of the public peace, safety, health or welfare and such conditions shall be consistent with the provisions of this chapter. (Ord. 4010 §1, 1979; Ord. 3970, 1978.)

5.30.030 Requirements and Duties.

(a) Provisions supplemental to business license regulations. The provisions of this chapter are intended to augment and be in addition to the provisions of Title 5 providing for a business license tax. Whenever the provisions of this chapter impose a greater restriction upon persons, premises or practices than is imposed by the general business license regulations, the provisions of this chapter shall control.

(b) Business location. Any person conducting a towing operation business shall maintain a physical location from which said business is directed. Such physical location shall provide an office with an adequate yard for vehicle storage and the location of the yard shall be subject to the approval of the Board.

(c) Change of location. A change of location shall be endorsed on a towing permit upon a written application by the permittee, subject to the approval of the Tax and Permit Inspector. The permittee shall notify the Tax and Permit Inspector of any change of location within five (5) days after a move. (Ord. 3970, 1978.)

5.30.040 Signs and Notices, Rates and Charges.

(a) Signs and Notices. Each permittee shall maintain a sign listing the rates and charges of all services offered. Such sign shall be conspicuously placed in the office or other place where customer financial transactions take place. The letters on such signs shall be a minimum of one inch high with one quarter inch stroke. The letters shall be a contrasting color from the background.

(b) Filing of rates and charges. Applicants for towing operation permits shall file a schedule of maximum rates and charges for each service offered with their application. No charge more than the rates and charges specified in such schedule shall be made except as herein provided.

Changes in maximum rates and charges shall be made by written notice containing the new schedule of rates and charges to the Board at least ten days prior to becoming effective. A duplicate copy of such notice shall be posted for a period of ten days in the office next to the posted schedule of the existing rates and charges. Upon the expiration of the ten-day period, the maximum rate and charge schedule shall be changed in accordance with such notice, except that the rates and charges for emergency and involuntary towing shall only become effective as set forth in subsection (c) of this section.

(c) Emergency and involuntary requested maximum towing rates. Maximum rates and charges for any emergency or involuntary towing assignment shall be subject to the prior approval of the Board. The approval of said rates and charges shall become effective thirty (30) days after the action of the Board is final unless an appeal is perfected pursuant to §5.30.090. (Ord. 4010 §1, 1979; Ord. 3970, 1978.)

5.30.050 Release of Vehicles, Payment, Notice, Protest.

Each permittee shall provide for release of vehicles during the hours established by the Board. The Board shall establish hours for the release of vehicles pursuant to §5.30.120. A permittee may additionally release vehicles on other days and hours. Each permittee shall accept as payment valid Visa and Master Charge credit cards and payment by check accompanied by a valid bank check guarantee card which will guarantee such payment.

If a vehicle is removed by a permittee, the owner or person entitled to possession thereof shall be given notice of the options available to recover the vehicle and protest the charges. If the recovery of the vehicle and protest of the charges are not covered by §10.44.025 of this Code, the procedure for recovery and protest is as follows:

(1) Pay the charges for towing and storage and protest such charges by filing an appeal to the Board, within five (5) days after the release of the vehicle.

(2) Post security for the towing and storage charges which is satisfactory to the permittee and protest such charges by filing an appeal to the Board within five (5) days after the release of the vehicle. The Board shall adopt rules for the protest appeal and its decision shall be binding upon the permittee. Nothing in this section shall prohibit the Board from adopting further rules and regulations concerning the release of vehicles. (Ord. 4010 §3, 1979; Ord. 3970, 1978.)

5.30.060 Itemized Statement.

When requested, each permittee shall furnish an itemized statement to the person who authorized the towing service, or his agent. Such permittee also shall furnish an itemized statement of services per-formed, labor and special equipment used in completing tow of vehicle and of the charges made therefore upon the request of:

(1) the registered owner; or

(2) the legal owner; or

(3) the insurance carrier of either the registered owner or the legal owner; or

(4) the duly authorized agent of the registered owner, the legal owner, or the insurance carrier. Such permittee shall furnish a copy of the statement to any person authorized to receive the statement without demanding payment as a condition precedent. (Ord. 3970, 1978.)

5.30.070 Prohibitions.

(a) Towing authorization. A permittee shall not attach a vehicle to a tow unit on a non-emergency towing assignment without first receiving authorization to do so by the registered owner, legal owner, driver, or other person in control of said vehicle.

(b) Vehicle repair or alteration, when permitted. A permittee hereunder shall refrain from making any repairs or alterations to a vehicle without first being authorized by one of the persons listed in Section 5.30.060. Parts or accessories shall not be removed from vehicle without authorization except as necessary for security purposes. Under such circumstances the parts or accessories removed shall be listed on the itemized statement and stored in the business office. This section shall not be construed to prohibit permit-tees from making emergency alterations necessary to permit the removal by towing of such vehicle.

(c) General. The general prohibitions common to all businesses as specified in Title 5 shall be applicable. (Ord. 4010 §4, 1979; Ord. 3970, 1978.)

5.30.080 Applications and Issuance.

(a) Issuing Authority. The issuing authority shall be Tax and Permit Inspector and the application for a permit shall be filed with the Tax and Permit Inspector. No permits shall be issued without the approval of the approving authority.

(b) Approving Authority. The approving authority shall be the Board, unless an appeal is filed. If the application for a towing permit is approved, the Board shall promptly notify the Tax and Permit Inspector who shall then issue the towing permit.

(c) Applications, Approval. The Police Chief is granted authority to approve the application form for a towing permit and request the information that he deems necessary to satisfy the objectives of this chapter. Upon the filing of an application, the Board shall cause an investigation to be made, and shall approve a towing permit if it finds that the conduct or operation of a towing operation would not be detrimental or injurious to the public welfare, and that the applicant is of good character and of good business repute, and has not been convicted of theft or embezzlement, or of any offense involving the unlawful use, taking or conversion of a vehicle belonging to another, and is otherwise a fit and proper person to conduct a towing operation, or if the applicant is a corporation, its officers, directors and principal stockholders are of good character and of good business repute, and have not been convicted of theft or embezzlement, or of any offense involving the unlawful use, taking or conversion of a vehicle belonging to another, and are otherwise fit and proper persons to conduct such business, otherwise, the application shall be denied only after the Board shall conduct a hearing on said application. (Ord. 3970, 1978.)

5.30.090 Appeal.

Any action taken by the Board pursuant to this chapter is appealable to the City Council. The action of the Board shall be final when any action is taken or if notice is required to be given, at the time such notice is served. Such an appeal must be made pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4217, 1983; Ord. 3970, 1978.)

5.30.100 Grounds for Suspension or Revocation.

It shall be grounds for suspension or revocation if any permittee, his agent or employee or any person connected or associated with the permittee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the permittee has:

(a) Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed with the Board; or

(b) Violated any provision of this Title, regulations adopted pursuant thereto or of any statute relating to his permitted activity; or

(c) Been convicted of a felony or any crime involving theft, embezzlement or moral turpitude; or

(d) Committed any act constituting dishonesty or fraud; or

(e) A bad moral character, intemperate habits or a bad reputation for truth, honesty or integrity; or

(f) Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting a permitted business; or

(g) Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of a permitted business; or

(h) Violated any rule or regulation adopted by the Board relating to the permittee's business; or

(i) Willfully failed to comply with the terms of any contract made as a part of the exercise of the permitted business; or

(j) Conducted the permitted business in a manner contrary to the peace, health, safety, and general welfare of the public; or

(k) Demonstrated that he is unfit to be trusted with the privileges granted by such permit.

(l) The permittee, his agents or employees, obtained a tow contract by use of fraud, trick, dishonesty or forgery; or

(m) The permittee, his agents or employees, towed a vehicle to a location other than listed as the business address of such permittee without first receiving authorization to do so by the person authorizing the tow; or

(n) The permittee, his agents or employees, after towing a vehicle to the business location of permit-tee, without authorization, towed such vehicle to another location for storage; or

(o) The permittee, his agents or employees, have conspired with any person to defraud any owner of any vehicle, or any insurance company, or any other person financially interested in the cost of the towing or storage of any vehicle, by making false or deceptive statements relating to the towing or storage of any vehicle; or

(p) The permittee, his agent or employees, removed a vehicle involved in a collision prior to arrival of police, and a person, as a result of such collision, suffered death or injury; or the driver of an involved vehicle, or a party to such collision, was under the influence of an intoxicant of any nature; or there is evidence that such vehicle was involved in a hit and run collision; or

(q) The permittee, his agents or employees, have charged for services not performed, equipment not employed or used, services or equipment not needed, or have otherwise materially misstated the nature of any service performed or equipment used. (Ord. 3970, 1978.)

5.30.110 Notice and Hearing for Suspension or Revocation.

(a) Notice. Prior to suspension or revocation of any towing permit for any ground specified in Section 5.30.100, the Board or the Police Chief shall cause permittee to be given written notice of the charges and such notice must be served upon permittee at least ten (10) days prior to the hearing.

(b) Hearing. At the hearing, the Police Chief or the aggrieved party or parties, shall present the case for suspension or revocation of the towing permit and the permittee shall have the opportunity to rebut the charges. In considering the imposition of suspension or revocation, the Board shall consider the seriousness of the violation of Section 5.30.100, the surrounding circumstances, any prior violations, the past history of the permittee and any mitigating factors. After hearing the evidence, the Board has the authority to suspend or revoke the towing permit if it sustains any of the charges. The Board shall give notice of its decision in writing and said decision shall be final upon service. (Ord. 3970, 1978.)

5.30.120 Rules and Regulations.

The Board is delegated authority to make rules and regulations for the conduct of towing operations pursuant to this chapter. The Board is also given authority to approve the retention of towing operations to be used by the City and establish rules and regulations for the conduct of such operations. Said rules and regulations shall become effective thirty (30) days after approval by the Board, unless the City Council disapproves said regulations or an appeal is perfected pursuant to §5.30.090. (Ord. 3970, 1978.)

5.30.130 Insurance.

All permittees under this chapter who do towing at the request of any City employee or official acting in his official capacity shall have the liability insurance with the minimum requirements established by the City and shall name the City, its officers, employees and agents as named or additional insureds for operations conducted pursuant to this chapter. (Ord. 4010 §5, 1979.)

5.30.140 Hold Harmless and Indemnification.

As a condition of possessing a towing permit, Permittee shall agree to investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all losses, damages, liabilities, claims, demands, detriments, costs, charges, and expenses (including attorneys' fees) and causes of whatsoever character which the City may incur, sustain, or be subjected to on account of loss or damage to property and loss of use thereof or bodily injury or death to any persons arising out of Permittee's operations authorized pursuant to this chapter. (Ord. 3970, 1978.)

Chapter 5.32

PEDDLERS

Sections:

5.32.010 Peddler Defined.
5.32.020 Solicitor Defined.
5.32.030 Fixed Place of Business Defined.
5.32.035 Prohibited Types of Peddling and Soliciting.
5.32.040 Permit Required.
5.32.050 Permit Application - Contents - Investigation Fee.
5.32.060 Application - Investigation by Police Chief.
5.32.070 Disapproval of Application.
5.32.080 Approval of Application - Issuance of Permit.
5.32.090 Permit - Operative Time - Renewal.
5.32.100 Revocation of Permits.
5.32.110 Revocation of Permit - Appeal.
5.32.115 Temporary Permit.
5.32.120 Permit Exemptions.

5.32.010 Peddler Defined.

As used in this Code, the term "peddler" means any person who goes from place to place, or from house to house, for the purpose of selling or offering for sale, or leasing or offering for lease, any goods, wares, merchandise, fruits, vegetables, foodstuffs or anything whatsoever. (Ord 4565, 1989; Ord. 3023 §2(part), 1964; prior Code §26.50.)

5.32.020 Solicitor Defined.

As used in this Code, the term "solicitor" means any person who goes from place to place, or from house to house, or uses a telephone for the purpose of taking or attempting to take orders for the sale or lease of goods, wares, merchandise, fruits, vegetables or foodstuffs or any other thing whatsoever, for immediate or future delivery, or for services to be furnished or performed immediately or in the future, whether or not such person has, carries or exposes for sale a sample of the subject and whether or not he is collecting advance payments on such sales or orders. (Ord. 4565, 1989; Ord. 3023 §2(part), 1964; prior Code §26.51.)

5.32.030 Fixed Place of Business Defined.

"Fixed place of business" means the premises in the City occupied for a period of not less than sixty (60) days for the particular purpose of conducting business, separate and distinct from any other place of business, and regularly kept open with some person in exclusive attendance thereat for at least thirty (30) hours in each and every week. (Ord. 3222 §1, 1967; Ord. 3023 §2(part), 1964; prior Code §26.52.)

5.32.035 Prohibited Types of Peddling and Soliciting.

A. Except as otherwise authorized in this Code, it shall be unlawful for any peddler or solicitor to do any of the following:

1. To peddle or solicit on or in any street within the City.
2. To peddle or solicit at any residence, dwelling, flat or apartment whereon a sign bearing the words "no peddler or solicitor" or words of similar meaning, indicating peddlers or solicitors are not wanted on the premises, is painted or affixed or exposed to the public view, or to attempt to gain admittance to such premises for the purpose of peddling or soliciting, except with the prior consent or at the prior invitation of some member of the household.
3. To peddle or solicit within the City at any time from sunset to nine o'clock (9:00 a.m.), except by prior appointment.
4. To peddle or solicit at any place within any commercial or industrial district as established in the Zoning Ordinance of the City.

B. Subsection A of this Section shall not apply to persons delivering articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution.

C. Subsections A.1, A.3 and A.4 of this Section shall not apply to the following:

1. Any person who is a certified producer authorized to participate and participating in a Certified Farmers Market, as defined, authorized and permitted in accordance with the provisions of Title 3, Chapter 3, Subchapter 1, Group 4, Article 6.5 of the California Code of Regulations (hereinafter, the "Market").

2. A person selling non-certified goods at and during the Market (i) who sells only the type or types of goods currently authorized by the Council to be sold at the Market and (ii) who has been issued and has in her or his possession an original, currently valid certificate signed by the Manager of the Market and showing that she or he has been authorized by the manager of the Market to sell non-certified goods at the Market.

D. Subsections A.4 of this Section shall not apply to (1) selling or taking orders in commercial or industrial establishments for goods, wares, merchandise or services to be used in connection with the operation or maintenance of the business; or (2) selling or offering for sale newspapers, magazines and periodicals in the present customary and usual manner of selling and offering for sale of newspapers, magazines and periodicals in the City. (Ord. 4616, 1990; Ord. 4565, 1989.)

5.32.040 Permit Required.

It shall be unlawful for any peddler or solicitor to peddle or solicit within the City without a permit issued by the Tax and Permit Inspector. (Ord. 3023 §2(part), 1964; prior Code §26.53.)

5.32.050 Permit Application - Contents - Investigation Fee.

(a) Applicants for permit under this chapter must file with the Tax and Permit Inspector a sworn application in writing on a form to be furnished by the Tax and Permit Inspector, which shall give the following information:

(1) Name and description of the applicant.

(2) Permanent home address and full local address of the applicant.

(3) A brief description of the nature of the business and the goods to be sold.

(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery.

(7) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed.

(b) At the time of filing the application, a fee of ten dollars ($10.00) shall be paid to the Tax and Permit Inspector to cover the cost of investigation of the facts stated. The investigation fee shall not be refunded under any circumstances. (Ord. 3023 §29(part), 1964; prior Code §26.54.)

5.32.060 Application - Investigation by Police Chief.

Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's moral character to be made as he deems necessary for the protection of the public good. (Ord. 3023 §2(part), 1964; prior Code §26.55(a).)

5.32.070 Disapproval of Application.

If, as a result of such investigation, the applicant's character is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Tax and Permit Inspector, who shall notify the applicant that his application is disapproved and that no permit will be issued. (Ord. 3023 §2(part), 1964; prior Code §26.55(b).)

5.32.080 Approval of Application - Issuance of Permit.

If, as a result of such investigation, the character of the applicant is found to be satisfactory, the Chief of Police shall endorse on the application his approval and return it to the Tax and Permit Inspector. The Tax and Permit Inspector shall then issue a permit to the applicant if all applicable permit fees have been paid and if all other required taxes have been paid. (Ord. 3023 §2(part), 1964; prior Code §26.55(c).)

5.32.090 Permit - Operative Time - Renewal.

Permits issued pursuant to this chapter and renewals shall be operative for a length of time as the Tax and Permit Inspector shall determine; provided, that no permit or renewal shall be operative later than one (1) year after the permit was issued pursuant to Sections 5.32.060 - 5.32.080. Within one (1) year after issuance of the permit, upon the request of the holder, the Tax and Permit Inspector shall renew the permit unless he or the Chief of Police determine facts exist which would constitute grounds for denial of the permit under Sections 5.32.060 - 5.32.080, and provided all applicable permit fees have been paid and all other required taxes have been paid. (Ord. 3023 §2(part), 1964; prior Code §26.56.)

5.32.100 Revocation of Permits.

The Tax and Permit Inspector or the Chief of Police may revoke any permit or renewal issued under this chapter upon a determination that facts exist which would constitute grounds for denial of a permit under Sections 5.32.060 - 5.32.080. (Ord. 3023, 1964; prior Code §26.57.)

5.32.110 Revocation of Permit - Appeal.

Any person aggrieved by any decision of the Tax and Permit Inspector or the Chief of Police relating to the denial or revocation of a permit or renewal under this chapter shall have the right to appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3023 §2 (part), 1964; prior Code §26.58.)

5.32.115 Temporary Permit.

The Tax and Permit Inspector may issue a temporary permit to a peddler or solicitor who has applied for a permit required by Section 5.32.040 pending the issuance or disapproval of the permit if he is able to determine from information available to him, including but not limited to local police records, that the applicant appears to be of good moral character. The length of time the applicant has been in the community is a factor which the Tax and Permit Inspector may consider in determining whether to issue a temporary permit. If the Tax and Permit Inspector is unable to make such determination from information readily available to him or if it appears to him that the applicant is not of good moral character no temporary permit shall be issued. The temporary permit shall be valid only until the permit is issued or disapproved by the Tax and Permit Inspector and no appeal taken under Section 5.32.110 shall extend the duration of any temporary permit. The Tax and Permit Inspector may revoke any temporary permit upon the discovery of information which if available at the time of the issuance of the permit would have caused him to refuse to issue the permit. (Ord. 3222 §2, 1967.)

5.32.120 Permit Exemptions.

The provisions of this chapter shall not apply to selling to or taking orders from governmental agencies, nor shall they apply to any person required to obtain a permit under the provisions of Chapter 5.36. (Ord. 3023 §2(part), 1964; prior Code §26.59.)

Chapter 5.40

FORTUNETELLING

Sections:

5.40.010 Permit Required - Application - Approval - Denial - Appeal.
5.40.020 Permit - Exemptions.
5.40.030 Penalty for Violation - Unpaid Fees, Debt to City - Action Brought.

5.40.010 Permit Required - Application - Approval - Denial - Appeal.

It shall be unlawful for any person, whether acting as principal, agent, clerk, employee or otherwise, to commence or carry on or engage in the profession, calling, art, occupation or business of astrology, palmistry, phrenology, life reading, fortunetelling, cartomancy, crystal gazing, clairvoyance, clairaudience, magic, necromancy, psychism, psychometry, mind reading, mental telepathy, automatic writing, spirit writing, trance mediumship, sandgazing, materialization, ballot reading, conducting trumpet seances, prophecy, augury, divination, the making, giving or selling of charms, potions, talismans, or magic articles, without first having made application in writing to the Tax and Permit Inspector for a permit to do so, which permit shall be issued by the Tax and Permit Inspector only after order by the Board of Police and Fire Commissioners of the City. Further the Board of Police and Fire Commissioners may in its discretion grant or deny any application presented to it under this chapter; and, the decision of the Board of Police and Fire Commissioners with respect to the granting or denying of any such application shall be final and conclusive upon all persons and parties concerned, unless set aside or reversed or modified by the City Council, upon the aggrieved permittee's appeal duly filed pursuant to the provisions of Section 1.30.050 of this Code.

No privilege shall be exercised under any permit hereunder save and except after the payment to the City of the permit fee fixed by Chapter 5.04 of this Code.

Each permit issued hereunder shall continue in force and effect from and after its issuance only throughout and during the month of its issuance and the consecutive months thereafter for which the permit fee payable monthly in advance shall have been paid. (Ord. 5136, 1999; Ord. 2853 §1, 1961; prior Code §27.67.)

5.40.020 Permit - Exemptions.

This chapter shall not, nor shall anything in this chapter contained, apply to any ordained or duly accredited clergyman, minister, pastor or missionary of any form of religious belief or accredited to or ordained by any bona fide church, ecclesiastical organization or religious corporation, while engaged in ministering as such or conducting the religious worship, work or offices of the church, ecclesiastical organization, religious corporation, or religious belief; nor, to the faith, practice or teaching of any religious body or religious belief; provided, that the fees, gratuities, emoluments or profits shall be paid solely to or for the benefit of the church, ecclesiastical organization, religious corporation, religious body or faith concerned.

Further, this chapter shall not, nor shall anything in it contained, apply to any person exercising or demonstrating or exhibiting any profession, calling, art, occupation or business above specified in any regular theater permitted by this City or in any scientific demonstration conducted in any public educational institution in this City. (Ord. 2853 §2, 1961; prior Code §27.68.)

5.40.030 Penalty for Violation - Unpaid Fees, Debt to City - Action Brought.

Every person violating any provision of this chapter shall be deemed guilty of a separate offense for every day during any portion of which any such violation is committed, continued or permitted by such person and shall be punishable as provided in this chapter. Each violation of this chapter shall be punishable by a fine in a sum not exceeding two hundred dollars ($200.00) or by imprisonment in the County Jail for a term not exceeding one hundred (100) days or by both such fine and imprisonment. Further the amount of any permit fee or fees which should have been paid under this chapter prior to the exercise of any privilege exercisable hereunder after the payment of the tax fixed by Chapter 5.04 of this Code shall be deemed a debt due and owing to the City, and any person who should have paid the amount of the fee or fees shall be liable to an action to collect such debt brought in the name of the City of Santa Barbara in any court of competent jurisdiction. Provided, further, that arrest and conviction shall not be construed as a waiver of the right of the City to bring such civil action nor shall the bringing of such civil action release the defendant therein, or any other person, from criminal prosecution under this chapter. (Ord. 2853 §3, 1961; prior Code §27.69.)

Chapter 5.44

JUNK DEALERS, PAWNBROKERS AND SECONDHAND DEALERS

Sections:

5.44.010	**Definitions.**
5.44.015	**Exemptions.**
5.44.020	**Permit and Tax Required.**
5.44.030	**Application for Permit, Fees.**
5.44.040	**Issuance of Permit - Permit Prerequisite to Payment of Tax.**
5.44.050	**Revocation of Permit - Authorized - Grounds - Re-issuance.**
5.44.060	**Revocation of Permit - Hearing - Notice.**
5.44.070	**Daily Reports.**
5.44.100	**Daily Reports - Blank Forms.**
5.44.110	**Daily Reports - Filing - Inspection.**
5.44.120	**False Names, Addresses or Entries.**
5.44.130	**Effect of Conducting More than One (1) Business.**
5.44.140	**Regulations for Keeping Metals.**
5.44.150	**Records to be Kept.**
5.44.170	**Reports, Etc., to be in English Language.**
5.44.180	**Holding Period Before Sale or Disposition - for Pawnbrokers and Secondhand Dealers.**
5.44.190	**Waiting Period Before Sales - for Junk Dealers and Collectors.**
5.44.200	**Waiting Period Before Sales - When Non-applicable.**
5.44.210	**Hours of Business.**
5.44.220	**Dealings with Minors.**
5.44.230	**Certificate of Sales.**
5.44.240	**Exemptions from Chapter.**
5.44.250	**Unlawful Acts.**
5.44.300	**Reporting Repair of Business Machines.**

5.44.010 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Junk collector" means any person having no fixed place of business in the City engaged in or carrying on the business of collecting, buying or selling any old rags, sacks, bottles, cans, papers, rubber goods, metals, rubbish, manure, waste material, refuse matter of any kind or other articles of junk; provided however, that no permit issued under the provisions of this chapter shall be deemed or construed to authorize or permit anything in violation of Chapter 7.16, relating to garbage and rubbish or the collection or removal of dead animals.

(2) "Junk dealer" means any person having a fixed place of business in the City commencing, conducting, or carrying on the business of buying, selling or otherwise dealing in, either at wholesale or retail, of any old rags, sacks, bottles, cans, papers, metal or other articles commonly known as junk.

(3) "Non-profit organization" means a corporation organized under the General Non-Profit Corporation Law of the State of California and certified as exempt from Federal Income Tax by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code.

(4) "Pawnbroker" means any person commencing, conducting or carrying on or purporting to carry on the business of loaning money for himself, or for any other person, upon personal property, personal security, pawns or pledges, or the business of purchasing articles or personal property and reselling, or agreeing to resell, such articles to the vendors or their assignees, at prices agreed upon at or before the time of such purchase.

(5) "Pawnshop" means any room, store or place in which any such business as described in paragraph (3) is engaged in, carried on or conducted.

(6) "Secondhand dealer" means any person commencing, conducting or carrying on the business of buying, selling or otherwise dealing in secondhand or antique goods, wares, clothing or merchandise; provided, however, that nothing in this chapter shall apply to the exchange of secondhand furniture or furnishings as payment in whole or in part for new furniture or furnishings given in exchange by a regular dealer in new furniture or furnishings; provided further, that nothing in this chapter shall apply to the sale of any secondhand goods, wares or merchandise sold by any public warehouseman at any warehouse in the City for non-payment of any storage bill for the storage in such warehouse of goods, wares or merchandise so sold.

Wherever used in this Code, the terms "secondhand" includes "antique," and "secondhand dealer" includes "antique dealer" in goods, wares or merchandise of all types and descriptions.

(7) "Tangible personal property" means property defined in Section 21627 of the Business and Professions Code. (Ord. 4114, 1981; Ord. 3945, 1978; Ord. 3535, 1972.)

5.44.015 Exemptions.

A person is exempt from reporting the receipt or purchase of tangible personal property pursuant to this chapter if that person is a secondhand dealer as defined in Business and Professions Code Section 21626, has obtained a license pursuant to Section 21641 of said Code and reports the receipt or purchase of such tangible personal property pursuant to Section 21628 of the Business and Professions Code or Section 21208 of the California Financial Code. (Ord. 4114, 1981.)

5.44.020 Permit and Tax Required.

It shall be unlawful for any person to engage in, conduct, manage or carry on or purport to carry on in the City, the business of pawnbroker, secondhand dealer, junk dealer or junk collector without first applying for and receiving a permit, in writing from the Chief of Police and without first paying any applicable taxes as provided in Chapter 5.04. Said permit shall be valid for one (1) year and shall be renewed each successive year. (Ord. 4114, 1981; Ord, 3766, 1975.)

5.44.030 Application for Permit, Fees.

Any person desiring to obtain a permit to conduct or carry on any business mentioned in Section 5.44.010 shall file an application in writing therefor with the Chief of Police, specifying, by street and number, the place where such business is proposed to be conducted or carried on. Such application shall be signed by the applicant and shall contain the address of such applicant. The Chief of Police is authorized to charge fees to pay for Department of Justice charges for processing of applications for permits and licenses authorized by this Code or State law. (Ord. 4114, 1981; prior Code §26.5.)

5.44.040 Issuance of Permit - Permit Prerequisite to Payment of Tax.

No permit to commence or conduct or carry on any business mentioned in Section 5.44.010 shall be granted by the Chief of Police to a person who fails, refuses, or neglects to comply with the laws or ordinances relating to and regulating the business for which such permit is sought. The Tax and Permit Inspector shall not accept payment of a tax from any person to conduct or carry on the business of pawn-broker, secondhand dealer, junk dealer or junk collector until the Chief of Police shall have granted a permit therefor. (Ord. 4114, 1981; Ord. 3125 §4, 1966; prior Code §26.6.)

5.44.050 Revocation of Permit - Authorized - Grounds - Re-issuance.

In the event that any person holding a permit to commence or conduct or carry on a business specified in Section 5.44.010 shall violate, or cause or permit to be violated, any of the provisions of this chapter or any provision of this Code or any other ordinance or of any law relating to or regulating any such business, or shall conduct or carry on such business in an unlawful manner, or shall cause or permit such business so to be conducted or carried on, it shall be the duty of the Board of Fire and Police Commissioners and the Board shall, in addition to other penalties provided for violation of this Code, revoke the permit issued for conducting or carrying on such business. If the permit is revoked, no permit shall be granted to such person to conduct or carry on any such business within six (6) months after such revocation. (Prior Code §26.7.)

5.44.060 Revocation of Permit - Hearing - Notice.

No permit issued under the provisions of this chapter shall be revoked until a hearing shall have been had by the Board of Fire and Police Commissioners in the matter of the revocation of such permit. Notice of the hearing shall be given in writing and served at least five (5) days prior to the date of hearing upon the holder of such permit, or his manager or agent, which notice shall state the ground of complaint against the holder of such permit or against the business carried on by such holder and shall also state the time when and place where such hearing will be had.

Such notice shall be served upon the holder of such permit by delivering the same to such person or his manager or agent, or any person in charge of or employed in the place of business of such holder, or if such person has no place of business, then at his place of residence; or by leaving such notice at the place of business or residence of such person of suitable age and discretion. If the holder of such permit cannot be found and service of such notice cannot be made upon him in the manner provided, then a copy of such notice shall be mailed postage fully prepaid, addressed to such holder of such permit at such place of business or residence, at least five (5) days prior to the date of such hearing. (Ord. 3766, 1975; Prior Code §26.8.)

5.44.070 Daily Reports.

A. Reports. Every pawnbroker, secondhand dealer, junk collector and junk dealer on each day before the hour of ten a.m. (10:00) shall make out and deliver to the Chief of Police, on a blank form to be obtained by such pawnbrokers, secondhand dealers, junk collectors and junk dealers from the Office of the Chief of Police or California Department of Justice for that purpose, a full, true and complete report of all goods, wares, merchandise, tangible personal property or things received traded, pledged or purchased or taken in trade during the day preceding the filing of such report. Such report shall show the hour of the day when such articles were received, traded, pledged or purchased or taken in trade and the true signature and address of the person by whom such article was left on deposit, pledged, sold or traded together with a description of such person. The description to be given of every such person shall show the style of dress, height, age, complexion, color of mustache or beard or both, where the same are worn, and if neither is worn, such fact should be noted. Such report shall also show the number of pawntickets, amount loaned, traded, purchased or pledged and a complete description of each article received, traded, deposited, pledged or purchased. If any article so left on deposit, received, pledged, purchased or traded has engraved thereon any number, word or initial, or contain any settings of any kind, the description of such article in such report shall contain such number, word or initial, and shall show the kind of settings and the number of each kind.

B. Exception. Junk collectors and junk dealers shall be exempt from the provisions of subsection A of Section 5.44.070 that require the reporting of old rags, sacks, bottles, aluminum cans, papers, boxes and rope. (Ord. 4114, 1981; prior Code §§26.9, 26.10, 26.11, 5.44.080, 5.44.090.)

5.44.100 Daily Reports - Blank Forms.

The Chief of Police shall approve forms to comply with the requirements of this chapter and shall use standardized forms prescribed by the California Department of Justice when practical. (Ord. 4114, 1981; prior Code §26.12.)

5.44.110 Daily Reports - Filing - Inspection.

The Chief of Police shall file in some secure place in his office or forward them to the California Department of Justice, all reports received pursuant to the terms of this chapter, and the same shall be open to inspection only by employees of the Police Department, law enforcement officers, or upon an order of a court of competent jurisdiction or of the Chief of Police made for that purpose. (Ord. 4114, 1981; prior Code §26.13.)

5.44.120 False Names, Addresses or Entries.

No person shall sign a fictitious name or address to any bill of sale for any goods, wares or merchandise referred to in this chapter, or to any pawnshop ticket or make any false entry in any report or record required by this chapter. (Prior Code §26.14.)

5.44.130 Effect of Conducting More than One (1) Business.

If any person shall carry on, at the same time, more than one (1) of the businesses referred to in Section 5.44.010, such person shall be deemed to be carrying on such business separate and apart from the other such business, and such person shall comply in all respects with the provisions of this chapter relating to each such business. (Prior Code §26.15.)

5.44.140 Regulations for Keeping Metals.

Every person known as a junk dealer or collector shall retain and keep on his premises, in a separate place designated for the purpose, all metals purchased by him, in the following manner:

The entire purchase of each day shall be put and kept in such designated separate place and the day's purchase shall be kept in its original condition for a period of three (3) days after purchase or receipt of copper, brass or other metals and shall be at all times open to the inspection of the Police Department. (Prior Code §26.16.)

5.44.150 Records to be Kept.

Every pawnbroker, secondhand dealer, junk dealer and junk collector shall keep a complete record of all goods, wares, merchandise or things pledged to or purchased or received by him, which record shall contain all of the matters required to be shown in the reports referred to and described in this chapter. Every such record and all goods, wares, merchandise and things pledged to or purchased or received by any such pawnbroker, secondhand dealer, junk dealer or junk collector shall be open at all times during business hours to the inspection of any law enforcement officer. (Ord. 4114, 1981; prior Code §26.17.)

5.44.155 Churches, Non-profit Organizations Exempted - Required to Keep Records.

No church or other non-profit organization shall be subject to the other provisions of this chapter, provided that any church or non-profit organization conducting a secondhand sale shall give the Chief of Police five (5) days' prior notice of the date and location of said sale, and shall keep complete records of all goods, wares, merchandise and things purchased, or received by said organization, for sale at said secondhand sale or sold by any individual at a secondhand sale conducted by any such church or organization. Every such record and all goods, wares, merchandise and things received by any such church or non-profit organization shall be open at all times during business hours to the inspection of the Chief of Police or any Police Officer. Said records shall be kept for one (1) year following said sale. (Ord. 3607, 1973.)

5.44.170 Reports, Etc., to be in English Language.

Every report and record required by the terms of this chapter to be filed or kept, shall be written or printed entirely in the English language, in a clear and legible manner. (Prior Code §26.19.)

5.44.180 Holding Period Before Sale or Disposition - for Pawnbrokers and Secondhand Dealers.

No pawnbroker or secondhand dealer shall sell or otherwise dispose of any article or thing within thirty (30) days after such article or thing has been purchased or received by such pawnbroker or second-hand dealer, except when the Chief of Police, for good cause, authorizes prior disposition with prior written authorization.

During the required holding period, the article or thing so purchased shall not be altered, changed or defaced and shall remain and be during the period in the same condition as when purchased or received by the pawnbroker or secondhand dealer. (Ord. 4114, 1981; prior Code §26.20.)

5.44.190 Waiting Period Before Sales - for Junk Dealers and Collectors.

No junk dealer or junk collector shall sell or otherwise dispose of any article or thing within three (3) days after such article or thing has been purchased or received by such junk dealer or junk collector. (Prior Code §26.21.)

5.44.200 Waiting Period Before Sales - When Non-applicable.

The provisions of this chapter shall not apply to the receipts or sale of any secondhand article by any person who received or purchased such secondhand articles from any other person who has made the required report to the Police Department and shall have held the articles for the length of time provided for in Sections 5.44.180 and 5.44.190; provided, however, that such person is required to report that such articles have been held by the person, from whom the articles were purchased for the length of time required by this chapter. (Prior Code §26.22.)

5.44.210 Hours of Business.

It shall be unlawful for any person engaged in conducting, managing or carrying on the business of pawnbroker, secondhand dealer, junk dealer or junk collector or for any agent or employee of any such person to accept any pledge of or to loan any money upon personal property, or to purchase or receive any goods, wares or merchandise or any article or thing, or in any manner whatsoever to engage in or conduct any such business between twelve midnight (12:00 a.m.) on Saturday and seven a.m. (7:00) of the following Monday, or between seven p.m. (7:00) of any day, other than Saturday or Sunday, and seven a.m. (7:00) of the following day. (Prior Code §26.23.)

5.44.220 Dealings with Minors.

No pawnbroker, secondhand dealer, junk dealer or junk collector shall purchase, or receive on deposit, or accept as a pledge any goods, wares, merchandise or anything whatsoever from, or make a loan to any person under the age of eighteen (18) years. (Prior Code §26.24.)

5.44.230 Certificate of Sales.

Pawnbrokers, secondhand dealers and junk dealers shall provide and furnish to the person from whom any goods, wares or merchandise are purchased a certificate of sale, a duplicate copy of which shall be kept on file by the purchaser. Such certificate of sale shall be signed by both the purchaser and seller. The duplicate copy of such certificate shall at all times be kept open to the inspection of the members of the Police Department. (Prior Code §26.25.)

5.44.240 Exemptions from Chapter.

Secondhand dealers of household furniture, and junk dealers or junk collectors of rags, bottles (other than milk or cream bottles), barrels, cans, shoes, lamps, stoves, household furniture, or scrap iron (when bought and sold for scrap) when purchasing or selling said items, are exempt from the requirements of this chapter for reports, records, waiting periods before resale and restrictions upon purchases from minors. Household furniture does not include sewing machines, musical instruments, oriental or Chinese rugs and all other merchandise bearing a serial number or evidence of having had a serial number or personalized initials or inscription. (Ord. 4114, 1981; Ord. 3945, 1978; prior Code §26.26.)

5.44.250 Unlawful Acts.

It shall be unlawful for any person engaged in conducting, managing or carrying on the business of pawnbroker, secondhand dealer, junk dealer or junk collector or for any agent or employee of any such person to fail, refuse or neglect to file any report in the form, in the manner, at the time and in all respects in accordance with the requirements of this chapter, or to fail, refuse or neglect to keep a record in the form and in the manner required by this chapter, or to fail, refuse or neglect to exhibit to any law enforcement officer, immediately upon demand for the privilege of such inspection, any such record or any goods, wares or merchandise or things pledged to or purchased or received by such person. (Ord. 4114, 1981; prior Code §26.27.)

5.44.300 Reporting Repair of Business Machines.

A. Reporting. Every business machine dealer shall report all used business machines that he has repaired pursuant to the procedure approved by the Chief of Police. No report of repair shall be required of a dealer servicing or repairing a machine in the possession of the owner to whom that dealer sold the machine when it was new.

B. Definition. As used in this section, the term "business machine" includes, but is not limited to, typewriters, adding machines, check-writing devices, cash registers, calculators, addressing machines, copying and accounting equipment, letter-sorting and folding devices, and recording equipment, but does not include office furniture or fixtures. (Ord. 4114, 1981.)

Chapter 5.48

BOXING, SPARRING OR WRESTLING MATCHES

Sections:

5.48.010 Generally.
5.48.020 Amateur Matches Permitted - School, College, University Defined.
5.48.030 Commercial Matches - Location - Supervision.
5.48.040 Commercial Matches - Permit Required - Fee - Special Police.

5.48.010 Generally.

Except as expressly permitted by Sections 5.48.020 - 5.48.040, no person shall conduct, carry on or engage in any boxing contest or sparring or wrestling match or exhibition for prizes of purses or to which an admission fee is received, within the City. (Prior Code §10.1.)

5.48.020 Amateur Matches Permitted - School, College, University Defined.

Amateur boxing contests or amateur sparring or wrestling matches or exhibitions or any combination thereof, conducted by or participated in exclusively by any school, college or university or by any association, or organization composed exclusively of such schools, colleges or universities when each contestant in any such contest, match or exhibition is a bona fide student regularly enrolled for not less than one-half (1/2) time in such school, college or university are hereby permitted and allowed to be held upon the grounds of any such school, college or university or within the C-2 Commercial Zone or less restrictive zone as set forth in the Zoning Ordinance of the City or in Laguna Field or Pershing Field within the City.

As used in this section, "school, college or university" shall mean every school, college or university supported in whole or in part from public funds and every other school, college or university which is determined by the State Board of Education to be maintained primarily for the giving of general academic instruction. (Ord. 3140 §1, 1966; prior Code §10.2.)

5.48.030 Commercial Matches - Location - Supervision.

Boxing contests, sparring and wrestling matches or exhibitions for prizes or purses, or where an admission fee is received, are hereby allowed within the City within any M-1 industrial district of the City and within Pershing Field of the City and within the so-called Laguna Field of the City, under the exclusive jurisdiction of the State Athletic Commission, which Commission shall have the sole direction, management and control over all such contests, matches or exhibitions to be conducted, held or given within the City. (Prior Code §10.3.)

5.48.040 Commercial Matches - Permit Required - Fee - Special Police.

Every person, before exercising any of the privileges conferred by Section 5.48.030 shall obtain from the City Treasurer, a permit to conduct any boxing contests, sparring or wrestling matches or exhibitions where an admission fee is received, and for such permit shall pay to the City Treasurer in advance, a fee of fifty dollars ($50.00). The permit, when issued, shall entitle the permittee to conduct such contests, matches or exhibitions for a period of ninety (90) days after the date of issuance, subject to the rules, regulations and orders of the State Athletic Commission; provided further, that each permittee shall employ the number of Policemen designated by the Chief of Police, and shall maintain the officers on duty at or about the premises at least one (1) hour prior to and throughout any boxing contest, sparring or wrestling match or exhibition which may be conducted within the City. The officers must be appointed by the Chief of Police. (Prior Code §10.4. Editor's note--The ordinance from which this section was derived was an initiative measure voted by the citizens on April 1, 1936.)

Chapter 5.52

AUCTIONS AND AUCTIONEERS

Sections:

5.52.010 Definitions.
5.52.020 Certain Advertising Prohibited.
5.52.030 Auctioned Goods not to be Other than Items Used in Business or Household - Exception.
5.52.040 Display and Tagging of Articles in Lots Prior to Auction - Addition or Removal of Articles from Lots.
5.52.050 Sale of Articles in Blind Packages Prohibited.
5.52.060 Misrepresentations - Generally.
5.52.070 Misrepresentations - During Course of Sale.
5.52.080 False Bidders and Boosters.
5.52.090 Substitution of Articles.
5.52.100 Article to be Delivered Within Twenty-Four (24) Hours After Payment.
5.52.110 Invoices to be Prepared on All Purchases Exceeding Two Dollars ($2.00).
5.52.120 Auction Sale of Jewelry and Furs Prohibited - Exception.
5.52.130 Jewelry and Furs - Permit Required - Conditions.
5.52.140 Jewelry and Furs - Labeling Articles.
5.52.150 Exemptions - Generally.
5.52.160 Exemptions - Executors, Public Officers, Etc.
5.52.170 Permit Required.
5.52.180 Permit Duration.
5.52.190 Permit - Application - Information to be Shown.
5.52.200 Permit Application - Bond.
5.52.210 Permit Application - Denial - Appeal.
5.52.220 Permit - Fee - Renewal.

5.52.010 Definitions.

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, unless a different meaning clearly appears from the context:

(1) "Auction" and "auction sale" mean a sale of property by public outcry to the highest bidder.

(2) "Auctioneer" includes and comprehends any person who shall, by public outcry, sell or offer to sell to the highest bidder, any property to be so sold through duly employed and permitted auctioneers.

(3) "Fake sale" is any one of the following:

(a) The sale of goods, wares or merchandise at auction or otherwise to agents or other persons purchasing the same for or on behalf of the owner or other person interested in the selling thereof;

(b) The offering for sale of goods, wares or merchandise of a different quality, brand or bearing a different trademark as the merchandise previously advertised for sale.

(c) The sale of any goods, wares or merchandise misrepresented as to quantity or quality or otherwise.

(d) The sale or offering for sale of any goods, wares or merchandise transported or brought into the City, and not constituting the original legitimate stock of goods, wares and merchandise of a place of business within the City, as the original and legitimate stock of goods, wares and merchandise of such place of business, at a bankrupt, insurance, mortgage, insolvency, assignee's, receiver's, trustee's, creditor's, executor's or administrator's sale, or a forced removal sale, or closing-out sale, or the sale of goods damaged by fire, smoke, water or otherwise. Nothing herein shall be deemed to prevent, nor shall it be considered unlawful to sell the original stock of goods, wares and merchandise of any place of business at a bankrupt, insurance, mortgage, insolvency, assignee's, receiver's, trustee's, creditor's or administrator's forced removal or closing-out sale, but the bringing of new stock into any such place of business or the adding of new stock to such original stock of goods, wares and merchandise and selling or offering to sell, such new stock or added stock of such goods, wares and merchandise at the place of business at any of the sales above described, is hereby declared unlawful and to be a fake sale within the meaning thereof.

(4) "Jewelry" is any article of personal adornment which is composed in whole or in part of gold, silver or platinum, or which contains any precious or semi-precious stone, or imitations thereof, and shall include wrist and pocket watches and clocks.

(5) "Lot" means an article or group of articles offered for sale at an auction at one time. (Prior Code §6.1.)

5.52.020 Certain Advertising Prohibited.

It shall be unlawful for any person to ring any bell or sound any other loud or noisy instrument for the purpose of attracting attention to any auction sale. (Prior Code §6.2.)

5.52.030 Auctioned Goods not to be Other than Items Used in Business or Household - Exception.

Whenever an auction is conducted in a private residence, or in a retail establishment, it shall be unlawful to sell or offer for sale at the auction, any goods or articles not actually belonging to and used by the owner or lessee of the premises, if the place of auction is a private residence, or which do not form a part of the regular stock in trade of the merchant occupying the premises, if the place of auction is a retail establishment; provided, however, that other articles may be sold as such auction if in any advertisements used to publicize the auction, the statement is made that other articles than those belonging to and used by the owner of the premises, or other articles than those which form a part of the stock in trade of the merchant, will be sold. Such articles shall be clearly tagged or labeled in such a manner as to indicate to prospective purchasers that the articles do not belong to and were not used by the owner or lessee of the premises, or do not form a part of the stock in trade of the merchant; and at the time of offering any such article for auction the auctioneer shall announce to the audience that the article does not belong to and was not used by the owner or lessee of the premises, or does not form a part of the stock in trade of the merchant. (Prior Code §6.3.)

5.52.040 Display and Tagging of Articles in Lots Prior to Auction - Addition or Removal of Articles from Lots.

For a period of at least two (2) days prior to the day of any auction sale, between the hours of nine a.m. (9:00) and five p.m. (5:00), all articles to be auctioned off or offered at the sale shall be prominently displayed upon the premises and open to inspection by the public. Each lot to be offered upon the date of the sale shall be numbered for identification; and at the time the lot is offered upon the block, the lot number shall be announced by the auctioneer. Every article in each lot to be offered on the day of the auction sale shall be marked with a clearly legible identification tag, identifying the articles as to lot number, and as to number within the lot. No article shall be added or removed from any lot at any time after it has been placed upon display, nor shall any lot be consolidated with all or any part of any other lot, nor may any lot be substituted for another lot, unless the fact of such withdrawal, consolidation or substitution is clearly announced to all prospective purchasers at the time the lot is offered for sale. No lot may be withdrawn from sale after two (2) bids have been made upon it, and the bids have been accepted by the auctioneer. (Prior Code §6.4.)

5.52.050 Sale of Articles in Blind Packages Prohibited.

It shall be unlawful for any auctioneer or agent, employee or assistant, to offer or attempt to dispose of any property at any auction sale in blind packages; and all articles in any lot shall be prominently displayed while the lot is being auctioned off. (Prior Code §6.5.)

5.52.060 Misrepresentations - Generally.

It shall be unlawful for any permittee, his agents, servants or employees, to make any statements which are false in any particular, or which have a tendency to mislead, or to make any misrepresentations whatsoever with reference to any article sold or offered for sale at public auction. (Prior Code §6.6.)

5.52.070 Misrepresentations - During Course of Sale.

It shall be unlawful during the course of the sale for the auctioneer or any agent, assistant or employee to display upon the auction block or in his hand any article which is not a part of the lot then being auctioned off; or to represent in any manner that an article not a part of the lot then being auctioned off is a part of the lot. (Prior Code §6.7.)

5.52.080 False Bidders and Boosters.

It shall be unlawful for any person to make or offer, or cause to be made or offered, a false bid or any other than a bona fide bid at a public auction or to act, or to employ any person to act, as a bybidder or what is commonly known as a "capper", "shill" or "booster" at any auction, or falsely to pretend to buy any articles at an auction sale, or to cause any person to do so. (Prior Code §6.8.)

5.52.090 Substitution of Articles.

It shall be unlawful for any auctioneer or agent, employee or assistant, to substitute any article in lieu of the article offered to and purchased by the bidder, except with the bidder's knowledge and consent; or to attempt to induce the purchaser of any article to accept, in lieu of the article, any other articles. (Prior Code §6.9.)

5.52.100 Article to be Delivered Within Twenty-Four (24) Hours After Payment.

It shall be unlawful for any auctioneer or agent, employee or assistant thereof, to refuse, fail or neglect to deliver complete and immediate possession to the purchaser within twenty-four (24) hours after the payment of the purchase price. (Prior Code §6.10.)

5.52.110 Invoices to be Prepared on All Purchases Exceeding Two Dollars ($2.00).

It shall be the duty of the auctioneer to make out an invoice containing a full and correct description of the articles sold and the price, for any purchase in excess of two dollars ($2.00), and to give the invoice to the purchaser when the purchase price is paid. Duplicate copies of the invoices will be kept by the auctioneer for a period of one (1) month after the purchase date. (Prior Code §6.11.)

5.52.120 Auction Sale of Jewelry and Furs Prohibited - Exception.

It shall be unlawful for any person to sell, offer for sale, or advertise for sale at public auction any jewelry, or any furs or garments composed in whole or part of furs; provided, however, that any person who has been engaged in the business of selling jewelry or furs at retail in the City for a period of at least a year may, upon obtaining a permit as provided in Section 5.52.170-5.52.220, conduct an auction solely for the purpose of disposing of his stock on hand and going out of business. (Prior Code §6.12.)

5.52.130 Jewelry and Furs - Permit Required - Conditions.

An applicant desiring to obtain a permit for the purpose of holding an auction under Section 5.52.120 shall file, together with the application form set forth in Section 5.52.190, a sworn statement, attesting to the facts that he has conducted the business of selling jewelry or furs at retail for the period of at least a year in the City, that the purpose of the auction is to close out the applicant's stock in trade, and that the jewelry or furs to be sold form a bona fide part of the applicant's stock in trade. The statement shall be accompanied by an inventory of the goods to be auctioned off, itemizing in detail the quality and wholesale price of each item of goods, together with the original date of purchase of each item. It shall be a condition of the granting of a permit for the purpose of holding such a sale that the books and accounts of the merchant shall be made available to the Tax and Permit Inspector or his deputies upon demand and refusal to permit inspection of the books and records shall be grounds for refusal of the permit. (Prior Code §6.13.)

5.52.140 Jewelry and Furs - Labeling Articles.

In the event of any closing-out sale of jewelry or furs, it shall be unlawful to sell any article, unless there is attached to each article a tag, card or label upon which shall be plainly written in the English language, in the case of jewelry, a true and correct statement of the kind and quality of the material of which the article is composed, whether the article is or is not plated, the true name and quality of any precious or semi-precious gems incorporated in the article, and whether the gems are natural or synthetic; and if the article be a watch or clock, the true name of the manufacturer thereof. If all or any portion of the movement or case of the watch or clock is used or secondhand, that fact shall be noted on the tag. If the articles being sold are furs or garments composed in whole or part of furs, the card or tag shall state the quality of the furs, together with the true name of the animal from which the fur was taken. Such card or tag shall be securely affixed to the article while the article is on display prior to the sale, and shall remain so affixed until the article is delivered into the hands of the purchaser, and shall be read to the audience when such article is offered for sale; and any inaccuracies in the information contained on the card or tag shall be deemed prima facie evidence of intent to defraud the purchaser of the article to which it is affixed. (Prior Code §6.14.)

5.52.150 Exemptions - Generally.

Nothing contained in this chapter shall apply to any sale made upon execution or by virtue of any process issued by a court, not to any sale made by any public officer in his official capacity required to be made under the laws of the United States or the State, or under the ordinances of the County, or any sale conducted under the provisions of the Uniform Warehouse Receipts Act; nor to any auction of livestock, nor any sale made under a nonstatutory assignment for the benefit of creditors generally, which sale shall be conducted by an auctioneer permitted pursuant to this chapter where the sale is limited to the stock in trade and fixtures on the premises in the City at the time of the assignment and where the sale is held on the premises. (Prior Code §6.15.)

5.52.160 Exemptions - Executors, Public Officers, Etc.

The provisions of this chapter shall not be applicable to trustees in bankruptcy, executors, administrators, receivers or public officers acting under judicial order or process; provided, there shall, prior to their acting, first be filed with the Tax and Permit Inspector of the City, a statement under oath, stating the name of the court and proceeding in which the order or process under which they are acting was obtained and stating the date thereof. (Prior Code §6.16.)

5.52.170 Permit Required.

It shall be unlawful for any person to hold himself out as an auctioneer, or to conduct or cause to be conducted an auction, unless such person shall have previously obtained a permit as provided in Section 5.52.190 (Prior Code §6.17.)

5.52.180 Permit Duration.

An auctioneer's permit shall be good for a period of one (1) year from the date of its issue; provided, however, that it may be revoked at any time for violation of any of the terms of this chapter, or in the event that the permittee is convicted of a felony. (Prior Code §6.18.)

5.52.190 Permit - Application - Information to be Shown.

Application for an auctioneer's permit shall be made in writing upon forms provided therefor to the Tax and Permit Inspector of the City at least thirty (30) days prior to the date of holding any auction. Each application shall be verified, and shall contain:

(1) The name, address and principal place of business of the applicant;
(2) The nature of the business and the length of time he has been engaged in it;
(3) The place at which the auction is to be held and the type of merchandise to be sold;
(4) Whether or not he has even been convicted of a felony or misdemeanor other than traffic violations, and the nature of the felony or misdemeanor;
(5) The names and addresses of three (3) character references living in the County of his residence. (Prior Code §6.19.)

5.52.200 Permit Application - Bond.

Each application for an auctioneer's permit must be accompanied by a bond in the principal amount of at least two thousand five hundred dollars ($2,500.00), the form of which shall be approved by the City Attorney, with one (1) or more sureties thereon, to be approved by the City Attorney. The condition of each bond must be substantially such, that the principal named will faithfully conform to each and all of the ordinances of the City and each and all of the laws of the State, whether then in force or which may thereafter be adopted, relating to auctions or the business of auctioneers, and the prevention of fraudulent practices in general. The bond shall provide that the principal and surety named in the bond, and their heirs, executors, administrators, successors and assigns shall be jointly and severally bound unto the City and unto any and every person aggrieved or damaged by a breach of the condition of the bond, and the bond shall provide that the bond shall not be void upon the first recovery, but may be sued and recovered upon from time to time, by the City or any person aggrieved or damaged in his own name, until the whole penalty is exhausted; and the life of the obligation of such bond shall be made such that it will continue for such length of time as such permit remains in force and effect. (Prior Code §6.20.)

5.52.210 Permit Application - Denial - Appeal.

If, upon investigation of the applicant for an auctioneer's permit, it shall appear that the applicant is not a person of good moral character, or that he has knowingly falsified any statement in his application, the Tax and Permit Inspector shall refuse to approve the permit; and, in the event that the permit is refused, the applicant may appeal pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Prior Code §6.21.)

5.52.220 Permit - Fee - Renewal.

At the time of application, the applicant for an auctioneer's permit shall pay the sum of twenty-five dollars ($25.00). If the applicant has not for the period of six (6) months immediately preceding his original application been a resident of the County, he shall pay in addition at the time of his original application, but not upon subsequent, renewal applications, the sum of fifty dollars ($50.00), which sum shall be used to defray the cost of investigating the truth of the statements made in the application, and the references of the applicant. Renewal of any permit required by this chapter shall be promptly applied for at the expiration date thereof. Should application for a renewal permit be made more than ten (10) days following the expiration date of the permit, then a fifty percent (50%) penalty charge to defray the cost to follow up shall be required for the renewal, in addition to the permit cost. (Prior Code §6.22.)

CHAPTER 5.62

CABLE TELEVISION COMMUNICATIONS FRANCHISES

Sections:

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5.62.010 Definitions.

A. **DEFINED TERMS.** The various terms and phrases used in this Chapter are defined as follows:

(For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.)

1. **Administrative Officer.** The City Administrator or the City Administrator's designee.
2. **Agency Subscriber.** A subscriber who receives a Service in a government or public agency, school, or non-profit corporation facility.
3. **Affiliated Person (or Affiliates).** Each Person who falls into one or more of the following categories:
   a. each Person having, directly or indirectly, a Controlling Interest in Grantee;
   b. each Person in which Grantee has, directly or indirectly, a Controlling Interest;
   c. each officer, director, general partner, limited partner holding an interest of five percent (5%) or more, joint venturer, or joint venture partner in Grantee's Cable System in the City; and
   d. each Person, directly or indirectly, controlling, controlled by, or under common Control with Grantee; provided that Affiliated Person excludes the Grantor, any limited partner holding an interest of less than five percent (5%) in the Grantee, or any creditor of Grantee, solely by virtue of its status as a creditor, and which is not otherwise an Affiliated Person by reason of owning a Controlling Interest in, being owned by, or being under common ownership, common management, or common Control with Grantee.
4. **Basic Service, Basic Cable Service or Basic Service Tier.** The lowest Service Tier which includes the retransmission of local television Broadcast Signals and Public, Government, and Education Access Channels.
5. **Broadcast Signal.** A signal transmitted over the air to a geographically dispersed public audience and received by a Cable System.
6. **1984 Cable Act.** The Cable Communications Policy Act of 1984.
7. **1992 Cable Act.** The Cable Television Consumer Protection and Competition Act of 1992.
8. **Cable Act.** The 1984 Cable Act as amended by the 1992 Cable Act and by the Telecommunications Act of 1996.
9. **Cable Operator.** Any person or group of persons who either: a. provides cable service over a cable system and directly or through one or more affiliates owns a controlling interest in such cable system, or b. otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.
10. **Cable Service.** The one-way transmission to Subscribers of: a. video programming, or b. other programming service; or, c. subscriber interaction in conjunction with the one-way transmission of video programming or other programming services which is required for the selection of or use of such video programming or other services.
11. **Cable System or Cable Communications System or System.** A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include the following: a. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; b. a facility that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; c. a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Cable Act, except that such facility shall be considered a cable system [other than for purposes of section 621(c)] to the extent such facility is used in the transmission of video programming directly to subscribers; or d. any facilities of any electric utility used solely for operating its electric utility system.

12. **Cablecast Signal.** A non-broadcast signal that originates within the facilities of the Cable System, whether from a live or recorded source.

13. **City.** The City of Santa Barbara.

14. **Closed Circuit or Institutional Service.** Services provided to institutional users on an individual or collective basis. The information contained in such a service may or may not be simultaneously available to other sys-tem Subscribers or users.

15. **Channel.** A frequency band capable of carrying a standard video signal or some combination of video signals, or a frequency band assigned to carry a non-standard video signal or some combination of such video signals.

16. **Commercial Subscriber.** A Subscriber who receives a Cable Service in a place other than a residential dwelling unit.

17. **Complaint.** Any situation involving a dispute or in which a Subscriber notifies Grantee of an outage or degradation in picture quality or billing concern which is not corrected during the initial telephone or service call.

18. **Control or Controlling Interest.** Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments, or negative control, as the case may be, of the Cable System or the Grantee. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly or indirectly, by any Person or group of Persons acting in concert (other than underwriters during the period in which they are offering securities to the public) of twenty percent (20%) or more of any Person (which Person or group of Persons is referred to as "Controlling Person"), or being a party to a management contract.

19. **Converter or Terminal.** A device which converts signals from one frequency to another or otherwise processes signals for use by Subscribers excluding, however, cable-ready television sets and VCRs which are not offered for sale or lease by the cable operator.

20. **Drop.** The cable and related equipment connecting the Cable System's plant to equipment at the Subscriber's premises.

21. **Education Channel.** Any channel where non-profit educational institutions are the primary designated programmers.

22. **FCC.** The Federal Communications Commission or its designated representatives.

23. **Franchise.** A written legal undertaking or action of the Grantor which authorizes a specific Person to use the Grantor's streets and public ways for the purpose of installing, operating and maintaining a Cable Communications System to provide Cable Service.

24. **Government Channel.** Any channel where local government agencies are the primary designated programmers, and programming is non-commercial informational programming regarding government activities and programs.

25. **Grantee.** The Person to which a Franchise is granted for the construction, operation, maintenance, and re-construction of a Cable System and the lawful successors, transferees, or assignees of that Person.

26. **Grantor.** The City, acting by and through its elected governing body, or such representative as the governing body may designate to act on cable matters in its behalf.

27. **Gross Annual Revenue or Gross Annual Receipts or Gross Receipts.** All revenue, as determined in accordance with Generally Accepted Accounting Principles, which is received, directly or indirectly, by Grantee and by each Affiliated Person from or in connection with the distribution of any Cable Service, and any other Service which may, under now or then applicable federal law, be included in the Cable Act definition for the purpose of calculating and collecting the maximum allowable franchise fee for operation of the System, whether or not authorized by any Franchise, including, without limitation, leased or access channel revenues received, directly or indirectly, from or in connection with the distribution of any Cable Service. It is intended that all revenue collected by the Grantee, and by each Affiliated Person, from the provision of Cable Service over the System, whether or not authorized by the Franchise, be included in this definition.

Gross Annual Revenue specifically includes, but is not limited to, the following:

a. any revenue received, as reasonably determined from time to time by the Grantor, through any means which is intended to have the effect of avoiding the payment of compensation that would otherwise be paid to the Grantor for the Franchise granted. Gross Annual Revenue also includes any bad debts recovered. Gross Annual Revenue also includes all advertising revenue which is received directly or indirectly by Grantee, any Affiliated Person, or any other Person from or in connection with the distribution of any Service over the System or the provision of any Service-related activity in connection with the System, including all revenue paid to, directly or indirectly, home shopping channels and networks.

b. the fair market value of any nonmonetary (i.e., barter) transactions between Grantee and any Person, other than an Affiliated Person, but not less than the customary prices paid in connection with equivalent transactions;

c. the fair market value of any nonmonetary (i.e., barter) transaction between Grantee and any Affiliated Persons but not less than the customary prices paid in connection with equivalent transactions conducted with Persons who are not Affiliated Persons; and

Gross Annual Revenue does not include the following:

a. the revenue of any Person to the extent that said revenue is also included in the Gross Annual Revenue of Grantee;

b. utility user and sales taxes imposed by law on Subscribers which Grantee is obligated to collect; and

c. amounts which must be excluded pursuant to applicable law.

28. **Headend.** That central portion of the System where signals are introduced into and received from the balance of the System.

29. **Institutional Network or Institutional System.** A System or portion of a System intended primarily to service non-residential Subscribers.

30. **Lease Channel.** Any channel where someone other than Grantor or Grantee is sold the rights to air programming.

31. **Local Origination Channel.** Any channel where the Grantee is the primary designated programmer.

32. **Monitoring or Tapping.** Observing or receiving a signal, where the observer is neither the sending nor receiving party and is not authorized by the sending or receiving party to observe said signal, whether the signal is observed or received by visual, electronic, or any other means whatsoever.

33. **Non-Broadcast Signal.** A signal that is not involved in over-the-air broadcast for general public reception.

34. **Pay Cable, Pay Service, Premium-Service or Pay Television.** Signals for which there is a per channel or per use fee or charge to users over and above the charge for Basic Service.

35. **PEG Channel.** A Public, Education or Government channel.

36. **Person.** A corporation, partnership, proprietor-ship, individual, or organization authorized to do business in the State of California.

37. **Plant.** The transmitting medium and related equipment which transmits signals between the Headend and Subscribers.

38. **Pole Attachment Agreement or Attachment Agreement.** An agreement with the Grantor, any other governmental entity, or any public utility relating to the Grantee's use of any utility poles, ducts, or conduits.

39. **Program or Programming.** The information content of a signal, whether that content is intended to be pictures and sound, or sound only.

40. **Programmer.** Any Person who provides program material or information for transmission by means of a System.

41. **Property of Grantee.** All property owned or leased within the Franchise Service Area by Grantee in the conduct of its System business under a Franchise.

42. **Public Channel, Access Channel, Community Service Channel or Community Channel.** A channel for which members of the public, or any community organization, may provide non-commercial, non-advertiser supported programming provided, however, sponsorship identification fees may be paid and accepted to further community programming.

43. **Resident.** A person residing in the Franchise Service Area, or as otherwise defined by applicable law.

44. **Residential Dwelling Unit or Dwelling Unit.** A home, mobile home, condominium, apartment, cooperative unit, and any other individual dwelling.

45. **Residential Subscriber.** A Subscriber who receives a Service in a Dwelling Unit.

46. **Service.** A service or type of benefit provided by Grantee, or any group of related benefits obtained or made available to any person, involving the use of a signal transmitted via a Cable Communications System, whether the signal and its content constitute the entire service or comprise only a part of a service which involves other elements of any number or kind.

47. **Service Area or Franchise Service Area.** The entirety of the City of Santa Barbara.

48. **Service Interruption.** The loss of picture or sound on one or more cable channels.

49. **Service Tier or Tier.** As defined in Section 602.17 of the Cable Act, as enacted as of the date of the adoption of this ordinance or hereinafter amended.

50. **Streets and Public Ways.** The surface of and the space above and below, any public street, sidewalk, alley, wharf, dock, or other public way or right-of-way of any type whatsoever.

51. **Subscriber.** A Person electing to subscribe to, for any purpose, a Service provided by Grantee by means of or in connection with its Cable System.

52. **Telecommunications Act.** The Telecommunications Act of 1996.

53. **Unit.** A discrete place where Services are used, such as a residence, apartment, office, store, etc.

54. **User(s).** A Person who either receives Services from a Cable System or who accomplishes any purposes by, in part or in whole, transmitting or receiving information via a Cable System.

B. **UNDEFINED TERMS; USAGE.** Words, terms, or phrases not defined herein shall first have the meaning as defined in the Cable Act, and then the special meanings or connotations used in any industry, business, trade, or profession where they commonly carry such special meanings. If those special meanings are not common, they will have the standard definitions as set forth in commonly used and accepted dictionaries of the English language. (Ord. 5004, 1997.)

5.62.020 Cable and Related Service Franchises.

A. **AUTHORITY TO GRANT FRANCHISES.** Pursuant to the authority of City Charter Article XIV, the Grantor may grant a Franchise to provide Cable Service to any Person who offers to provide a System pursuant to this Chapter.

B. **FORM.** A Franchise may, at Grantor's sole option, take the form of an ordinance, license, permit, contract, resolution, or any other form elected by Grantor.

C. **GRANTS NOT REQUIRED.** Consistent with applicable state and federal law, no provision of this Chapter requires the granting of a Franchise when, in the opinion of the Grantor, it is in the public interest not to do so.

D. **PURPOSE.** The purpose of a Franchise is to identify and authorize the operation of a Cable Communications System by a specific Grantee, and to identify and specify those terms, conditions, definitions, itemizations, specifications and other particulars of the agreement between the Grantor and Grantee. In so doing, a Franchise may clarify, extend, and interpret the pro-visions of this Chapter. Where a Franchise and this Chapter conflict, both shall be liberally interpreted to achieve a common meaning or requirement. In the event this is not possible within reasonable limits, the Franchise (together with the provisions of the authorizing ordinance) shall prevail. Unless otherwise specifically stated, no provision of this Chapter shall be deemed to be contractually incorporated into any Franchise granted hereunder.

E. **COMPLIANCE WITH LAW.** Neither this Chapter nor a Franchise granted under it relieves Grantee of any requirement of Grantor, or of any ordinance, rule, regulation, or specification of Grantor now or hereafter in effect pursuant to Grantor's police power, including, but not limited to, the obtaining of a business license, and the payment of all permit and inspection fees required from time to time by the Grantor.

F. **FRANCHISE NON-EXCLUSIVE.** Grantor may, at its option, grant one or more Franchises to construct, operate, maintain, and reconstruct a System. Said Franchises shall constitute both a privilege and an obligation to provide the System and Services required by this Chapter and the Franchise.

G. **DURATION.** The term of any Franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall be specified in the Franchise. The effective date of any Franchise shall be as specified in the Franchise.

H. **USE OF PUBLIC STREETS AND RIGHTS-OF-WAY.** For the purposes of operating and maintaining a System in the franchised Service Area, a Grantee may place and maintain within the public rights-of-way such property and equipment as are necessary and appurtenant to the operation of the Cable Communications System. Prior to construction or alteration of the Plant in public rights of way, the Grantee shall apply for, pay all applicable fees, and receive all necessary permits.

I. **USE OF OTHER UTILITIES.** Any Person who provides a System or Services as defined herein shall be deemed a Grantee and must obtain a Franchise. If such Grantee uses distribution channels furnished by any telephone company, other public utility, or any other entity which are functionally equivalent to those used by a Cable Operator, said Grantee shall be required to com-ply with all of the provisions of this Chapter.

J. **ASSIGNMENT, TRANSFER OR SALE OF FRANCHISE.** There shall be no assignment of a Franchise, in whole or in part, or any change in Control of the Grantee without the prior express written approval of the Grantor. Any assignment or transfer, or any change in Control, without the Grantor's prior written consent shall constitute a default which will cause a Franchise to terminate.

1. **Prior Written Request.** At least one hundred twenty (120) days before a proposed assignment or change in Control of the Franchise is scheduled to become effective, the Grantee shall request in writing the Grantor's written consent. The Grantee shall submit to the Grantor a written application in a form specified by relevant federal or state law, or, in the absence of such specification, in a format specified by the Grantor together with:

a. any other information or documentation required by the State or Federal government (including the FCC);

b. the declaration required by subsection J(5) below;

c. unedited and unredacted copies of the sale or transfer documents with all schedules and exhibits thereto; and

d. information regarding the financial ability and stability of the proposed assignee with respect to being able to perform all obligations of the existing Franchise.

2. **Standard of Reasonableness.** The Grantor shall not unreasonably withhold its consent to such an assignment or change in control. However, in evaluating the request for assignment, transfer, sale, or change in Control, the Grantor may, in its sole discretion and among other things, undertake a technical inspection and audit of the System to determine whether the System complies with all applicable technical and safety codes, and with this Chapter and the Franchise.

3. **Lack of Compliance.** If the Grantor determines (as a result of the technical inspection and audit) that the System does not comply with federal, state, or local standards, then the Grantee shall be provided with an opportunity to correct or cure the non-compliance. In the alternative, the Grantor may work with both the current and proposed Grantee to cure the non-compliance.

4. **Review of Operational Reports.** If the Grantee has not previously supplied the Grantor with certain operational reports and data, then the Grantee shall submit to the Grantor the following reports at the time it submits the report required pursuant to subsection 5.62.020(J)(1) above:

a. FCC Form 395-A relating to equal employment opportunity and fair contracting policies or a form specified by relevant federal or state law or, in the absence of such specification, in a format specified by the Grantor;

b. Periodic revenue statements in the format referenced in this Chapter; and

c. Subscriber logs in the format referenced in Section 5.62.040(E) of this Chapter.

5. **Written Acknowledgment of Franchise.** Before an assignment or change in Control is approved by the Grantor, the proposed assignee, transferee, or buyer shall execute a declaration acknowledging that it has read, understood, and will abide by both this Chapter and the applicable Franchise.

6. **Assumption of Franchise Obligations.** In the event of any approved assignment or change in Control, the assignee or transferee shall assume all obligations and liabilities of the former Grantee relating to the Franchise unless specifically relieved by the Grantor at the time the assignment or change in Control is approved.

7. **Disapproval.** If the Grantor disapproves a request for consent, then the Grantee may submit another request or an amended request for consent. In such a situation, the one hundred twenty (120) day time-frame begins to run anew.

8. **Reimbursement of Processing and Review Costs for Transfers and Renewals.** To the extent not prohibited by applicable law, Grantee shall reimburse Grantor for Grantor's reasonable processing and review expenses in connection with a transfer of the Franchise or a change in Control of the Franchise, including without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee, costs of consultants (including technical and legal experts), notice and publication costs, and document preparation expenses. In addition, prior to any transfer or change in Control, Grantee shall reimburse Grantor for all of Grantor's expenses in connection with evaluating or negotiating a renewal of Grantee's franchise, whether or not said renewal was ever finalized or granted. Grantor may send Grantee an itemized description of all such charges, and Grantee shall pay such amount within twenty (20) days after the receipt of such description. Any such reimbursement shall not be charged against any franchise fee due to the Grantor during the term of the franchise.

9. **Violation.** If the Grantee violates any provision of subsection J of this Section 5.62.020, the Franchise shall automatically terminate. The procedures contained in Section 5.62.100 shall not apply to an unlawful transfer or change in Control, and the Franchise shall automatically terminate upon the occurrence of such a violation. (Ord. 5004, 1997.)

5.62.030 Rights Reserved to the Grantor.

A. **RESERVATION OF RIGHTS.** Grantor reserves every right it may have in relation to its power of eminent domain over Grantee's Franchise and property.

B. **NON-WAIVER.** Neither the granting of any Franchise, nor any provisions of this Chapter, shall constitute or be construed as a waiver or bar to the exercise of any governmental right or power by Grantor.

C. **DELEGATION OF POWERS.** Any right or power in, or duty retained by or imposed upon Grantor, or any commission, officer, employee, department, or board of Grantor, may be delegated by Grantor to any officer, employee, department or board of Grantor, or to such other person or entity as Grantor may designate to act on its behalf.

D. **RIGHT TO INSPECT CONSTRUCTION.** The Grantor shall have the right to inspect all construction, installation, or other physical work performed by Grantee in connection with the Franchise, and to make such tests as may be necessary to ensure compliance with the terms of this Chapter and the Franchise, so long as said inspection and testing does not unreasonably interfere with Grantee's operations.

E. **RIGHT TO REQUIRE REMOVAL OF PROPERTY.** Consistent with applicable law, at the expiration of the term or any renewal term or extension for which the Franchise is granted, or upon its lawful revocation, expiration, or termination, the Grantor shall have the right to require the Grantee to remove, at Grantee's expense, all portions of its System and any other property from all streets and public rights-of-way within the Franchise service area within a reasonable period of time.

F. **RIGHT OF INTERVENTION.** The Grantor shall have the right of intervention in any suit, proceeding or other judicial or administrative proceeding in which the Grantor has any material interest, and to which the Grantee is party.

G. **PLACE OF INSPECTION.** The Grantor shall have the right to inspect Grantee's local premises, and to request copies of all relevant information that is reasonably necessary for the exercise of Grantor's regulatory authority, upon reasonable notice at any time during normal business hours. Any Grantee records kept at another place shall, within ten (10) days of Grantor's request, be made available at Grantee's local premises within the County of Santa Barbara for Grantor's inspection and copying. All reports and records required pursuant to this Chapter shall be furnished at the sole expense of Grantee, except as otherwise provided in this Chapter or the Franchise. (Ord. 5004, 1997.)

5.62.040 Rights of Subscribers.

A. **DISCRIMINATORY PRACTICES PROHIBITED.** The Grantee shall not deny Cable Service or otherwise discriminate against Subscribers or others on the basis of race, color, religion, national origin, sex, age, handicap, or other protected classes. The Grantee shall strictly adhere to the equal employment opportunity requirements of federal, state, or local governments and shall comply with all applicable laws and executive and administrative orders relating to non-discrimination.

B. **TAPPING AND MONITORING.** The Grantee shall not tap or monitor, or permit any other person controlled by Grantee to tap or monitor, any cable, line, signal input device or subscriber outlet or receiver, for any purpose whatsoever without the express written consent of the Subscriber or a court order therefor; provided, however, that the Grantee may monitor customer service calls for quality control purposes and may conduct system-wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return path transmission, or checking for unauthorized connections to the Cable Television System, service levels, or billing-for-pay services.

C. **DATA COLLECTION.**

1. **Confidentiality of Customer Preferences.** Except for its own use, or in connection with the provision of Cable Services or for release of data to the Grantor, the Grantee shall not permit its system to be used for data collection purposes, nor shall it otherwise collect data which would reveal the commercial product or other preferences or opinions of an individual Subscriber, members of their families, or their guests, licensees or employees, unless the Grantee shall have received the prior written consent of such Subscriber.

2. **Release of Aggregate Data Only.** In any event, the Grantee shall not disclose or permit the release or sale of data on individual Subscribers or groups thereof, but may disclose or permit the release or sale of aggregate data only.

D. **DISCLOSURE OF SUBSCRIBER PREFERENCES.**

1. Grantee shall not disclose individual Sub-scriber preferences, viewing habits, beliefs, philosophy, creeds, or religious beliefs to any third person, firm, agency, governmental unit, or investigating agency without court authority or the prior written consent of the Subscriber.

2. Such written consent, if given, shall be limited to a period of time not to exceed one year, or a term agreed upon by the Grantee and the Subscriber.

3. The Grantee shall not condition the delivery or receipt of Cable Services to any Subscriber on any such consent.

4. A Subscriber may revoke, without penalty or cost, any consent previously given by delivering to the Grantee in writing a statement of the Subscriber's intent to so revoke.

E. **DISCLOSURE OF SUBSCRIBER LISTS.** The Grantee shall not disclose, or sell, or permit the disclosure or sale of its sub-scriber list without the prior written consent of each Subscriber on such list; however, Grantee may use its subscriber list as necessary for the construction, marketing, and maintenance of the Grantee's services and facilities authorized by a Franchise, and the billing of Subscribers for Cable Services and Grantor may use Grantee's subscriber list for the purpose of communication with Subscribers in connection with matters relating to the operation, management, and maintenance of the Cable System.

F. **OTHER PERSONS AFFECTED.** The prohibitions contained in paragraphs A through E, inclusive, of this Section apply to Grantee, as well as to all of the following:

1. Officers, directors, employees, agents and General and Limited Partners of the Grantee;

2. Any person or combination of persons owning, holding, or controlling twenty percent (20%) or more of any corporate stock or other ownership interests in the Grantee;

3. Any affiliated or subsidiary entity owned or controlled by Grantee, or in which any officer, director, stockholder, general, or limited partner, or person or group of persons owning, holding or controlling any ownership interest in the Grantee, shall own, hold or control twenty percent (20%) or more of any corporate stock or other ownership interests; and

4. Any person, firm, or corporation acting or serving in the capacity of a holding or controlling company of the Grantee.

G. **SUBSCRIBER NOTICE OF RIGHTS.** Grantee shall provide to all Subscribers, at the time of initial connection and annually thereafter, a notice describing, in understandable language, the Subscriber's rights and obligations that are generally provided under the Franchise and federal law, including a description of how to contact the Grantee and, if necessary, the Grantor, in the event of an unresolved Subscriber complaint.

H. **NOTICE TO NEW SUBSCRIBERS.** Before providing Cable Service to any Subscriber, Grantee shall provide a written notice to the Subscriber containing substantially the following information:

"Subscriber understands that Company uses public rights-of-way and other facilities of the City of Santa Barbara in providing service and that this continued use cannot be guaranteed. Subscriber agrees not to make any claims against the City of Santa Barbara or its officers or employees in the event that such use is denied for any reason, and Company is unable, in its discretion, to provide service over alternate routes."

I. **COMPLAINT ADVICE.** Grantor may require Grantee to advise its Subscribers that complaints of poor service should be made to Grantor's representative if such complaints are not resolved by Grantee to the satisfaction of a Subscriber. (Ord. 5004, 1997.)

5.62.050 Finance.

A. **PAYMENTS TO THE GRANTOR.**

1. **Franchise Fee.** As compensation for any Franchise to be granted, and in consideration of permission to use the Grantor's streets and public rights-of-way for the construction, operation, maintenance, and reconstruction of a System, the Grantee shall pay to the Grantor the amounts specified in the Franchise.

2. **Monthly Payments and Reports.** Payments due the Grantor shall be computed on a monthly basis and shall be paid to Grantor within fifteen (15) days after the close of each month. The payment shall be accompanied by a report showing the basis for the computation and such other relevant facts as may be required by the Grantor to determine the accuracy of the payment. A final annual reconciliation, and payment if any, shall be delivered to Grantor by Grantee within ninety (90) days after the end of each calendar year.

3. **Late Payments and Reports.** If any franchise payment or recomputed amount is not made on or before the dates specified above in subsection 2, Grantee shall pay as additional compensation the greater of the following:

a. An interest charge, computed from the applicable due date, at an annual rate equal to the prevailing commercial prime interest rate in effect upon the due date, plus one percent (1%).

b. A sum of money equal to ten percent (10%) of the overdue amount for each month, or part thereof, of delay, which sum shall also bear interest from the due date at an annual rate equal to the prevailing commercial prime interest rate in effect upon the due date, plus one percent (1%).

4. **Late Penalty.** In addition to any late payment made pursuant to subsection 3 above, if a payment is late by sixty days or more, Grantee shall pay a sum of money equal to five percent (5%) of the amount due in order to defray additional expenses and costs incurred by Grantor as a result of such delinquent payment.

5. **No Release.** No acceptance of any payment shall be construed as a release of, or an accord, or satisfaction of, any claim that the Grantor might have for further or additional sums payable under the terms of this Chapter, or for any other performance by Grantee of an obligation hereunder.

6. **Not Taxes, Fees, or Assessments.** Payments of compensation made by a Grantee to the Grantor pursuant to the provisions of this Chapter are in addition to, and exclusive of, any and all authorized taxes, business license fees, and other fees, levies, or assessments now in effect, or subsequently adopted.

B. **SECURITY FUND.**

1. **Cash Security.** Within thirty (30) days after the effective date of the Franchise, the Grantee shall deposit into a bank account established by the Grantee, for the benefit of Grantor, and shall maintain on deposit through the term of the Franchise, a sum specified in the Franchise as security for the faithful performance by Grantee of all of the provisions of the Franchise, and compliance with this Chapter and with all orders, permits and directions of the Grantor, or any designated representative of the Grantor having jurisdiction over Grantee's acts or defaults under the Franchise or this Chapter, and as security for the payment by the Grantee of any claims, fees, liens, or taxes due the Grantor which arise by reason of the construction, operation or maintenance of the System pursuant to the Franchise or this Chapter, and to satisfy any actual or liquidated damages arising out of a Franchise breach.

2. **Use of Security Deposit.** Except as otherwise provided in the Franchise, if the Grantee fails, after twenty (20) days written notice, to pay to the Grantor any fees that are due and unpaid, or fails to repay within such twenty (20) days, any damages, costs or expenses which the Grantor is compelled to pay by reason of any act or default of the Grantee in connection with its Franchise; or if Grantee fails to comply with any provision of the Franchise or this Chapter and the Grantor determines that such failure was without just cause and, in a manner consistent with the procedures specified in Section 5.62.130 of this Chapter, Grantor reasonably determines it can be remedied by a withdrawal from the security fund or is nevertheless subject to liquidated damages, then, in any such event, the Grantor may immediately withdraw the amount thereof from the security fund, with interest and any liquidated damages. Upon such withdrawal, the Grantor shall notify the Grantee of the amount and the date of withdrawal.

3. **Restoration of Security.** Within thirty (30) days after notice to Grantee that any amount has been withdrawn by Grantor from the security fund, the Grantee shall deposit a sum of money sufficient to restore such security fund to the original amount.

4. **Release of Security.** Grantee shall be entitled to the return of the security fund, or portion thereof, with interest, that remains on deposit at the expiration or termination of the Franchise, once all amounts due to the Grantor have been paid. Grantee shall also retain its right to challenge any withdrawal from such security fund.

5. **Rights not Exclusive.** The rights reserved to the Grantor with respect to the security fund are in addition to all other rights of the Grantor, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the Grantor may have.

C. **FAITHFUL PERFORMANCE BOND.** Within thirty (30) days after the effective date of the Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond in favor of the Grantor, with corporate surety approved by the Grantor (which approval shall not be unreasonably withheld) in the sum specified in the Franchise and conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of the Franchise; provided, however, that such bond shall not be required after certification by Grantor of the completion of construction of Grantee's Cable System. The corporate surety must be authorized to issue such bonds in the State of California, and the bond must be obtained and secured through an authorized agent within the state of California only. During the course of construction, the amount of the bond may from time to time be reduced, as provided in the Franchise. Written evidence of payment of premiums shall be filed with the Grantor.

D. **LETTER OF CREDIT.**

1. **Bank Letter of Credit.** At the option of the Grantor, the Grantee may be authorized, in lieu of creating a Security Fund or obtaining a Faithful Performance Bond, to post an irrevocable letter of credit, issued by a bank approved by the Grantor, in the amount specified in the Franchise. Said letter of credit shall incorporate wording approved by the Grantor enabling it to draw from time to time such funds as the Grantor may determine to be necessary to satisfy any material defaults of Grantee or to make any payments due Grantor under or in connection with this Chapter or Grantee's Franchise, upon ten (10) days written notice to the issuer of the letter of credit. Said letter of credit shall further provide for sixty (60) days written notice by certified mail from its issuer to Grantor of any pending expiration or cancellation, and said notice shall without further cause constitute reason for the Grantor to draw the full sum to be held in its own accounts until such letter of credit is re-established in a form satisfactory to Grantor.

2. **Letter of Credit Fees.** If Grantor requires such a letter of credit, Grantee shall pay all fees or other charges required to keep it in force and shall, within thirty (30) days of any draw by Grantor, restore its face value to the original amount.

3. **Applicability of Prior Security Provisions.** All provisions herein applicable to bonds or security funds shall also apply to letters of credit. (Ord. 5004, 1997.)

5.62.060 Services.

A. **SERVICES TO BE PROVIDED.** A Cable System shall provide, as a minimum, the broad programming categories specified in the Franchise.

B. **CHANGES IN SERVICES.** Grantee shall inform Grantor and its Subscribers at least thirty (30) days in advance of making any change in a Cable Service, or in the rates charged therefor, unless Grantor agrees to waive this requirement in writing.

C. **NON-DISCRIMINATION.** Grantee shall not discriminate between or among Subscribers within one type or class in the availability of services, at either standard or differential rates according to published rate schedules, except as otherwise authorized by law. No charges may be made for services except as listed in published schedules which are available for inspection by anyone at Grantee's office, quoted by Grantee on the telephone, or displayed or communicated to all potential Subscribers.

D. **PREPAYMENT.** Grantee may not charge Subscribers for services more than one (1) month in advance unless an individual Subscriber requests a longer period. Bills may be due and payable upon mailing but shall not be delinquent, and no late charge penalties shall be assessed, until the later of: (i) twenty-two (22) days from postmark; or (ii) service has actually been provided for the billed period. All bills and billing statements shall clearly indicate the billing period, the actual due date, and the delinquent or late payment or assessment.

E. **DISCONNECT FOR CAUSE.** Grantee may disconnect a Subscriber only for cause, which shall include, without limitation, the following:

1. Payment delinquency in excess of forty-five (45) days after the delinquent bill was mailed to the Subscriber.
2. Willful or negligent damage to or misappropriation of Grantee's property.
3. Monitoring, tapping, or tampering with Grantee's system, signals, or service.
4. Threats of violence to Grantee's employees or property.

F. **RECONNECTION.** Grantee shall, upon Subscriber's written request, reconnect service which has been disconnected for payment delinquency when payment has removed the delinquency. If authorized by applicable law, a published standard charge may be made for reconnection. Grantee shall not be required to make more than three (3) reconnections for the same subscriber if the disconnections involved were caused by payment delinquency within any previous twenty-four (24) month period. Reconnection for disconnects covered by subsection E(2), E(3), or E(4) above shall be at Grantee's sole discretion.

G. **INSTALLATIONS.**

1. **Service within Franchise Service Area.** Grantee shall promptly provide and maintain service to the residential, commercial, and industrial structures as specified in the Franchise Service Area, as defined in the Franchise, upon request of the lawful occupant or owner.

2. **New Drops.** In the case of a new drop, Grantee shall advise each Subscriber that the Subscriber has the right to require that installation be done over any route on the Subscriber's property, and in any manner the Subscriber may elect which is technically feasible and consistent with proper construction practices. If the Subscriber requests installation other than a standard installation, then the Subscriber may be required to pay a reasonable fee for the time and materials occasioned by that installation.

3. **Standard Installation.** For purposes of this paragraph, a standard installation shall include installation of drop cable with fittings up to one hundred and fifty feet (150) feet from the CATV distribution system measured along the cable from the center line of the street or utility easement through the house wall or, at the Subscriber's option, through the floor from a house vent or crawl space directly to the Subscriber's television set with eight feet of cable from the wall or floor entry to the TV set. Also included as part of a standard installation is the grounding cable, fine tuning of the television set, and the provision by the Grantee of the appropriate literature and information.

4. **Time for Delivery of Service.** After Cable Service has been established by activating trunk or distribution cables for any area, Grantee shall provide Service to any person requesting Service in that area within seven days from the date of request, provided that the Grantee is able to secure all rights-of-way necessary to extend service to that potential Subscriber within that seven (7) day period on reasonable terms and conditions.

H. **NON-STANDARD INSTALLATIONS.** For each non standard drop installed, the Grantee may charge the subscriber for the cost of material and labor in excess of that for a standard drop. Grantee shall provide to each Subscriber a written estimate of all charges prior to installation and obtain Subscriber's written authorization in advance for all non-standard drop charges.

I. **CONVERTER/TERMINALS.** At such time as a converter or terminal is required for Subscribers to have access to all services on its System, Grantee shall make them available to Subscribers. Grantee may require each Sub-scriber who elects to install a converter or terminal to furnish a security deposit therefor.

1. **Property of Grantee.** Each converter or terminal device shall be and remain the property of the Grantee unless Grantor approves or requires its sale to the Subscriber. Grantee shall be responsible for maintenance and repair of all equipment owned by Grantee and may replace it as Grantee may from time-to-time elect, except that Subscriber shall be responsible for loss of or damage to any such device while in the Subscriber's possession.

2. **Return of Converter/Terminal.** Upon termination or cancellation of Sub-scriber's service, Subscriber shall promptly return Grantee's property to Grantee in the same condition as received, reasonable wear and tear excepted.

3. **Use of Security Deposit.** Grantee may apply the security deposit against any sum due from Subscriber for loss of or damage to such converter or terminal exceeding reasonable wear and tear. In the event that no security deposit has been required, the Grantee may charge the Subscriber for any such damage exceeding reasonable wear and tear.

4. **Return of Security Deposit.** If Grantee has no claim against the Subscriber's security deposit, Grantee shall return it, or the balance, to the Subscriber within twenty (20) days of return of the converter or terminal. (Ord. 5004, 1997.)

5.62.070 Design and Construction.

A. **SYSTEM CONSTRUCTION.** The System shall be constructed in accordance with the provisions of the Franchise.

B. **CONSTRUCTION COMPONENTS AND TECHNIQUES.** Construction components and techniques shall be in accordance with the Franchise and all applicable law.

C. **TECHNICAL AND PERFORMANCE STANDARDS.** Grantee shall construct, install, operate and maintain its System in a manner consistent with all applicable federal and state laws, and all applicable local ordinances, construction standards, construction specifications, governmental requirements, FCC technical standards, and any standards set forth in the Franchise.

D. **CONSTRUCTION CODES.** The Grantee shall strictly adhere to all building and zoning codes currently or here-after in force and shall obtain all necessary permits. The Grantee shall arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said property by any person. In the event of such interference, the Grantor may require the removal of the Grantee's lines, cables, and appurtenances from the property in question. Grantee shall give at least forty-eight (48) hours advance notice to all property owners and to the Grantor prior to installing any above-ground or underground structures upon easements located on private property. Grantee shall be a member of Underground Service Alert. Grantor shall not modify its construction requirements subsequent to the completion of construction so as to require reconstruction or retrofit unless the public health and safety so requires.

E. **SYSTEM CONSTRUCTION SCHEDULE.**

1. The Grantee shall begin to offer Cable Service and any other service authorized by the Franchise no later than the date specified in the Franchise.

2. The Grantee shall provide a detailed construction plan indicating progress schedule, area construction or reconstruction maps, test plan, and projected dates for offering service.

F. **GEOGRAPHICAL COVERAGE.** The Grantee shall construct the Cable System to service every Residential Dwelling Unit and other structures specified in the Franchise within the Franchise Service Area and any future annexations thereto (as defined and provided by the Franchise), with any exceptions requiring specific Grantor approval. Service shall be provided to Subscribers in accordance with the schedules specified in the Franchise. The route of separate cables serving institutional subscribers shall be as approved by Grantor and specified in the Franchise.

G. **CONSTRUCTION DEFAULT.** Upon the failure, refusal or neglect of Grantee to cause any construction, repair, or the terms of any building permit, or other necessary work to comply with the terms of the Franchise, thereby creating an adverse impact upon public safety, Grantor may (but shall not be required to) cause such work to be completed in whole or in part, and upon so doing shall submit to Grantee an itemized statement of costs. Grantee shall be given reasonable advance notice of Grantor's intent to exercise this power, and fifteen (15) days to cure the default. Grantee shall, within thirty (30) days of billing, pay to Grantor the actual costs incurred.

H. **VACATION OR ABANDONMENT.** In the event any street, alley, public highway, or portion thereof used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, upon reasonable notice the Grantee shall forthwith remove its facilities therefrom unless specifically permitted to continue the same. On the removal thereof Grantee shall restore, repair or reconstruct the area where such removal has occurred, to such condition as may be required by the Grantor, but not in excess of the original condition. In the event of any failure, neglect or refusal of the Grantee, after thirty (30) days' notice by the Grantor, to do such work, Grantor may cause it to be done, and Grantee shall, within thirty (30) days of billing, pay to Grantor the actual costs incurred.

I. **ABANDONMENT IN PLACE.** Grantor may, upon written application by Grantee, approve the abandonment of any property in place by Grantee, under such terms and conditions as Grantor may approve. Upon Grantor-approved abandonment of any property in place, Grantee shall cause to be executed, acknowledged, and delivered to Grantor such instruments as Grantor shall prescribe and approve, transferring and conveying the ownership of such property to Grantor.

J. **REMOVAL OF SYSTEM FACILITIES.** In the event that Grantee's plant is deactivated for a continuous period of thirty (30) days (except for reasons outside Grantee's control), without prior written notice to and approval by Grantor, then Grantee shall, at Grantor's option and demand, and at the sole expense of Grantee, promptly remove from any streets or other areas all property of Grantee. Grantee shall promptly restore the streets or other areas from which such property has been removed to its condition existing prior to Grantee's use thereof; provided that Grantee shall not be required to remove conduit from underground, where Grantor has determined no damage to the surface of any structures will result from such non--removal.

K. **MOVEMENT OF FACILITIES.** In the event it is necessary at Grantor's discretion, to temporarily move or remove any of the Grantee's property to accommodate construction activity or a project of the Grantor, Grantee, upon reasonable notice, shall move, at the expense of Grantee, its property as may be required to facilitate such public purpose. No such movement shall be deemed a taking of Grantee's property. Nothing herein shall limit the right of Grantee to seek reimbursement from any party other than Grantor.

L. **UNDERGROUNDING OF CABLE.** Cables shall be in-stalled underground at Grantee's cost where either electricity or telephone utilities are already underground pursuant to the Grantor's adopted undergrounding policy. Previously installed aerial cable shall be installed underground at Grantee's pro rata cost in concert with other utilities only when such other utilities convert from aerial to underground construction.

M. **FACILITY AGREEMENTS.** No Franchise shall relieve Grantee of any obligations involved in obtaining pole or conduit space from any department of Grantor, any utility company, or from others maintaining utilities in Grantor's streets.

N. **EXTENSION OF FRANCHISE SERVICE AREA.** If Grantor elects to grant one or more Franchises hereunder, and if thereafter one or more of the Franchises expires or is otherwise terminated, Grantor may, if it so elects, require a remaining Grantee, or more than one, to extend its System to provide service to the Franchise Service Area previously served under the terminated Franchise, unless Grantee demonstrates to Grantor's reasonable satisfaction that it is not commercially practicable to do so; provided, however, that Grantee shall not be required to over-build any existing system. The terms and requirements of such extension shall not exceed those contained in this Chapter or in Grantee's Franchise.

O. **REPAIR OF STREETS AND PUBLIC WAYS.** Any and all streets and public ways, and improvements located within such streets and public ways, disturbed or damaged by the Grantee or its contractors during the construction, operation, maintenance, or reconstruction of the System, shall be restored at Grantee's expense, and within the time frame and limits specified by Grantor, to their original condition unless otherwise authorized in writing by Grantor.

P. **ERECTION OF POLES PROHIBITED.** The Grantee shall not erect any pole on or along any street or public way where there is an existing aerial utility system. If additional poles in an existing aerial route are required, Grantee shall negotiate with the public utility for their installation. Any such installation shall require the advance written approval of the Grantor. Subject to applicable federal and state law, the Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions.

Q. **RESERVATION OF STREET RIGHTS.** Nothing in a Franchise shall prevent the Grantor from constructing, repairing, or altering any public work. All such work shall be done, insofar as practicable, in such manner as not to unnecessarily obstruct, injure or prevent the free use and operation of any property of Grantee. However, if any property of Grantee shall interfere with the construction, maintenance, or repair of any public improvement, that property shall be removed or replaced in such manner as directed by Grantor so that the same shall not interfere with the public work, and such removal or replacement shall be at the expense of the Grantee. (Ord. 5004, 1997.)

5.62.080 Operations and Maintenance.

A. **MAINTENANCE AND COMPLAINTS.**

1. **Service Area Office.** The Grantee shall maintain an office in the Franchise Service Area, or at such other location as is approved by the Grantor in writing, or as described in the Franchise. That office must be open during all usual business hours, but in no case less than forty eight (48) hours per week, including at least one weekend day per week. Grantor shall have a publicly listed, non-toll-charge telephone number that is in operation to receive Subscriber complaints and requests on a 24-hour basis. Current information shall be maintained of all complaints and their disposition, and a summary thereof shall be submitted to Grantor upon request, but no more often than monthly.

2. **Response to Service Concerns.** The Grantee shall respond to requests as follows: (i) within eight (8) hours after receipt of a request for repairs relating to a Service Interruption affecting at least ten (10) percent of the Subscribers of the System; (ii) within twenty-four (24) hours after receipt of requests for service related to all other Service Interruptions; (iii) and within forty-eight (48) hours for all other complaints and requests for repair. All Cable System related problems shall be resolved within five (5) business days unless technically infeasible. No charge shall be made to a Subscriber for such service or repairs, except that Grantee may charge for service calls not related to its Cable System, or that are caused by the Subscriber or members of its household, or the Subscriber's agents or guests.

3. **Customer Service Telephone System.** The Grantee shall provide a telephone service system to receive all construction and service complaints. A sufficient number of customer service representatives shall be provided so that callers are not required to wait more than thirty (30) seconds before being connected to a customer service representative ninety percent (90%) of the time, measured quarterly, or to receive busy signals more than three (3) percent of the time, measured quarterly. The telephone number of the local office shall be listed in the telephone directory serving the City of Santa Barbara. The telephone service system shall accept complaints twenty-four (24) hours a day, seven (7) days a week. The telephone service system shall be capable of generating reports relating to answer times, response times, hold times, and abandoned calls.

4. **Identification.** Customer service personnel shall identify themselves immediately.

5. **Supervisors.** Customers shall have the right to speak with a supervisor, and if none is available, a supervisor shall return the customer's call within one working day.

6. **Grantee Identification.** All officers, agents, or employees of the Grantee, including its contractors or subcontractors, who come into regular contact with members of the public shall wear on their outer clothing a photo-identification card in a form reasonably acceptable to Grantor during those periods of time they are dealing with members of the public. Grantee shall account for all identification cards at all times. Every vehicle of Grantee, or its major subcontractors, shall be clearly identifiable as working for Grantee.

7. **Scheduling of Service Appointments.** Grantee shall provide Subscribers with the option of scheduling a four (4) hour period, either in the morning or afternoon, in which a service call will be made.

8. **Rescheduling of Late Appointments.** If a Grantee representative is running late for an appointment with a customer, or will not be able to keep the appointment as scheduled, the customer will be contacted and the appointment will be rescheduled, as necessary, at a time which is convenient for the customer. The customer has the option of rescheduling the appointment within a specified two (2) hour period.

B. **REMEDIES FOR INADEQUATE PERFORMANCE.** Except for rebuild or planned Service Interruptions for which Grantee receives prior approval from the Grantor or except for system-wide outages in excess of six (6) consecutive hours or twelve (12) nonconsecutive hours within any thirty (30) day period (for which fee rebates shall be paid to Subscribers by Grantee without a request thereof), in the event that one--third or more of its service to any Subscriber is interrupted for six (6) consecutive hours, or for a total of twelve (12) nonconsecutive hours within any thirty (30) day period, and Subscriber notifies Grantee of said Service Interruption within twenty-four (24) hours of Subscriber discovery thereof and requests a rebate of fees as a result thereof, Grantee shall provide a ten percent (10%) rebate of the monthly fees to affected Subscribers for each such consecutive six-hour and/or nonconsecutive twelve-hour Service Interruption period. Grantor shall provide a fifty percent (50%) rebate of the monthly fees to all affected Subscribers for failure to make a service call within the specified four (4) hour period. In no case shall such rebate exceed the monthly fee charged to the Subscriber.

C. **TRIENNIAL AUDIT OF PERFORMANCE.**

1. **Performance Audits.** Grantor may require, at its option, that performance audits of the System be conducted every three (3) years by an independent technical consultant selected and employed by Grantor to verify that the System complies with all technical standards and other specifications of the Franchise.

2. **Review of Audit.** Upon completion of a performance audit, the Grantor and Grantee shall meet to review the performance of the Cable System. The reports required by this Chapter regarding Subscriber complaints, the records of performance audits and tests, and the opinion survey report shall be utilized as the basis for review. In addition, any Subscriber may submit complaints prior to or during the review meetings, either orally or in writing, and these shall also be considered.

3. **Findings Regarding Compliance.** Within thirty (30) days after the conclusion of the System performance review meetings, Grantor shall issue findings with respect to the compliance of the System and quality of service. If non-compliance is found, Grantor may direct Grantee to correct the inadequacies within such period of time as Grantor determines is reasonable.

4. **Non-Waiver of Rights.** Participation by the Grantor and the Grantee in this process shall not waive any rights they may possess under applicable federal or state law.

5. **Other Audits.** In addition to the triennial Audit described above, Grantor may conduct an annual audit of the same or lesser magnitude, at its sole expense, when and if determined necessary or appropriate by Grantor.

D. **SYSTEM EQUIPMENT LOCATION.** Grantee shall provide Grantor with a computer disk or other data storage device requested by Grantor, in format approved by Grantor, which details and documents all of Grantee's equipment and facilities and their geographic location in the City. Such computer disk or other device shall be updated annually and whenever there have been significant changes in the location of Grantee's equipment and facilities. In addition, Grantee shall maintain in its local office, a complete and up-to-date set of as-built system maps and drawings upon completion of construction or reconstruction, equipment specification and maintenance publications, and signal level diagrams for each active piece of electronic equipment in the system. As-built drawings shall show all lines and installed equipment, and tap valves and spigots. The scale of maps and drawings shall be sufficient to show the required details in easily readable form and size. Technical data at the local office shall also include approved pole applications, details and documentation of satellite and microwave equipment, mobile radio units, heavy construction vehicles and equipment, and video and audio equipment normally used in the operation of the system. If Grantor requires use of technical data in its own office, it may make copies of any items at Grantor's expense. To the extent Grantee designates the provided information as proprietary or confidential, Grantor will, to the extent allowed by applicable law, utilize reasonable efforts to protect the confidentiality or proprietary nature of such information provided, however, that in so doing, Grantor makes no representations or warranties to Grantee regarding its ability to maintain the confidentiality of such information.

E. **AVAILABILITY OF TECHNICAL DATA.** All technical data shall be available for Grantor's inspection during normal business hours and, upon reasonable notice. In the event of System failure or other operating emergency, the technical data will be made available at any time, so long as the provision of said data does not unreasonably interfere with Grantee's operations.

F. **EMERGENCY REPAIR CAPABILITY.** It shall be Grantee's responsibility to assure that its personnel, qualified to make repairs, are available at all reasonable times and that they are supplied with keys, equipment location instructions, and technical information necessary to begin repairs upon notification of the need to maintain or restore continuous service to the System.

G. **CUSTOMER SERVICE STANDARDS AND PROCEDURES.**

1. **Information to Customers.** The Grantee shall, at the time service is initiated, provide each new Subscriber with written information covering:

a. The time allowed to pay outstanding bills.
b. Grounds for termination of service.
c. The steps the Grantee must take before terminating service.
d. How the customer can resolve billing disputes.
e. The steps necessary to have service reconnected after involuntary termination.
f. The fact that customer service personnel must identify themselves immediately.
g. The fact that Subscribers have the right to speak with a supervisor, and if none is available, a supervisor shall return the Subscriber's call within one (1) working day.
h. The appropriate regulatory authority with which to register a complaint and how to contact that authority.

In addition, at least once each calendar year, Grantee shall notify each Subscriber that information is available upon request concerning items (a) through (h) above.

2. **Written Notices.** Written notice of all terms of the customer agreement, the name, address and telephone number of the Cable Operator, all equipment and fee options, the availability of "A/B" switches, the availability of parental control devices, any reduced rates for seniors or other Subscribers, company billing and credit practices, company practices with respect to privacy of Subscribers, the telephone numbers for customer complaints, the telephone number of the Grantor, and other relevant information, shall be made by Grantee to Subscribers before service is commenced, at least once each calendar year, at any time upon the request of the Subscriber, and whenever changes to such policies are made.

3. **Advance Notice of Changes.** Except as otherwise provided by applicable law, advance notice of increases in fees or charges, and changes in channel lineup of stations or services, shall be sent to Grantor and to Subscribers at least thirty (30) days before the changes are made, except for changes not known sufficiently in advance by Grantee and not under Grantee's control, or where Grantor's waiver is obtained. Notices must be clearly identified and in print large enough to be easily readable.

4. **Billing.**

a. **Billing Frequency and Format.** Bills for service shall be rendered monthly, unless otherwise authorized by the Subscriber and the Grantee or unless service is rendered for a period less than one (1) month. All bills shall contain a telephone number and a mailing address for billing inquiries or disputes and shall clearly delineate all charges and the basis for those charges.

b. **Disputed Bills.** In the event of a dispute between a Subscriber and the Grantee regarding the bill, the Grantee shall promptly make such investigation as is required by the particular case and report the results to the Subscriber. If the dispute is not resolved to the satisfaction of both parties, the Grantee shall inform the Subscriber of the Grantee's complaint procedures. If the Subscriber wishes to obtain the benefits of this subparagraph, notification of the disputed bill must be given by the Subscriber to the Grantee in writing within thirty (30) days after the bill date.

The Subscriber shall not be required to pay the disputed portion of the bill until the earlier of the following:

(i) Resolution of the dispute; or

(ii) Expiration of the forty-five (45) day period beginning on the date of the Subscriber's written notification.

Pending resolution of the bill dispute, Grantee shall exercise reasonable care to ensure that no termination notices are issued for the disputed portions of the bill, and that no other collection procedures are initiated for the disputed amount. Any such activity may be interpreted as an attempt to avoid the provisions of these rules and may constitute a violation of these rules.

c. **Referral of Accounts to Collection Agencies.** Uncollected accounts may be referred to private collection agencies for appropriate action if the bill has not been paid by the earlier of (i) thirty (30) days following date of involuntary termination; or (ii) the sixty--first (61st) day following the mailing date of the original uncollected amount, provided that no notification of a billing dispute has been made.

If the account was voluntarily terminated by Subscriber, for any reason, the account may not be referred to a private collection agency until at least thirty (30) days following mailing of the final bill. If notification of a billing dispute is made, all collection procedures shall be delayed as required in subsection 4(b) entitled "Disputed Bills." Referral to collection agent shall then occur no sooner than the ninety-first (91st) day following the billing date of the original uncollected amount.

d. **Termination for Non-Payment.** Bills shall not be delinquent earlier than twenty-seven (27) days from the date of the bill, which must be mailed to Subscribers within five (5) working days prior to the stated due date. Subscribers must be notified in writing of a proposed disconnection for non-payment at least fifteen (15) days prior to disconnection.

5. **Refund.** When a Subscriber voluntarily discontinues service, Grantee shall refund, within 20 days of the discontinuance of service, the unused portion of any advance payments after deducting any charges currently due through the date of such discontinuance. Unused payment portions shall be the percentage of time for which Subscriber has paid for service and will not receive it because of the Subscriber's discontinuation of service. (Ord. 5004, 1997.)

5.62.090 Violations.

A. **USE OF PUBLIC STREETS.** From and after the effective date of this Chapter, it shall be unlawful for any person to construct, install, or maintain in any public place within Grantor's territory, or upon any easement owned or controlled by a public utility, or within any other public property of Grantor, or within any privately-owned area within Grantor's jurisdiction which is not yet, but is designated as, a proposed public place on a tentative subdivision map approved by Grantor, any equipment, facilities, or System for distributing signals or services through a Cable Television System, unless a Franchise has first been obtained hereunder, and is in full force and effect.

B. **UNAUTHORIZED CONNECTIONS.** It shall be unlawful for any person to make or use any unauthorized connection to, or to monitor, tap, receive or send any signal or service via a franchised System, or to enable anyone to receive or use any service, television or radio signal, picture, program, or sound, or any other signal without payment to the owner of said System.

C. **TAMPERING WITH FACILITIES.** It shall be unlawful, without the consent of the owner, to willfully attach to, tamper with, modify, remove or injure any physical part of or signals on a franchised Cable Television System. (Ord. 5004, 1997.)

5.62.100 Termination and Forfeiture.

A. **REVOCATION.** Consistent with applicable law, and in addition to any rights set out elsewhere in this Chapter, the Grantor reserves the right to revoke a Franchise, subject to the procedural guidelines set forth in Section 5.62.130 hereof in the event that:

1. The Grantee willfully or negligently violates any material provision of its Franchise.
2. The Grantee's construction schedule as set forth in this Franchise, is materially delayed, and such delay is within the control of Grantee.

B. **FORFEITURE.** Upon failure of the Grantee to comply with any material term of its Franchise, the Grantor may, subject to the procedural guidelines set forth in Section 5.62.130 hereof, declare a forfeiture. The Grantee may be required to remove its structures or property from the Grantor's streets and to restore those streets to their prior condition within a reasonable period of time. Upon failure to do so, the Grantor may perform the work and collect all costs, including direct and indirect costs, from the Grantee. At Grantor's discretion, the cost thereof may be placed as a lien upon all plant, property, or other assets of the Grantee. (Ord. 5004, 1997.)

5.62.110 Franchise Applications.

Applicants for a Franchise may submit to the Grantor, or to designated representative, written application in a format provided by the Grantor, at the time and place specified by the Grantor for accepting applications (including applications to renew a franchise) and accompanied by the designated application fee. A non-refundable application fee, in an amount established by resolution of the Grantor, shall accompany the application or re-application to cover all costs associated with processing the application, including without limitation, costs of administrative review, financial, legal and technical evaluation of the applicant, the costs of consultants (including technical and legal experts), notice and publication requirements, and document preparation expenses.

In the event such costs exceed the application fee, the applicant shall pay the difference to Grantor within twenty (20) days following receipt of an itemized statement of such costs. In the event such costs are less than the applicable fee, the Grantor shall pay the difference to the applicant within twenty (20) days of the determination of costs. This provision is procedural and shall not constitute the grant of any right to the Grantee. (Ord. 5004, 1997.)

5.62.120 Records, Reports; Right to Inspect and Audit.

A. **GRANTEE TO PROVIDE RECORDS.** All reports and records required under this Section shall be furnished at the sole expense of Grantee.

B. **RECORDS.** Grantor must maintain in its local offices, and make available for inspection during normal business hours, a separate and complete set of business records for the Franchise. The Grantee shall provide that information in such form as may be required by the Grantor, as well as copies of any records of Grantee upon Grantor's request, so long as said information is reasonably related to the scope of Grantor's rights under this Chapter, the Franchise, or Grantor's regulatory functions.

C. **MAINTENANCE AND INSPECTION OF RECORDS.** Grantee shall keep true and accurate books and records in conformity with generally accepted accounting principles, consistently applied, showing all income, expenses, borrowing, payments, investments of capital, and all other transactions relating to the System. Grantor shall, upon reasonable notice, have the right to inspect said records and receive copies thereof to the extent said information is reasonably related to the scope of the Grantor's rights under this Chapter, the Franchise, or the Grantor's regulatory functions. Any Grantee records kept at another place shall, within ten (10) days of Grantor's request, be made available at Grantee's local premises within the County of Santa Barbara.

D. **REPORTS OF FINANCIAL AND OPERATING ACTIVITY.**

1. Annual Reports. No later than ninety (90) days after the close of Grantee's fiscal year, Grantee shall submit an audited written report to the Grantor which shall include:

a. **Financial Report.** A financial report, audited and certified by a financial officer of Grantee, for all Cable System activity during the previous fiscal year, including Gross Receipts from all sources and gross subscriber revenues from each Service. The report must set out separately all Gross Receipts from all sources in the City and Gross Subscriber Revenues from each Service in the City, and all payments, deductions, and computations of franchise fees.

b. **Previous Year's Activity.** A summary of the previous year's activities, including, but not limited to, subscriber totals and new services.

c. **List of Officers and Directors.** A current list of Grantee's officers, directors, and other principals which reflects any change in the previous year's list.

d. **Shareholders List.** A list of stockholders or other equity investors holding twenty percent (20%) or more of the voting interests in Grantee which reflects any change from the previous year's list.

e. **Complaint Summary.** A summary of complaints received and remedial actions taken.

f. **Rate Schedule.** A current rate schedule for the various services offered by Grantee.

2. **Performance Tests and Compliance Reports.** No later than April 15 of each year, the Grantee shall provide a written report of any FCC or other performance tests required or conducted. In addition, the Grantee shall provide reports of the test and compliance procedures required by its Franchise, or by this Chapter, no later than thirty (30) days after the completion of those tests and compliance procedures.

3. **Additional Reports.** The Grantee shall prepare and furnish to the Grantor in writing, at the times and in the form reasonably prescribed by Grantor, such additional reports as may reasonably be required with respect to Grantee's compliance with the provisions of its Franchise and this Chapter.

E. **COMMUNICATIONS WITH REGULATORY AGENCIES.** Copies of all non-routine or material communications between the Grantee and the Federal Communications Commission, or any other agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to the Franchise, shall be submitted promptly to the Grantor upon receipt or mailing by Grantee.

F. **EXAMINATION OF FACILITIES.** Upon reasonable notice, and during normal business hours, Grantee shall permit examination, by any duly authorized representative of Grantor, of all Franchise property and facilities, together with any appurtenant property and facilities of Grantee situated within the City.

G. **RIGHT TO AUDIT.**

1. **Frequency of Audits.** In addition to any other inspection rights under this Chapter or the Franchise, upon ten (10) days prior written notice, during the term of a franchise and for a period of five (5) years thereafter, Grantor shall have the right to inspect, examine, or audit, during normal business hours, all documents pertaining to the Grantee or any Affiliated Person which are reasonably necessary to the Grantor's enforcement of its rights under the terms of this Chapter or the Franchise. All such documents shall be made available at the local office of the Grantee. All such documents pertaining to financial matters which may be the subject of an audit by the Grantor as set forth herein shall be retained by the Grantee for a minimum of five (5) years following the termination of the Franchise. Access by the Grantor to any of the documents covered by this paragraph G shall not be denied by the Grantee on grounds that such documents are alleged by the Grantee to contain proprietary information.

2. **Written Certifications.** Grantor may require written certification by the Grantee's directors, officers, or other employees with respect to all documents referred to in this subsection G.

3. **Costs of Audit.** Any audit conducted by the Grantor pursuant to this subsection G shall be conducted at the sole expense of the Grantor, and the Grantor shall prepare a written report containing its findings, a copy of which shall be mailed to the Grantee; provided, however, that the Grantee shall reimburse the Grantor for the expense of any such audit if, as the result of said audit, it is determined that there is a shortfall of more than two percent (2%) in the amount of franchise fees or other payments which have been made or will be made by the Grantee to the Grantor pursuant to the terms of the Franchise. Such reimbursement shall occur within thirty (30) days of Grantee's receipt of a written notice of a determination that a shortfall of greater than two percent (2%) exists.

H. **RETENTION OF EXPERTS.** In the exercise of its rights under this Chapter, the Grantor shall have the further right to retain technical experts and other consultants on a periodic basis for the purpose of monitoring, testing, and inspecting any construction, operation, or maintenance of the System, and all parts thereof, or to ensure compliance with and enforcement of the provisions of this Chapter and the Franchise. The Grantor shall bear the cost of retaining such experts, provided that the Grantee shall reimburse the Grantor for all expenses related to the retention of said experts where this Chapter or the Franchise so provide, or under either of the following circumstances:

1. The Grantee has initiated proceedings which would normally require the Grantor to retain such experts, such as the filing of a request for approval of a transfer or change in control, renewal to the extent allowed by law, expansion of the Franchise or Service Area, or the modification or amendment of the Franchise;

2. The reports of such experts submitted to the Grantor reveal that the Grantee has failed to substantially comply with the terms and conditions of this Chapter or of the Franchise.

If Grantee is required to reimburse Grantor pursuant to this subsection H, Grantor shall send Grantee an itemized description of such charges, and Grantee shall pay such amount within twenty (20) days after the receipt of such description. (Ord. 5004, 1997.)

5.62.130 Enforcement Mechanisms.

A. **NOTICE AND HEARING FOR FRANCHISE DEFAULT.**

1. **Written Demand for Corrections.** Except as otherwise provided in this Chapter or in the Franchise, prior to formal consideration by Grantor of termination, revocation, or forfeiture of Grantee's Franchise, or any other penalty or administrative remedy available to the Grantor, including liquidated damages, attributable to Grantee's failure, willful, negligent, or otherwise, to adhere to the terms and conditions of the Franchise or this Chapter, Grantor shall make written demand on Grantee to correct the alleged default. Grantor and Grantee shall expeditiously meet to discuss the alleged default, at which time Grantee shall indicate, in writing, the amount of time necessary to resolve the alleged problem. Giving due consideration to Grantee's request, Grantor shall, in writing, state the amount of time Grantor will allow Grantee to resolve the problem. During this time period, but in no event less than ten (10) days before the final date for correction, Grantee may request additional time to correct the problem, and Grantor shall grant said request if Grantor determines, in the exercise of its discretion, that such time is necessary due to delays beyond Grantee's control. If the default continues for a period of ten (10) days following the deadline for corrections, plus any extension thereof, a hearing shall be scheduled by Grantor on such Franchise termination, revocation, forfeiture, or any other penalty or administrative remedy.

2. **Notice of Correction Hearing.** The Administrative Officer shall provide written notice of such hearing, including the grounds for the proposed action, to the Grantee no less than thirty (30) days before the hearing on the matter. In addition, the Administrative Officer, as part of said written notification, shall state the procedures to be followed by the Grantor to determine whether cause for termination, revocation, forfeiture, or other penalty exists. At a minimum, said procedures shall afford the Grantee adequate notice and a fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to question witnesses, and to obtain a transcript of the proceeding at Grantee's expense. Within ten (10) days after the receipt of said notice, Grantee shall file any written objections to said procedures. The Administrative Officer shall notify Grantee of any modification to the procedures and provide another ten (10) day objection period. Any objections not raised within said ten (10) day periods shall be deemed waived. At the hearing, Grantor (or an appropriate hearing board or commission designated for that purpose by Grantor) shall hear Grantee, and any person interested in the matter, and shall determine, at that or subsequent meetings, an appropriate course of action for enforcement or termination of Grantee's Franchise.

B. **DELEGATION OF ENFORCEMENT MECHANISMS.** Such liquidated damages as Grantor may assess against Grantee which do not include loss of the Franchise may, at Grantor's option, be determined by an officer or agency of the Grantor to which it may delegate such administrative decisions, subject to due process and the criteria contained in this Chapter and the Franchise, and subject to appeal to the City Council. (Ord. 5004, 1997.)

5.62.140 Areawide Interconnection of CATV Systems.

The Grantee shall endeavor to interconnect access channels of the cable system with any or all other CATV systems in contiguous areas, upon the request of the City. Interconnection of systems may be done by direct cable connection, microwave link, satellite, or other appropriate method. Upon receiving the request of the City to interconnect, the Grantee shall immediately initiate negotiations with the other affected system or systems in order that all costs may be shared equally among cable operators for both construction and the operation of the interconnection link. The Grantee may be granted reasonable extensions of time to interconnect or the City may rescind its order to interconnect upon petition by the Grantee to the City. The City shall grant said request if it finds that the Grantee has negotiated in good faith and has failed to obtain an approval from the system or systems involved with the proposed interconnection, or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates. (Ord. 5004, 1997.)

5.62.150 Miscellaneous Provisions.

A. **CAPTIONS.** The section, subsection, paragraph, and subparagraph numbers and letters, and the captions throughout this Chapter, are intended to facilitate reading and reference. Such numbers, letters, and captions shall not affect the meaning or interpretation of any part of this Chapter.

B. **FRANCHISE REFERENCES.** A Franchise which cites, refers to, or otherwise incorporates this Chapter, or portions thereof, shall be deemed to be a Franchise issued under and subject to this Chapter.

C. **FILINGS.** When not otherwise specified in this Chapter, all documents required to be filed with Grantor shall be filed with the Grantor's representative as designated by Grantor.

D. **NON-ENFORCEMENT BY THE GRANTOR.** A Grantee shall not be relieved of its obligation to comply with all provisions of this Chapter, and of its Franchise, and all laws and regulations, by reason of any failure of the Grantor to demand prompt compliance.

E. **CONTINUITY OF SERVICE.** It is the right of all Subscribers to receive all available services authorized by the Franchise so long as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to rebuild, modify, or sell the System, the Grantee shall use due diligence and reasonable care to ensure that all Subscribers receive continuous, uninterrupted service. In the event of purchase by the Grantor, or a change of Grantee, the current Grantee shall cooperate with the Grantor or new Grantee to operate the Sys-tem for a temporary period, in order to maintain continuity of service to all Subscribers. In the event that Grantee, through its own fault, discontinues system-wide service for seventy-two (72) continuous hours, and Grantee is in material default of its Franchise, or if the Franchise is revoked by Grantor (but not if Grantor fails to renew the Franchise), Grantor may, by resolution, when it deems reasonable cause to exist, assume operation of the System for the purpose of maintaining continuity of service. Grantor's operation of the System may continue until the circumstances which, in the judgment of the Grantor, threaten the continuity of service are resolved to Grantor's satisfaction. Grantor shall be entitled to the revenues for any period during which it operates the System.

F. **OPERATION BY GRANTOR.** During any period when the System is being operated by Grantor pursuant to paragraph E above, Grantor shall attempt to cause as little disruption of operations as is consistent with the maintenance of continuing service to Subscribers. Notwithstanding the foregoing, Grantor shall, as it may deem necessary, make any changes in any aspect of operations that, in Grantor's sole judgment, are required for the preservation of quality of service and its continuity.

G. **MANAGEMENT BY GRANTOR.** Grantor may, upon assuming operation of a System franchised hereunder, appoint a manager to act for it in conducting the System's affairs. Such manager shall have such authority as may be delegated by Grantor and shall be solely responsible to Grantor for management of the System. Grantee shall reimburse Grantor for all its reasonable costs, in excess of System revenues, incurred during Grantor's operation if the Franchise is in full force and effect during the period of Grantor's operation.

H. **NOTICES.** All notices and other communications to Grantee shall be addressed to it at the local address at which Grantee conducts its business. All notices and other communications to Grantor shall be addressed to Santa Barbara City Hall, or such other address as may be designated by Grantor.

I. **FORCE MAJEURE; GRANTEE'S INABILITY TO PERFORM.** In the event Grantee's performance of any of the terms, conditions, obligations, or requirements of this Chapter, or any Franchise granted hereunder, is prevented or impaired due to any cause beyond its reasonable control and not reasonably foreseeable, such inability to perform shall be deemed to be excused, and no penalties or sanctions shall be imposed as a result thereof. Such causes beyond Grantee's reasonable control and not reasonably foreseeable shall include, but not be limited to, any acts of God, civil emergencies, labor unrest, strikes, utility interruptions, inability to obtain gratis access to an individual's property, and any inability of the Grantee to secure all required authorizations or permits to utilize necessary poles or conduits, so long as Grantee uses due diligence to timely obtain said authorization or permits.

J. **APPLICATION.** All of the provisions of this Chapter shall be applicable to all Cable Operators and Cable Systems to the greatest extent permissible under applicable law.

K. **SEVERABILITY.** If any provision of this Chapter is determined to be void or invalid by any administrative or judicial tribunal, said provision shall be deemed severable and such invalidation shall not invalidate the entirety of this Chapter or any other provision thereof. (Ord. 5004, 1997.)

Chapter 5.64

COIN-OPERATED DEVICES AND VENDING MACHINES

Sections:

5.64.010	**Unlawful to Possess or Operate Certain Machines.**	**5.64.100**	**Permit - Age Requirements of Applicants.**
5.64.060	**Permit Required.**	**5.64.110**	**Application - Issuance or Denial - Appeal.**
5.64.070	**Application - Contents.**	**5.64.120**	**Permit - Revocation - Appeal.**
5.64.080	**Application - To be in Writing - Reference to and Investigation by Chief of Police.**	**5.64.130**	**Permit Stickers.**
		5.64.140	**Seizure - Machines - Redemption.**
5.64.090	**Application - List of Machines and Locations.**	**5.64.150**	**Disposition of Unredeemed Machines.**

5.64.010 Unlawful to Possess or Operate Certain Machines.

A. It shall be unlawful for any person to pay any award in cash on the results of the operation of any marble game, pin table, amusement machine or other coin or token-operated device.

B. Nothing in this section shall prohibit the operation of a coin or token-operated game or device designed and manufactured for bona fide amusement purposes which may by application of skill entitle the player to immediate merchandise, replay of the game or device at no additional cost or receive a check, slug, token or ticket which may later be redeemed for merchandise.

C. The value of merchandise made available to players shall not have a wholesale value greater than 15 times the value of play.

D. The number of redemption tickets or points required to obtain merchandise shall be clearly posted.

E. The owner of any establishment where the operation of coin or token-operated games or devices occurs is the responsible party and shall maintain compliance with this section. (Ord. 4833, 1993; Prior Code §15.1.)

5.64.060 Permit Required.

It shall be unlawful for any person to engage in selling, renting, leasing, placing for operation, displaying for public patronage or attempting to sell, rent, lease, place for operation or display for public patronage any coin-operated machine (hereafter "machine"), other than a newsrack as defined in Chapter 5.66 of this Code, at any place in the City, other than placing at his own place of business, without obtaining a permit as provided in this Chapter. (Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3135 Sec. 2 (part), 1966; prior Code Sec. 15.6).

5.64.070 Application - Contents.

The application for the permit required by Section 5.64.060 shall contain the following information:

(1) The name and address of the applicant.

(2) The name and address of the individual applicant, his age, date and place of birth, and the same information for the manager and principal owner of firm, corporation and association applicants.

(3) Prior convictions of the applicant, their managers and principal owner, if any. (Ord. 3135 §2(part), 1966; prior Code §15.7.)

5.64.080 Application - To be in Writing - Reference to and Investigation by Chief of Police.

The application for a permit required by this chapter shall be in writing and shall be referred to the Chief of Police.

The Chief of Police shall ascertain if the applicant is of good moral character, and either approve or disapprove the application. (Ord. 3135 §2(part), 1966; prior Code §15.8.)

5.64.090 Application - List of Machines and Locations.

The permittee shall furnish a list of all machines and their locations where used, sold, leased, rented or placed and shall keep the list up to date quarterly. (Ord. 3135 §2(part), 1966; prior Code §15.9.)

5.64.100 Permit - Age Requirements of Applicants.

No permit required by this chapter shall be issued to any applicant, unless he shall be over twenty--one (21) years of age. (Ord. 3135 §2(part), 1966; prior Code §15.10.)

5.64.110 Application - Issuance or Denial - Appeal.

No permit required by this chapter shall be issued to any applicant unless the approval of the Chief of Police is obtained. If the Chief of Police approves the application, the Tax and Permit Inspector shall issue a permit provided that all applicable permit fees have been paid. In case of refusal to issue a permit, the applicant may appeal to the City Council within ten (10) days after written notice of denial is deposited in the mail. The Council shall hear the matter after notice to the Tax and Permit Inspector and the applicant and the decision of the Council shall be final. (Ord. 3135 §2(part), 1966; prior Code §15.11.)

5.64.120 Permit - Revocation - Appeal.

(a) Every permit granted under the provisions of this chapter is subject to the right of revocation, which is hereby expressly reserved, for any of the following:

(1) A material misrepresentation or omission in the application;

(2) Use of any machine contrary to this chapter, any ordinances of the City, or any of the laws of the State of the United States;

(3) Conviction of the permittee, its manager or principal owner of a felony;

(4) Failure to repair or service a machine or device within a reasonable time.

(b) Revocation may be made by the Tax and Permit Inspector upon a full investigation and a written statement to the permittee of the reasons therefor, and appeals from a revocation may be made to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3135 §2(part), 1966; prior Code §15.12.)

5.64.130 Permit Stickers.

Each permittee shall place in a conspicuous manner upon every machine under his control a sticker furnished by the Tax and Permit Inspector, which sticker shall indicate that applicable permit fees have been paid. (Ord. 3135 §2(part), 1966; prior Code §15.13.)

5.64.140 Seizure - Machines - Redemption.

If any of the coin-operated machines, devices or games be maintained in any commercial or public place in the City without having a sticker as required by Section 5.64.130 displayed, they shall be subject to seizure by any member of the Police Department or by the Chief Tax and Permit Inspector, which machines shall be redeemable only by the true owner, within a period of not exceeding sixty (60) days, upon the payment of a reasonable charge for the safe keeping of the machines or games, together with all applicable permit fees plus any penalties which may be applicable. (Ord. 3135 §2(part), 1966; prior Code §15.14.)

5.64.150 Disposition of Unredeemed Machines.

If the true owner cannot be found after reasonable inquiry, or if the owner fails to redeem, then the machine may be confiscated and sold by the Tax and Permit Inspector at the end of the sixty (60) day period, after notice by registered mail to the last known address, if any, of the owner, and the sole proceeds shall go to the General Fund of the City. (Ord. 3135 §2(part), 1966; prior Code §15.15.)

Chapter 5.66

NEWS RACKS

Sections:

5.66.010	**Purpose and Legislative Findings.**	**5.66.080**	**Downtown Plaza Requirements.**
5.66.020	**Organization of This Chapter.**	**5.66.090**	**Prohibition on the Display of Harmful Matter.**
5.66.030	**Definitions.**	**5.66.100**	**Removal of News Racks; Required Hearing.**
5.66.040	**Permit Required.**	**5.66.110**	**Abandoned News Racks.**
5.66.050	**Application, Registration and Standards for Permit Issuance.**	**5.66.120**	**Public Nuisance.**
5.66.060	**Renewal Term.**	**5.66.130**	**Severability.**
5.66.070	**General Standards.**		

5.66.010 Purpose and Legislative Findings.

A. Purpose. The purpose of this Chapter is to promote the public health, safety, and welfare by establishing objective standards for locating news racks through the regulation of location, appearance, size, and maintenance of news racks on City rights-of-way in order to:

1. Protect the right to distribute information, protected by the United States and California Constitutions, through the use of news racks.
2. Provide for pedestrian and vehicular safety and convenience.
3. Minimize interference with the flow of pedestrian or vehicular traffic, including, but not limited to, ingress into or egress from any place of business or residence, from the street to the sidewalk or from parked vehicles to the sidewalk, by establishing objective standards for locating news racks.
4. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs and signals, hydrants, mailboxes, and similar appurtenances, and access to locations used for public transportation purposes.
5. Reduce visual blight on City streets, promote tourism, encourage well-designed and aesthetically compatible news racks, and protect the aesthetics and value of surrounding properties.

B. Legislative Findings. The City Council finds that, with the exception of those regulations governing the display of harmful matter, the time, place and manner restrictions established by this chapter are content-neutral, narrowly tailored to serve significant government interests, and leave open ample alternative channels of communication in that:

1. The news rack location, appearance, size, and maintenance regulations established in this chapter apply regardless of the content of the publication.
2. The news rack location, appearance, size, and maintenance regulations established in this chapter serve a substantial government interest by protecting the aesthetic appearance of the City, avoiding visual clutter, assuring safe and convenient pedestrian circulation, helping to promote tourism and economic vitality, and preventing dangerous installations of news racks.
3. The number, size, construction, placement and appearance of news racks can have a significantly adverse visual impact in designated a Landmarks District like El Pueblo Viejo and other aesthetically sensitive areas.
4. The Downtown Plaza has become very congested, with street furniture and other sidewalk encroachments, automobiles, and other means of travel competing with pedestrians for the public space; and that special standards for the design and location of news racks, in conjunction with a program for the furnishing and installation of uniform street furniture, and the enforcement of existing regulations for other encroachments in the downtown commercial area, will help to create a sense of order and provide a friendly environment for those who come to the area. The Downtown Plaza is both crucial and unique for the City because it is the congregating point for most tourism and establishes the basic character of the City.
5. The news rack location, appearance, size, and maintenance regulations established in this chapter for the Downtown Plaza leaves open ample alternative channels of communication in that only a small fraction of the City is subject to the required use of City-owned and maintained modular news rack cabinets, and hundreds, if not thousands, of locations remain available in the City for the installation of privately owned and maintained news racks.
6. With respect to the display of harmful matter, there is a compelling government interest in protecting the welfare of minors by preventing access to materials deemed obscene as to minors, as defined in Section 313 of the Penal Code, and that the use of blinder racks is a narrowly tailored solution to serve this interest.
7. Annual permit renewal fees for news racks located in City-owned modular cabinets within the Downtown Plaza will be higher than registration fees for independently owned and maintained news racks due to depreciation and maintenance during the useful life of the modular cabinets. (Ord. 5718, 2015; Ord. 4536, 1988; Ord. 4513, 1988; Ord. 4077, 1980; Ord. 3381 § 1, 1969).

5.66.020 Organization of This Chapter.

This Chapter establishes the sole regulations governing the placement and maintenance of news racks within the City on public property. This Chapter establishes application and permit requirements, including location, appearance, size, and maintenance standards for all news racks in the City. In addition, this Chapter establishes special time, place, and manner regulations for the Downtown Plaza where City-owned and maintained modular news rack cabinets have been installed. In the Downtown Plaza, freestanding private news racks are not permitted. This Chapter also establishes regulations governing the display of harmful matter in news racks. Finally, this Chapter establishes definitions of the significant terms it uses. (Ord. 5718, 2015.)

5.66.030 Definitions.

For the purposes of this Chapter, the following words and phrases are defined and shall be given the meaning set out in this section unless it is apparent from the context that a different meaning is intended:

A. ABANDONED NEWS RACK. Any news rack which remains empty for fourteen (14) consecutive days. A news rack or news rack unit within a City-owned modular cabinet without a permit or expired permit. Notwithstanding the forgoing, a news rack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that news rack shall not be deemed abandoned.

B. BEACHFRONT AREA. Cabrillo Boulevard/Shoreline Drive between the easterly end of Shoreline Park and the intersection of Cabrillo Boulevard and Channel Drive.

C. CITY INVENTORY. The record of approved applications, permits and field inventory data that may be established and updated from time to time by the City, and which shall be available on the City's website.

D. DOWNTOWN PLAZA. State Street and within 200 feet of State Street between its intersection with Cabrillo Boulevard and Victoria Street, and all publicly owned or controlled paseos or walkways which connect with State Street between Cabrillo Boulevard and Victoria Street.

E. FEES. Annual permit fee for each news rack and the additional fee for news racks in the City modular news rack cabinets shall be established by Council resolution in an amount not to exceed the actual costs of the news rack program, including permitting, inspection, and administration. This fee may be adjusted annually for inflation by the percentage change in the Consumer Price Index (CPI) for Urban Consumer of the Los Angeles – Riverside – Orange County, CA, as published by the Bureau of Labor Statistics, commencing on July 1, 2016. Indexing shall be considered as part of the annual fee resolution update. The City will notify registered news rack Owners in writing a minimum sixty (60) days in advance of a proposed adoption by City Council of any Fee Resolution that will result in any fee increase above the annual CPI percentage adjustment.

F. EXISTING NEWS RACK. Any news rack located within the City, including news racks located within City modular cabinets in the Downtown Plaza, prior to the effective date of this Ordinance, which has been verified by the City Inventory as of the effective date of this Ordinance.

G. LANDMARKS DISTRICT. A district established pursuant to Chapter 22.22 of the Code.

H. NEWS RACK. Any self-service or coin-operated box, container, storage unit or other dispenser, installed, used or maintained for the display, distribution or sale of any written or printed material, including, but not limited to, newspapers, news periodicals, magazines, books, pictures, photographs, advertising circulars, and records (hereinafter collectively referred to as "news rack material").

I. OWNER. The person or representative of a business with current City Business License duly responsible for news rack ownership, application submittal, application requirements, placement, maintenance, removal, payment of fees and signatory of the permit for a news rack in a right-of-way. Owner may also be referred to as person, applicant, distributor, publisher, or vendor.

J. PARKWAY. The area between the sidewalk and the curb of a street and, where there is no sidewalk, the area between the edge of the roadway and the nearest right-of-way boundary line and any area within a roadway not used for vehicular traffic.

K. PERSON. An individual, corporation, business entity, or association, and their principals, officers, agents, or employees.

L. PUBLIC PROPERTY. Public property refers to all improved or unimproved real property owned, maintained, or leased by a public agency or governmental entity.

M. PUBLIC WORKS DIRECTOR. The Director of the City Public Works Department or his or her designee.

N. RIGHT-OF-WAY. Any public property under the ownership and control of the City and used for public street and related purposes.

O. ROADWAY. The portion of a right-of-way designed and used for vehicular traffic.

P. SHARED PEDESTAL. The foundation, columns, and rack assembly used for attachment of multiple news rack units and maintained by designated Owner according to the annual permit.

Q. SIDEWALK. Any public surface provided for the use of pedestrians.

R. STREET. That area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys, and sidewalks. (Ord. 5718, 2015; Ord. 4536, 1988; Ord. 4513, 1988; Ord. 4077, 1980; Ord. 3381 § 1, 1969.)

5.66.040 Permit Required.

It is unlawful for any person to install, place or maintain a news rack on or projecting onto public property, roadways, streets, sidewalks, or right-of-way unless and until a news rack has been registered and an annual permit has been obtained from the Public Works Director. No other City permit shall be required. (Ord. 5718, 2015.)

5.66.050 Application, Registration and Standards for Permit Issuance.

A. Submittal of Applications. Applications for news rack permits shall be made to the Public Works Director on forms established by the City with payment of an annual permit application fee. Applications that are on file with the City that have current information may be used for subsequent annual permits.

1. Proposed New Installation or Relocation of News Rack. An application shall be approved and permit granted if the application proposes a new installation or relocation of a news rack in conformance with all requirements of this chapter. An application that proposes new installation of a news rack not in conformance with all requirements of this chapter shall be denied and no permit issued.

2. Existing News Rack With Current Permit. Existing news racks with evidence of an existing permit are subject to submittal of application and annual permit fee.

3. Existing News Rack Without Current Permit. News racks located within the City prior to enactment of this Ordinance, which have been verified by the current City Inventory, without evidence of a current permit will be required to submit an application and obtain an annual permit pursuant to subparagraph B below. Existing news racks that are affixed to a shared pedestal as of the effective date of this ordinance but are relocated to an adjacent area on a stand-alone mount during the initial application process set forth in subparagraph B below, shall be considered existing news racks for the purpose of this section.

4. Existing New Racks in City Modular Cabinets in the Downtown Plaza. News racks in the City modular cabinets in the Downtown Plaza prior to enactment of this Ordinance, which have been verified by the City Inventory upon the effective date of this Ordinance, may continue to remain in use in the same location by the same Owner and publication if an application is submitted and approved.

5. Existing City Modular Cabinets That Become Available in the Downtown Plaza After the Effective Date of the Ordinance. With respect to permits for news racks located in City-owned modular cabinets that become available due to abandonment, applications submitted shall be approved for that specific location on a first-come first-served basis.

6. New City Modular Cabinet Spaces for News Racks Located Within the City Downtown Plaza. With respect to permits for news racks that are newly installed by the City in the Downtown Plaza, an initial implementation period shall take place, at which time the City shall accept permit applications for the new spaces for a period of sixty (60) calendar days from the rack becoming installed. Permits shall be issued within twenty (20) days of the last day of the initial implementation period in accordance with subparagraphs a. and b. of this section.

a. Initial Implementation Period for Permit Applications Fewer Than the Number of Available Cabinets. Where fewer permit applications are received during the initial implementation period than the number of available cabinets, applications will be approved on a first-come first-served basis. If there is more than one application for a specific geographic location pending, then the priority for granting the applications shall be set forth in subparagraph b of this section.

b. Initial Implementation Period for Permit Applications Greater Than the Number of Available Cabinets. If permit applications exceed the number of potential locations that are then available, priority shall be given based on frequency of publication, with the higher priority given to publications for which new editions or issues were published on a daily or weekly basis in the full calendar month preceding the date of application. If no applications are submitted by publications issued on a daily or weekly basis, then priority shall next be given based on frequency of publication, based on the number of new editions or issues published most frequently in the full calendar month preceding the date of application. Within groups of applicants with the same priority, permits shall be granted to the maximum allowable in a block by the drawing of lots in a process established by the Public Works Director. It shall be a condition of any permit granted according to a priority set forth in this section to maintain editions in the news rack according to the frequency for which the priority was given.

B. Registration and Application for Existing News Rack. Any Owner of existing news racks, including existing news racks located within City modular cabinets in the Downtown Plaza, shall within thirty (30) days of the effective date of this Chapter, provide the City with Owner's news rack registration numbers and location consistent with the City Inventory. The registration of the existing news rack shall be the basis for accepting applications for the initial annual permit of existing news racks. Any Owner of an existing news rack shall then within ninety (90) days of registration, submit an application for an annual permit and pay fees to obtain a City annual permit pursuant to Section 5.66.050.C, and shall from the date of permitting be subject to the provisions of this Chapter. The Public Works Director may approve alternative compliance and permitting schedules, which shall not extend beyond the fiscal year of the effective date of this Ordinance for Owners of thirty (30) or more registered existing news racks. Failure to obtain an approved annual permit within ninety (90) days or the date specified by the Public Works Director in the approved alternate schedule shall subject the existing news rack to enforcement and removal pursuant to Section 5.66.100. The initial permit is valid for the remainder of the fiscal year and shall be renewed pursuant to Section 5.66.060. Permit fees shall not be reduced or prorated based on the remaining months in the fiscal year for which the permit was issued.

C. Contents of Application. Application forms will be provided by the Public Works Director and shall include all of the following information:

1. The applicant's name, street and mailing addresses, email address, and telephone number for the purposes of receiving copies of notices of violations and other official communications. The name, street and mailing addresses, email address and telephone number of the Owner of each publication subject to the permit(s). For news racks not in the City Inventory, the application will include a description of the exact proposed location, including a map or site plan, drawn to scale, with adequate location information to verify conformance with this chapter.
2. For news racks not in the City Inventory, the application will include a description of each proposed news rack, including its dimensions, brand and model type, the number of publication spaces it will contain, and whether it contains a coin-operated mechanism.
3. The name and frequency of publication of each publication to be contained in each news rack.
4. A statement signed by the news rack Owner that the Owner agrees to indemnify, defend and hold harmless the City and its representatives from all claims, demands, loss, fines or liability to the extent arising out of or in connection with the installation, location, use or maintenance of any news rack on public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of the City or its authorized representatives.
5. A statement signed by the applicant that the applicant agrees, upon removal of a news rack, to repair at applicant's cost, any damage to the public property caused by the news rack or its removal.
6. An acknowledgement that prior to the issuance of the Permit, the Owner shall deposit with the Public Works Director a certificate of insurance evidencing that a liability insurance policy in a minimum amount of one million dollars ($1,000,000) per occurrence and in the general aggregate, naming the City as an additional insured under the same terms and conditions as the primary insured, and containing a provision that the policy cannot be cancelled except upon ten (10) days' advance written notice to the City of the fact of such cancellation; and that if such insurance is cancelled at any time during the terms of such permit, same shall be grounds for revocation of the said permit.

D. Review of Application. A permit shall be granted or denied within twenty (20) business days after a completed application is filed in conformance with this ordinance. The Public Works Director shall issue a permit if an application complies with the provisions of this chapter. If a permit is denied, the City shall, within ten (10) business days, mail to the Owner a notice of denial that identifies the reasons for denial. Applicant may resubmit an updated application that has been denied, one time, within ten (10) business days from the date of denial without payment of a new application fee. Failure to complete the application review and obtain permit within ninety (90) business days shall void the application.

E. Issuance of Permit. Upon approval of a news rack application, the City shall issue a Public Works Permit that applies to the news rack at the approved location for the remainder of the fiscal year. If an annual permit is obtained after the beginning of a fiscal year, the permit shall expire at the end of the fiscal year without a reduction in fees. The Public Works Permit shall be signed by the applicant as the agreement to conform to the requirements of this ordinance. Permits shall be renewed per Section 5.66.060. Upon issuance of a permit for a new or replaced news rack, the City will provide a registration sticker and update the City Inventory. Each registration sticker provided shall be affixed to the top front metal door frame of each corresponding permitted news rack. (Ord. 5718, 2015; Ord. 4662, 1990; Ord. 4536, 1988.)

5.66.060 Renewal Term.

A news rack permit shall be valid for a period of one fiscal year or the remainder of the fiscal year during which the permit is obtained and shall be renewed each successive fiscal year period by timely payment of a renewal fee established by resolution of the City Council. (Ord. 5718, 2015.)

5.66.070 General Standards.

A. Each new, replaced, or relocated news rack shall conform to the following general standards. No news rack permit application for a new, replaced, or relocated news rack shall be approved unless it is demonstrated that the proposed news rack or news racks will conform to each of the following general standards. It is unlawful for any person to install, place, or maintain a news rack in violation of any of the provisions of this section.

1. No news rack shall project onto, or rest upon, along or over, any part of the roadway of any public street.
2. No news rack shall, in whole or in part, rest upon, in or over any sidewalk or parkway when such site or location is used for public utility purposes, public transportation purposes, or other government use, or the ingress into or egress from any residence, place of business, or any legally parked or stopped vehicle, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location, or when such news rack interferes with the cleaning of any sidewalk or street by the use of mechanical sidewalk cleaning machinery.
3. Any news rack which in whole or in part rests upon, in or over any sidewalk or parkway shall comply with the following conditions:

a. No news rack shall exceed fifty one (51) inches in height, thirty (30) inches in width, or two (2) feet in depth, except that news racks located in the Beachfront Area shall not exceed forty-eight (48) inches in height measured from the sidewalk to the top of the news rack, unless approved and permitted by the Public Works Director.

b. Name, address and telephone number, and email address of the Owner of the news rack shall be displayed on the front of the news rack in such a manner as to be readily visible to and readable by a prospective customer. A sticker shall be affixed to each news rack stating, "For graffiti and maintenance reporting, please email or call the Owner at (insert email address) or (insert phone number) with registration number." The Owner shall keep this contact information up to date and shall maintain a written record of reporting for a period of one year, to be provided to the City upon request.

c. News racks located in the Landmarks District will not have an adverse impact on access to, or views of, designated landmarks, structures of merit, or structures of interest. News racks in the Landmarks District shall carry no advertising except the name of the newspaper or periodical being dispensed on the bottom one third (1/3) of the plastic hood or, if there is no plastic hood on the news rack, the name shown at not more than two locations on the news rack.

d. News racks shall be painted Malaga Green (also identified as RAL 6005). Any shared pedestals supporting news racks shall be painted black, except that in the Landmarks District, the pedestals shall be painted Malaga Green.

e. News racks shall only be placed near a curb or adjacent to the wall of a building. The City shall determine the final locations. News racks placed near the curb shall be placed such that the back of the news rack shall be no fewer than eighteen (18) inches nor greater than twenty-four (24) inches from the face of the curb. News racks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six (6) inches from the wall. No news rack shall be placed or maintained on a sidewalk or parkway opposite a news stand or another news rack.

f. If eight (8) or more news racks are placed at a single location, whether placed on a single pedestal or shared pedestal mounts, they shall be placed next to each other and a space of no fewer than three (3) feet shall separate each such group, except as permitted at the direction of the Public Works Director.

g. News racks shall not be affixed or bolted to a sidewalk improved with decorative tile or other distinctive surface, except as permitted at the direction of the Public Works Director.

h. Each news rack installed on the public sidewalk shall be bolted to the City sidewalk in accordance with City standards and specifications.

i. News racks may not be chained or otherwise attached to one another; nor to any street sign, streetlight pole, traffic signal equipment, power pole, bike rack, public bench, bus shelter, or other public street furniture.

j. No news rack shall weigh in excess of 250 pounds when empty.

k. New news racks shall be "K-Jack" model KJ-50E, KJ-100, or KJ-125T, or equivalent, unless otherwise approved by the Public Works Director.

l. No news rack shall be placed, installed, used or maintained:

(1) Within ten (10) feet of any marked or unmarked crosswalk;

(2) Within five (5) feet of any fire hydrant, fire call box, police call box, traffic signal controller, or traffic signal;

(3) Within three (3) feet of any utility meter, manhole, service box, parking meter, streetlight pole, or other public works facility;

(4) Within ten (10) feet of any driveway or alley approach;

(5) Within five (5) feet of a bike rack;

(6) Within four (4) feet of any bus boarding and a lighting area consisting of the bench and/or shelter, sign and clear zones for boarding and alighting of busses as required by the Americans with Disabilities Act;

(7) Within three (3) feet of any bus bench or public bench;

(8) At any location whereby the clear space for the passage of pedestrians is reduced to less than four (4) feet;

(9) Within four (4) feet of any permitted sidewalk dining area;

(10) Within the boundary of a marked valet parking area or loading zone, or as otherwise restricted by the Americans with Disabilities Act.

B. Condition and Maintenance of News Racks. Each news rack shall be maintained in a clean and neat condition and in good repair at all times. Without limiting this general obligation, the following maintenance criteria shall apply to all new and existing news racks:

1. Each news rack shall be routinely maintained and serviced so that it is reasonably free of:

a. Dirt and grease;

b. Chipped, faded, peeling, and cracked paint, or graffiti on any visible painted areas;

c. Rust and corrosion on any visible unpainted metal areas;

d. Cracks, dents, blemishes, and discoloration in the clear plastic and glass parts, if any, through which publications are viewed;

e. Tears, peeling, or fading in the paper or cardboard parts and inserts;

f. Broken and misshapen structural parts; and

g. Unauthorized stickers on any surface of the rack.

2. Each news rack, including any coin-return mechanism, shall be mechanically operable at all times.

3. News racks shall contain current editions of the publication for which the permit was issued and new editions placed in the news rack at no less than the frequency for which any priority was given for a permit in that location. Owner shall inform the Public Works Director of all changes to frequency of publication within five (5) business working days of said changes.

4. No news rack or news rack card shall be used for off-premises advertising signs other than that directly related to the display, sale, or purchase of the publication sold therein.

5. No news rack shall remain empty for a period of fourteen (14) consecutive days or longer.

6. No news rack may contain a publication other than the ones for which the permit was issued.

7. Each news rack shall have the name, address, and telephone number of the Owner, as described in subsection A.3.b above, as well as the City registration number, affixed to the front of the news rack in a place where it may be easily seen by anyone viewing the news rack.

8. Shared pedestals shall be registered to a single Owner of a permitted news rack which is affixed to the shared pedestal. Any shared pedestal that has not been permitted to a single news rack Owner within one hundred twenty (120) days of the effective date of this Ordinance will be deemed abandoned and will result in the City posting and removing the shared pedestal and news racks in accordance with Section 5.66.100.

9. Shared pedestals shall be fully occupied by the maximum number of news racks designed to be affixed to the shared pedestal. The Owner shall notify the City in writing prior to removing units from a shared pedestal. Failure to maintain the shared pedestal with the maximum number of new racks for fourteen (14) consecutive days will result in its removal pursuant to Section 5.66.100. Shared pedestals may be modified to fit remaining news racks with City approval and revisions to the annual permit. Where a shared pedestal is not maintained in a fully occupied condition, it shall be removed and the location restored to its previous condition by the Owner of the shared pedestal, including, but not limited to, repair of any portion of the sidewalk or parkway damaged by the pedestal or its removal, and according to specifications provided by the Public Works Director. An acceptable repair is typically filling in the holes required for securing the news rack to the concrete. Failure to remove the shared pedestal will result in the City posting and removing the shared pedestal and affixed news racks in accordance with Section 5.66.100.

10. When use of a news rack is discontinued for a period of fourteen (14) consecutive days or longer, it shall be removed, along with its shared pedestal if applicable, and the location restored to its previous condition by the news rack Owner, including, but not limited to, repair of any portion of the sidewalk or parkway damaged by the news rack or its removal, and according to specifications provided by the Director. Failure to remove the news rack will result in the City posting and removing the news rack in accordance with Section 5.66.100.

11. Existing news racks that require painting shall be painted Malaga Green unless otherwise approved by the Public Works Director. When painting is required, the pedestal and base shall be painted black, except that pedestals and bases in the Landmarks District shall be painted Malaga Green.

12. News racks with a current annual permit that are removed for maintenance and substituted in kind, and in compliance with this section, will not be required to obtain a new permit due to the substitution. The Owner shall notify City Public Works of the in-kind substitution in writing prior to the substitution.

C. Costs. The costs of installation, maintenance, replacement, removal and relocation of news racks or shared pedestals shall be at the sole expense of the news rack Owner. Upon removal of a news rack, the Owner shall, at his or her sole expense, cause the public right-of-way and any improvements thereon to be promptly restored to the satisfaction of the Public Works Director in a condition which would have existed had the news rack not been placed at that location. If those repairs are not made within seven (7) days of removal of the news rack, the City may undertake that repair work and collect from the Owner the costs thereof, including reasonable attorneys' fees and related costs of collection. (Ord. 5718, 2015; Ord. 4662, 1990; Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3381 § 1, 1969.)

5.66.080 Downtown Plaza Requirements.

A. Finding of Special Circumstances. The City Council hereby finds that special circumstances require special design, placement and other standards for news racks located in the Downtown Plaza and any other area which may be designated by City Council upon findings that the special circumstances of the area require special design, placement and other standards for news racks.

B. Special Standards and Placement. Notwithstanding any contrary provisions in this chapter, no news rack shall be located in the Downtown Plaza except within a City modular news rack cabinet (hereinafter referred to as a "City news rack cabinet") owned and provided by the City. All news racks to be inserted into a City news rack cabinet shall be provided by the applicant at its sole expense. (Ord. 5718, 2015; Ord. 4536, 1988; Ord. 4513, 1988; Ord. 3381 § 1, 1969.)

5.66.090 Prohibition on the Display of Harmful Matter.

No material which is harmful to minors, as defined in Section 313 of the Penal Code of the State, shall be displayed in a public place, other than a public place from which minors are excluded, unless blinder racks are placed in front of the material so that the lower two-thirds (2/3) of the material is not exposed to view. (Ord. 5718, 2015; Ord. 4838, 1993).

5.66.100 Removal of News Racks; Required Hearing.

A. Removal by the City. Any news rack or shared pedestal, installed or maintained in violation of this chapter may be removed by the City for violation of the ordinance, subject to the notice and hearing procedures set forth in this section.

B. Notice of Violation. Before removal of any news rack, the City shall notify the Owner or distributor of the violation by written notification via first class mail to the address or addresses shown on the offending news rack and the permit, which shall constitute adequate notice. If available, the City will also send the written notice of violation by email. Before removal of any shared pedestal, written notification will be sent via first class mail to all Owners of the news racks affixed to the offending pedestal. The City may, but need not, affix an additional notice tag onto the offending news rack or shared pedestal. If no identification is shown on the news rack, posting of the notice on the news rack alone shall be sufficient. The written notice shall state the nature of the violation and the location, shall specify actions necessary to correct the violation, and shall give the Owner or distributor ten (10) business days from the date appearing on the notice to either remedy the violation or to request a meeting before the Public Works Director. The date on the notice shall be no earlier than the date on which the notice is mailed or affixed to the news rack, as the case may be.

C. Meeting and Decision. Any Owner or distributor notified under Subsection B may request a meeting with the Public Works Director by making a written request within ten (10) business days from the date appearing on the notice. The meeting shall be informal, but oral and written evidence may be given by both sides. The Public Works Director shall give his or her written decision within ten (10) business days after the date of the meeting. Any action by the City to remove the news rack shall be stayed pending the written decision of the Public Works Director following the meeting. If the Public Works Director is unable to conduct the hearing due to bias or legal disability, the City Administrator or mutually agreed upon third party shall conduct the hearing.

D. Removal and Impoundment. The City may remove and impound a news rack or shared pedestal in accordance with this section following the written decision of the Public Works Director upholding the determination of a violation, or if the Owner or distributor has neither requested a meeting nor remedied the violation within ten (10) business days from the date on the notice. An impounded news rack shall be retained by the City for a period of at least thirty (30) calendar days following the removal, and may be recovered by the Owner upon payment of a fee as may be established by resolution. An impounded news rack and its contents may be disposed of by the City after thirty (30) calendar days.

E. Summary Abatement. Notwithstanding the provisions of Subsections B and C, prior notice and an opportunity to be heard shall not be required before removal of any news rack or shared pedestal that is installed or maintained in such a place or manner as to pose an immediate or clear and present danger to persons, vehicles or property, or any news rack that is placed in any location without a permit. In such case, the City shall proceed in the following manner:

1. Within one (1) working day following removal, the City shall notify the Owner by telephone of the removal. In the case of an unpermitted news rack or shared pedestal, where possible, the City shall notify the Owner of the news rack, or a person whose name is shown on the news rack, by telephone of the removal. Within three (3) business days, the Public Works Director or designee shall send written confirmation of the telephoned notice. The written confirmation shall contain the reasons for the removal and information supporting the removal, and shall inform the recipient of the right to request, in writing or in person, a post-removal meeting within four (4) business days of the date of such written notice.

2. Upon timely request, the Public Works Director shall provide a meeting within two (2) working days of the request, unless the requesting party agrees to a later date. The proceeding shall be informal, but oral and written evidence may be given by both sides. The Public Works Director shall give his or her decision in writing to the requesting party within two (2) working days after such meeting. If the Public Works Director finds that the removal was in accordance with this chapter and City regulations, he or she shall notify the requesting party to pay any applicable penalties and costs and recover the news rack. If the Public Works Director finds that the removal was improper and that placement of the news rack was in accordance with City regulations and lawful, the Public Works Director shall order that the news rack be released and reinstalled without charge.

3. If the Owner of an unpermitted news rack cannot be determined and the news rack does not contain the required identification, no notice of the removal shall be required. (Ord. 5718, 2015; Ord. 4536, 1988)

5.66.110 Abandoned Newsracks.

An abandoned news rack or shared pedestal may be removed by the City and impounded, pursuant to the notice and hearing procedures set forth in Section 5.66.100. The City may dispose of the news rack or shared pedestal if the Owner does not claim the news rack and pay any required fees within thirty (30) days of its removal.
(Ord. 5718, 2015; Ord. 4536, 1988.)

5.66.120 Public Nuisance.

The operation or maintenance of any news rack or shared pedestal contrary to the provisions of this chapter shall constitute a public nuisance, which in addition to or in lieu of criminal proceedings, may be abated, removed or enjoined by appropriate legal action brought by the City Attorney. (Ord. 5718, 2015.)

5.66.130 Severability.

If any section, sentence, clause, phrase or provision of this chapter, or the application thereof to any person or circumstances, is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions or provisions of this chapter or their applicability to distinguishable situations or circumstances. In enacting this chapter, it is the desire of the City Council to regulate validly to the full measure of its legal authority in the public interest. To that end, the City Council would have adopted this chapter and each section, sentence, clause, phrase, and portion thereof, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions thereof might be invalid, in whole or in part, as applied to any particular situation or circumstance, and, to this end, the provisions of this chapter are intended to be severable. (Ord. 5718, 2015.)

Chapter 5.68

POOL AND BILLIARD ROOMS

Sections:

5.68.005 Poolroom and Billiard Room Defined.
5.68.010 Minors - When Permitted.
5.68.020 Application for Permission to Have Minors as Patrons - Information - Fee.
5.68.030 Application - Investigation - Permit Granting - Renewal - Denial.
5.68.050 Minors Prohibited - Exceptions.
5.68.060 Grounds for Suspension, Revocation - Hearing.
5.68.070 Penalty for False Identification to Gain Entry.

5.68.005 Poolroom and Billiard Room Defined.

As used in this chapter, a "public poolroom or billiard room" shall mean any business establishment whose principal business is to provide pool, billiard or similar tables and accessory equipment for use by the public upon payment of a fee. (Ord. 3809, 1975.)

5.68.010 Minors - When Permitted.

It is unlawful for any person under the age of 18 years to enter or visit a public poolroom or billiard room in the City unless accompanied by an adult. (Ord. 4145, 1982; Ord. 3621 §1, 1974.)

5.68.020 Application for Permission to Have Minors as Patrons - Information - Fee.

The owner or operator of a poolroom or billiard room desiring the patronage of minors shall apply in writing to the Board of Fire and Police Commissioners of the City for permission to allow minors in such pool or billiard room. Such application shall show the name of the person, firm or corporation desiring to conduct, manage or carry on such place of business, the place where the same is to be located, and a general statement describing the proposed mode of operation of such establishment. Such application shall also show whether or not alcoholic beverages are sold or dispensed on the premises, or whether or not an application for the sale of alcoholic beverages will be made to the Department of Alcoholic Beverage Control of the State in connection with such premises. Such application shall be accompanied by a fee of twenty--five dollars ($25.00) to cover the cost of investigation of such application. (Ord. 3024 §2(part), 1965; prior Code §32.29(a).)

5.68.030 Application - Investigation - Permit Granting - Renewal - Denial.

Upon receipt of such application, the Board of Fire and Police Commissioners shall cause an investigation to be made of such applicant or applicants as to his or their moral character and whether he or they have been convicted of crimes involving violence against persons, violation of public decency and morals, or violation of public health and safety, together with an investigation of the proposed location of such poolroom or billiard room, and any other matters or things pertinent to such application and permit. Upon the completion of such investigation, the Board of Fire and Police Commissioners shall make a finding and determination as to whether the granting of such application will or will not be detrimental to the public health, safety and welfare of the people of the City. Upon the basis of such finding and determination, a permit may be denied or granted with conditions set by the Fire and Police Commission, provided that such permit, if granted, shall be for a period of six (6) months, and at the expiration of such six (6) month period, the Board of Fire and Police Commissioners shall cause an examination of the premises and establishment to be made. As a result of such investigation such permit shall be renewed for successive six (6) month periods, so long as it is not determined that renewal is or will be detrimental to the public health, safety and welfare of the people of the City of Santa Barbara. (Ord. 4145, 1982; Ord. 3621 §1, 1974.)

5.68.050 Minors Prohibited - Exceptions.

It shall be unlawful for any person who keeps or conducts a public pool or billiard room, or any permittee under Sections 5.68.010-5.68.030, whether as proprietor, lessee, agent or clerk, to permit any minor to enter, visit, attend or patronize such pool or billiard room except under the conditions set forth in Section 5.68.040. (Ord. 3024 §4(part), 1965; prior Code §32.30(a).)

5.68.060 Grounds for Suspension, Revocation - Hearing.

Any permit issued pursuant to Sections 5.68.010-5.68.030 may be suspended or revoked by the Board of Fire and Police Commissioners when, upon a hearing before the Board, held after at least five (5) days written notice to the permittee, it appears:

(1) That such permittee has been convicted of any misdemeanor described in Sections 5.68.010 --5.68.030 or 5.68.050; or

(2) If it be found and determined by the Board upon such hearing that any minors have been permitted or suffered to enter, visit, attend, remain in or patronize any such permitted pool or billiard room contrary to the provisions of Section 5.68.040. (Ord. 3024 §4(part), 1965; prior Code §32.30(b).)

5.68.070 Penalty for False Identification to Gain Entry.

It shall be unlawful for any person to gain admission to a public pool or billiard room by presenting to the owner, proprietor, or any of their employees, a forged or spurious written authorization which may be required to be presented under any provision of Section 5.68.040, and any such violation shall be punish-able by a fine of not to exceed one hundred dollars ($100.00) or by imprisonment of not more than ten (10) days. (Ord. 3024 §5, 1965; prior Code §32.301.)

Chapter 5.72

CIRCUSES AND CARNIVALS

Sections:

5.72.010	**Permit Required.**	**5.72.070**	**Time of Permit.**
5.72.020	**Application.**	**5.72.080**	**Revocation.**
5.72.030	**Application Fee.**	**5.72.090**	**Appeal.**
5.72.040	**Investigation.**	**5.72.100**	**Applicant.**
5.72.050	**Permit Approval.**	**5.72.110**	**Exemption.**
5.72.060	**Permit Issuance.**	**5.72.120**	**Application Date.**

5.72.010 Permit Required.

Except as provided in Section 5.72.110, no person shall conduct, manage or carry on a circus or carnival in the City of Santa Barbara without first obtaining a permit as provided in this chapter. (Ord. 3259 §1(part), 1967.)

5.72.020 Application.

Applicants for a permit under this chapter shall file with the Tax and Permit Inspector a sworn application in writing which shall contain the following information:

(1) Name and description of the applicant;
(2) Permanent home address and local address;
(3) The time and location of the proposed circus or carnival;
(4) A description of the number and types of attractions to be operated;
(5) A list of other areas where applicant has conducted a circus or carnival within the past two (2) years;
(6) A statement as to whether or not the applicant has been convicted of any crime exclusive of traffic violation, the nature of the offense and the punishment or penalty assessed. If the owner of the circus or carnival is a corporation, the foregoing information shall be furnished as to the managing officer or officers;
(7) Such other information as the Chief of Police deems reasonable and convenient to aid in his investigation as to whether or not a permit should be issued. (Ord. 3259 §1(part), 1967.)

5.72.030 Application Fee.

At the time of filing the application, a fee of ten dollars ($10.00) shall be paid to the Tax and Permit Inspector to cover the cost of processing the application. The application fee shall not be refunded under any circumstances. (Ord. 3259 §1(part), 1967.)

5.72.040 Investigation.

Upon receipt of the application it shall be referred to the Chief of Police, who shall cause such investigation of the applicant's moral character and record of honesty and fair dealing in the circus and carnival business to be made as he deems necessary for the protection of the public well being. The Chief of Police shall also investigate the suitability of the location proposed for the conduct of the circus or carnival from the standpoint of potential traffic and law enforcement problems. (Ord. 3259 §1(part), 1967.)

5.72.050 Permit Approval.

After completion of his investigation, the Chief of Police shall approve or disapprove the application. He may approve an application subject to the compliance by the applicant with conditions imposed for the purpose of protecting the public welfare and interest. (Ord. 3259 §1(part), 1967.)

5.72.060 Permit Issuance.

The Tax and Permit Inspector shall issue a permit or refuse to issue such permit in accordance with the recommendation of the Chief of Police; provided, that no permit shall be issued unless all City fees and taxes applicable to the proposed circus or carnival have been paid, and provided further, that the issuance of any permit shall in no manner be deemed to relieve the applicant from compliance with all City ordinance requirements. (Ord. 3259 §1(part), 1967.)

5.72.070 Time of Permit.

A permit shall not be issued for a period of time longer than, nor for a location other than, those specified in the application. (Ord. 3259 §1(part), 1967.)

5.72.080 Revocation.

Any permit issued under this chapter may be revoked by the Chief of Police upon the determination of facts which would constitute grounds for the denial of the permit. (Ord. 3259 §1(part), 1967.)

5.72.090 Appeal.

Any person aggrieved by any decision relating to the denial, conditional approval or revocation of a permit under this chapter may appeal such decision to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3259 §1(part), 1967.)

5.72.100 Applicant.

The application required by this chapter shall be made by the owner or operator of the circus or carnival business even though the particular circus or carnival event for which a permit is sought is sponsored by a charitable or nonprofit organization or by a local business or other organization whose primary activity is not the operation of a circus or carnival. (Ord. 3259 §1(part), 1967.)

5.72.110 Exemption.

This chapter shall not apply to a circus or carnival which is organized for the purpose of raising funds for a charitable or nonprofit organization in the City of Santa Barbara and which circus or carnival is conducted exclusively by members of such organization. A carnival shall not be deemed to be conducted exclusively by members of a nonprofit or charitable organization unless all persons managing and operating all events in a carnival are members of the organization. (Ord. 3259 §1(part), 1967.)

5.72.120 Application Date.

Applications for a permit under this chapter shall be submitted to the City at least thirty (30) days prior to the time the proposed circus or carnival is to be held. (Ord. 3259 §1(part), 1967.)

Chapter 5.76

BATHS, SAUNA BATHS, MASSAGE PARLORS AND SIMILAR BUSINESSES

Sections:

5.76.010 Definitions.
5.76.020 Permit Required.
5.76.030 Exceptions.
5.76.040 Application - Fee.
5.76.050 Application - Contents.
5.76.060 Facilities Necessary and Regulations.
5.76.070 Permit Procedures.
5.76.080 Display of Permit.
5.76.090 Change of Location.
5.76.100 Employees.
5.76.110 Inspection.
5.76.120 Records of Treatments.
5.76.130 Name of Business.
5.76.140 Revocation and Suspension of Permit.
5.76.150 Sale or Transfer.
5.76.160 Applicability of Regulations to Existing Businesses.
5.76.170 Violation and Penalty.
5.76.180 Separability.

5.76.010 Definitions.

For the purpose of the provisions regulating baths, sauna baths, massage parlors and similar businesses hereinafter set forth, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended:

(a) MASSAGE. A method of treating the external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, or tapping with the hand or any instrument.

(b) MASSAGE ESTABLISHMENT. An establishment having a fixed place of business where any person, association, firm or corporation engages in, conducts, or carries on, or permits to be engaged in, conducted, or carried on, any business of giving massage or Turkish, Russian, Swedish, vapor, sweat, electric, salt, magnetic, or any other kind or character of baths, where alcohol rub, formentation, baths, manipulation of the body or similar procedures is given.

(c) MASSAGE TECHNICIAN OR TECHNICIANS. Any person, male or female, who administers to another person, for any form of consideration, a massage, alcohol rub, fomentation, bath, electric or magnetic massage procedure, manipulation of the body, or other similar procedure. (Ord. 3543 §1(part), 1972.)

5.76.020 Permit Required.

It is unlawful for any person, association, firm or corporation to engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the City of Santa Barbara, the business of a massage establishment or to render, or permit to be rendered massage services at a location removed from a massage establishment within the City of Santa Barbara in the absence of a permit issued pursuant to the provisions hereinafter set forth, and without paying a business tax. (Ord. 3823, 1976; Ord. 3543 §1(part), 1972.)

5.76.030 Exceptions.

The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to any persons designated as follows: physicians, surgeon, chiropractor, osteopath, or any nurse working under the supervision of a physician, surgeon, chiropractor, or osteopath duly licensed to practice their respective professions in the State of California, nor shall the requirements of this chapter apply to any treatment administered in good faith in the course of the practice of any healing art or professions by any person licensed to practice any such art or profession under the Business and Professions Code of the State of California or of any other law of this State. Practical nurses or other persons without qualifications as massage technicians, or other persons not otherwise licensed by the State of California to practice pursuant to the Medical Practice Act, whether employed by physicians, surgeons, chiropractors, or osteopaths or not, may not give massages or massage procedures. (Ord. 3543 §1(part), 1972.)

5.76.040 Application - Fee.

(a) Any person desiring to obtain a permit to operate a massage establishment or to perform massage services shall make application to the Chief of Police for an investigation.

(b) Each application shall be accompanied by a permit fee of ten dollars ($10.00). (Ord. 3543 §1(part), 1972.)

5.76.050 Application - Contents.

Any applicant for a permit shall submit the following information:

(a) The full name and present address of applicant;

(b) The two (2) previous addresses immediately prior to the present address of applicant;

(c) Written statements of at least five (5) bona fide residents of the City of Santa Barbara that the applicant is of good moral character;

(d) Written proof that the applicant is over the age of eighteen (18) years;

(e) Applicant's height, weight, color of eyes and hair;

(f) Two (2) portrait photographs of at least 2" X 2";

(g) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application;

(h) The massage or similar business tax history of the applicant; whether such person, in previously operating in this or another City or State under permit, has had such permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(i) All convictions and the reasons therefor;

(j) A certificate from a medical doctor stating that the applicant has, within thirty (30) days immediately prior thereto, been examined and found to be free of any contagious or communicable disease;

(k) Applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage technicians is taught. The term "recognized school" shall mean and include any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage technicians, which school requires a resident course of study of not less than two hundred (200) hours to be given in not less than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning showing the successful completion of such course of study or learning;

Schools offering correspondence course not requiring actual attendance of class shall not be deemed a "recognized school". The City of Santa Barbara shall have a right to confirm the fact that the applicant has actually attended classes in a recognized school for aforementioned minimum time periods;

(l) In lieu of the information required in subsection (k) above, applicant may submit evidence of not less than five (5) years practical experience as a massage technician certified by the California Massage Technicians Association or by the American Massage Therapy Association or not less than five (5) years experience as a massage technician in a massage establishment certified by either of the aforementioned associations;

(m) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application;

(n) Nothing contained herein shall be construed to deny to the Police Department of the City of Santa Barbara the right to take the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of said department to confirm the height and weight of the applicant. (Ord. 3823, 1976; Ord. 3543 §1(part), 1972.)

5.76.060 Facilities Necessary and Regulations.

No permit to conduct a massage establishment shall be issued unless an inspection by the City of Santa Barbara reveals that the establishment complies with each of the following minimum requirements:

(a) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment, provided, that all such signs shall comply with the sign requirements of the City of Santa Barbara.

(b) No person shall give, or assist in the giving, of any massage to any other person under the age of eighteen (18) years, unless the parent or guardian of such minor person has consent thereto in writing.

(c) Minimum lighting shall be provided in accordance with the California Building Code as adopted and amended by the City, and, in addition, at least one (1) artificial light of not less than forty (40) watts shall be provided in each enclosed room or booth where massage services are being performed on a patron.

(d) Minimum ventilation shall be provided in accordance with the Uniform Building Code.

(e) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.

(f) Hot and cold running water shall be provided at all times.

(g) Closed cabinets shall be provided which cabinets shall be utilized for the storage of clean linen.

(h) In any establishment in which massage services are rendered only to members of the same sex at any one time, such persons of the same sex may be placed in a single separate room or the operators of the massage establishment may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside said room or booth while massage services are being performed.

(i) Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, as well as a minimum of one (1) toilet and one (1) wash basin shall be provided by every massage establishment, provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room or rooms, separate dressing and separate toilet facilities shall be provided for male and for female patrons.

(j) A separate wash basin shall be provided for each portion of a massage parlor wherein massage services are performed for the individual use of each person performing massage services. Such basin shall be provided with soap and hot and cold running water at all times and shall be located within, or as close as practicable, to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin, sanitary towels placed in permanently installed dispensers.

(k) All walls, ceilings. floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(l) Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted. (Ord. 3543 §1(part), 1972.)

5.76.070 Permit Procedures.

Any applicant for a permit pursuant to these provisions shall personally appear at the Police Department of the City of Santa Barbara, and after paying the ten dollar ($10.00) permit fee hereinabove provided, shall present to the Police Department the application containing the aforementioned and described information. The Chief of Police shall have a reasonable time in which to investigate the application and the background of the applicant. Based on such investigation, the Chief of Police, or his representative, shall approve or deny the permit.

The Building Division, the Fire Department, and the Santa Barbara County Health Department shall inspect the premises proposed to be devoted to the massage establishment and shall make separate recommendations to the Chief of Police concerning compliance with the foregoing provisions.

The Chief of Police shall grant a permit to the establishment if all requirements for a massage establishment described herein are met and shall issue a permit to all persons who have applied to perform massage services if qualified as hereinabove, unless it appears that any such person has deliberately falsified the application or unless it appears that the record of such persons reveals a conviction of a felony or a crime of moral turpitude.

Any person denied a permit pursuant to these provisions by the Chief of Police, may appeal to the Board of Fire and Police Commissioners in writing, stating reasons why the permit should be granted. The Board may grant or deny the permit and such decision shall be final upon the applicant. Also, the said Board may elect on its own motion to review any determination of the Chief of Police granting or denying a permit.

All permits issued hereunder are non-transferable, provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions herein. (Ord. 3543 §1(part), 1972.)

5.76.080 Display of Permit.

Every person, association, firm or corporation to whom or for which a permit shall have been granted shall display said permit in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage, bath, or treatment is given. (Ord. 3543 §1(part), 1972.)

5.76.090 Change of Location.

A change of location of any of the aforementioned and described premises may be approved by the Chief of Police, provided all ordinances and regulations of the City of Santa Barbara are complied with and the change of location fee of ten dollars ($10.00) is deposited with the City. (Ord. 3543 §1(part), 1972.)

5.76.100 Employees.

It shall be the responsibility of the holder of the permit for the massage establishment or the employer of any persons purporting to act as massage technicians, to insure that each person employed as a massage technician shall first have obtained a valid permit pursuant to this chapter. No registered massage technician aide may independently practice the acts of massage, but he may, as a massage technician aide, assist a technician in the acts constituting the practice of massage under the immediate personal supervision and employment of a registered massage technician, but such aide may assist only while the massage technician is personally present with the patron, and such aide may not perform massage services.

Any massage technician aide shall comply with the requirements of Section 5.76.050. (Ord. 3543 §1(part), 1972.)

5.76.110 Inspection.

The Building Division, Fire Department and Police Department shall, from time to time and at least twice each year, make an inspection of each massage establishment in the City of Santa Barbara for the purpose of determining that the provisions of this Code are met. (Ord. 3543 §1(part), 1972.)

5.76.120 Records of Treatments.

Every person, association, firm, or corporation operating a massage establishment under a permit as herein provided shall keep a record of the date and hour of each treatment, the name and address of the patron, and the name of the technician administering such treatment. Said record shall be open to inspection by officials charged with the enforcement of these provisions for the purposes of law enforcement and for no other purpose. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by any officer or employee of the City of Santa Barbara shall constitute a misdemeanor and such officer or employee shall be subject to the penalty provisions of this chapter, in addition to any other penalties provided by law. Identical records shall be kept of treatments rendered off the business site, and, in addition, shall describe the address where the treatment was rendered. Said records shall be maintained for a period of two (2) years. (Ord. 3543 §1(part), 1972.)

5.76.130 Name of Business.

No person permitted to do business as herein provided shall operate under any name or conduct his business under any designation not specified in his permit. (Ord. 3543 §1(part), 1972.)

5.76.140 Revocation and Suspension of Permit.

A permit issued under authority of this chapter may be suspended for violation of any of its provisions or for fraud or misrepresentation in the permit application, but no permit shall be revoked until after a hearing shall have been held before the Board of Fire and Police Commissioners to determine just cause for such revocation. Provided, however, the Chief of Police may order any permits suspended pending such hearing, and it shall be unlawful for any person to carry on the business of a massage technician or to operate as a massage establishment depending upon the particular type of permit which has been suspended until the suspended permit has been reinstated by the said Board. Notice of such hearing shall be given in writing and served at least five (5) days prior to the date of the hearing thereon. The notice shall state the ground of the complaint against the holder of such permit, or against the business carried on by the permittee at the massage establishment, and shall state the time and place where such hearing will be had at the next regular meeting of the Board following the five (5) day notice period.

The notice shall be served upon the permit holder by delivering the same to such person or by leaving such notice at the place of business or residence of the permit holder in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found, and the service of such notice cannot be made in the manner herein provided, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at his place of business or residence at least five (5) days prior to the date of such hearing. (Ord. 3543 §1(part), 1972.)

5.76.150 Sale or Transfer.

Upon the sale or transfer of any interest in a massage establishment, the permit and tax receipt shall be null and void. A new application shall be made by any person, firm, or entity desiring to own or operate the massage establishment. A fee of ten dollars ($10.00) shall be payable for each such application involving sale or other transfer of any interest in an existing massage establishment. The provisions of this chapter shall apply to any person, firm, or entity applying for a massage establishment permit for premises previously used as such establishment.

Any such sale or transfer of any interests in an existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment, shall require inspection and shall require compliance with this chapter. (Ord. 3543 §1(part), 1972.)

5.76.160 Applicability of Regulations to Existing Businesses.

The provisions of this chapter shall be applicable to all persons and businesses described herein whether the herein described activities were established before or after the effective date of this chapter. (Ord. 3543 §1(part), 1972.)

5.76.170 Violation and Penalty.

(a) Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee, or operator, or whether acting as a participant or worker in any way, who gives massages or conducts a massage establishment or room, or who gives or administers, or who practices the giving or administering of steam baths, electric light baths, electric tub baths, shower baths, sponge baths, vapor baths, fomentation, sun baths, mineral baths, alcohol rubs, Russian, Swedish, or Turkish baths, or any other type of baths, salt flows or any type of therapy or who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit and paying a tax or violates any provision of this chapter shall be guilty of a misdemeanor.

(b) Any owner, operator, manager, or permittee in charge or in control of a massage establishment who knowingly employs a person performing as a massage technician as defined in this part who is not in possession of a valid permit or who allows such an employee to perform, operate, or practice within such a place of business is guilty of a misdemeanor.

(c) Any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinment thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such reliefs as will abate or remove such massage establishments and restrain and enjoin any person from operating, conducting, or maintaining a massage establishment contrary to the provisions of this chapter. (Ord. 3543 §1(part), 1972.)

5.76.180 Separability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 3543 §1(part), 1972.)

TITLE 6
Animal Control

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5531	Licensing Requirements for Dogs and Cats	November 11, 2010	Chapter 6.12

TITLE 6

ANIMAL CONTROL

Chapter: 6.04 General Provisions.
Chapter: 6.08 Care and Keeping of Animals.
Chapter: 6.12 Dogs.
Chapter: 6.16 Rabies.
Chapter: 6.20 Animal Control Supervisor.
Chapter: 6.24 Disposition of Dead Animals.
Chapter: 6.28 Bees.

Chapter 6.04

GENERAL PROVISIONS

Sections:

6.04.010 Definitions.
6.04.020 Disposition of Funds Collected Under Title.
6.04.030 Police Animals.
6.04.040 Interference with Animal Control Duties.

6.04.010 Definitions.

Whenever in this Title the following terms are used, they shall be deemed and construed to have the meaning ascribed to them in this Section unless it is apparent from the context in which they appear that some other meaning is intended.

A. FOWL. Any chicken, turkey, goose, duck, pigeon, fancy pigeon, guinea fowl, pea fowl or poultry, but not a racing or homing pigeon.

B. IMPOUNDED. Having been received into the custody of the City or into the custody of the Animal Control Supervisor or an animal control officer.

C. ISOLATION. Confinement in such manner that the animal cannot bite any other animal or human being.

D. KENNEL. Any lot, building, structure, enclosure or premises whereon or wherein four (4) or more dogs are kept or maintained for any purpose.

E. LEASH. A rope, leather strap, or similar device intended to control a dog on a City street or public place and which is no longer than six feet (6').

F. POLICE ANIMAL. An animal which has been trained to perform official police duties and is in fact being used by a peace officer in the performance of official duties.

G. RACING OR HOMING PIGEON. A pedigree pigeon which is banded and kept for the purpose of racing or homing sporting events conducted by a nationally affiliated sporting association such as, but not limited to the American Racing Pigeon Union or the International Federation of Racing Pigeon Fanciers.

H. UNLICENSED DOG. Any dog for which the City license fee for the current year has not been paid by the current owner, or to which the tag provided for in this Title is not attached. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 2715 §1, 1959; prior Code §5.1.)

6.04.020 Disposition of Funds Collected Under Title.

All funds collected under the provisions of this Title shall be deposited to the credit of the City "General Fund", except that fees charged for vaccination at the dog vaccination clinics conducted by the County Health Officer may be retained by the veterinarian performing such vaccination; provided, that the veterinarian shall provide all materials and supplies necessary to perform the vaccination. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code §5.9.)

6.04.030 Police Animals.

A. RIGHT TO ENTER. Any public or private place at which a police officer has a lawful right to enter or be present in the performance of official police duties may be entered by any police animal.

B. PROHIBITION. It shall be unlawful for any person to willfully torture, tease, torment, beat, kick, strike, mutilate, injure, disable, or kill any police animal.

C. EXEMPTION. Police animals shall be exempt from the provisions of Section 6.08.020(B) while under the control of their handlers and in the performance of official police duties. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4246, 1983.)

6.04.040 Interference with Animal Control Duties.

It shall be unlawful for any person to willfully resist, delay or obstruct any animal control officer or peace officer of the City of Santa Barbara in the discharge or attempt to discharge any duty imposed upon such officer pursuant to this Title or other provisions of the Municipal Code. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code Sec. 5.42.)

Chapter 6.08

CARE AND KEEPING OF ANIMALS

Sections:

6.08.010 Raising Rabbits, Chickens and Fowl.
6.08.020 Animals Running at Large and Grazing Prohibited - Exception - Nuisance.
6.08.025 Sanitation of Quarters.
6.08.030 Disturbing the Peace.
6.08.040 Public Nuisance.
6.08.050 Abandonment of Animals.
6.08.060 Keeping Livestock.
6.08.070 Animals - Public Beaches and Harbor.

6.08.010 Raising Rabbits, Chickens and Fowl.

A. GENERALLY. Except where two or fewer rabbits, chickens or fowl are kept as pets and not for commercial or breeding purposes, rabbits, chickens and other fowl may not be kept or raised unless in accordance with the following conditions:

1. No more than fifteen (15) rabbits, chickens or fowl, or any combination thereof, may be kept at any one time on any premises zoned pursuant to Title 28 of the Santa Barbara Municipal Code as R-4, R-3, R-2, R-1, E-3, or E-2.

2. No more than thirty (30) rabbits, chickens or fowl, or any combination thereof, may be kept at any one time on any premises zoned pursuant to Title 28 of the Santa Barbara Municipal Code as E-1, A-2 or A-1.

3. No more than one hundred (100) racing or homing pigeons may be kept at any one time on any premises within the City.

4. All rabbits, chickens, fowl or racing or homing pigeons shall be kept in cages, hutches or coops which shall be maintained in a clean and sanitary condition at all times. Any such cage, hutch or coop shall be located outside the front yard, as that term is defined in Section 28.04.710, and shall be located at least one hundred (100) feet from any property being used as a school, park, hospital or similar institution and at least thirty-five (35) feet from any dwelling unit or structure used for human habitation and located on an adjoining lot.

B. ROOSTERS. It shall be unlawful to keep or maintain a rooster. (Ord. 5459, 2008; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985.)

6.08.020 Animals Running at Large and Grazing Prohibited - Exception - Nuisance.

A. ANIMALS AT LARGE. It is unlawful for any person owning or having possession, charge, custody or control of any animal, to cause or permit or allow the same to stray or run, or in any other manner to be at large in or upon any unenclosed lot or place. Whenever an animal is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large. It shall likewise be unlawful for any person owning or having possession, charge, custody or control of any animal to cause or permit or allow the same to be staked out, or to herd or graze any animal upon any unenclosed private lot or land in such a manner that the rope or other attachment by which such animal is tethered may permit such animal to be or to go beyond the boundaries of the unenclosed private lot or land. Any animal, suffered or permitted to be at large, or otherwise to be within the City in violation of the provisions of this Title, is declared to be a public nuisance.

B. DOGS IN PUBLIC. No dog is permitted upon a street or other public place unless on a leash not in excess of six (6) feet in length and under the immediate care and control of the owner or other person having the care and custody thereof, except during supervised dog training classes, shows or exhibitions held in City Parks when authorized by a Park Use Permit issued by the Parks and Recreation Department.

C. OFF LEASH DOG AREAS IN CITY PARKS AND BEACH. Notwithstanding anything in this section to the contrary, properly licensed and tagged dogs without vicious, dangerous or aggressive propensities and which are healthy and not in heat may be exercised off-leash within the areas designated in paragraph C(2) if under the care, custody or control of a person responsible for the off-leash dog.

1. **Responsible Person.** A person having possession, charge, custody or control of the off-leash dog must remain present with the off-leash dog at all times, must carry a leash, must leash the dog at the first sign of aggression, must clean up dog feces created by the dog, and bears full responsibility for filling any holes and repairing any damage created by the dog. The person responsible for the off-leash dog must comply with rules and regulations regarding the park, and must remove the dog when the off-leash dog park is closed.

2. **Off-Leash Dog Areas.** Dogs may be exercised off-leash in the following areas:

a. Douglas Family Preserve, within the area posted by the Parks and Recreation Director in accordance with the resolution adopted by the City Council.

b. Elings Park, subject to the rules and regulations of the operator of the park.

c. Hale Park.

d. On the beach from the Shoreline Park Staircase west to the eastern edge of the Arroyo Burro Estuary.

D. PENALTIES FOR VIOLATION**.** Any violation of this Section will be charged and prosecuted as an infraction. If the person charged hereunder has been previously convicted of violating this Section and the animal at large bites, attacks or causes injury to any person or other animal, the violation of this Section may be charged and prosecuted as an infraction or a misdemeanor in accordance with Section 1.28.010 of this Code. The Animal Control Supervisor and all animal control officers, park rangers and police officers shall have the duty and the authority to enforce this Section. (Ord. 5323, 2004; Ord. 5218, 2002; Ord. 5049, 1998; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744, 1975.)

6.08.025 Sanitation of Quarters.

It shall be unlawful for any person to own or maintain any cage, hutch, aviary, place, property or area in which any animal is kept in an unsanitary manner due to the accumulation of feces, urine, uneaten food or other matter that is harmful to the health, safety or welfare of the animal, other animals or any human being. Any feces, uneaten food, or other matter that emits an offensive odor or encourages the breeding of flies or other insects shall be collected daily and not allowed to accumulate. (Ord. 5218, 2002; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744, 1975; Ord 2715 §2, 1959; prior Code §5.3.)

6.08.030 Disturbing the Peace.

It is hereby declared to be a public nuisance, and it shall be unlawful for any person to keep, maintain or permit upon any lot or parcel of land under his control, any animal which, by any loud, unnecessary or repeated barking, sound, cry or other noise, shall unreasonably disturb the peace and comfort of any neighborhood. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4078, 1980; Prior Code §5.5.)

6.08.040 Public Nuisance.

Any animal, domesticated or otherwise, which in the opinion of the Animal Control Supervisor or designated animal control officer has a propensity towards viciousness or ferocity, and has shown a capacity for attacking persons, animals or property, may be declared a public nuisance by the Animal Control Supervisor or designated animal control officer. The City, or any resident thereof, in his or her own name, may maintain an action in equity to abate such nuisance and to enjoin the owner of such animal from permitting it to remain a menace to the public. Upon the granting of equitable relief, in whole or in part, by a court of competent jurisdiction, the owner of an animal determined to be a public nuisance shall be liable for the reasonable attorney fees and costs, as may be determined by the court, incurred by the party bringing the action. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985.)

6.08.050 Abandonment of Animals.

It shall be unlawful for any person owning or having the care and custody of any animal to abandon said animal within the City. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Prior Code §5.6.)

6.08.060 Keeping Livestock.

Except as otherwise provided in Title 28 of this Code relating to the permitted uses in one-family residential zones, it shall be unlawful for any person to keep any cow, calf, hog, sheep, goat or any other cloven-footed animal on any lot less than one and one-half (1 1/2) acres in size. In addition, no such animals, nor any pen, stable, barn or corral shall be kept or maintained within thirty-five feet (35') of any property line, dwelling or other building used for human habitation. (Ord. 4621, 1990; Ord. 4517, 1988; Ord. 4460, 1987; Ord. 4346, 1985; Prior Code §5.13.)

6.08.070 Animals - Public Beaches and Harbor.

A. PROHIBITION. It shall be unlawful for any person owning or having possession, charge, custody or control of any animal to cause or permit or allow the same, whether or not on leash or restraint, to be upon a beach or within the Santa Barbara Harbor except that:

1. Dogs are permitted on the beach at any point between Shoreline Park staircase and the westerly City limits subject to the provisions of Section 6.08.020; or
2. Horses are permitted on the beach at any point between Lighthouse Point and the westerly City limits if restrained in conformance with the provisions of Section 6.08.020; or
3. Horses may be allowed within sponsored parades on the beach between the eastern City Limits and Stearns Wharf, between sunrise and 11:00 a.m. except on Sundays or holidays recognized by the City, if the parade sponsor holds both a special event permit from the Police Department according to Chapter 9.12 and a Parks and Recreation Department use permit according to Chapter 15.05, if restrained in conformance with the provisions of Section 6.08.020.

For the purposes of this Section, the Harbor is defined as an area circumscribed on the west by the westerly edge of the breakwater and the easterly edge of Harbor Way, on the south by a straight line between the seaward end of the Breakwater and the seaward end of Stearns Wharf, on the east by the westerly edge of Stearns Wharf, and on the north by Cabrillo Boulevard not to include any sidewalk adjacent thereto. It shall include all marinas, wharves, docks, the breakwater, lawns, buildings, sidewalks and parking lots, but not boats.

B. EXCEPTIONS. This Section shall not apply to:

1. The owners of boats in the Harbor who are crossing the docks and landward areas of the Harbor to reach their boats or leave the Harbor with their dogs on leash and under their control.
2. Any blind person owning or having possession, charge, custody or control of a guide dog.
3. A police animal. (Ord. 5323, 2004; Ord. 4968, 1996; Ord. 4943, 1996; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4067, 1980; Ord. 3828, 1976; Ord. 3744, §7, 1975; Ord. 3597, 1973.)

Chapter 6.12

DOGS

Sections:

6.12.010	**Dogs Prohibited in De la Guerra Plaza.**
6.12.020	**Dogs Creating Nuisance on Beaches, in Public Parks and on Sidewalks.**
6.12.030	**Vicious Dog - Defined.**
6.12.040	**Vicious Dogs - Disposition.**
6.12.050	**Dog License Requirement.**
6.12.055	**Unaltered Cat License Requirement.**
6.12.058	**Special Fund – Unaltered License Surcharge.**
6.12.060	**Dog or Cat License Information.**
6.12.080	**Vaccination Certificate - Prerequisite to Issuance.**
6.12.100	**Kennel License - Requirements.**
6.12.110	**Kennel Fees - Licensed Dogs May Be Excluded.**
6.12.120	**Official Tag - Issuance.**
6.12.130	**Absence of Official Tag - Presumption.**
6.12.140	**Official Tag - Duplicates.**
6.12.150	**Exemptions from Chapter.**
6.12.160	**Guard Dog.**
6.12.170	**Dogs in Vehicles.**

6.12.010 Dogs Prohibited in De la Guerra Plaza.

It shall be unlawful for any person owning or having possession, charge, custody or control of any dog to cause or permit or allow the same, whether or not on leash, to be upon the grass area known as De la Guerra Plaza.

This Section shall not apply to any blind person owning or having possession, charge, custody or control of a guide dog or to a police dog.

This Section shall not apply to participants in events issued a permit by the Parks and Recreation Director which permit specifically allows dogs upon De la Guerra Plaza. (Ord. 5150, 2000; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4067, 1980; Ord. 3828, 1976.)

6.12.020 Dogs Creating Nuisance on Beaches, in Public Parks and on Sidewalks.

No person owning or having custody or control of any dog shall knowingly or through failure to exercise due care or control permit such dog to defecate or commit any other nuisance and allow such nuisance to thereafter remain on any beach, in any public park, or other public property, upon the sidewalk or parkway of any street, or upon any private property which is improved or occupied, without the consent of the owner or person in lawful occupation thereof. A person shall not be considered in violation of this Section if the person has necessary equipment, i.e., shovel, bag, etc., readily available and does take immediate and necessary action to accomplish the removal of such nuisance.

This Section shall not apply to any blind person owning or having possession, charge, custody or control of a guide dog or to a police dog. (Ord. 4968, 1996; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4067, 1980; Ord. 3859, 1976.)

6.12.030 Vicious Dog - Defined.

The Animal Control Supervisor or designated animal control officer is authorized to determine whether a dog is vicious, and shall be guided by the following criteria: (1) whether or not the dog has bitten any person at any other time; (2) the circumstances surrounding the occasion indicating the temper or ferocity of the dog; (3) the reputation of the dog in the community with regard to its temper and ferocity; (4) its propensity to bite persons or animals without provocation or (5) its general menace to the public. The Animal Control officer need not consider whether the dog in question has been vaccinated and licensed as required by this Title. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code §5.18.)

6.12.040 Vicious Dogs - Disposition.

If it is determined by the Animal Control Supervisor or designated animal control officer that any dog impounded pursuant to Section 6.16.050 is a vicious dog, the Animal Control Supervisor or designated animal control officer may thereupon order the person who owns or has the custody of the dog to keep the dog at all times securely fastened by a chain, or securely con-fined in a manner determined by the Animal Control Supervisor or designated animal control officer, until further order of the Animal Control Supervisor or designated animal control officer. If, given the severity of the bite or the temper and ferocity of the dog, it is the opinion of the Animal Control Supervisor that the dog should be destroyed, the owner of the dog shall be notified of the decision by certified mail sent to the address listed on the license application. Upon receipt of the notice, the owner shall have five (5) calendar days to request a hearing before the Chief of Police or the designated representative. The decision of the Chief of Police or the designated representative shall be final. In the absence of a timely request for a hearing, the decision of the Animal Control Supervisor shall be final. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3488 §1, 1971; prior Code §5.17.)

6.12.050 Dog License Requirement.

A. Mandatory License Requirement – Altered Dogs. Any person owning or having custody or control of one or more dogs in the City shall obtain a license and pay the license fee for custody or control of each such dog over the age of four (4) months. The license fees authorized by this Chapter shall be established by resolution of the City Council, and such fees shall be set at a lesser amount for dogs which have been spayed or neutered. In the event the animal to be licensed has been spayed or neutered prior to the issuance by the City of the first license to that dog, a written statement from a licensed veterinarian certifying the dog to have been spayed or neutered must be presented at the time the license is obtained in order to qualify for a reduced dog license fee.

B. Mandatory License Requirement – Unaltered Dogs. For those dogs which are to be licensed as non-spayed or non-neutered dogs, prior to the issuance by the City of the first license to a dog, and each time a City dog license is issued after the renewal of a rabies vaccination certificate for that dog, the owner of an unaltered dog shall present to the City a copy of the veterinary certificate (as such certificate is shown in the form attached to this Chapter as an exhibit) certifying that the owner has discussed the potential concerns which may arise in owning and keeping an unaltered dog with a duly-licensed veterinarian and that the owner has been counseled by the veterinarian on the owner's responsibilities in keeping an unaltered dog. The unaltered dog certification required by this subparagraph may, at the discretion of the veterinarian, be incorporated into the wording of the rabies vaccination certificate issued by that veterinarian.

C. License – Period of Validity. The license period shall not extend beyond the remaining period of validity for the current rabies vaccination. A license shall only be issued if the rabies vaccine is current through the entire licensing period. A license shall be purchased for either a 6-month period, 12-month period, 24-month period or a 36-month period. The license fee shall not apply to any dog kept or maintained exclusively in any dog kennel in the City. No dog license required by this Section shall be transferable.

D. Transfer of Ownership of Dogs. Within thirty (30) days of the transfer of ownership of any licensed dog, the person receiving ownership shall obtain a license as set forth in Subsection A of this Section.

E. Possible Penalties for Failure to Comply. Failure to comply with the provisions of Subsections A and B of this Section may result in the impoundment of the dog or a fine or both. At the discretion of the City Animal Control Supervisor, a dog determined to be vicious under Santa Barbara Municipal Code Sections 6.08.040 or 6.12.040 may not be issued an unaltered dog license. (Ord. 5531, 2010; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4087, 1980; Ord. 4067, 1980; Ord. 3744 §7, 1975.)

6.12.055 Unaltered Cat License Requirement.

A. Mandatory License Requirement – Unaltered Cats. Any person owning, keeping, or having custody or control of one or more unaltered cats in the City shall obtain a cat license from the City and pay the required license fee for having custody or control of each unaltered cat over the age of four (4) months. The license fee authorized by this Chapter for unaltered cats shall be established by resolution of the City Council.

B. Unaltered Cats – Veterinarian Certificate. For those cats licensed as required by subsection (A) above, prior to the issuance by the City of the first license to such a cat, and upon the issuance of each City license thereafter, the owner of an unaltered cat shall present to the City a copy of a veterinary certificate (as such certificate is shown in the form attached to this Chapter as an exhibit) certifying that the owner has discussed the potential concerns which may arise in owning or keeping an unaltered cat with a duly-licensed veterinarian and that the owner has been counseled by the veterinarian on the owner's responsibilities in keeping an unaltered cat.

C. License – Period of Validity. A license for an unaltered cat may be purchased for either a 6-month period, a 12-month period, a 24-month period, or a 36-month period. No unaltered cat license required by this Section shall be transferable.

D. Transfer of Ownership of Cats. Within thirty (30) days of the transfer of ownership of any licensed unaltered cat, the person receiving ownership of or now keeping a cat shall obtain a cat license as set forth in Subsection A of this Section.

E. Possible Penalties for Failure to Comply. Failure to comply with the provisions of Subsections A and B of this Section may result in the impoundment of the cat or a fine or both. (Ord. 5531, 2010.)

6.12.058 Special Fund – Unaltered License Surcharge.

Notwithstanding Santa Barbara Municipal Code Section 6.04.020, in establishing the amount of City pet license fees for the keeping of an unaltered pet pursuant to Section 6.12.050 or Section 6.12.055 hereof, the City Council may also establish a license surcharge amount, which surcharge is to be earmarked into a special City fund for use, at the discretion of the Chief of Police, in funding City educational outreach activities regarding the possible concerns with owning an unaltered pet and to foster methods to encourage City pet owners to be responsible in the ownership and maintenance of an unaltered pet. (Ord. 5531, 2010.)

6.12.060 Dog or Cat License Information.

Each dog or unaltered cat license shall state the name, address, and telephone number of the person to whom such license is issued, the amount paid, the date when issued, the date on which such license shall expire, and in the case of an individual dog or cat license, a description of the dog or cat for which such license is issued, and the number of the metallic tag accompanying the license. In the case of a kennel license, such license shall show, in addition to the above information, the maximum number of dogs or cats which may be kept in such kennel under authority of such license. (Ord. 5531, 2010; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code §5.23.)

6.12.080 Vaccination Certificate - Prerequisite to Issuance.

No license shall be issued for a dog until it has been vaccinated in accordance with Section 6.16.070, and the owner or person in possession of the dog submits a certificate of vaccination approved by the Health Department from a licensed veterinarian confirming the approved vaccination for such dog as described in Section 6.16.080. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §9, 1975; Ord. 3102 §2, 1966; Ord. 2715 §4, 1959; prior Code §5.36.)

6.12.100 Kennel License - Requirements.

Any person conducting, managing or maintaining a dog kennel shall obtain a kennel license and pay to the City a license fee in an amount established by resolution of the City Council.

The applicant for a kennel license shall present the property as a kennel prior to the issuance of a license. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4087, 1980; Ord. 3673 §1, 1974.)

6.12.110 Kennel Fees - Licensed Dogs May Be Excluded.

In ascertaining the number of dogs being kept or maintained in any kennel, duly licensed dogs shall be excluded from such number in the event that the person conducting, managing or maintaining such kennel furnishes, at the time of making application for such kennel license, an affidavit stating the number of such licensed dogs and the license number of each such dog; provided, however, that for any kennel containing any such licensed dogs there shall be paid a kennel license fee in an amount equal to the minimum amount required for dog kennels. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §9, 1975; prior Code §5.28.)

6.12.120 Official Tag - Issuance.

Upon exhibition of the proper certificate of vaccination (when applicable) and payment of the license fee, there shall be delivered to the person making such payment a metal pet license tag, with the serial number, the year and "Santa Barbara City" stamped or cut thereon, and, when applicable, the word "vaccinated" stamped thereon. Such dog or cat tag shall be securely affixed to a collar or harness, which shall at all times be worn by such dog or cat. The tag while attached to the dog's or cat’s collar or harness shall be prima facie evidence that the dog or cat for which the same was issued has been vaccinated (when applicable) and licensed during the licensing period for which the tag was issued. (Ord. 5531, 2010; Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Prior Code §5.30.)

6.12.130 Absence of Official Tag - Presumption.

If any dog is found in or upon any place in the City without having an official tag attached to his collar or harness as required by this Chapter, the dog shall be presumed to be an unlicensed dog and not to have been vaccinated or licensed as required by law. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §10, 1975; Ord. 2715 §7, 1959; prior Code §5.33.)

6.12.140 Official Tag - Duplicates.

Whenever the official license tag issued for the current licensing period has been lost, taken or stolen by parties unknown to the owner or person having the care, custody or control of the dog for which the same has been issued, such owner or person having the care, custody or control of such dog may, upon the payment of the required fee and exhibition of his certificate of vaccination and on making and subscribing to an affidavit of such loss, receive a duplicate tag for the remaining portion of the licensing period for which the original dog tag was issued. Duplicate metal license tags may be obtained for any valid license for which current fees have been paid upon payment of an additional charge which shall be established by a resolution of the City Council. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4087, 1980; Ord. 3744 §9, 1975; prior Code §5.34.)

6.12.150 Exemptions from Chapter.

The provisions of Sections 6.12.050 to 6.12.140 shall not apply to dogs owned by or in charge or care of persons who are (i) non-residents of the City and (ii) traveling through the City or temporarily residing therein for a period not exceeding thirty (30) days, nor to dogs temporarily brought into the City for the exclusive purpose of entering the same in a bench show or dog exhibition. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3597, 1973.)

6.12.160 Guard Dog.

A. GUARD DOG. Any dog kept, used or maintained to guard, protect, patrol or defend any property, premises or person within the City limits.

B. NOTICE AND SIGNS. No person shall keep, use or maintain any guard dog unless the premises are posted to warn of a guard dog on the property. The warning shall consist of a sign placed at each entrance and exit to the property in a position to be legible from the sidewalk or ground level adjacent to the sign. If the property is not enclosed by a wall or fence, a sign shall be placed at every entrance and exit to each structure on the premises. Each sign shall measure at least 10" x 14" and shall contain block lettering on a white background stating "Warning Guard Dog on Duty". In addition, the sign shall set forth the name, address and telephone number of the person or persons to be notified during any hour of the day or night who will proceed immediately to the location to permit entry by the Animal Control Supervisor or any animal control officer. A copy of such information shall also be delivered to the Animal Control Supervisor.

C. LICENSE. No person shall keep, use or maintain a guard dog on any premises unless each dog has its license tag securely affixed to its collar or harness.

D. TETHER REQUIREMENTS. No person shall keep, use or maintain any guard dog on any property or premises used for commercial or industrial purposes during business hours unless such guard dog is confined to a completely enclosed pen, is maintained by a tether not longer than five (5) feet or is confined to an area away from contact by persons authorized to be on the property or premises. (Ord. 4621, 1990; Ord. 4460, 1987.)

6.12.170 Dogs in Vehicles.

A. No person shall transport or carry on any public street any dog in any unenclosed portion of a motor vehicle unless the dog is protected by a cage, pen or crosstie which will prevent the dog from falling from, being thrown from, or jumping from the motor vehicle.

B. No person shall leave a dog in an unattended motor vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperatures which adversely affect the dog's health or welfare.

C. No person shall leave a dog in an unattended motor vehicle without assuring that the dog cannot escape or bite persons passing by the vehicle. (Ord. 4621, 1990; Ord. 4460, 1987.)

EXHIBIT TO SECTIONS 6.12.050 AND 6.12.055

VETERINARIAN CERTIFICATE OF COUNSELING
FOR NON-SPAYED OR NON-NEUTERED DOGS OR CATS

This Certificate is to certify that _____, D.V.M., has discussed the potential problems and concerns which may arise in keeping and properly maintaining a dog or cat which has not been altered and the responsibilities which come with owning an unaltered dog or cat, with _____(insert owner's name)___, the owner of the dog or cat.

I have been advised by the owner that this pet will be kept at the following address within the City of Santa Barbara, which will be the licensing address:

_____(insert address for license and where pet will be kept)_____

I also certify that I provided this owner with the informational materials and literature on how to responsibly and properly keep and maintain a non-spayed or non-neutered pet, and I have discussed this information with him or her and advised them of their ownership responsibilities.

DATED: _____ _____,DVM

_____ADDRESS

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Chapter 6.16

RABIES

Sections:

6.16.010 **Suspicion - Report to County Health Officer.**
6.16.020 **Suspicion - Inspection on Private Property.**
6.16.030 **Disposal - Laboratory Specimens - Cost.**
6.16.040 **Quarantine - Confinement Specified.**
6.16.050 **Reports of Animal Biting - Isolation - Release - Cost.**
6.16.055 **Failure to Isolate or Surrender Biting Animal.**
6.16.060 **Redemption of Animals Free of Rabies - Disposition of Unclaimed Animals.**
6.16.070 **Vaccination - Required.**
6.16.080 **Vaccination - Certificate of Vaccination Issued to Owner.**

6.16.010 Suspicion - Report to County Health Officer.

Whenever the owner or person having the custody or possession of an animal shall observe or learn that such animal shows symptoms of rabies, or acts in a manner which would lead to a reasonable suspicion that it may have rabies, such owner or person having the custody or possession of such animal shall immediately notify the County Health Officer. The County Health Officer shall make or cause an inspection or examination of such animal to be made by a licensed veterinarian until the existence or nonexistence of rabies in such animal is established by such veterinarian. Such animal shall be kept isolated in a pound, or veterinary hospital, in a manner approved by the local County Health Officer. If after ten (10) days there are no symptoms of rabies, such animal may be released. The County Health Officer shall destroy any animal exhibiting signs of rabies. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §12, 1975; Ord. 3127 §2, 1966; Ord. 2715 §8, 1959; prior Code §5.36.)

6.16.020 Suspicion - Inspection on Private Property.

The County Health Officer is hereby authorized and empowered to enter upon private property where any dog or other animal is kept or believed by him to be kept, for the purpose of ascertaining whether such dog or other animal is afflicted or infected with rabies. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §12, 1975; prior Code §5.37.)

6.16.030 Disposal - Laboratory Specimens - Cost.

If any rabid animal, clinically suspected rabid animal or biting animal dies or has been destroyed, adequate specimens shall be obtained and examined in a Public Health laboratory approved by the State Health Department. All costs incurred shall be paid by the owner of the animal. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 2715 §9, 1959; prior Code §5.38.)

6.16.040 Quarantine - Confinement Specified.

If, in the opinion of the County Health Officer, an outbreak of rabies appears imminent in any part of the City, the County Health Officer may, (i) establish a rabies quarantine area, which may include the entire City, and (ii) specify the animals subject to quarantine. Every person owning or having possession or control of any such animal in any quarantine area shall at all times keep the animal securely fastened with a rope, chain, or leash, or confined within the private property of the owner. Any animal found at large in or upon any place in a rabies quarantine area shall be captured and confined in the animal control facility until the animal is established as being free from rabies, at which time it may be reclaimed by its owner, upon payment of such fees as are provided by resolution of the City Council. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §12, 1975; Ord. 2715 §10, 1959; prior Code §5.39.)

6.16.050 Reports of Animal Biting - Isolation - Release - Cost.

Any person owning, possessing or harboring any animal that bites any person, and any person bitten by such animal, shall report the same to the Police Department. The Police Department upon the receipt of such report shall investigate and inform the Animal Control Supervisor or designated animal control officer and the County Health Officer of the available information concerning such bite. The Animal Control Supervisor or designated animal control officer shall take custody of and isolate all such biting animals. Currently licensed and vaccinated dogs shall be isolated for up to ten (10) days in a manner prescribed by the County Health Officer. All other biting animals shall be isolated in an animal control facility or veterinary hospital for up to ten (10) days after infliction of bite. A biting dog may be released by the veterinarian after five (5) or more days of isolation, if the observing veterinarian certifies that there are no clinical signs or symptoms of any disease. All dogs shall be vaccinated and licensed before release. All costs incurred shall be paid by the owner of the animal. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §12, 1975; Ord. 3127 §3, 1966; Ord. 2715 §11, 1959; prior Code §5.40.)

6.16.055 Failure to Isolate or Surrender Biting Animal.

It shall be unlawful for an owner or person having the custody or possession of an animal to fail to isolate an animal in the manner required by the Animal Control Supervisor, designated animal control officer, or County Health Officer pursuant to §6.16.050. It shall be unlawful for an owner or person having the custody or possession of an animal to fail to surrender to the Animal Control Supervisor, designated animal control officer, or County Health Officer any animal required to be taken up and isolated by the Animal Control Supervisor, designated animal control officer, or County Health Officer pursuant to §6.16.050. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3995, 1979.)

6.16.060 Redemption of Animals Free of Rabies - Disposition of Unclaimed Animals.

In the event that an animal appears to be free from rabies following capture and the owner desires to claim the animal, it shall be returned to him upon exhibition of a proper certificate of vaccination, receipt of an official license tag, and upon payment of all impound fees and such other fees as are hereafter provided in this Chapter. In the event the owner does not claim the animal within three (3) days after seizure and in the event that the City continues to hold the possession, the City may deliver the dog to another person desiring the animal, upon the same conditions outlined above; or the City may otherwise dispose or destroy the dog in a humane manner. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Prior Code §5.41.)

6.16.070 Vaccination - Required.

It is unlawful for any person owning, harboring or having the care, custody or possession of any dog to keep or maintain such dog in any place in the City, unless such dog has been vaccinated with canine anti-rabies vaccine, by a method approved by the County Health Officer. The effective duration of immunity elicited in dogs vaccinated with canine anti-rabies vaccines, modified live-virus chick embryo origin or with brain-tissue killed virus phenolized or other, recognized for the purpose of this Chapter, shall be specified by the County Health Officer, but shall not in any event exceed those periods recommended by the State Health Department and duly endorsed by the Conference of Local County Health Officers of the State. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §12, 1975; prior Code §5.19.)

6.16.080 Vaccination - Certificate of Vaccination Issued to Owner.

The licensed veterinarian vaccinating a dog shall issue to the owner or person in possession of the dog a certificate of vaccination which shall include a statement as to the type, lot, number and amount of canine anti-rabies vaccine used in vaccinating the dog. The County Health Officer, subject to the approval of the City Administrator, may establish dog vaccination clinics. At such clinics there will be a fee for each dog vaccinated. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §§12, 13, 1975; prior Code §5.20.)

Chapter 6.20

ANIMAL CONTROL SUPERVISOR

Sections:

6.20.010	**Duties Generally.**	**6.20.060**	**Confinement and Examination of Dogs.**
6.20.020	**Records.**	**6.20.070**	**Notification of County Health Officer of Suspected Rabid Dogs.**
6.20.030	**Capture of Dogs.**	**6.20.080**	**Treatment of Animals.**
6.20.040	**Retention Without Owner's Consent.**	**6.20.090**	**Destruction of Impounded Animals**.
6.20.050	**Notification of Owner of Impounded Dogs.**		

6.20.010 Duties Generally.

The Animal Control Supervisor and all animal control officers shall have the duty to enforce the provisions of this Title and applicable state animal control laws. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 2715 §12, 1959; prior Code §5.46.)

6.20.020 Records.

The Animal Control Supervisor or designated animal control officer shall keep a record of each animal impounded, which record shall show the date of receipt of such animal, the date and manner of its disposal, and if redeemed, reclaimed or sold, the name of the person by whom redeemed, reclaimed or purchased, the address of such person, and amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing, together with the number of any tag, the date of any license exhibited or issued upon the redemption or sale of any such animal. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1987; prior Code §5.47.)

6.20.030 Capture of Dogs.

The Animal Control Supervisor, and all animal control officers, must, and are hereby authorized and empowered to, capture any unlicensed dog or dog not vaccinated as required by law, which is found running at large, upon or in any place within the City and confine such dog at the animal control facility. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code §5.48.)

6.20.040 Retention Without Owner's Consent.

Upon the discovery of a lost dog, cat or other pet under circumstances which give knowledge of, or means of inquiry as to, the true owner, the person so discovering such dog, cat or other pet shall promptly take reasonable steps to notify the true owner or the Animal Control Supervisor or designated animal control officer. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985.)

6.20.050 Notification of Owner of Impounded Dogs.

The Animal Control Supervisor, all animal control officers, or other person capturing and holding a dog under the provisions of this Chapter shall make reasonable effort to locate and notify the owner that the animal is being held at the animal control facility and may be reclaimed within a period of three (3) days from the date of seizure as provided in this Chapter. No dog shall be released without payment of all impound fees, outstanding animal control citations more than thirty (30) days old, and evidence of a proper certificate of vaccination and license. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Prior Code §5.49.)

6.20.060 Confinement and Examination of Dogs.

Any dog impounded by the Animal Control Supervisor and animal control officers by reason of no current vaccination shall be confined at the animal control facility at the owner's expense. The dog shall not be released without receipt of a current vaccination and license. It shall be the duty of the County Health Officer to examine or cause to be examined by a licensed veterinarian any animal suspected of having rabies to determine whether or not it is so afflicted. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §14, 1975; prior Code §5.50.)

6.20.070 Notification of County Health Officer of Suspected Rabid Dogs.

The Animal Control Supervisor or animal control officers, shall immediately notify the County Health Officer of the location and description of any dog or other animal infected or believed to be infected with or exposed to rabies. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3744 §14, 1975; prior Code §5.51.)

6.20.080 Treatment of Animals.

The Animal Control Supervisor or designated animal control officer shall provide the necessary subsistence for animals while in custody and shall not alter, nor allow to be altered any mark or brand thereon, and shall not allow cruel treatment of the animal. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code §5.52.)

6.20.090 Destruction of Impounded Animals.

It shall be the duty of the Animal Control Supervisor or an animal control officer to humanely destroy, without cost to the individual owner, any and all animals, which shall be brought to the animal control facility, not less than three (3) days after the taking up and impounding of any animal unless it be sooner redeemed.

Whenever any animal is impounded which by reason of old age, disease or other infirmity is unfit for further use or dangerous to be kept impounded, the Animal Control Supervisor shall within twenty-four (24) hours destroy such animal. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; prior Code §5.53.)

Chapter 6.24

DISPOSITION OF DEAD ANIMALS

Sections:

6.24.010 Owner's Request - Fees.
6.24.020 Public Places.

6.24.010 Owner's Request - Fees.

It shall be the duty of the Animal Control Supervisor or designated animal control officer, upon the request of any owner or possessor of any dead animal which was kept in the City immediately prior to its death to dispose of the dead animal and collect a fee for such service. The fees authorized by this Chapter shall be established by resolution of the City Council. Nothing in this Section shall be construed so as to require the Animal Control officer to transport any dead animal to the place of disposal, except as required in other Sections hereof. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4255, 1984; Ord. 3673 §3, 1974.)

6.24.020 Public Places.

It is unlawful for any owner or person who, having had the possession or control of any animal while alive, to place the body of such animal or to knowingly permit the body of such animal to remain in or upon any public street, alley, sidewalk, lane or other public place. It shall be the duty of the Animal Control Supervisor or designated animal control officer, whenever it comes to his knowledge that any dead animal is upon any of the public streets, alleys, sidewalks, lanes or any other public place within the City, to promptly dispose of the dead animal. The Animal Control Supervisor or designated animal control officer may charge and collect the fee set by resolution of the City Council from the owner or person formerly having possession or control of the animal, if his or her identity can be ascertained. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 4255, 1984; Ord. 3266 §2, 1967; prior Code §5.11.)

Chapter 6.28

BEES

Sections:

6.28.010	**Beekeeping.**	**6.28.030**	**Number and Location of Hives.**
6.28.020	**Conditions for Beekeeping.**	**6.28.040**	**Compliance with State Law.**

6.28.010 Beekeeping.

It shall be unlawful for any person to keep bees except in a manner in compliance with the provisions of this Chapter. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3769, 1975; Ord. 3642, 1974.)

6.28.020 Conditions for Beekeeping.

Each person, firm, company, corporation or other organization maintaining one (1) or more colonies of honey bees, apis millifera, shall comply with all of the following conditions:

A. Each colony shall be maintained in movable-frame hives.

B. Adequate space shall be maintained in the hive to prevent over-crowding and swarming or aggressive behavior.

C. Each colony shall be registered with the County Agricultural Commissioner. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3769, 1975; Ord. 3642, 1974.)

6.28.030 Number and Location of Hives.

A. No more than four (4) hives shall be maintained on lots having less than 10,000 square feet in area. On lots larger than 10,000 square feet, no more than one (1) hive shall be maintained for each 5,000 square feet of additional lot area.

B. Hives shall not be placed within twenty (20) lineal feet of any public street, sidewalk, or other public thoroughfare. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3769, 1975; Ord. 3642, 1974.)

6.28.040 Compliance with State Law.

Each person, firm, company, corporation or other organization maintaining one (1) or more colonies of honey bees, apis millifera, shall comply with all State regulations governing bee management and honey production as provided in Division 13 of the Agricultural Code of the State of California. Those regulations are enforced by the County Agricultural Commissioner. (Ord. 4621, 1990; Ord. 4460, 1987; Ord. 4346, 1985; Ord. 3769, 1975; Ord. 3642, 1974.)

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TITLE 7
Sanitation

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5741	Billing of Utility Services	April 28, 2016	Section 7.16.320

TITLE 7

SANITATION

Sections:

Chapter: 7.04 Public Health Department.
Chapter: 7.11 Food and Food Establishments.
Chapter: 7.14 Health Education Programs.
Chapter: 7.16 Garbage and Refuse Collection and Disposal.
Chapter: 7.24 Temporary Sanitation Facilities.
Chapter: 7.28 Parking Prohibition for Street Sweeping.

Chapter 7.04

PUBLIC HEALTH DEPARTMENT

Sections:

7.04.010 Governmental Functions Transferred to County.
7.04.020 Enforcement by County.
7.04.030 Contract with Board of Supervisors.
7.04.040 City Board of Health - Advisory Position.

7.04.010 Governmental Functions Transferred to County.

The governmental function of public health of the City is consolidated with and transferred to the Health Department of Santa Barbara County, all pursuant to the authority of the Charter of the City, and of Sections 476, 480, 481 and 482 of the Health and Safety Code of the State of California. (Ord. 2774 §1, 1960.)

7.04.020 Enforcement by County.

All existing ordinances of the City relating to public health, and all ordinances relating to public health which may be hereafter enacted and adopted by the Council, shall, on and after the first day of July, 1960, and so long as this chapter shall remain in force and effect, be observed and enforced by the Health Department of the County and the County Health Officer. (Ord. 2774 §2, 1960.)

7.04.030 Contract with Board of Supervisors.

The City Council may, from time to time, during the period during which this chapter is in force and effect, contract with the Board of Supervisors of Santa Barbara County for the performance of any additional public health service by the Health Officer of Santa Barbara County as may be deemed necessary and appropriate for the maintaining of such standards of public health observance and enforcement for the people of this City, as may be recommended by the Board of Health of the City of Santa Barbara or required by the City Council. (Ord. 2774 §3, 1960.)

7.04.040 City Board of Health - Advisory Position.

The transfer to and consolidation with the Health Department of the County of the public health function of the City as provided in this chapter shall not be deemed to abolish the public health function of the City, but shall be deemed to suspend the same only during the period of time this chapter remains in full force and effect, provided that the City Administrator may appoint or reappoint the members of the Board of Health of the City in the manner provided for boards and commissions by the Charter, and such Board of Health shall act in an advisory capacity in matters relating to the public health and sanitation of the City. (Ord. 2774 §4, 1960.)

Chapter 7.11

FOOD AND FOOD ESTABLISHMENTS

Sections:

7.11.010	**Permit Required.**	**7.11.040**	**Revocation or Suspension of Permit.**
7.11.020	**Investigation - Issuance - Term.**		
7.11.030	**Rules and Regulations.**	**7.11.050**	**Effect.**

7.11.010 Permit Required.

It is unlawful for any person, firm or corporation required by County of Santa Barbara regulation to have a permit to sell, offer for sale, distribute, or have in possession for sale or distribution any food or drink intended for human consumption in the City of Santa Barbara, unless possessing a permit issued by the County of Santa Barbara. (Ord. 3975, 1978; Ord. 3250 §1(part), 1967.)

7.11.020 Investigation - Issuance - Term.

Every applicant for such a permit shall file with the Health Officer of the County of Santa Barbara before opening for business a written application for a permit to conduct such business. The County Health Officer shall investigate and issue such permits when place and business conforms to the laws of the State of California and the rules and regulations of the Health Officer of the County of Santa Barbara. Such permits shall be in force for twelve months from date of issue, unless revoked for cause. Permits shall be issued upon payment of fees established by the County of Santa Barbara, which shall require the approval of the City Council prior to becoming effective. Renewal of permits shall be applied for and acted upon in the same manner. (Ord. 3975, 1978; Ord. 3250 §1(part), 1967.)

7.11.030 Rules and Regulations.

The County Health Officer may establish such rules and regulations as may be necessary for the proper and orderly administration of this chapter. (Ord. 3250 §1(part), 1967.)

7.11.040 Revocation or Suspension of Permit.

Permits may be revoked or suspended by the County Health Officer upon the findings that any pro-vision of any law of the State of California or any rule or regulation of the Health Officer of the County of Santa Barbara has been violated. (Ord. 3250 §1(part), 1967.)

7.11.050 Effect.

The provisions of this chapter shall remain in force and effect for so long as the County of Santa Barbara inspects food establishments in the City. (Ord. 3250 §1(part), 1967.)

Chapter 7.14

HEALTH EDUCATION PROGRAMS

Sections:

7.14.010 General.
7.14.020 Information on Transmission of Viruses.
7.14.030 Health Officer Warnings, Notices.

7.14.010 General.

In order to serve the public health, safety and welfare, the declared purpose of this Chapter is to provide public education regarding the transmission of disease and its avoidance. (Ord. 4713, 1991.)

7.14.020 Information on Transmission of Viruses.

The City wishes to have the benefit of the latest available information about protection available against the passage or transmission of the AIDS, hepatitis and herpes viruses. (Ord. 4713, 1991.)

7.14.030 Health Officer Warnings, Notices.

The County health officer, pursuant to the authority provided in this Title, is authorized to produce, place, distribute, and cause to be placed, such educational material, brochures, warning signs and/or notices, as may be required to educate, advise and/or warn persons in the City about advantages and risks associated with the use of condoms and other prophylactic devices against viral diseases. (Ord. 4713, 1991.)

Chapter 7.16

GARBAGE AND REFUSE COLLECTION AND DISPOSAL

Sections:

7.16.010 Definitions.
7.16.020 Collection - City Vested with Sole Control.
7.16.021 Mandatory Collection by Licensed or Contract Collector of Refuse.
7.16.030 Duties of Property Owners.
7.16.040 Notification of Violation.
7.16.050 Abatement by City.
7.16.060 Placing Containers for Collection.
7.16.070 Removing Container Covers.
7.16.080 Gross Maximum Weight of Loaded Containers.
7.16.090 Lids to be Closed Properly When Containers, Etc. are Full.
7.16.100 Identification Marks on Containers at Multiple Dwellings.
7.16.110 Packaging for Collection - Generally.
7.16.120 Special Haul Service - Placement of Refuse for Special Haul.
7.16.130 Rubbish Bins at Certain Premises.
7.16.140 Burying Refuse Prohibited.
7.16.150 Depositing Refuse for Non-Collection Purposes.
7.16.160 Adding to, Etc., Regular Refuse Accumulations.
7.16.170 Refuse as Lot Fill, Etc.
7.16.180 Persons Permitted to Collect and Dispose - Generally.
7.16.190 Collection - Rights of Owners and Special Permittees.
7.16.200 Spillage, Etc., of Refuse, Etc.
7.16.210 Depositing City Maintenance Debris.
7.16.220 Enforcement, Etc., of Chapter and Contract.
7.16.230 Sanitation Code Enforcement Officer.
7.16.240 Collection Hours - Quietness of Collections and Collection Equipment.
7.16.250 Collections and Charge Limits - Generally.
7.16.270 Building Waste Not to be Deposited for Collection by City's Contractor.
7.16.280 Miscellaneous Refuse Not to be Deposited for Collection by City's Contractor.
7.16.290 Littering - Container Lid Replacements.
7.16.300 Title to Refuse.
7.16.305 Recyclable Materials.
7.16.310 Duties of Contractor - Generally.
7.16.320 Billing and Collection.
7.16.330 Rules and Regulations.

7.16.010 Definitions.

As used in the Chapter, the following words and terms shall have the meanings respectively ascribed to them by this Section:

A. BUNDLE. A package containing rubbish only, not exceeding four feet (4') in its longest dimension and eighty pounds (80 lbs.) in weight, securely tied with cord or rope of sufficient strength to permit lifting and carrying of the full weight thereof, without spillage or leakage and placed for collection immediately adjacent to a standard container.

B. COMMERCIAL SERVICE. All service which is not a residential service as defined in Subsection 7.16.010.M.

C. CONTRACTOR. A party who holds a contract, franchise or other approval of the City to collect refuse within a specified geographic area of the City.

D. CUSTOMER AND REFUSE SERVICE CUSTOMER. A person, firm, or corporation in charge of use of private property who requests refuse removal.

E. FOOD SERVING BUSINESS. Any business which provides, within the City, refreshments, snacks, fast food, or restaurant services, including prepared food, for financial gain, revenue or profit, including, but not by way of limitation, any restaurant, theater, hotel, refreshment stand and other business providing food services.

F. GARBAGE. Commercial or residential wet or dry animal or vegetable waste material.

G. INDUSTRIAL REFUSE. The solid waste materials from factories, processing plants, and other manufacturing enterprises.

H. MULTIPLE DWELLINGS. A building with three (3) or more rental dwelling units as defined in the Santa Barbara Municipal Code.

I. PLACE OF BUSINESS. Any social, commercial, fraternal, religious, educational, medical, or industrial establishment.

J. RECYCLABLE MATERIAL. Magazines, newspapers (including clean office paper), corrugated cardboard, cereal boxes, junk mail, empty glass bottles and aluminum cans or other similar materials which are designated as capable of being recycled by the City or a collector authorized by contract with the City to regularly collect recyclable materials.

K. REFUSE. All types of solid wastes, including garbage, rubbish, ashes, and any other solid waste matter.

L. REGULAR COLLECTION. Collection of garbage, refuse, rubble, and other matter at prearranged scheduled intervals.

M. RESIDENTIAL SERVICE. Collection of refuse, green waste and mixed recyclable materials from a dwelling as defined in Section 28.04.260 of this Code.

N. RUBBISH AND TRASH. Normal accumulation of combustible and/or noncombustible waste materials which are not included in the "garbage" terms and shall include paper, rags, cartons, boxes, wood shavings or chips, furniture, bedding, rubber, leather, tree branches, yard trimmings, cans, bottles, metals, mineral matter, glass, crockery, dirt, dust, grass clippings, weeds, and leaves.

O. RUBBLE. Rocks, concrete, bricks, and similar solid materials, plaster, or dirt.

P. SANITATION CODE ENFORCEMENT OFFICER. A public officer, working under the supervision of the Director of Public Works, and who shall have the duty to assure strict compliance with all provisions of the Municipal Code, issue citations as necessary under the provisions of Title 7 of the Municipal Code and enforce any rules adopted pursuant thereto.

Q. SPECIAL HAUL SERVICES. Collections as specially requested by occupants or owners, of amounts of refuse in excess of those normally generated or at pickup times other than normally scheduled.

R. STANDARD CONTAINER. Any plastic or galvanized metal container with tight fitting cover, thirty-three (33) gallons or less in capacity, with handle and side bails, or as otherwise approved by the City. (Ord. 5459, Section 3, 2008; Ord. 5250, 2002; Ord. 5083, 1998; Ord. 4635, 1990; Ord. 3990, 1979; Ord. 3568 §3, 1972.)

7.16.020 Collection - City Vested with Sole Control.

The City shall authorize, permit, regulate and control the collection and disposition of all refuse and rubble within the City limits. (Ord. 3568 §3, 1972.)

7.16.021 Mandatory Collection by Licensed or Contract Collector of Refuse.

It shall be mandatory that trash collection service be provided for every dwelling and food serving business located within the City, as follows:

A. Every dwelling as defined in Section 28.04.260 of this Code located within the City limits shall be provided with adequate refuse collection service by agreement with the waste collection service authorized by the City to collect waste where the dwelling is located. Such refuse service shall regularly remove refuse and waste material often enough to prevent accumulation of material constituting a nuisance, or which attracts flies, rodents or other vectors, but no less often than once in every seven days.

B. Every food serving business located within the City limits shall be provided with adequate refuse collection service by agreement with the waste collection service authorized by the City to collect waste where the business is located, or other service which is properly licensed and approved for regular refuse collection service by the City. Such refuse service shall regularly remove refuse and waste material often enough to prevent accumulation of material constituting a nuisance, or which attracts flies, rodents or other vectors, but no less often than once in every seven days.

C. No person shall own or maintain any dwelling or any food serving business as such premises are defined herein, within the City of Santa Barbara and fail to maintain a regular collection service at a level adequate to provide for the needs of the premises.

D. An exemption from mandatory collection may be approved by the City Public Works Director, upon application in a form approved by the Public Works Director, for any property that is to be vacant for a period of thirty (30) consecutive days or more.

E. Relief from payment of all or any part of the approved fees for regular collection may be approved by the City Public Works Director, on the basis of economic hardship, upon application in a form approved by the Public Works Director.

F. An exemption from mandatory trash collection service for a dwelling or food serving business may be approved by the City Public Works Director upon application, in a form approved by the Public Works Director, of any person or entity to self-haul that person or entity's own refuse and waste material. Said application will indicate the place of disposal and the method and times in which the person or entity will haul the refuse and waste material. Upon approval of the application, the person or entity shall regularly submit proof of receipts from the place of disposal every thirty days to the Public Works Director. Such self-hauling shall be performed without the hiring, employment or use of any other business, contractor or person. The exemption allowing self-haul shall be forfeited or terminated for two years if the hauling is not in accordance with the approved application or in violation of any part of this Code, or if City inspection of the premises to which the exemption applies reveals inadequate removal of refuse and waste material. The loss or discontinuance of any exemption shall require a new application be approved.

G. The decision of the City Public Works Director made under Section 7.16.021 D, Section 7.16.021 E and/or Section 7.16.021 F may be appealed to the City Finance Director, by written appeal filed with the Finance Director within ten days of the determination of the Public Works Director. (Ord. 5459, Section 3, 2008; Ord. 5284, 2003; Ord. 5250, 2002; Ord. 5083, 1998.)

7.16.030 Duties of Property Owners.

The ultimate responsibility for removal of refuse, rubble or rubbish from any property, improved or unimproved, occupied or unoccupied, rests with the owner of the property. At his sole discretion, the property owner may contract with the lessee of his property, or any other party, that said lessee or other party assumes responsibility for removal of said refuse, rubble or rubbish; however, failure of the lessee or other party to perform under such a contract shall not relieve the property owner of his responsibility to dispose of refuse, rubble or rubbish accumulated on his property. (Ord. 3568 §3, 1972.)

7.16.040 Notification of Violation.

Any person finding that accumulations of refuse, rubble or rubbish are in violation of this chapter, or other provision of law dealing with the public health, welfare or safety, shall notify the Sanitation Code Enforcement Officer of such violation and its location. The Sanitation Code Enforcement Officer shall forthwith notify the service customer or property owner, or his representative, of said violation in the manner prescribed by law for legal notification that a public nuisance exists. Such notification shall require the abatement of the said nuisance forthwith, or as directed by the Sanitation Code Enforcement Officer. (Ord. 5083, 1998; Ord. 3568 §3, 1972.)

7.16.050 Abatement by City.

Should the service customer or property owner fail to comply with the terms of the above notification by the Sanitation Code Enforcement Officer within the time specified, the City Public Works Director shall immediately cause the nuisance to be abated in a manner selected by the Public Works Director. Subsequent nuisances upon the same property shall be abated by the Public Works Director without notification to the property owner. All costs of abatement of such nuisances shall become a lien against the property to be presented and become due and payable as and with the property taxes on the parcel. (Ord. 5083, 1998; Ord. 3568 §3, 1972.)

7.16.060 Placing Containers for Collection.

No refuse, bin, container or bundle shall be placed or kept on or in any public street, alley, sidewalk, footpath or any public place whatsoever but shall be placed and kept on the premises of the service customer in such a manner as to be readily accessible, preferably on a paved area, for removal of contents. Owners or occupants of premises shall locate refuse on or in private property, at the rear side or back of residences, multiple unit premises, or commercial or institutional buildings. When in a position exposed to public view from streets, alleys, walkways or public parking lots, all such containers, bins or bundles on commercial or institutional premises shall be screened from such public view in a manner compatible with adjacent architecture. (Ord. 3568 §3, 1972.)

7.16.070 Removing Container Covers.

Covers of containers shall not be removed except for the purpose of placing refuse or removing refuse. (Ord. 3568 §3, 1972.)

7.16.080 Gross Maximum Weight of Loaded Containers.

Refuse or rubble placed in standard containers shall not exceed a weight of eighty pounds (80 lbs.), including any such container and contents. (Ord. 3568 §3, 1972.)

7.16.090 Lids to be Closed Properly When Containers, Etc. are Full.

Containers and bins shall not be filled beyond the point at which lids can be tightly closed, and all such containers and bins shall be maintained by the owner or occupant of the premises at which used, in a safe, clean and sanitary condition. (Ord. 3568 §3, 1972.)

7.16.100 Identification Marks on Containers at Multiple Dwellings.

Containers used at multiple unit premises shall be plainly marked so that the owner or person in possession or control may be easily identified. (Ord. 3568 §3, 1972.)

7.16.110 Packaging for Collection - Generally.

Except at commercial or institutional premises and special haul service, no refuse shall be placed for collection, unless in standard containers or in securely tied bundles. (Ord. 3568 §3, 1972.)

7.16.120 Special Haul Service - Placement of Refuse for Special Haul.

Refuse to be collected by special haul service shall be placed so as to be easily accessible to the collector for truck pickup. Special haul refuse, other than at commercial or institutional premises, may be placed for collection in other than standard containers or bundles, as by piling at a convenient place on private property for prompt pickup. (Ord. 3568 §3, 1972.)

7.16.130 Rubbish Bins at Certain Premises.

Rubbish placed outside of standard containers at commercial or institutional premises shall be placed in a standard bin or box approved by the City. Any such bin or box shall be easily opened for rubbish removal, and any such bin shall be of a design and weight permitting it to be lifted mechanically by truck hoisting equipment. (Ord. 3568 §3, 1972.)

7.16.140 Burying Refuse Prohibited.

It shall be unlawful for any person to bury refuse at any place within the City. (Ord. 3568 §3, 1972.)

7.16.150 Depositing Refuse for Non-Collection Purposes.

No person shall keep, place or deposit refuse on any public or private grounds or premises whatsoever, except for collection; provided, however, that lawn and garden trimmings may be composted. (Ord. 3568 §3, 1972.)

7.16.160 Adding to, Etc., Regular Refuse Accumulations.

It shall be unlawful for any person to create, cause or add to any refuse accumulation not placed for regular or special haul except as otherwise provided herein. (Ord. 3568 §3, 1972.)

7.16.170 Refuse as Lot Fill, Etc.

It shall be unlawful for any person to deposit or use refuse for lot filling or leveling purposes. (Ord. 3568 §3, 1972.)

7.16.180 Persons Permitted to Collect and Dispose - Generally.

It shall be unlawful for any person other than a contractor or a duly authorized permittee of the City to collect refuse or rubble, or to interfere in any manner with any receptacle containing refuse, rubble or the contents of any refuse container, or to remove any such receptacles from the place where the same are placed by the owner or person lawfully in control, or to remove the contents of such receptacles. (Ord. 5250, 2002; Ord. 3568 §3, 1972.)

7.16.190 Collection - Rights of Owners and Special Permittees.

This chapter shall not be construed to prevent the owner of any refuse or rubble within the City limits from transporting the same personally to the City-County sanitary fill or other City-designated public disposal area or to prevent special hauling of refuse or rubble in excess of regularly scheduled service, by duly authorized persons. (Ord. 3568 §3, 1972.)

7.16.200 Spillage, Etc., of Refuse, Etc.

All refuse and rubble hauled by any person over public streets in the City shall be securely tied and covered during hauling thereof so as to prevent leakage, spillage or blowing. No person shall allow refuse or rubble of any kind whatsoever to leak, spill, blow or drop from any vehicle on to any public street within the City. (Ord. 3568 §3, 1972.)

7.16.210 Depositing City Maintenance Debris.

Refuse and rubble accumulated and transported as a result of City maintenance or construction operations shall normally be deposited at sites other than at sanitary fill sites. (Ord. 3568 §3, 1972.)

7.16.220 Enforcement, Etc., of Chapter and Contract.

The administration and enforcement of this chapter is the responsibility of the City Administrator or his designated representative. (Ord. 3568 §3, 1972.)

7.16.230 Sanitation Code Enforcement Officer.

The City shall establish and fill a position to be known as the Sanitation Code Enforcement Officer who shall assure strict compliance with all of the provisions of this chapter and any rules pursuant thereto. The Sanitation Code Enforcement Officer shall be required to wear a distinctive uniform, as prescribed by the City Administrator. The Sanitation Code Enforcement Officer is designated as a public officer or employee who has the duty to enforce the provisions of Title 7 of the Santa Barbara Municipal Code. The Sanitation Code Enforcement Officer is authorized to issue citations for the enforcement of Title 7 of this Code, pursuant to California Penal Code Section 836.5. (Ord. 5083, 1998; Ord. 3568 §3, 1972.)

7.16.240 Collection Hours - Quietness of Collections and Collection Equipment.

Refuse collections shall be made between the hours of seven a.m. (7:00) and six p.m. (6:00) in residential districts. Such collections shall be made in commercial districts subject to rules regarding hours of collection imposed by the Director of Public Works and approved by the City Administrator. All collections shall be made as quietly as possible. (Ord. 3568 §3, 1972.)

7.16.250 Collections and Charge Limits - Generally.

All lawful refuse and rubble in the City shall be collected from such residences, commercial and institutional establishments whose owners, operators or occupants have subscribed to or may hereafter subscribe to or accept the services of a contractor, who shall dispose of the same in a lawful manner, and excepting such limited special haul collections as may be authorized by permit of the City, and the collector shall not charge any amount for such services in excess of the rates approved by the City. (Ord. 5250, 2002; Ord. 3568 §3, 1972.)

7.16.270 Building Waste Not to be Deposited for Collection by City's Contractor.

No person shall deposit for regular collection by any of the City's contractors waste building materials and other waste materials from the construction, alteration, repair, moving and demolition of buildings or from promotion and development of property by any real estate or commercial agent or from industrial or manufacturing processes. (Ord. 5250, 2002; Ord. 3568 §3, 1972.)

7.16.280 Miscellaneous Refuse not to be Deposited for Collection by City's Contractor.

No person shall deposit for regular collection by any of the City's contractors industrial refuse, hot ashes, animal feces or dead animals, or wearing apparel, bedding or other refuse from any place, except by special arrangement with a hospital, where highly infectious or contagious disease has prevailed, or explosive substances, radioactive materials, drugs or poisons. (Ord. 5250, 2002; Ord. 3568 §3, 1972.)

7.16.290 Littering - Container Lid Replacements.

Persons collecting garbage or refuse shall not litter premises in the process of making collections and shall replace lids or covers on containers immediately after emptying. (Ord. 3568 §3, 1972.)

7.16.300 Title to Refuse.

All refuse, upon being removed from the premises where produced or accumulated and transported upon or over a public street, alley, lane, right-of-way or place, shall become and be the property of the collector. (Ord. 3568 §3, 1972.)

7.16.305 Recyclable Materials.

The City, or its authorized recycling collection contractor, shall have the exclusive right to collect recyclable materials which are placed out for recycling purposes pursuant to the City's recycling program. It shall be unlawful for any person to take, disturb or collect any recyclable materials placed at curbside or in recycling containers without the express consent of the property owner of the property (or the owner's tenant) upon which the recyclable material or container is located. (Ord. 5083, 1998; Ord. 4635, 1990.)

7.16.310 Duties of Contractor - Generally.

As to duties of a contractor not treated in this chapter, the terms of the agreement between the City and that contractor shall govern. In the event conflict is found between this chapter and the agreement as approved by ordinance, the terms of the latter shall prevail. (Ord. 5250, 2002; Ord. 3568 §3, 1972.)

7.16.320 Billing and Collection.

The City shall cause the refuse billing of all commercial and residential occupants or owners to be made on suitable forms. In cases where the same City utility customer receives multiple utility services (refuse, water, or sewer service, or any combination thereof) at the same service location, the charges for all utility services provided to the customer by the City at the particular service location shall be combined on the same bill. In such cases, the charges shall be billed upon the same bill as submitted for the charges for water service and/or sewer service and shall be due and payable bi-monthly at the same time and in the same manner that such charges for water and/or sewer service are due and payable; providing, however, separate bills are not to be prepared for residential premises which are not provided water and/or sewer service by the City.

In the event of delinquency of twenty (20) days after presentation of billing for refuse service by the City to the service customer, the City may instruct the contractor to cease pickup of refuse, and may discontinue water service to the premises for which payment is delinquent. In such event, water and refuse services shall be resumed only upon payment of all arrearages for said services, plus a service resumption fee as set by a resolution of the City Council. (Ord. 5741, 2016; Ord. 3990, 1979; Ord. 3568 §3, 1972.)

7.16.330 Rules and Regulations.

The City Administrator shall recommend for adoption by the Council, in resolution form, any rules and regulations required to enforce or carry out the provisions of this chapter. (Ord. 3568 §3, 1972.)

Chapter 7.18

UNSCHEDULED COLLECTION

Sections:

7.18.010 Definitions.
7.18.020 Permit Required.
7.18.030 Permit Application and Issuance.
7.18.040 Permit Terms and Conditions.
7.18.050 Suspension or Revocation of Unscheduled Collection Permit.
7.18.060 Procedure Upon Appeal.
7.18.070 Time to Submit Permit Application.
7.18.080 Chapter Regulations.

7.18.010 Definitions.

The words and phrases used in this Chapter shall have the same meaning as defined in Section 7.16.010, unless otherwise specifically defined herein. Words and phrases not defined in this Section or in Section 7.16.010 shall have the meaning as defined in the Act.

A. ACT. The California Integrated Waste Management Act, Public Resources Code Section 4000 et seq., including all regulations promulgated thereunder by the Integrated Waste Management Board as presently enacted or subsequently enacted or amended.

B. CERTIFIED RECYCLING FACILITY OR FACILITIES. A recycling, composting, materials recovery or re-use facility for which the Public Works Director has issued a certification pursuant to Chapter Regulations adopted pursuant to this Chapter. The Chapter Regulations establish the specific requirements for the certification of a recycling facility. The Public Works Director shall issue a certification on an annual basis for a recycling facility only if the owner or operator of the facility submits documentation satisfactory to the Director that the facility has obtained all applicable Federal, State and local permits. In addition, the owner or operator of a certified recycling facility shall regularly submit records, on a form approved by the Public Works Director, which evidences that the amount of waste that is diverted from landfill disposal meets the minimum percentage set forth in this Chapter and in the Chapter Regulations.

C. COLLECTION BUSINESS. Any Person who provides Unscheduled Collection services in the City.

D. CONSTRUCTION AND DEMOLITION DEBRIS. The discarded materials, packaging or rubble resulting from the construction, remodeling, repair, or demolition of buildings and other improvements, including, but not limited to, brick, rock, wood, and concrete.

E. CONTAINER(S). Any roll-off, container, box, dumpster, or other similar container that is ten cubic yards or greater in volume, including any vehicle with a gross vehicle weight rating of seven (7) tons or greater and which is used to provide Unscheduled Collection of solid waste or other similarly defined services. For purposes of this Section, the terms “gross vehicle weight rating” and “vehicle” shall have the same meaning as those terms are defined in Sections 350 and 670, respectively, in the California Vehicle Code as presently enacted or subsequently enacted or amended.

F. DIVERT OR DIVERSION. A reduction in the amount of solid waste being disposed in landfills by the delivery of waste collected by a Permittee to a Certified Recycling Facility or disposed by other appropriate methods as approved in the Chapter Regulations.

G. GREENWASTE. Any prunings, brush, leaves, grass clippings, hedge trimmings, small branches or other vegetative waste.

H. PERMITTEE. The Collection Business in whose name an Unscheduled Collection Permit has been issued, including any Person acting as an agent of the Permittee.

I. PERSON. Person includes both singular and plural and shall mean and include any business, individual, firm, corporation, association, partnership or limited partnership, joint venture, trust or a similar legal entity, but shall exclude public agencies.

J. PUTRESCIBLE WASTE. Any waste, including Garbage that is capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions. For purposes of this Chapter, putrescible waste does not include Greenwaste.

K. SOLID WASTE. All nonputrescible solid and semi-solid waste, including, but not limited to, Garbage, Rubbish and Trash, Refuse, Rubble, Construction and Demolition Debris, Industrial Waste, discarded home and industrial appliances, and other discarded substances and materials, excepting Hazardous waste, Radioactive waste, and Medical waste, as those terms are defined in the Act.

L. UNSCHEDULED COLLECTION. Collection of non-putrescible solid waste, including, but not limited to, Greenwaste and Construction and Demolition Debris, provided through the delivery, use, and removal of Containers on an occasional and non-recurring basis in response to requests for such service at specific real property located within the City. For purposes of this Chapter, Regular Collection Commercial Service, excepting the collection and transportation of Construction and Demolition Debris, provided by a franchised Contractor utilizing Containers, is not Unscheduled Collection service. (Ord. 5438, 2007.)

7.18.020 Permit Required.

A. PERMIT REQUIRED. No Person shall engage in, manage, conduct, or operate a Collection Business within the City of Santa Barbara without having obtained an Unscheduled Collection Permit from the City.

B. EXEMPTIONS. This Chapter shall not apply to:

1. Any Person who is authorized under the Act to transport or dispose of Hazardous Waste, Radioactive and Medical Waste and which does not provide Unscheduled Collection services pursuant to this Chapter.

2. A licensed general contractor (or an agent thereof) who transports loads that are not delivered to a Disposal site or Recycling facility and for which no disposal charge or fee is levied, including, but not limited to, loads consisting of soil, gravel and similar excavation material that is delivered to a construction site as part of the necessary grading of that site. (Ord. 5438, 2007.)

7.18.030 Permit Application and Issuance.

An Unscheduled Collection Permit shall be issued by the City Public Works Director upon receipt of a duly completed application, in a form approved by the Public Works Director, of any Collection Business intending to provide Unscheduled Collection within the City of Santa Barbara. The permit application form shall include, but is not limited to, the following information:

A. Full name of applicant.

B. Permanent home and business address of the applicant.

C. Trade and firm name.

D. If a joint venture, partnership or limited partnership, the names and permanent addresses of all joint ventures or general partners. If a corporation, the name and permanent address of the local manager and the address of the corporate headquarters. (Ord. 5438, 2007.)

7.18.040 Permit Terms and Conditions.

Unscheduled Collection Permits shall be subject to, but not limited to, the following required standard terms and conditions:

A. ENCROACHMENT PERMIT REQUIRED. The Permittee shall obtain an encroachment permit pursuant to SBMC Chapter 10.55 prior to placing a Container on any city street, roadway, sidewalk, parkway, parking area or facility or other City-owned property.

B. DIVERSION REQUIREMENTS. The Permittee shall deliver all solid waste collected pursuant to this Chapter to a Certified Recycling Facility. For purposes of this Chapter, "diversion" of solid waste shall commence at the real property located within the City where the solid waste is first collected and shall end upon delivery to a Certified Recycling Facility. The Public Works Director is authorized to waive or modify the requirements of this Subsection pursuant to the diversion requirements established in the Chapter Regulations.

C. REPORTING REQUIREMENTS. The Permittee shall make a quarterly report to the Public Works Director regarding the composition, weight, and final destination of all Solid Waste that is hauled from within the City of Santa Barbara in Containers provided by the Permittee and any other information required by the Public Works Director in regard to the collection, classification, and disposition of Solid Waste collected pursuant to this Chapter. The Public Works Director may develop a standard form for this required quarterly report.

D. REVIEW OF PERMITTEE'S RECORDS. The Public Works Director shall have the right at any time during normal business hours to inspect and request copies of the Permittee's records relating to unscheduled collection within the City for the purpose of determining compliance with the diversion and reporting requirements of this Chapter and the Chapter Regulations.

E. PERIOD OF VALIDITY. An Unscheduled Collection Permit shall be valid from five (5) years from the date of its issuance. Prior to expiration of the Permit, the Permittee shall reapply to the Public Works Director for a renewed Unscheduled Collection Permit.

F. PERMIT CONDITIONS AND MODIFICATION OF PERMIT. The Unscheduled Collection Permit shall be granted on such other conditions as determined appropriate by the Public Works Director, provided such conditions are consistent with the provisions of this Chapter, including all Chapter Regulations. The Public Works Director may, from time to time, modify the Unscheduled Collection Permit conditions as he or she deems appropriate or due to changes in applicable law.

G. PUTRESCIBLE WASTES NOT ALLOWED. Unscheduled Collection shall not be used for the placement and removal of Putrescible Waste.

H. POSTING OF PERMIT. A Permittee shall post, and securely fasten, a copy of its Unscheduled Collection Permit on all of its Containers being used within the City in a manner which makes the Permit clearly visible to the public at all times.

I. PERMIT AND OTHER FEES. Fees payable by Permittee for the Unscheduled Collection Permit and other applicable fees shall be established by resolution of the City Council. (Ord. 5438, 2007.)

7.18.050 Suspension or Revocation of Unscheduled Collection Permit.

A. GROUNDS FOR SUSPENSION OR REVOCATION. The City shall have the right to temporarily suspend or revoke an Unscheduled Collection Permit, upon 10 days prior written notification to the Permittee, if the Permittee, his agent, employee or any person connected or associated with the Permittee has:

1. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for an Unscheduled Collection Permit, or in any record or report required to be filed with the Public Works Director.
2. Violated any provision of this Chapter, rules and regulations adopted pursuant thereto, or of any statute or law relating to the permitted activity.
3. Failed to comply with the terms and conditions of the Unscheduled Collection Permit.

B. NOTIFICATION OF INTENT TO SUSPEND OR REVOKE. The Public Works Director shall serve notice in writing to the Permittee by regular mail (postage prepaid) or by personal service that the Director intends to suspend or revoke Permittee's Unscheduled Collection Permit not less than ten (10) days following the date of the Notice. The Public Works Director shall also notify the Permittee in writing of the right to appeal the suspension or revocation to a hearing officer designated for that purpose by the City Administrator.

C. WRITTEN APPEAL. A written appeal shall be filed by the Permittee within ten (10) calendar days of the date of the written notice of the suspension or revocation with the City Clerk and shall comply with the requirements of Santa Barbara Municipal Code Chapter 1.30. The Permittee shall set forth in the appeal letter the reason(s) why the suspension or revocation is not warranted.

D. AUTOMATIC SUSPENSION OR REVOCATION. If no appeal is filed within the time allowed, the Permittee's Unscheduled Collection Permit shall be considered suspended or revoked for the period of time indicated in the notice as of fifteen (15) calendar days from the service of the notice of suspension or revocation as provided in Section A.

E. STAY OF SUSPENSION OR REVOCATION. Upon the filing of a timely appeal, the suspension or revocation of the Unscheduled Collection Permit shall be stayed pending the final determination by the designated hearing officer, unless the Public Works Director determines in writing that the conditions or events which gave rise to the suspension or revocation of the Unscheduled Collection Permit constitutes an imminent or immediate threat to the health, safety, welfare or environment of the public, in which case the suspension or revocation shall be effective immediately upon Notification. (Ord. 5438, 2007.)

7.18.060 Procedure Upon Appeal.

Appeals by the Permittee of a suspension or revocation of the Unscheduled Collection Permit shall be conducted in accordance with SBMC Chapter 1.25.100. (Ord. 5438, 2007.)

7.18.070 Time to Submit Permit Application.

Persons operating a Collection Business at the time of the adoption of the ordinance enacting this Chapter must submit an application for an Unscheduled Collection Permit no later than ninety (90) days after the adoption date of the ordinance enacting this Chapter. (Ord. 5438, 2007.)

7.18.080 Chapter Regulations.

The Public Works Director shall prepare regulations required to enforce or carry out the provisions of this Chapter, which regulations shall be submitted to and approved by resolution of the City Council ("Chapter Regulations") not later than the effective date of the ordinance approving this Chapter. (Ord. 5438, 2007.)

Chapter 7.24

TEMPORARY SANITATION FACILITIES

Sections:

7.24.010 Temporary Toilet Facilities During Building Construction - When Required.

7.24.020 Specifications for Toilet Facilities.

7.24.010 Temporary Toilet Facilities During Building Construction - When Required.

It shall be unlawful for any person to commence construction work on any building in the City where two (2) or more workmen are employed, unless adequate temporary toilet facilities for the use of the workmen is provided.

Such adequate temporary toilet facilities shall be maintained until the completion of the construction work on the building. (Prior Code §11.1.)

7.24.020 Specifications for Toilet Facilities.

Adequate temporary toilet facilities within the meaning of the preceding section shall consist of either a water closet connected with the sewer or an approved patented chemical-type portable toilet, regularly pumped and serviced to prevent unsanitary conditions and foul odor. (Ord. 3763 §1, 1975; prior Code §11.2.)

Chapter 7.28

PARKING PROHIBITION FOR STREET SWEEPING

Sections:

7.28.010	**Authority to Prohibit Parking.**	**7.28.040**	**Protest to Prohibition.**
7.28.020	**Public Nuisance.**	**7.28.050**	**Prohibition Effective Upon Posting.**
7.28.030	**Notice of Intention to Prohibit Parking.**	**7.28.060**	**Termination of Prohibition.**

7.28.010 Authority to Prohibit Parking.

The Director of Public Works is authorized to prohibit parking on designated City streets and private streets open for public use, for limited periods of time on designated days, for street sweeping purposes, when debris and/or refuse on a given street have accumulated to such an extent as to constitute a public nuisance. (Ord. 3403 §1(part), 1970.)

7.28.020 Public Nuisance.

A public nuisance under the provisions of this chapter shall be deemed to exist if the Director of Public Works submits to the City Administrator a written statement that debris and/or refuse has existed on a City street for a prolonged period of time exceeding five (5) days, and because of continual presence of parked vehicles it has not been possible to remove such debris and/or refuse by normal street sweeping methods. (Ord. 3403 §1(part), 1970.)

7.28.030 Notice of Intention to Prohibit Parking.

Notice of intention to prohibit parking, stating the date and time, shall be given in writing to owners of abutting properties along the street or streets where such public nuisance is deemed to exist, at least ten (10) days prior to the prohibition of parking on such street or streets as herein provided. (Ord. 3403 §1(part), 1970.)

7.28.040 Protest to Prohibition.

Any person objecting to the prohibition of parking on any street as herein provided may file a protest with the City Council prior to the actual posting of signs prohibiting parking, in which case the prohibition of parking shall be postponed until a hearing on such protest and a determination thereof by the City Council. (Ord. 3403 §1(part), 1970.)

7.28.050 Prohibition Effective Upon Posting.

The prohibition of parking on any given street shall be effective upon the posting of temporary signs thereof along the street. (Ord. 3403 §1(part), 1970.)

7.28.060 Termination of Prohibition.

The Director of Public Works shall terminate such prohibition of parking when and if he determines that the same is no longer required for the abatement of a public nuisance. (Ord. 3403 §1(part), 1970.)

TITLE 8
Fire Protection

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5638	Adoption of California Fire Code	January 1, 2014	Chapter 8.04

TITLE 8

FIRE PROTECTION

Chapter: 8.04 The California Fire Code
Chapter: 8.08 Fire Hazards
Chapter: 8.16 Fire Permits
Chapter: 8.20 Vegetation Obstructing Public Places
Chapter: 8.24 Weed Abatement

Chapter 8.04

THE CALIFORNIA FIRE CODE

Sections:

8.04.010 Adoption of California Fire Code by Reference.
8.04.020 Amendments to California Fire Code.
8.04.030 Fire Prevention Development Standards.

8.04.010 Adoption of California Fire Code by Reference.

Subject to the amendments specified in Section 8.04.020 of this Code, the California Fire Code, as published by the California Building Standards Commission (2013 Edition), including Appendix Chapter 4 and Appendices B, BB, C, CC and H, and all standards and secondary codes referenced in said code, are adopted by reference. This publication by the California Building Standards Commission shall be referred to as the California Fire Code.

With the amendments specified in Section 8.04.020, the California Fire Code, as published by the California Building Standards Commission, shall be known as the City of Santa Barbara Fire Code. Said codes and any standards and secondary codes adopted by reference, and the amendments therein, are on file and available for public inspection in the Office of the City Clerk. (Ord. 5638, 2013; Ord. 5535, 2010; Ord. 5439, 2007; Ord. 5257, 2002; Ord. 5100, 1999; Ord. 4964, 1996.)

8.04.020 Amendments to California Fire Code.

In response to local climatic, geological and topographical conditions, the 2013 California Fire Code, as adopted by reference in Section 8.04.010, is amended as follows:

A. Section 103 "Department of Fire Prevention" is hereby retitled "Fire Prevention Bureau".

B. [A] 103.1 "General" is deleted in its entirety and readopted to read as follows:

[A] 103.1 General. The Fire Prevention Bureau is established in the jurisdiction under the Fire Code Official. The function of the division shall be the implementation, administration and enforcement of the provisions of this code.

C. [A] 103.3.1 "Fire prevention bureau personnel and police" is added to read as follows:

[A]103.3.1 Fire prevention bureau personnel and police. The Fire Code Official and members of the fire prevention bureau shall have the powers of a police officer in performing their duties under this code. When requested to do so by the fire chief, the chief of police is authorized to assign such available police officers as necessary to assist the fire department in enforcing the provisions of this code.

D. Section 104.10 "Fire investigations" is amended to read as follows:

[A] 104.10 Fire investigations. The Fire Code Official is authorized to investigate promptly the cause, origin and circumstances of every fire, explosion or other hazardous condition occurring in the jurisdiction. In addition, the Fire Code Official is authorized to investigate the cause, origin and circumstances of unauthorized releases of hazardous materials in the jurisdiction. If it appears to the Fire Code Official that such incidents are of suspicious origin, the Fire Code Official is authorized to take immediate charge of all physical evidence relating to the cause of the fire, explosion, hazardous condition, or release and is authorized to pursue the investigation to its conclusion.

[A]104.10.1 Assistance from other agencies. Police and other enforcement agencies are authorized to assist in the investigation of fires when requested to do so by the Fire Code Official.

E. Section 108 "Board of Appeals" is deleted in its entirety without replacement.

F. Section [A]109.4 "Violation penalties" is amended to read as follows:

[A] Section 109.4 Violation penalties. Persons who violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor. Penalties shall be as prescribed by state law and local ordinance. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

G. Chapter 1, Division II of the California Fire Code is amended by adding Section 114 "Building and Fire Code Board of Appeals" to read as follows:

Section 114. Building and Fire Code Board of Appeals

In order to hear and decide appeals of orders, decisions or determinations made by the Fire Code Official or Building Official relative to the application and interpretations of the technical codes, there shall be and is hereby created a Building and Fire Code Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The Fire Code Official or Building Official shall be an ex officio member and shall act as secretary to said Board but shall have no vote upon any matter before the Board. The Building and Fire Code Board of Appeals shall be appointed by the City Council and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Code Official or Building Official.

114.1.1 Alternatives. The Board may consider any alternate provided that it finds that the proposed design, material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in accessibility, suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation.

114.1.2 Appointments. The City Council shall appoint individuals to an eligibility list. Appeals shall be scheduled before five members selected from the eligibility list by the Community Development Director or the Fire Code Official as may be appropriate based on the subject matter.

114.1.3 Quorum. It shall take a quorum of three members to hear an appeal, and majority vote of the Board convened to sustain an appeal.

114.1.4 Chairperson. The chairperson shall be selected by the convened Board. The chairperson shall maintain order and conduct the meeting in accordance with Sections 114.1.7 and 114.1.8.

114.1.5 Meetings. The Board shall meet when needed to hear an appeal or when needed to transact business of the Board. Either the Chief Building Official or the Fire Code Official or their designee shall act as Secretary of the Board.

114.1.6 Board Decisions. The decision of the Building and Fire Code Board of Appeals shall be final on all matters of appeals and shall become an order to the Appellant, Building Official or Fire Code Official as may be appropriate.

114.1.7 Procedures. The Chief Building Official or Fire Code Official may use the procedure for Conduct of Hearing Appeals in accordance with Chapter 6 of the Uniform Code for the Abatement of Dangerous Buildings for appeals. The Board may elect alternate procedures by a unanimous vote of the convened Board as they may deem appropriate.

114.1.8 Procedural Rules. Appeal hearings shall be conducted substantially in accordance with the following format:

1. The Chairperson shall call the meeting to order.
2. The Chairperson shall note the Board members present for the minutes.
3. The Chairperson shall recognize the Chief Building Official or Fire Code Official for presentation of the appeal. The Chief Building Official or the Fire Code Official shall read his/her recommendation to the Board. This recommendation shall be the standing motion before the Board.
4. The Chairperson shall recognize the Appellant for presentation of rebuttals.
5. All witnesses must be called by either the Appellant or the Chief Building Official or the Fire Code Official and may be questioned.
6. After a motion to amend, accept, or deny the standing motion has been made and seconded, the Board may entertain comments from the public.
7. The Board shall vote on the standing or amended motion.
8. The Chairperson shall adjourn the meeting at the end of business.
9. The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.

H. **Chapter 3** of the California Fire Code is amended as follows:

1. Section 308.1.4 is deleted in its entirety and readopted to read as follows:

Section 308.1.4 Liquefied-Petroleum Gas-Fueled Cooking Devices. LP gas burners having an LP gas container with a water capacity greater than 25 pounds (5 gallon) shall not be located on combustible balconies or within 10 feet (3048 mm) of combustible construction.

Exception: One- and two-family dwellings.

2. Section 317.1.1 Rooftop Gardens and Landscaped Roofs is added to read as follows:

317.1.1 Rooftop Gardens and Landscaped Roofs. Rooftop gardens and landscaped roofs, also known as vegetated roofs, are prohibited in the High Fire Hazard areas.

I. Chapter 4 of the California Fire Code is deleted in its entirety without replacement.

J. Section 503 “Fire Apparatus Access Roads” is deleted in its entirety and readopted to read as follows:

503.1 Where Required. Fire Department access roads shall be provided and maintained in accordance with Sections 503.1.1and 503.1.3.

503.1.1 Buildings and Facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus roads shall comply with the requirements of this section and shall extend to within 150 feet (45,720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exception: The Fire Code Official is authorized to increase the dimension of 150 feet (45,720 mm) where:

1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Sections 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternate means of fire protection is provided.

503.1.2 Additional Access. The Fire Code Official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of the terrain, climatic conditions or other factors that could limit access.

503.1.3 High-Piled Storage. Fire department vehicle access to buildings used for high-piled combustible storage shall comply with the applicable provisions of Chapter 23.

503.2 Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8.

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6,096 mm) except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches. If a fire apparatus access road serves three or fewer single-family residential units, the required width may be reduced to not less than 16 feet (4,879 mm) upon the approval of the Fire Code Official.

503.2.2 Authority. The Fire Code Official is authorized to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Such fire apparatus access roads shall be capable of supporting 60,000 pounds and shall be constructed of approved materials.

503.2.4 Turning Radius. The turning radius of roadways shall be no less than 70 feet in diameter measured from outer edge to outer edge.

503.2.5 Dead Ends. Dead-end fire apparatus access roads in excess of 300 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

503.2.6 Bridges and Elevated Surfaces. Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge shall be constructed and maintained in accordance with AASHTO HB-17. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus. Vehicle load limits shall be posted at both entrances to bridges when required by the Fire Code Official. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs or both shall be installed and maintained when required by the Fire Code Official.

503.2.7 Grade. The gradient for a fire apparatus access road shall not exceed a 16% grade.

503.2.7.1 Cross-Slope. The cross-slope gradient shall not exceed 6%.

503.2.8. Angle of Approach and Departure. The angles of approach and departure for fire apparatus access roads shall be within the limits established by the Fire Code Official based on the fire department’s apparatus.

503.3 Marking. Where required by the Fire Code Official, approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

503.4 Obstruction of Fire Apparatus Access Roads. Fire apparatus access roads shall not be obstructed in any manner, including parking of vehicles. The minimum required widths and clearances established in Section 503.2.1 shall be maintained at all times.

503.5 Required Gates or Barricades.

503.5.1 Secured Gates and Barricades. When required, gates and barricades shall be secured in an approved manner. Roads, trails and other access ways that have been closed and obstructed in the manner prescribed by Section 503.5 shall not be trespassed on or used unless authorized by the owner and the Fire Code Official.

503.5.1.1 Vehicle Obstruction. Entrances to roads, trails, or other access ways that have been closed with gates and barriers in accordance with Section 503.5 shall not be obstructed by parked vehicles, except for public officers acting within their scope of duty.

503.5.1.2 Closure of Access Ways. Locks, gates, doors, barricades, chains, enclosures, signs, tags, or seals which have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with or otherwise molested in any manner except when authorized by the Fire Code Official or by public officers acting within their scope of duty.

503.5.2 Fences and Gates. School grounds may be fenced and gates therein may be equipped with locks, provided that safe dispersal areas based on 3 square feet (0.28m²) per occupant are located between the school and the fence. Such required safe dispersal areas shall not be located less than 50 feet (15240 mm) from school buildings. Every public and private school shall conform to Section 32020 of the Education Code.

K. Section 505 "Premises Identification" is amended to add Sections 505.1.1 and 505.3 to read as follows:

505.1.1 Mixed Use Occupancy Identification. Mixed use occupancy notification signs shall be provided according to Municipal Code Section 8.04.030.B.

505.3 Directory. For complexes and large buildings, an approved directory or premise map may be required at a location determined by the Fire Code Official.

L. Section 507 "Fire Protection Water Supplies" is deleted in its entirety and readopted to read as follows:

507.1 Required Water Supply. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. Prior to development of a project, the Fire Code Official may require the flow testing of fire hydrants adjacent to the proposed development in order to determine adequacy of fire flow.

507.2 Type of Water Supply. A water supply shall consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required flow.

507.2.1 Private Fire Service Mains. Private fire service mains and appurtenances shall be installed in accordance with NFPA 24.

507.2.2 Water Tanks. Water tanks for private fire protection shall be installed in accordance with NFPA 22.

507.3 Fire Flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method or *Appendix B*. For the purposes of this section, an "approved water supply" shall mean the following:

1. Residential Requirement. All residential buildings containing ten (10) or less dwelling units shall be served by a fire flow of 750 gpm at a residual pressure of 20 psi when flowing. Fire flow requirements may be modified downward by the Fire Code Official for isolated buildings or the installation of approved fire protection devices, but in no case shall the fire flow be less than 500 gpm at a residual pressure of 20 psi. Residential buildings containing eleven (11) or more dwelling units shall be served by fire flows in compliance with the commercial requirements below.

2. Commercial Requirement. A fire flow of 1,250 gpm at a residual pressure of 20 psi when flowing will be required.

507.4 Water Supply Test. The Fire Code Official shall be notified prior to the water supply test. Water supply tests shall be witnessed by the Fire Code Official, or approved documentation of the test shall be provided to the Fire Code Official prior to final approval of the water supply system.

507.5 Fire Hydrant Systems. Fire hydrant systems shall comply with Sections 507.1 through 507.5.6 or Appendix C of the International Fire Code.

507.5.1 Where Required, Commercial. A commercial hydrant to Santa Barbara City standards must be located within 300 feet of all portions of a facility or building as measured by an approved route around the exterior of the facility or building. Where a portion of the facility or building is hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus road, as measured by an approved route around the exterior of the facility or building, the Fire Code Official may require on-site hydrants or another approved mitigation method.

507.5.1.1 Where Required, Residential. For Group R-3, Group U and Group R-2 occupancies containing ten (10) or less dwelling units, a residential hydrant to Santa Barbara City standards must be located within 500 feet of all portions of a facility or building as measured by an approved route around the exterior of the facility or building. Where a portion of the facility or building is hereafter constructed or moved into or within the jurisdiction is more than 500 feet from a hydrant on a fire apparatus road, as measured by an approved route around the exterior of the facility or building, the Fire Code Official may require on-site hydrants or another approved mitigation method.

507.5.2 Inspection, Testing and Maintenance. Fire hydrant systems shall be subject to such periodic tests as required by the Fire Code Official. Fire hydrant systems shall be maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, alterations and servicing shall be in accordance with approved standards.

507.5.3 Private Fire Service Mains and Water Tanks. Private fire service mains and water tanks shall be periodically inspected, tested and maintained in accordance with *Title 19 California Code of Regulations Chapter 5*.

507.5.4 Obstruction. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

507.5.5 Clear Space Around Hydrants. A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

507.5.6 Physical Protection. Where fire hydrants are subject to impact by a motor vehicle, guard posts or other approved means shall comply with Section 312.

M. Section 903.2 "Where required" is amended to add Section 903.2.20 to read as follows:

903.2.20 Local Requirements. Approved automatic sprinkler systems shall be installed throughout buildings and structures as specified elsewhere in this Section 903.2 or as specified in this Section 903.2.20, whichever is more protective.

903.2.20.1 New Buildings, Generally. The construction of a new building containing any of the following occupancies: A, B, E, F, H, I, L, M, R, S or U.

Exceptions: A new building containing a Group U occupancy that is constructed in the City's designated High Fire Hazard Area is not required to provide a sprinkler system as long as the building does not exceed 500 square feet of floor area. A new building containing a U occupancy that is constructed outside the City's designated High Fire Hazard Area is not required to provide a sprinkler system as long as the building does not exceed 5000 square feet of floor area.

903.2.20.2 New Buildings in the High Fire Hazard Area. The construction of any new building within the City's designated High Fire Hazard Area.

Exception: A new building containing a Group U occupancy that is constructed in the City's designated High Fire Hazard Area is not required to provide a sprinkler system as long as the building does not exceed 500 square feet of floor area.

903.2.20.3 Additions to Buildings Other than Single Family Residences. The addition of floor area to an existing building that contains any occupancy other than Group R, Division 3.

903.2.20.4 Remodels of Buildings Other than Single Family Residences. The remodel or alteration of the interior of an existing building that contains any occupancy other than Group R, Division 3, where the floor area of the portion of the building that is modified or altered exceeds 50% of the existing floor area of the building. For purposes of this section, all modifications or alterations to an existing building that occur after the effective date of the ordinance adopting this section shall be counted in the aggregate toward the 50% threshold measured against the floor area of the building as it existed on the effective date of the ordinance adopting this section.

903.2.20.5 Change of Occupancy to a Higher Hazard Classification. Any change of occupancy in an existing building where the occupancy changes to a higher hazard classification.

903.2.20.6 Computation of Square Footage. For the purposes of Section 903.2.19, the floor area of buildings shall be computed in accordance with the definition of "Floor area, Gross" provided in Section 1002.1 of the California Building Code.

903.2.20.7 Existing Use. Any existing building not classified as Group R, Division 3, in existence at the time of the effective date of this code may have their use continued if such use was legal at the time. Additions to existing buildings shall require an automatic fire sprinkler system installed throughout, including areas not previously protected.

N. Section 907 "Fire Alarm and Detection Systems" is amended to add Section 907.2.30 to read as follows:

907.2.30 Mixed Use Occupancies. Where residential occupancies are combined with commercial occupancies, a fire alarm system shall be installed which notifies all occupants in the event of a fire. The system shall include automatic smoke detection throughout the commercial and common areas. In addition, a notification system shall be installed in a manner and location approved by the Fire Code Official that indicates the presence of residential dwelling units in accordance with Municipal Code Section 8.04.030.B.

O. Section 4901 "General" is amended to read as follows:

Section 4901.1 Scope. The mitigation of conditions where a wildfire burning in vegetative fuels may readily transmit fire to buildings and threaten to destroy life, overwhelm fire suppression capabilities, or result in large property losses shall comply with this chapter. In addition, this section is intended to prevent the occurrence of fires and to provide adequate fire protection facilities to control the spread of fire which might be caused by recreational, residential, commercial, industrial or other activities conducted in Urban Wildland Interface Areas as defined by the City of Santa Barbara Wildland Fire Plan.

Section 4901.2 Purpose. The purpose of this code is to provide minimum standards to increase the ability of a building to resist the intrusion of flame or burning embers being projected by a vegetation fire and contribute to a systematic reduction in conflagration losses through the use of performance and prescriptive requirements. In addition, the purpose of this code is to prevent the occurrence of fires and to provide adequate fire protection facilities to control the spread of fire which might be caused by recreational, residential, commercial, industrial or other activities conducted in Urban Wildland Interface Areas.

Section 4901.3 Policy. The policy direction for the City of Santa Barbara Wildland Urban Interface Area is established by the City of Santa Barbara Wildland Fire Plan, approved by City Council in January of 2004.

P. Section 4902 "Definitions" is amended to add the definitions of "Spark Arrester", "Tracer", and "Tracer Charge" and to amend the definition of "Wildland-Urban Interface Fire Area", to read as follows:

Spark Arrester is defined as a device constructed of non-flammable materials specifically for removing and retaining carbon and other flammable particles over 0.0232 inches in size from the exhaust flow of an internal combustion engine operated by hydrocarbons.

Tracer is any bullet or projectile incorporating a feature which marks or traces the flight of said bullet or projectile by flame, smoke or other means which result in fire or heat.

Tracer Charge is any bullet or projectile incorporating a feature designed to create a visible or audible effect by means which result in fire or heat and shall include any incendiary bullets and projectiles.

Wildland-Urban Interface Fire Area is a geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. See Article 86B for the applicable referenced sections of the Government Code and the Public Resources Code. The City of Santa Barbara Wildland Fire Plan, approved by City Council in January of 2004, outlines the Wildland Urban Interface Areas within the City of Santa Barbara's local jurisdiction. For purposes of this code, Wildland Urban Interface Areas and High Fire Hazard Areas are interchangeable.

Q. Section 4903 "Plans" is amended to read as follows:

4903.1 General. When required by the Fire Code Official, a fire protection plan shall be prepared for parcels within Urban Wildland Interface Areas.

4903.2 Content. The plan shall be based on site-specific wildfire hazard and risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building construction and fire-resistance factors, fire protection systems and equipment, evacuation, defensible space and vegetation management. The plan shall also address any off-site factors listed above that affect the project area.

4903.3 Cost. The cost of fire protection plan preparation and review shall be the responsibility of the applicant.

4903.4 Plan retention. The fire protection plan shall be retained by the Fire Code Official.

R. Section 4904 "Fire Hazard Severity Zones" is amended to add Section 4904.1.1 to read as follows:

4904.1.1 Local Land Classification. Lands in the local jurisdiction are classified by the Fire Code Official in accordance with the City of Santa Barbara Wildland Fire Plan (May 2004).

S. Section 4906 "Hazardous Vegetation and Fuel Management" is amended to add Sections 4906.1.1 and 4906.1.2 to read as follows:

4906.1.1 General. The City of Santa Barbara Wildland Fire Plan identifies vegetation management areas that pose an increased threat to the community during a wildland fire. Within these areas, the Fire Code Official has the authority to work with property owners to reduce the amount of flammable vegetation outside the defensible space areas. These areas include both City and private lands. Standards for vegetation management are specified in the City of Santa Barbara Wildland Fire Plan.

4906.1.2 Flammable Vegetation. Vegetation installed without an approved landscape plan shall be removed if in the opinion of the Fire Code Official it is capable of being ignited and endangering property.

T. Section 4907 "Defensible Space" is amended by adding the following:

4907.1.1 General. Persons owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas, and persons owning, leasing or controlling land adjacent to such buildings or structures, shall follow defensible space requirements outlined in 4907.1 through 4907.9. For purposes of this section, defensible space requirements shall apply to persons owning, leasing or controlling land with hazardous vegetation that is within the defensible space of structures on adjacent properties.

4907.2 Distance Requirements. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 30 to 150 feet of such buildings or structures as outlined in the following zones:

1. Coastal Interior: 30 to 50 feet brush clearance from structures
2. Coastal: 50 to 70 feet brush clearance from structures
3. Foothill: 100 feet brush clearance from structures
4. Extreme Foothill: 150 feet brush clearance from structures

Exceptions:

1. Single specimens of trees, ornamental shrubbery or similar plants used as ground covers do not have to be removed, provided they do not form a means of rapidly transmitting fire from the native growth to any structure.
2. Grass and other vegetation located more than 30 feet (9144 mm) from buildings or structures and less than 18 inches (457 mm) in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

4907.3 Chimney Clearance. Remove portions of trees which extend within 10 feet (3048 mm) of the outlet of a chimney.

4907.4 Overhanging Trees. Maintain trees adjacent to or overhanging a building free of deadwood.

4907.5 Vines and Climbing Ornamental Plants. Existing vines and climbing plants attached to structures must be maintained in a well watered condition, free of excessive dead material and trimmed to minimize fire propagation.

4907.6 Roof Debris. Maintain the roof of a structure free of leaves, needles or other dead vegetative growth.

4907.7 Additional Clearance Requirements. Within any high fire hazard zone, additional brush clearance may be required on slopes greater than 30%. Slopes ranging between 30 and 40% may require 200 feet clearance. Slopes ranging from 41 to 60% may require 250- to 300- foot clearance.

4907.8 High Fire Hazard Area Fire Safe Landscaping. All parcels in the Wildland Urban Interface Areas must meet defensible space requirements as outlined in 4707.1. Defensible space requirements can be met though fire safe landscaping in accordance with Wildland Fire Plan, Appendix E (High Fire Hazard Landscape Guidelines). Fire safe landscaping requirements shall be utilized on all parcels within the Wildland Urban Interface Areas.

4907.8.1 New Development. New developments in the Wildland Urban Interface Area must submit landscape plans for review by the Fire Code Official. Landscaping shall meet the defensible space distances as outlined in the Wildland Fire Plan, Appendix E (High Fire Hazard Defensible Space Requirements). All landscape plant species must be fire resistant as described in the Wildland Fire Plan, Appendix E (High Fire Hazard Landscape Guidelines).

4907.8 Vegetation Road Clearance. The owner, occupant or other person in control of any real property (vacant or developed) in, upon, or adjoining hazardous fire areas, and the owner, occupant or other person in control of real property adjacent to such property shall:

1. Maintain an area cleared of flammable vegetation and other combustible growth for a distance of 10 feet on each side of portions of highways and private streets which are improved, designed or ordinarily used for vehicular traffic.

Exception: Single specimens of trees, ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants used as ground covers, provided they do not form a means of readily transmitting fire.

2. Maintain an area cleared of all overhanging vegetation for a vertical clearance of not less than 13 feet 6 inches within the full portion of highways and private streets which are improved, roadway and one foot (1 foot) on each side from the edge of the drivable roadway.

4907.9 Unusual Circumstances. If the Fire Code Official determines that difficult terrain, danger or erosion or other unusual circumstances make strict compliance with the clearance of vegetation provisions of Sections 4907 undesirable or impractical, enforcement thereof may be suspended and approved alternative measures shall be provided.

U. Section 4908 "Trespassing On Posted Property" is added to Chapter 49 to read as follows:

4908.1 General. When the Fire Code Official determines that a specific area within a Wildland Urban Interface Area presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures, or accessibility to the public, such areas shall be closed until changed conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

4908.2. Signs. Approved signs prohibiting entry by unauthorized persons and referring to Section 4908.1 shall be placed on every closed area pursuant to this section.

4908.3 Trespassing. Entering and remaining within areas closed and posted is prohibited.

Exception: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

4908.4 Tampering With Fire Department Locks, Barricades and Signs. Locks, barricades, seals, cables, signs and markers installed within Wildland Urban Interface Areas, by or under the control of the Fire Code Official, shall not be tampered with, mutilated, destroyed or removed. Gates, doors, barriers and locks installed by or under the control of the Fire Code Official shall not be unlocked.

V. Section 4909 "Ignition Sources" is added to Chapter 49 to read as follows:

4909.1 General. Control of ignition sources in Wildland Urban Interface Areas shall be in accordance with 4909.1 through 4909.12.

4909.2 Smoking. Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes or cigars in Wildland Urban Interface Areas is prohibited.

Exception: Places of habitation or within the boundaries of established smoking areas or campsites as designated by the Fire Code Official.

4909.3 Spark Arresters. Chimneys used in conjunction with fire places, barbeques or heating appliances in which solid or liquid fuels is used, upon buildings, structures or premises located within 200 feet of Wildland Urban Interface Areas shall be provided with a spark arrestor constructed with heavy wire mesh or other noncombustible material with openings not to exceed 1/2 inch.

4909.4 Suppression Equipment for Gasoline-Fueled Internal Combustion Engines - Off Road Vehicles. No person shall use or operate any internal combustion engine which operates on hydrocarbon fuels on any forest, brush, or grass covered land without providing, and maintaining in good working order, a spark arrester attached to the exhaust system, except for motorcycles, vehicles equipped with a muffler as defined by the California Vehicle Code, such as motor trucks, truck tractors, buses, and passenger vehicles are not subject to the provisions of this section. Spark arresters affixed to the exhaust of engines shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

4909.5 Suppression Equipment For Gasoline-Fueled Internal Combustion Engines - Tools. No person shall use or operate any portable saw, auger, drill, tamper or other portable tool powered by a gasoline-fueled internal combustion engine on or near any forest, brush, grass covered land, within 25 feet from any flammable material without providing at the immediate location a round point shovel or a 2A 10 BC fire extinguisher. The above tools shall at no time be farther than 25 feet, with unrestricted access, from the operator to the point of operation.

4909.6 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft. Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland Urban Interface Areas. Rockets, model airplanes, gliders and balloons powered with an engine, propellant or other feature liable to start or cause fire shall not be fired or projected into or across Wildland Urban Interface Areas.

4909.7 Apiaries. Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland Urban Interface Areas except by permit from the Fire Code Official.

4909.8 Open Flame Devices. Welding torches, tar pots, decorative torches and other devices, machines or processes liable to start or cause fire shall not be operated or used in or upon Wildland Urban Interface Areas, except by permit from the Fire Code Official.

Exception: Use within habited premises or designated campsites which are a minimum of 30 feet from grass, grain, brush or forested areas.

4909.9 Outdoor Fires. Outdoor fires shall not be built, ignited or maintained in or upon Wildland Urban Interface Areas, except by permit from the Fire Code Official. Permits shall incorporate such terms and conditions which will reasonably safeguard public safety and property. Outdoor fires shall not be built, ignited or maintained in or upon Wildland Urban Interface Areas under the following conditions:

1. When high winds are blowing;
2. When a person age 17 or over is not present at all times to watch and tend fire; or
3. When the Fire Code Official declares a Red Flag Fire Warning.

Exception: Outdoor fires within habited premises or designated campsites where such fires are built in a permanent barbeque, portable barbeque, outdoor fireplace or grill and are a minimum of 30 feet from grass, grain, brush or forested areas.

4909.10 Outdoor Fireplaces and Barbeques. Permanent barbeques, portable barbeques, outdoor fireplaces or grills shall not be used for the disposal of rubbish, trash, or combustible waste material. Permanent barbeques, outdoor fireplaces, portable barbeques and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen, or door.

Exception: When approved, unprotected openings in barbeques and grills necessary for proper functioning.

4909.11 Dumping. Garbage, cans, bottles, papers, ashes, refuse, trash, rubbish or combustible waste material shall not be placed, deposited or dumped in or upon Wildland Urban Interface Areas or in, upon or along trails, roadways or highways in Wildland Urban Interface Areas.

Exception: Approved public and private dumping areas.

4909.12 Disposal of Ashes. Ashes and coals shall not be placed, deposited or dumped in or upon Wildland Urban Interface Areas.

Exceptions: (1) In the hearth of an established fire pit, camp stove or fireplace; (2) In a noncombustible container with a tight fitting lid, which is kept or maintained in a safe location not less than 10 feet from combustible vegetation or structures; (3) Where such ashes or coals are buried and covered with 1 foot of mineral earth not less than 25 feet from combustible vegetation or structures.

4909.13 Use of Fire Roads and Firebreaks. Motorcycles, motor scooters and motor vehicles shall not be driven or parked upon, and trespassing is prohibited upon, fire roads or firebreaks beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owners. Vehicles shall not be parked in a manner which obstructs the entrance to a fire road or firebreak.

Exception: Public officers acting within their scope of duty.

W. Section 5601 "General" is amended to add Sections 5601.2, 5601.3, and 5601.4 to read as follows:

Section 5601.2 Explosives and Blasting Agents. Storage of explosives and blasting agents is restricted to the A-I (Airport Industrial) zone.

Section 5601.3 Prohibition. The manufacturing, possession, storage, sale, use and handling of fireworks are prohibited in the City of Santa Barbara.

Exception: Commercial, theatrical and group entertainment productions as permitted by the Fire Code Official and in accordance with Title 19, California Code of Regulations, Chapter 6, Fireworks.

Section 5601.4 Seizure. The Fire Code Official is authorized to seize, take, remove or caused to be removed at the expense of the owner all stock of fireworks offered or exposed for sale, stored or held in violation of this ordinance and Title 19, Chapter 6 of the California Code of Regulations. (Ord. 5638, 2013; Ord. 5535, 2010; Ord. 5498, 2009; Ord. 5439, 2007; Ord. 5257, 2002; Ord. 5100, 1999; Ord. 4964, 1996.)

8.04.030 Fire Prevention Development Standards.

A. **Fire Zone 2.** Buildings or portions of buildings constructed within the boundaries of Fire Zone 2, as designated by the Fire Code Official and shown on a map on file with the City Clerk and the Community Development Department, shall provide a ten thousand (10,000) gallon water tank to be used for fire protection purposes only, designed, installed and maintained in a manner approved by the Fire Code Official, incorporating each of the following additional features in its construction:

1. All fire department access complies with the requirements of Section 503 of the International Fire Code (2009 Edition) as amended by this Chapter; and
2. All plantings used for landscaping within one hundred fifty feet (150') of any structure must be fire resistant; and
3. All native brush, shrubs and grasses are kept cleared to within one hundred fifty feet (150') of any structure; and
4. Residential fire sprinklers are installed in any building used for sleeping or cooking according to National Fire Protection Association Residential Standards.

B. **Mixed Use Occupancy Notification System.** Signs shall be installed in a manner and in locations approved by the Fire Code Official indicating the presence of residential dwelling units in buildings of mixed use occupancy. Required signs shall be clearly visible from the front of the building and conform to the following criteria:

1. All signs shall begin with the letter **R** followed by a hyphen.
` 2. **R -** shall be followed by cardinal numbers denoting the floors containing dwelling units. Example: **R-2** denotes dwelling units on the 2nd floor; **R-2-3** denotes dwelling units on the 2nd and 3rd floors.
3. Letters shall have a minimum of 4" high with a 1/2"-wide stroke.
4. Letters shall contrast to their background.
5. Letters on glass shall be in reflective tape.
6. In the event that dwelling units are added or removed from floors, the required sign shall be updated prior to the occupancy of the altered floor space.

Example:

R-2 (not to scale)

(Ord. 5638, 2013; Ord. 5535, 2010; Ord. 5439, 2007; Ord. 5100, 1999.)

Chapter 8.08

FIRE HAZARDS

Sections:

8.08.010	**Enforcement by Fire Department Chief.**	**8.08.100**	**Chimney, Smoke Stack, Stove - Condition.**
8.08.020	**Inspection by Fire Department Chief.**	**8.08.110**	**Accumulation of Rubbish, Foliage, Grass - Disposal.**
8.08.030	**Hazard Determined - Order to Remedy by Chief.**	**8.08.120**	**Parcel of Land a Fire Hazard - Abatement.**
8.08.040	**Obstructing Egress With Flammables.**	**8.08.130**	**Notice to Remove and Abate.**
		8.08.135	**Contents of Notice to Abate.**
8.08.050	**Storage of Flammable Materials.**	**8.08.140**	**Failure to Remove or Abate - City.**
8.08.060	**Dumping Flammable Materials in Vacant Lots, Streets, Ditches.**	**8.08.150**	**Removal and Abatement by City - Notice of Hearing to Owner.**
8.08.070	**Depositing Ashes in Wooden Containers.**	**8.08.160**	**Hearing of Protests - Overrule - Assessment.**
8.08.080	**Permit to Keep Certain Amount of Hay or Straw.**	**8.08.170**	**Penalties Cumulative.**
		8.08.180	**Nuisance Declared.**
8.08.090	**Portable Lanterns and Stoves Near Flammable Materials.**	**8.08.190**	**Penalty for Violation.**

8.08.010 Enforcement by Fire Department Chief.

It shall be the duty of the Chief of the Fire Department to see that all the provisions of this chapter and all other ordinances pertaining to the protection of the City from fire are strictly enforced, and to that end he and his deputies shall have the right to enter upon any premises at all reasonable hours for the purpose of inspecting the same, and it shall be unlawful for any person upon his request or that of his deputy to refuse to permit such inspection. (Ord. 2819 §1(part), 1961.)

8.08.020 Inspection by Fire Department Chief.

It shall be the further duty of the Chief of the Fire Department or his duly authorized representative to inspect, as often as may be necessary, all building, premises and public thoroughfares, for the purpose of ascertaining and causing to be corrected any conditions contrary to the provisions and intent of this or any other ordinances of the City affecting the fire hazard, and it shall be unlawful for any person to refuse to allow such inspection, or in any manner to interfere therewith. (Ord. 2819 §1(part), 1961.)

8.08.030 Hazard Determined - Order to Remedy by Chief.

Whenever any officer or member of the Fire Department shall find upon any premises or other place, combustible or explosive matter, or dangerous accumulation of rubbish or unnecessary accumulation of waste, paper, boxes, shavings or any other flammable or combustible materials, and which is so situated as to endanger property, he shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises. The service of such order shall be made upon the owner of the premises by mailing it to the owner of the property by first class mail with the address as shown on the most recent assessment roll of the County of Santa Barbara. (Ord. 4201, 1983; Ord. 2819 §1(part), 1961.)

8.08.040 Obstructing Egress With Flammables.

It is unlawful for any person to keep or allow or permit to remain any explosive or inflammable compound, or combustible material of any kind near any doorway or stairway of any building, in such place or manner as to obstruct the same or render egress hazardous in case of fire. (Ord. 2819 §2, 1961.)

8.08.050 Storage of Flammable Materials.

It is unlawful for any person or persons to keep, or allow or permit to be kept, any waste, rags, paper, excelsior or other flammable substance liable by spontaneous combustion or otherwise, to cause a fire, and no receptacle containing such material or substance shall be kept or maintained outside of the property line, and packing material, such as excelsior, hay, paper or any other flammable material shall be removed from all packing cases, boxes, barrels, crates, etc., and all containers piled, stacked or stored in a neat and orderly manner and in such a position as not to endanger any property or premises by fire. (Ord. 2819 §3, 1961.)

8.08.060 Dumping Flammable Materials in Vacant Lots, Streets, Ditches.

It is unlawful for any person or persons to cause, or permit to be dumped, placed or be deposited in or upon any vacant lot, street, ditch or other place not officially designated as a public dumping ground, any weeds, rubbish, trimmings from trees, shrubbery, grass or other flammable material. It shall be unlawful for any person to keep, place or deposit, refuse on any public or private grounds or premises whatsoever, except in containers or receptacles for collection upon premises owned, occupied or under possession and control of such person, provided however, that lawn and garden trimmings may be composted in an excavation. (Ord. 2819 §4, 1961.)

8.08.070 Depositing Ashes in Wooden Containers.

It is unlawful for any person or persons to deposit any ashes, or cause or permit the same to be deposited or placed, or to permit or suffer the same to be or remain in any wooden vessel or receptacle, or in any vessel or receptacle composed of combustible material upon any premises under his or their control, but all such ashes shall be placed and kept in some safe repository or receptacle of galvanized iron or other incombustible material and not less than twelve inches (12") from any wooden building or inflammable structure, or when deposited on the ground the same must be not less than ten feet (10') from any wooden building or flammable structure, but then only after the same has been kept in a fireproof receptacle for at least forty-eight (48) hours after having been subject to heat. (Ord. 2819 §5, 1961.)

8.08.080 Permit to Keep Certain Amount of Hay or Straw.

It is unlawful for any person to keep for sale or to store or permit to be kept or stored on any property owned, occupied or under his control, any quantity of loose hay or straw of any kind, exceeding three (3) tons in weight, or any quantity of baled hay or straw in excess of ten (10) tons in weight, without first obtaining a permit from the Fire Marshal to do so. (Ord. 2819 §6, 1961.)

8.08.090 Portable Lanterns and Stoves Near Flammable Materials.

It is unlawful to use or maintain any portable light, lantern or stove in any building, structure, vehicle or boat, where any combustible, explosive or highly flammable materials are situated and exposed, unless such portable light or other such appliance be of a design or type approved by a recognized testing agency. (Ord. 2819 §7, 1961.)

8.08.100 Chimney, Smoke Stack, Stove - Condition.

It is unlawful for any person to maintain or permit to be maintained, any building or structure or appurtenances of fixtures thereto, or any chimney, smoke stack, oven or furnace or anything connected with such building or premises in a defective, insecure or unsafe condition so as to be liable to cause fire. (Ord. 2819 §8, 1961.)

8.08.110 Accumulation of Rubbish, Foliage, Grass - Disposal.

It is unlawful for the owner, tenant or person in control of any parcel of land within the City to allow or permit any accumulation of grass, brush, foliage, rubbish or any other combustible or inflammable material to accumulate or remain upon any such property, and which is a fire hazard to any property in the
City, it shall be the duty of such owner of such parcel to forthwith clean up such parcel and dispose of all such material and take appropriate action to maintain the property "fire-hazard-free" after notification by the Fire Department to do so. (Ord. 4201, 1983; Ord. 2819 §9(part), 1961.)

8.08.120 Parcel of Land a Fire Hazard - Abatement.

It shall be the duty of the Chief of the Fire Department, or his duly authorized representative, whenever any parcel of land within the City is, by reason of the condition described in section 8.08.110 of this Code, a real or potential fire menace, or by reason of its flammable nature, a hazard to life or property, to immediately notify the owner to remove and abate the same. (Ord. 4201, 1983; Ord. 2819 §9(part), 1961.)

8.08.130 Notice to Remove and Abate.

The notice to remove and abate and maintain the property fire hazard free as referred to in Section 8.08.120 shall be in writing by mailing it to the owner of the property by first class mail with the address as shown on the most recent assessment roll of the County of Santa Barbara. (Ord. 4201, 1983.)

8.08.135 Contents of Notice to Abate.

The contents of the notice and attachments thereto mailed pursuant to section 8.08.130 shall include notice of the following:

(i) the Chief of the Fire Department, or his duly authorized representative, has determined that on the owner's property (identified by address and county assessor's parcel number) a fire hazard is maintained which must be abated or removed by the date as specified in the notice;

(ii) failure to so abate and remove and maintain "hazard free" beyond that date certain will result in the Chief of the Fire Department, or his duly authorized representative, authorizing the abatement and removal of the fire hazard at the owner's expense;

(iii) said owner shall be billed for the City's expense incurred, in authorizing the abatement and removal of the hazard, including administrative expenses to abate and remove the fire hazard and expenses incident to securing payment from owner for same;

(iv) any assessment for the abatement and removal not timely paid by owner shall be presented to the City Council at a date and time certain for consideration at which time said owner, or his lawful representative, may appear to protest or contest the assessment;

(v) the City Council, after presentation by the Chief of the Fire Department and any protest by a parcel owner, may direct the filing of a lien against the owner's property from which the fire hazard was abated and removed by the City, which will be payable through the annual tax rolls. (Ord. 4201, 1983.)

8.08.140 Failure to Remove or Abate - City.

If such owner of said parcel of land cannot be reached by mail or when so notified by mailing as aforesaid, fails, refuses or neglects to remove or abate and maintain the parcel so as to prevent the reoccurrence of said hazardous condition within 20 days following the date of such service, the Chief of the Fire Department shall forthwith remove, or cause to be removed, such hazard by whatever means the City Council shall direct. (Ord. 4201, 1983; Ord. 2819 §9(part), 1961.)

8.08.150 Removal and Abatement by City - Notice of Hearing to Owner.

Upon completion of the work of removal and abatement of such fire hazard, the Chief of the Fire Department shall promptly report the actual cost of such work to the City Council, and thereupon the City Clerk shall mail or cause to be mailed to the owner of such parcel of land, as shown by the current City Tax Assessment Roll, a copy of such cost report together with a notice of hearing before a regular meeting of the City Council not less than ten (10) days after the date of mailing of such report and notice. (Ord. 2819 §9(part), 1961.)

8.08.160 Hearing of Protests - Overrule - Assessment.

At the time so set for such hearing, the City Council shall hear and determine all protests of such owner or other interested parties, and in the event such protest or protests be overruled by the Council, the Council may thereupon order the cost, or such portion thereof as it deems just, assessed against such parcel of property and collected as in the case of ordinary taxes. (Ord. 2819 §9(part), 1961.)

8.08.170 Penalties Cumulative.

The foregoing procedure for removal and abatement of such fire hazard as in this chapter provided, shall be cumulative and in addition to any other remedy or penalty herein or otherwise authorized by law. (Ord. 2819 §9(part), 1961.)

8.08.180 Nuisance Declared.

Each of the hazardous conditions and things hereinabove described and prohibited in Sections 8.08.040 through 8.08.170 constitute a public nuisance and the same shall be abated in the manner herein set forth. (Ord. 2819 §10, 1961.)

8.08.190 Penalty for Violation.

Any person violating any of the provisions of this Chapter is guilty of a misdemeanor. (Ord. 4201, 1983; Ord. 2819 §11, 1961.)

Chapter 8.16

FIRE PERMITS

Sections:

8.16.010 Definitions.
8.16.020 Permits Required.
8.16.030 Separate Permits Required.
8.16.040 Application.
8.16.050 Granting - Investigation.
8.16.060 Power to Deny.
8.16.070 Certificate of Occupancy - Prerequisite.
8.16.080 Transferability - Ownership - Location.
8.16.090 Expiration.
8.16.100 Power of Revocation and Suspension.
8.16.110 Fees.
8.16.120 Collection.
8.16.130 Fee Exempt Permits.
8.16.140 Duplicate Permits.
8.16.150 Inspection Rights - Fire Department.
8.16.160 Fire Clearance - Exceptions - Record.
8.16.170 Authority to Stop Work.
8.16.180 Penalties.

8.16.010 Definitions.

As used herein "Chief of the Fire Department" or "Fire Chief" shall mean the Fire Chief of the City or a member of the Fire Department designated by him. (Ord. 3187 §1, 1966.)

8.16.020 Permits Required.

Except as herein provided, no person shall establish, operate, maintain or use any building, structure, room, parcel of land or premises for any purpose other than for purposes of a single-family dwelling, two-family dwelling, or an apartment house, or for purposes incidental thereto, without having a permit then in effect issued under this chapter. No permit shall be required for any business or occupancy in existence prior to the effective date of Ordinance No. 3187, codified in this chapter. Only one (1) permit shall be required for all buildings or structures operated by the same person at the same location as a laboratory. (Ord. 3187 §2, 1966.)

8.16.030 Separate Permits Required.

A permit issued under the provisions of this chapter shall be valid only for the person in whose name it is issued, and for the location shown on the permit. Separate locations require separate permits unless otherwise specified. (Ord. 3187 §3, 1966.)

8.16.040 Application.

(a) Filing. All applications for permits required by this chapter shall be filed with the City Treasurer and shall be in writing on forms provided by the Treasurer. Such applications shall be accompanied by the fire permit fees required in Section 8.16.110.

(b) Contents. Applications for permits required by this chapter shall, unless otherwise required by the Fire Department, contain the following information:

(1) The name and address of the applicant;

(2) A description of the property by street and number wherein or whereon the applicant proposes to engage in the business, operation or occupation for which the permit is required, and if the same has no street number, then such description as will enable it to be easily located;

(3) A statement signed by the applicant or his authorized representative, signifying that the applicant is in charge of such business, operation or occupation of premises, and agrees to comply with all regulations, laws and ordinances pertaining thereto;

(4) Applications for permits to store, process or use hazardous materials shall state thereon the maximum aggregate quantity of such materials which the applicant intends to store, process or use at any time;

(5) Applications for permits for institutional occupancies or assemblage occupancies shall state thereon the maximum capacity for which the permit is requested. (Ord. 3187 §4, 1966.)

8.16.050 Granting - Investigation.

(a) The Fire Marshal shall cause an investigation to be made of every application for a permit, and such investigation shall be made by authorized members of the Fire Department.

(b) The Fire Marshal may require such additional information as may be necessary to carry out the investigation

of the application for a permit.

(c) If, after investigation and consideration of any application and of any plans or specifications required in connection therewith, it shall be determined that the proposed business, operation, occupation or premises will not create any undue hazard as a result of fire or panic, and will comply with all requirements of this chapter and all other relevant laws, the authorized Fire Department representative shall approve the application.

(d) The Fire Department approval of the application may be made subject to such terms and conditions as may be necessary for the safeguarding of life and property from the hazards of fire, explosion or panic.

(e) Upon approval of the application by the Fire Department, and payment of the required fees, as set forth in Section 8.16.110, the City Treasurer shall issue the permit. (Ord. 3187 §5(part), 1966.)

8.16.060 Power to Deny.

The Chief of the Fire Department, in his discretion, is hereby empowered to deny or withhold approval of a permit for which an application has been made if the building, persons, premises, equipment, apparatus, vehicle or reasonable facilities for the establishing, maintaining, conducting or operating the business, operation, occupation or premises for which the permit is requested, is insufficient or unfit or incapable of being used, maintained, established or operated to comply with this chapter or other applicable laws, including but not limited to the California Fire Code as adopted by the City. (Ord. 3187 §5(part), 1966.)

8.16.070 Certificate of Occupancy - Prerequisite.

A permit shall not be issued or granted unless a building permit has been issued by the Building Department for the building or structure, or the approval of the Building Department is obtained for the proposed use. (Ord. 3187 §5(part), 1966.)

8.16.080 Transferability - Ownership - Location.

(a) Transfer of ownership. No permit shall be transferable except where the business, operation, occupation or premises for which the permit is issued, is transferred, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the real or ultimate ownership existing before the transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity herein defined to be a person, are regarded as having the real or ultimate ownership of such corporation or other entity.

(b) Change of location. Any change of location for any business, operation, occupation or premises shall require filing of a new application and payment of the applicable fee. (Ord. 3187 §6, 1966.)

8.16.090 Expiration.

Unless otherwise set forth on the face of the permit, every permit issued in accordance with the provisions of this chapter shall be good until voided, revoked or suspended. (Ord. 3187 §7, 1966.)

8.16.100 Power of Revocation and Suspension.

(a) By the Chief of the Fire Department. Notwithstanding any other provisions of this chapter to the contrary, the Chief of the Fire Department shall have the power to revoke or suspend any permit, at his discretion, upon proof to the satisfaction of the Chief of the Fire Department of violation by the permittee of the provisions of this chapter, any other applicable law, or the terms and conditions of any permit as may be specified under the authority of this chapter. Such revocation or suspension shall be made in accordance with the provisions of this chapter.

(b) Revocation. Whenever any person fails to comply with any provisions of this chapter or other fire prevention ordinance, the Chief of the Fire Department, upon hearing after giving such person ten (10) days notice in writing, specifying the time and place of hearing and requiring him to show cause why his fire permit should not be revoked for such failure, may revoke or suspend any one (1) or more of the fire permits held by such person. The notice shall be served in person or by registered mail to his last address. The determination of the Chief of the Fire Department shall be final.

(c) Operation after revocation or suspension. Any person who engages in any business, operation or occupation, or uses any premises after the fire clearance issued therefor has been suspended or revoked pursuant to the provisions of this section, and before such suspended permit has been reinstated or a new permit issued, shall be guilty of a misdemeanor. (Ord. 3187 §8, 1966.)

8.16.110 Fees.

"The permits and plan reviews required under the provisions of this chapter shall be those enumerated in the California Fire Code as adopted and amended from time to time by the City. The amount of fees for such permits and plan reviews shall be established by resolution of the City Council. Copies of said Code and resolution are on file in the City Clerk's Office. (Ord. 4070, 1980; Ord. 3187, 1966.)

8.16.120 Collection.

All permit fees required by this chapter shall be paid in lawful money of the United States and shall be collected by the City Treasurer. (Ord. 3187 §9(1), 1966.)

8.16.130 Fee Exempt Permits.

Upon application, fee exempt permits shall be issued to the following without the payment of fees prescribed by this chapter: United States Government, State of California, County of Santa Barbara, City of Santa Barbara, Santa Barbara City School Districts, any municipal corporation, department or office thereof. (Ord. 3187 §9(part), 1966.)

8.16.140 Duplicate Permits.

Duplicate permits may be issued by the City Treasurer to replace any previously issued permit which has been lost or destroyed upon filing an affidavit by the holder of the permit or authorized representative attesting to such fact and upon paying to the City Treasurer a fee of one dollar ($1.00) therefor. (Ord. 3187 §9(part), 1966.)

8.16.150 Inspection Rights - Fire Department.

The Chief of the Fire Department and all of his deputies shall have the power and authority to enter, free of charge, at all reasonable times, any premises or place of business which requires fire clearance under the provisions of this chapter, and to demand exhibition of a fire clearance and evidence of amount of fee paid. Any person having a fire clearance heretofore issued in his possession or under his control who fails to exhibit the same as well as evidence of amounts of fees paid, on demand, shall be guilty of a misdemeanor. (Ord. 3187 §9(part), 1966.)

8.16.160 Fire Clearance - Exceptions - Record.

A record of fire clearance and exceptions which may be granted in accordance with the provisions of this chapter shall be maintained by the Fire Marshal. Such record shall be available for public inspection at the Office of the Fire Prevention Bureau. (Ord. 3187 §9(part), 1966.)

8.16.170 Authority to Stop Work.

Whenever any construction or installation work is being performed in violation of the plans and specifications as approved by the Fire Department, a written notice shall be issued to the responsible party to stop work on that portion of the work which is in violation. The notice shall state the nature of the violation, and no work shall be done on that portion until the violation has been corrected. (Ord. 3187 §10, 1966.)

8.16.180 Penalties.

(a) Any person who shall violate any of the provisions of this chapter hereby adopted, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement or specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, shall severally for each and every such violation and non-compliance respectively, be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars ($300.00), or by imprisonment for not more than one hundred and fifty (150) days, or by both such fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. 3187 §11, 1966.)

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Chapter 8.20

VEGETATION OBSTRUCTING PUBLIC PLACES

Sections:

8.20.010 Definitions.
8.20.020 Administrative Regulations - Director's Authority to Adopt.
8.20.030 Regulations to go into Effect.
8.20.040 Amendments and Numbering.
8.20.050 Regulations Made Public in Office of Director.
8.20.060 Obstruction Declared a Nuisance.
8.20.070 Duty to Prevent Obstruction.
8.20.080 Failure to Prevent Obstruction a Misdemeanor.
8.20.090 Abatement of Obstruction - Notice - Posting.
8.20.100 Notice of Abatement - Contents - Procedure.
8.20.110 Form of Notice to Abate Obstruction.
8.20.120 Hearing of Objections by City Council.
8.20.130 Overruling Objections.
8.20.140 Abatement Pursuant to Council Order.
8.20.150 Entry to Abate.
8.20.160 Abatement Before Arrival.
8.20.170 Report - Costs - Notice of Hearing.
8.20.180 Form of Notice of Assessment Hearing.
8.20.190 Hearing on Report - Confirmation.
8.20.200 Confirmed Report to City Treasurer - Assessment and Lien - Collection.
8.20.210 Alternative Procedure.
8.20.220 Other City and State Laws.
8.20.230 Bermuda, Etc., Grass in Gutters, Etc., a Nuisance.
8.20.240 Grass, Rubbish, Etc., Obstructing Sidewalks.

8.20.010 Definitions.

As used in this chapter:

(1) "Obstruction" means trees, hedges, shrubs, vines or plants or any combination of them, in or adjacent to any public street or place, which will touch or impede any person or vehicle passing or using such public street or place in any ordinary manner, or which interfere with the clear view of persons or vehicle operators using, entering or leaving such public street or place in an ordinary manner so as to make such use, entrance or leaving more difficult or hazardous and thereby increase the danger to persons or property.

(2) "Maintain" means to cut, clear, trim, remove or carry away, as is appropriate to the situation.

(3) "Director" means Director of the Public Works Department, or his delegate. (Ord. 2996 §2(part), 1964; prior Code §39.44.)

8.20.020 Administrative Regulations - Director's Authority to Adopt.

The Director, from time to time, may adopt administrative regulations designed to carry out the purposes and make more specific the provisions of this division. Prior to the adoption of such regulations, the Director may hold one (1) or more hearings on the proposed regulations. The original of all regulations adopted pursuant to this section shall be certified as to date of adoption over the Director's signature. (Ord. 2996 §2(part), 1964; prior Code §39.45(a).)

8.20.030 Regulations to go into Effect.

Regulations adopted pursuant to this section shall be in effect upon and after their publication in a daily newspaper of general circulation in the City. (Ord. 2996 §2(part), 1964; prior Code §39.45(b).)

8.20.040 Amendments and Numbering.

Regulations adopted and placed into effect pursuant to this section shall be consecutively numbered and may be amended, replaced, or repealed in the same manner as originally enacted. (Ord. 2996 §2(part), 1964; prior Code §39.45(c).)

8.20.050 Regulations Made Public in Office of Director.

Copies of current regulations adopted and placed into effect pursuant to this section shall be made available to the public in the Office of the Director. (Ord. 2996 §2(part), 1964; prior Code §39.45(d).)

8.20.060 Obstruction Declared a Nuisance.

Every obstruction is hereby declared to be a public nuisance. (Ord. 2996 §2(part), 1964; prior Code §39.46.)

8.20.070 Duty to Prevent Obstruction.

Every owner, possessor or person in control of any lot or parcel of real property or any portion of any lot or parcel of real property, which lot or parcel, or portion thereof, abuts any public street or place, shall maintain all trees, hedges, shrubs, vines and plants upon such real property and upon the abutting public street or place between such real property and the improved surface of such street or place so as to prevent such trees, hedges, shrubs, vines or plants from becoming or continuing to be obstructions. (Ord. 2996 §2(part), 1964; prior Code §39.47(a).)

8.20.080 Failure to Prevent Obstruction a Misdemeanor.

Any owner, possessor or person in control of any lot or parcel of real property or any portion of any such lot or parcel who fails, neglects or refuses to carry out the duty prescribed by Section 8.20.070, or as such duty may be made more specific by regulations adopted pursuant to Sections 8.20.020 - 8.20.050 is guilty of a misdemeanor. (Ord. 2996 §2(part), 1964; prior Code §39.47(b).)

8.20.090 Abatement of Obstruction - Notice - Posting.

Upon the failure, neglect or refusal of any owner, possessor or person in control of any lot or parcel of real property or any portion of any lot or parcel of real property, to maintain any trees, hedges, shrubs, vines or plants so as to prevent obstruction as required in this chapter, a notice to abate obstruction, substantially in the form provided in this chapter, may be mailed by the Director, postage prepaid, to the owner whose name appears as the owner on the last equalized assessment roll of the City available on the date the notice is mailed; and, in addition, not less than one (1) copy of such notice shall be conspicuously posted upon the property not less than twenty-four (24) hours after such mailing. A copy of the notice shall be immediately forwarded to the City Clerk. (Ord. 2996 §2(part), 1964; prior Code §39.48(a).)

8.20.100 Notice of Abatement - Contents - Procedure.

The notice to abate obstruction shall be dated, shall be directed to the owner, possessor or person in control, shall describe the lot or parcel by street address, if any, and by the designation shown by the official City parcelling maps, shall set forth in general terms what must be done to abate the obstruction, shall set a date and place not more than fifteen (15) nor less than five (5) days from the date of the notice at which the City Council will hear objections to the proposed abatement, and shall state that if the work of abatement is not commenced on or before the day following the date for hearing before the City Council and diligently prosecuted to completion within five (5) days thereafter, the work shall be done by the City or under its direction, and the cost thereof, together with administrative costs, will be made a lien and special assessment against the property, until paid. (Ord. 2996 §2(part), 1964; prior Code §39.48(b).)

8.20.110 Form of Notice to Abate Obstruction.

The "notice to abate obstruction" shall be in substantially the following form, the heading of which shall be in letters not less than one inch (1") in height:

NOTICE TO ABATE OBSTRUCTION

(Vegetation obstructing public street or place)

NOTICE is hereby given to the owner, possessor or person in control of the real property within the City of Santa Barbara located at _____(Street address, if any)___ and described in the official City parcelling maps as Parcel No. _____, that certain of the trees, shrubs, hedges, vines or plants upon the property described above or in the public street or place abutting it constitute an obstruction, as defined and regulated by Chapter 8.20, Code of the City of Santa Barbara, which must be abated by:

_____

(statement in general terms of work required)

_____

Unless the City Council provides otherwise, if such work is not commenced on or before one (1) day following the date set out below for hearing before the City Council, and thereafter completed within five (5) days, such obstruction will be abated by the City or under its direction and the costs of such abatement work, together with the costs of administration, will be made a lien and special assessment against the property, until paid.

Any owner, possessor or person in control of the property having any objection to the proposed abatement, is hereby notified to attend a meeting of the City Council of the City of Santa Barbara, in the Council Chambers, City Hall, Santa Barbara, California, on _____, 19 ___, where, at _____.m., or as soon thereafter as the business of the Council permits, such objections will be heard and given due consideration.

Dated this __ day of _____, 19 ___.

_____
Director, Public Works Department
City of Santa Barbara
State of California

(Ord. 2996 §2(part), 1964; prior Code §39.49.)

8.20.120 Hearing of Objections by City Council.

On the date set forth in the notice to abate obstruction, the City Council shall hear and consider objections to the proposed abatement of obstruction and may, to enable the Council to properly and fully consider the matter, order that the hearing be continued to a date certain and that the date of commencement of the work by the owner, possessor or person in control be commensurately postponed. (Ord. 2996 §2(part), 1964; prior Code §39.50(a).)

8.20.130 Overruling Objections.

By motion or resolution at the conclusion of the hearing, the City Council shall allow or overrule any objections. At such time, if the objections have been overruled, the City Council, by motion or resolution, shall either order the Director to have City forces carry out the proposed abatement work or direct and authorize the Director to cause such work to be carried out by a qualified and licensed private firm or individual. (Ord. 2996 §2(part), 1964; prior Code §39.50(b).)

8.20.140 Abatement Pursuant to Council Order.

After the period has passed within which the owner, possessor or person in control was to have completed the work involved in the abatement of the obstruction, the Director shall cause the obstruction to be abated without unnecessary delay pursuant to and in accord with the order or directive of the City Council. (Ord. 2996 §2(part), 1964; prior Code §39.51.)

8.20.150 Entry to Abate.

The person or persons authorized to abate the obstruction may enter upon private property to carry out and complete the necessary work involved. (Ord. 2996 §2(part), 1964; prior Code §39.52.)

8.20.160 Abatement Before Arrival.

At any time up to the arrival of the Director or other authorized person or persons, the owner, possessor or person in control may abate the obstruction nuisance at his own expense. (Ord. 2996 §2(part), 1964; prior Code §39.53.)

8.20.170 Report - Costs - Notice of Hearing.

Upon completion of the work of the abatement of the obstruction nuisance, the Director shall promptly submit a report to the City Council, for confirmation, which shall include:

(1) A copy of the notice to abate obstruction;
(2) The name and address of the owner to whom the notice was mailed;
(3) The date upon which the notice was mailed;
(4) The date upon which the notice was posted;
(5) The date or dates upon which the City Council held a hearing pursuant to such notice;
(6) The disposition of the matter by City Council at the conclusion of such hearing;
(7) The date or dates upon which the abatement work was carried out, and by whom; and
(8) The actual cost of the abatement work and the costs of administration to date. (Ord. 2996 §2(part), 1964; prior Code §39.54(a).)

8.20.180 Form of Notice of Assessment Hearing.

Upon receipt of such report, the City Clerk shall mail or cause to be mailed a copy of such report, postage prepaid, together with an attached notice of assessment hearing to the owner of the property. The notice of assessment hearing shall be in substantially the following form:

NOTICE OF ASSESSMENT HEARING

NOTICE is hereby given you as the owner of the real property which is the subject of the attached report, that on _____, 19 ___, in the Council Chambers of City Hall, Santa Barbara, California, at _____.m., o'clock, or as soon thereafter as the business of the Council permits, the City Council of the City of Santa Barbara will receive the attached report and confirm it in its present form or as it may be modified. Upon confirmation the report will be forwarded to the City Treasurer and Tax Collector, whereupon the amount of abatement and administration costs will be added to the assessment rolls as a special assessment against the property and become a lien against the property for such amount. Collection and enforcement will thereafter be made in the same manner provided for ordinary municipal taxes.

You are hereby further notified that at the time and place above set forth, the City Council will hear and give due consideration to any protest or objection you may have to such report and to the assessment of your property for abatement and administration costs.

Dated this __day of _____, 19 ___.

_____

City Clerk, City of Santa Barbara, State of California

(Ord. 2996 §2(part), 1964; prior Code §39.54(b).)

8.20.190 Hearing on Report - Confirmation.

The notice of assessment hearing shall prescribe a hearing date not less than five (5) nor more than fifteen (15) days from the date the notice is mailed. At the time and date set for receiving the report and hearing any protests or objections, the City Council shall hear such protests or objections, modify the report if it is deemed necessary, and confirm it, as modified, by motion or resolution. (Ord. 2996 §2(part), 1964; prior Code §39.55.)

8.20.200 Confirmed Report to City Treasurer - Assessment and Lien - Collection.

After confirmation of the report, a copy shall be forwarded to the City Treasurer and Tax Collector who shall enter such cost amount as may have been confirmed as a special assessment against the property. From the time the entry is made, the amount shall constitute a lien on such property for the amount of the assessment until paid. Thereafter, such amount shall be added to the next regular tax bill and be collected at the same time and in the same manner as ordinary municipal taxes, and if delinquent, shall be subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. (Ord. 2996 §2(part), 1964; prior Code §39.56.)

8.20.210 Alternative Procedure.

The proceedings provided in this chapter for the abatement of obstruction nuisances are an alternative to any other procedure which now or hereafter may exist by City ordinance or by the general laws of the State of California, including, without limitation, remedy by way of injunctive relief upon proof of the facts giving rise to the obstruction. (Ord. 2996 §2(part), 1964; prior Code §39.57.)

8.20.220 Other City and State Laws.

Whenever any other City or State law in effect and applicable to the same matters or things made the subject of any or all of this chapter, the more stringent prohibition, regulation or other control shall prevail. (Ord. 2996 §2(part), 1964; prior Code §39.58.)

8.20.230 Bermuda, Etc., Grass in Gutters, Etc., a Nuisance.

The word "gutter" as used in this section means only those gutters which now or may hereafter exist at the sides of traveled streets in the City or intersecting the same.

The growth or deposit of Bermuda, Sandwich Island, or Island grass, cynodon dactylon, on or in any gutter or on or in any traveled street in the City is hereby declared to be a public nuisance.

No person shall place, throw or deposit any such grass or the roots thereof, in any gutter or any traveled street of the City. (Prior Code §39.4.)

8.20.240 Grass, Rubbish, Etc., Obstructing Sidewalks.

The growth or existence of grass, weeds, rubbish or impediments to travel of any kind upon any sidewalk in the City, between the property line adjacent thereto and the line of the street curb, is hereby declared to be a public nuisance. No owner, lessee, occupant, or person in charge of any real estate shall permit the existence on or over the sidewalk in front of such property, of all or any of the things declared to be a public nuisance by this section.

The Superintendent of Streets shall, in writing, notify any person guilty of the violation of any of the provisions of this section to abate the nuisance, specifying it, within ten (10) days from the service of such notice. If such nuisance be not abated within such time, the Superintendent shall abate such nuisance at the cost of the City, the cost and expense thereof shall be collectable from the person so notified, by action in the proper court on suit of the City. (Prior Code §39.16.)

Chapter 8.24

WEED ABATEMENT

Sections:

8.24.010 **Certain Weeds on Private Property Declared a Nuisance.**
8.24.020 **Description of Property in Resolution Declaring Nuisance.**
8.24.030 **Resolution May Cover Several Parcels.**
8.24.040 **Posting and Form of Notice to Abate.**
8.24.050 **Time for Posting Notice to Abate.**
8.24.060 **Council to Hear Objections to Proposed Removal - Jurisdiction to Destroy.**
8.24.070 **Ordering Street Superintendent to Abate - Property Owner May Abate Before City Begins Work.**
8.24.080 **Report of City's Expenses.**
8.24.090 **Hearing on and Confirmation of City's Costs - Costs to be Liens - Collecting Costs.**

8.24.010 Certain Weeds on Private Property Declared a Nuisance.

All weeds growing upon private property within the City which bear seeds of a wingy or downy nature, or attain such a growth as to become a fire menace when dry, or which are otherwise noxious or dangerous, may be declared to be a public nuisance by resolution of the City Council and thereafter abated. (Prior Code §20.69.)

8.24.020 Description of Property in Resolution Declaring Nuisance.

The resolution adopted pursuant to Section 8.24.010 shall describe the property upon which the nuisance exists by giving the lot and block number of the same according to the official map or to the assessment map of the City used for describing property on tax bills and no other description of the property shall be required. (Prior Code §20.70.)

8.24.030 Resolution May Cover Several Parcels.

Any number of parcels of property may be included in one and the same resolution declaring the nuisance. (Prior Code §20.71.)

8.24.040 Posting and Form of Notice to Abate.

After the passage of the resolution as provided by Sections 8.24.020 and 8.24.030, the Street Superintendent shall cause to be conspicuously posted in front of the property on which the nuisance exists at not more than one hundred feet (100') in distance apart, and not less than three (3) in all, notices headed: "Notice to destroy weeds". Such heading shall be in letters not less than one inch (1") in height and the notice shall be substantially in the following form:

NOTICE TO DESTROY WEEDS

NOTICE IS HEREBY GIVEN, that the _____day of _____, 19____, the City Council passed a resolution declaring that noxious or dangerous weeds were growing upon property in this City more particularly described in such resolution, and that the same constitutes a public nuisance which must be abated by the removal of such noxious or dangerous weeds, otherwise they will be removed and the nuisance will be abated by the Street Superintendent of this City in which case the cost of such removal, together with incidental expenses, shall be assessed upon the lots and lands from which such weeds are removed, and such costs and incidental expenses will constitute a lien upon such lots or lands until paid. Reference is hereby made to such resolution for further particulars.

All property owners having any objections to the proposed removal of such weeds are hereby notified to attend a meeting of the City Council of this City to be held on the __day of _____, 19____, at the Council Chamber in the City Hall of this City, when their objections will be heard and given due consideration.

Dated this __day of _____, 19____.

_____
Street Superintendent

(Prior Code §20.72.)

8.24.050 Time for Posting Notice to Abate.

The notice mentioned in Section 8.24.040 shall be posted at least five (5) days prior to the time stated therein for hearing objections by the City Council. (Prior Code §20.73.)

8.24.060 Council to Hear Objections to Proposed Removal - Jurisdiction to Destroy.

At the time stated in the notice posted pursuant to Sections 8.24.040 and 8.24.050, the Council shall hear and consider all objections or protests, if any, to the proposed removal of weeds found by resolution to be a nuisance, and may continue the hearing from time to time. Upon the conclusion of the hearing the Council by motion or resolution shall allow or overrule any or all objections, whereupon the Council shall be deemed to have acquired jurisdiction to proceed and perform the work of removal. The decision of the Council on the matter shall be deemed final and conclusive. (Prior Code §20.74.)

8.24.070 Ordering Street Superintendent to Abate - Property Owner May Abate Before City Begins Work.

After final action has been taken by the Council under Section 8.24.060 on the disposition of any protests or objections, or in case no protests or objections have been received, the Council, by motion or resolution, shall order the Street Superintendent to abate the nuisance considered pursuant to the preceding section by having the weeds referred to in Section 8.24.010 removed and he and his assistants or deputies are hereby expressly authorized to enter upon private property for that purpose. Any property owner shall have the right to have any such weeds removed at his own expense; providing, the same is done prior to the arrival of the Street Superintendent or his representatives prepared to do the same. (Prior Code §20.75.)

8.24.080 Report of City's Expenses.

The Street Superintendent shall keep an account of the cost of abating the nuisance as provided by the preceding section on each separate lot or parcel of land where the work is done by him or his deputies, together with the cost of printing and posting notices, and shall render an itemized report in writing to the Council showing the cost of removing such nuisance on each separate lot or parcel of land together with such printing and posting; provided, that before such report is submitted to the Council, a copy of the same shall be posted for at least three (3) days prior thereto on or near the chamber door of the Council, together with a notice of the time when such report shall be submitted to the Council for confirmation. (Prior Code §20.76.)

8.24.090 Hearing on and Confirmation of City's Costs - Costs to be Liens - Collecting Costs.

At the time fixed for receiving and considering the report required by Section 8.24.080, the Council shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating the nuisance giving rise to the report and thereupon make such modifications in the report as they deem necessary, after which, by motion or resolution, the report shall be confirmed. The amount of the cost for abating such nuisance upon the various parcels of land mentioned in the report shall constitute special assessments against the respective parcels of land and as thus made and confirmed shall constitute a lien on such property for the amount of such assessments, respectively.

After confirmation of such report, a copy thereof shall be turned over to the Assessor and the Tax Collector of the City, whereupon it shall be the duty of such officers to add the amounts of the respective assessments to the next regular bills for taxes levied against the respective lots and parcels of land involved for municipal purposes and thereafter such amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes. (Prior Code §20.77.)

TITLE 9
Public Peace and Safety

This title was most recently updated by the following ordinance:

Ordinance No.	Subject	Effective Date	Code Site
5687	Prohibition of Urination or Defecation in Public	May 21, 2015	Chapter 9.07
5688	Commercial Use of City Streets	May 21, 2015	Section 9.48.010
5689	Prohibition of Active Panhandling in Specified Locations	May 21, 2015	Sections 9.50.010, 9.50.030, and 9.50.040
5690	Sitting or Lying on Sidewalks and Paseos Along Portions of State Street	May 21, 2015	Section 9.97.010
5691	Pedestrians Blocking Public Sidewalks	May 21, 2015	Section 9.98.010
5740	Noise	April 14, 2016	Chapter 9.16

TITLE 9

PUBLIC PEACE AND SAFETY

Chapter: 9.01 **Definitions**
Chapter: 9.04 **Curfew**
Chapter: 9.05 **Consumption of Alcohol in Public Places**
Chapter: 9.07 **Urinating or Defecating in Public.**
Chapter: 9.08 **Unattended Minors in Vehicles**
Chapter: 9.10 **Knives or Daggers in Public Places**
Chapter: 9.12 **Parade Permits and Regulations**
Chapter: 9.16 **Noise**
Chapter: 9.20 **Smoking Prohibited in Certain Public Areas**
Chapter: 9.21 **Regulation of Tobacco Retailers**
Chapter: 9.25 **Gambling**
Chapter: 9.26 **Bingo**
Chapter: 9.30 **Ambulance Service**
Chapter: 9.32 **Unlawful Areas to Play Golf**
Chapter: 9.34 **Discharge of Firearms**
Chapter: 9.36 **Sale of Firearms**
Chapter: 9.39 **Escort Bureaus and Introductory Services**
Chapter: 9.40 **Distributing Food and Drug Samples and Advertising**
Chapter: 9.43 **Amusement Game Arcades and Amusement Game Machines**
Chapter: 9.45 **Display of Drug Paraphernalia**
Chapter: 9.48 **Commercial Use of City Streets**
Chapter: 9.50 **Prohibition of Abusive Panhandling**
Chapter: 9.60 **City Buildings and Facilities**
Chapter: 9.65 **Display of Aerosol Spray Paint Containers and Marker Pens**
Chapter: 9.66 **Graffiti Removal and Abatement**
Chapter: 9.68 **Injuring or Interfering with Property**
Chapter: 9.70 **Social Host Ordinance**
Chapter: 9.76 **Hazardous Holes**
Chapter: 9.84 **Identification Cards and Photographic Prints**
Chapter: 9.88 **Lost and Unclaimed Property**
Chapter: 9.95 **Use of City Sidewalks and Rights-of-Way for Dining Purposes**
Chapter: 9.97 **Sitting or Lying on Sidewalks and Paseos Along Certain Downtown Portions of State Street**
Chapter: 9.98 **Pedestrians Blocking Public Sidewalks**
Chapter: 9.99 **Access to Health Care Facilities and Places of Worship**
Chapter: 9.100 **Burglary and Robbery Alarm Systems**
Chapter: 9.114 **Police Reserve Corps**
Chapter: 9.116 **Civil Defense and Disaster**
Chapter: 9.118 **Subpoenas**
Chapter: 9.126 **Non-Discriminatory Employment Provisions for all Contracts of the City**
Chapter: 9.128 **City Service Contractor Mandatory Minimum Wage**
Chapter: 9.130 **Non-Discriminatory Provisions for Leases**
Chapter: 9.132 **AIDS/HIV Discrimination**
Chapter: 9.135 **Registration of Domestic Partnerships**
Chapter: 9.140 **Solicitation of Employment, Business or Contributions from Streets**
Chapter: 9.145 **Lowest Law Enforcement Priority Policy**
Chapter: 9.150 **Single-Use Carryout Bage**

Chapter 9.01

DEFINITIONS

Section:
9.01.010 Definitions.

9.01.010 Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this title, have the meanings indicated in this chapter.

(1) "Billiard room or poolroom" means any place open to the public where billiards or pool is played, or any house, room or building, except a private residence, in which any billiard or pool table is kept and persons are permitted to play or do play thereon, whether any compensation or reward is charged for the use of such table or not;

(2) "Gambling place" means any building or place used for the purpose of illegal gambling as defined by state law or Chapter 9.25 of this Code;

(3) "Loiter" means to lag, wander, or drift in a lingering or aimless manner without apparent object or destination, or to wander, in a vehicle or otherwise, in an idle manner upon a circuitous or repetitious route;

(4) "Sidewalk" means all portions of any public street where the same has no curb line and as to any public street having a curb line includes all portions situated between each curb line and the nearest property line regardless of

whether the sidewalk is improved or unimproved. (Ord. 4908, 1995; Prior Code §32.1.)

Chapter 9.04

CURFEW

Sections:

9.04.010 Curfew.
9.04.020 Responsibility of Parent or Guardian.
9.04.030 Definitions.

9.04.010 Curfew.

A. **NIGHTTIME CURFEW.** It is unlawful for any minor under the age of eighteen (18) years to be present in or upon the public streets, avenues, highways, roads, alleys, sidewalks, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement or eating places, parking lots or vacant lots in the City between the hours of 10:00 p.m. on any day and sunrise of the immediately following day. This Section does not apply when:

1. The minor is accompanied by his or her parent, guardian or other adult person having the care or custody of the minor, or by his or her spouse eighteen (18) years of age or older;
2. The minor is on an errand directed by his or her parent or guardian or other adult person having the care or custody of the minor, or by his or her spouse eighteen (18) years of age or older, without any detour or stop;
3. The minor is attending or returning directly home from a public meeting, or a place of public entertainment, such as a movie, play, sporting event or school activity, without any detour or stop;
4. The presence of such minor in said place or places is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged;
5. The minor is attending school, religious, recreational or civic functions;
6. The minor is in a motor vehicle involved in interstate travel;
7. The minor is married, has been previously married or has been declared emancipated pursuant to law;
8. The minor is on the property or sidewalk abutting the minor's residence;
9. The minor is involved in an emergency; or
10. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and freedom of assembly.

B. **DAYTIME CURFEW.** It is unlawful for any minor under the age of eighteen (18) years, who is subject to compulsory education or to compulsory continuation education to be present in or upon the public streets, avenues, highways, roads, alleys, sidewalks, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement or eating places, parking lots or vacant lots in the City during the minor's school hours. This Section does not apply when:

1. The minor is accompanied by his or her parent, guardian, or other adult person having the care or custody of the minor;
2. The minor is involved in an emergency;
3. The minor is going to or coming directly from his or her place of employment or a medical appointment;
4. The minor has permission to leave school campus for lunch or for a school related activity and has in his or her possession a valid off-campus permit issued by the school;
5. The minor is exempt from compulsory education as enumerated in Education Code section 48410;
6. The minor is exempt from compulsory education as enumerated in Education Code sections 48220 et seq.; including, but not limited to, a minor receiving instruction at home pursuant to Education Code sections 48222, 48224, 51745 or other applicable provisions of state law, or is otherwise exempt from attendance at a public or private full-time day school as set forth in the Education Code;
7. The minor is conducting activities which are "excused" for justifiable personal reasons within the meaning of Education Code section 48205;
8. The minor is going directly to or from an event or activity sponsored, sanctioned, or arranged by the school;
9. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and freedom of assembly; or
10. The minor is not a student attending school within the County of Santa Barbara or possesses a valid passport, visitors visa or other form of identification to establish the minor is temporarily visiting within the City, or the minor is in a motor vehicle involved in interstate travel.

C. **VIOLATION.** Notwithstanding any other provisions of this Code, when a person under the age of eighteen (18) years is charged with a violation of this Section, and a peace officer issues a notice to appear in Juvenile Court to that minor, the charge shall be deemed an infraction unless the minor requests that a petition be filed under Section 601 or 602 of the Welfare and Institutions Code.

D. **PENALTIES FOR VIOLATION.** Any person convicted of willfully violating this Section is guilty of an infraction punishable by a fine not to exceed $80.00 and/or eight (8) hours of community service. Community service shall be served during a time other than the minor's hours of school attendance or employment.

E. **ENFORCEMENT.** Before taking any action to enforce the provisions of this Section, police officers shall ask the apparent offender's age and reason for being out in a public place during curfew hours. The officer shall not issue a citation or make an arrest for a violation of this Ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exceptions to this Section apply.

9.04.020 Responsibility of Parent or Guardian.

No parent, guardian or other person having the legal care, custody or control of any person under the age of eighteen (18) years shall knowingly permit or allow such person to violate the provisions of Section 9.04.010.

9.04.030 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section.

A. **EMERGENCY.** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to the following: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

B. **GUARDIAN.** (1) A person who under court order is the guardian of minor, or (2) a public or private agency with whom the minor has been placed by a court order, or (3) a person at least eighteen (18) years of age exercising care and custody of a minor.

C. **MINOR.** Any person under the age of eighteen (18) years of age.

D. **PARENT.** A person who is a natural parent, adoptive parent, or a stepparent of another person.

E. **PUBLIC PLACE.** Any place to which the public or any substantial group of the public has access including, but not limited to, paseos, sidewalks, streets, highways, beaches, parks, playgrounds, and common areas of schools, hospitals, apartments, houses, office buildings, transport facilities, theaters, game rooms, shops, shopping malls, or any other public place of business.

F. **STREET.** A way or place, of whatever nature, open to the use of the public as a matter of right for the purpose of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term "street" includes the legal right of way, including, but not limited to, the traffic lanes, curbs, sidewalk whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term "street" applies irrespective of what the legal right of way is formally called, whether alley, avenue, court, road, or otherwise. (Ord. 5019, 1997; Ord. 4973, 1996; Ord. 4949, 1996; Prior Code §32.8. and 32.9.)

Chapter 9.05

CONSUMPTION OF ALCOHOL IN PUBLIC PLACES

Sections:

9.05.010 Alcoholic Beverages - Public Consumption and Possession of Open Container.

9.05.020 Possession of Alcohol Adjacent to a Licensed Retail Establishment.

9.05.010 Alcoholic Beverages - Public Consumption and Possession of Open Container.

A. No person shall consume an alcoholic beverage, or have in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or which has a seal broken, or the contents of which have been partially removed, upon any public street, alley, sidewalk, parking lot, park, recreation facility or beach, in or immediately adjacent to a public restroom, or other public place within the City except:

1. Within those public parks, beaches or recreational facilities designated by resolution of the City Council as permitting the consumption of alcoholic beverages; or

2. In or on the property of an establishment, business place, or other location properly licensed for the sale and consumption of alcoholic beverages under the Alcoholic Beverage Control Act of the State of California; or

3. During a community special event, provided the Parks and Recreation Director, after consultation with the Chief of Police, has permitted the consumption of alcoholic beverages in connection with the special event use of any park, recreational facility or beach (or any portion thereof) and the event has been issued a Special Event Permit pursuant to Chapter 9.12 of the Municipal Code. The consumption of alcoholic beverages shall only be permitted within those areas of the park, recreation facility or beach so designated by the Director and subject to any additional constraints imposed by the Director and the Chief of Police in connection with the issuance of the Special Events Permit. Nothing in this Section shall be deemed to relieve any applicant or event organizer from full compliance with all alcohol beverage control laws and regulations of the State of California.

4. In or on a park or other recreational facility owned by the City but operated by a private operator or non-profit agency pursuant to an agreement with the City, provided that the operator may establish and enforce its own rules or regulations regarding the consumption or possession of alcoholic beverages.

B. Warning Signs. The City Parks and Recreation Department shall post appropriate signs advising the public that the consumption of alcohol or the possession of open containers of alcohol is not permitted in certain parks, recreation facilities and beaches. (Ord. 5131, 1999; Ord. 4284, 1984; Ord. 4224, 1983.)

9.05.020 Possession of Alcohol Adjacent to a Licensed Retail Establishment.

a) No person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, shall enter, be, or remain on the posted premises, of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the California Business and Professions Code.

b) As used in subdivision (a), "posted premises" means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license and the parking lot immediately adjacent to the licensed premises.

c) Every retail establishment licensed pursuant to Division 9 (commencing with Section 23000) of the California Business and Professions Code shall post its premises within 90 days of the effective date of this ordinance with clearly visible notices, in a form and manner approved by the City, indicating to the patrons of the licensee and parking lot that the provisions of this section are applicable. (Ord. 4224, 1983.)

Chapter 9.07

URINATING OR DEFECATING IN PUBLIC

Section:

9.07.010 Urinating or Defecating in Public Prohibited.

9.07.010 Urinating or Defecating in Public Prohibited.

No person shall defecate or urinate in public or upon any street, sidewalk, or other public place. (Ord. 5687, 2015.)

Chapter 9.08

UNATTENDED MINORS IN VEHICLES

Section:

9.08.010 Minors - Leaving Unattended Unlawful.

9.08.010 Minors - Leaving Unattended Unlawful.

It shall be unlawful for any parent, legal guardian or adult having custody or control of any minor child to leave any minor child under the age of five (5) years unattended by a person at least ten (10) years of age, in any automobile or truck standing in any public street, alley or public or private parking place or lot in the City. (Ord. 3766 §6, 1975; prior Code §32.27.)

Chapter 9.10

KNIVES OR DAGGERS IN PUBLIC PLACES

Section:
9.10.010 Knives or Daggers in Plain View.

9.10.010 Knives or Daggers in Plain View.

A. No person shall wear or carry in plain view any knife or dagger upon any public street or other public place or in any place open to the public.

B. As used in this Chapter the term "knife" or "dagger" shall be defined to mean a knife or dagger having a blade of 3 inches or more in length, an ice pick or other sharp or pointed tool similar to an ice pick, or a straight edge razor (which shall include a tool or handle fitted to hold a razor blade).

C. The prohibitions of this Section shall not apply while a person is wearing or carrying a knife or dagger for use in a lawful occupation, for lawful recreational purposes or while the person is traveling to or returning from participation in such activity. (Ord. 4524, 1988.)

Chapter 9.12

PARADE PERMITS AND REGULATIONS

Sections:
9.12.010 General Provisions.
9.12.020 Definitions.
9.12.030 Permit Required.
9.12.040 Application Procedure.
9.12.050 Contents of Application Form.
9.12.060 Action on Application.
9.12.070 Grounds for Denial of Application for an Event Permit; Imposition of Conditions.
9.12.080 Permit Conditions.
9.12.090 Permit Issuance.
9.12.100 Appeal Procedure.
9.12.110 Indemnification Agreement.
9.12.120 Insurance.
9.12.130 Cleanup Deposits for Certain Special Events.

9.12.010 General Provisions.

A. **TITLE**. This Chapter shall be known as the City of Santa Barbara Parade and Events Ordinance.

B. **PURPOSE AND INTENT**. This Chapter establishes the standards for the issuance of a permit for parades, athletic events, and other events in the City of Santa Barbara.

C. **PROHIBITED ACTS**.

1. It shall be unlawful for any person to sponsor or conduct an event, as defined herein, unless such event permit as may be required under this Chapter has been issued for the event.
2. It shall be unlawful for any person to participate in an event with the knowledge that the sponsor of the event has not been issued the required permit.
3. It shall be unlawful for the permittee or event sponsor to willfully violate the terms and conditions of the permit, or for any event participant, with knowledge thereof, to willfully violate the terms and conditions of the permit.
4. It shall be unlawful to interfere with or disrupt an event.

D. **MERCHANDISING IN CONNECTION WITH AN EVENT.** Nothing herein shall be deemed to authorize the use of a City Street or sidewalk for the sale (or offer for sale) of any merchandise except when such merchandising is duly permitted by the City in accordance with Santa Barbara Municipal Code Chapter 9.48. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.020 Definitions.

As used in this Chapter, the following terms and phrases shall have the indicated meanings:

A. **APPLICANT**. Any person or organization who seeks an event permit from the Chief of Police to conduct or sponsor an event governed by this Chapter. An applicant must be 18 years of age or older.

B. **ATHLETIC EVENT**. An occasion in which a group of persons collectively engage in a sport or other form of physical exercise on a city street, sidewalk, alley, or other street right-of-way, which obstructs, delays, or interferes with the normal flow of pedestrian or vehicular traffic or does not comply with traffic laws and controls. Athletic events include bicycle or foot races and a soap box derby race.

C. **BLOCK PARTY**. A gathering, other than a march or a procession, on a residential or commercial street or area, requiring a closure of a block or blocks of a street, or a portion thereof, including the sidewalk, to vehicular traffic and the use of the street for the gathering.

D. **CHIEF OF POLICE**. The Chief of Police or his authorized deputy.

E. **EVENT**. A parade, athletic event, or a block party.

F. **PARADE**. A march or procession consisting of persons, animals or vehicles, or combination thereof, on any city street, sidewalk, alley, or other street right-of-way, which is likely to obstruct, delay, or interfere with the normal flow of pedestrian or vehicular traffic, or whose participants are likely to not comply with traffic laws and controls, or, a march or procession consisting of persons or persons and horses on any City beach.

G. **PERMIT APPLICATION FEE**. The fee to be paid by the event permit applicant at the time the application is filed with the Chief of Police, pursuant to the application fee schedule established by resolution of the City Council.

H. **PERMITTEE**. Any person or organization issued an events permit by the Chief of Police.

I. **RIGHT-OF-WAY**. As defined in Section 22.44.080 of this Code.

J. **SIDEWALK**. As defined in California Vehicle Code Section 555.

K. **STREET**. A "highway" as that term is used in the California Vehicle Code Section 360. (Ord. 5350, 2005; Ord. 4943, 1996; Ord. 4751, 1992; Ord. 4333, 1985.)

9.12.030 Permit Required.

A. **PERMIT REQUIRED**. Any person intending to conduct or sponsor an event (as defined herein) in the City of Santa Barbara shall first obtain an event permit from the Chief of Police.

B. **APPLICABILITY**. An event permit is not required for the following:

1. An event which occurs exclusively within a city park, which event is regulated by Title 15 of this Code.
2. Funeral processions.
3. A parade reasonably and apparently likely to involve a total of 75 or fewer pedestrians, as determined by the Chief of Police, and as to which the sponsor has agreed to the following restrictions: (i) the participants will march only on sidewalks, and (ii) will cross streets only at pedestrian crosswalks in accordance with traffic regulations and controls, in units of 15 or less, allowing vehicles to pass between each unit. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.040 Application Procedure.

A. **APPLICATION**. Any person desiring to sponsor an event not exempted by Section 9.12.030 shall apply for an event permit by filing a verified application with the Chief of Police on a form supplied by the Chief of Police. All applications shall be submitted not less than 30 days nor more than 12 months before the event date.

B. **LATE APPLICATION**. Upon a showing of good cause, the Chief of Police shall consider an application which is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police services for the event.

C. **FREE SPEECH EVENT APPLICATION**. An application for a permit to conduct an event related to expression protected by the First Amendment which is submitted less than 30 days before the proposed event date shall be accepted upon a showing of good cause. Good cause shall be deemed demonstrated if the applicant shows that (i) the circumstance which gave rise to the permit application did not reasonably allow the participants to file an application within the time prescribed by this Chapter, and (ii) the event is for the purpose of expression protected by the First Amendment.

D. **APPLICATION FEE**. An application for a permit to conduct an event which is not related to First Amendment expression shall be accompanied by a nonrefundable permit application fee in an amount established by resolution of the City Council. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.050 Contents of Application Form.

A. **ALL EVENTS**. An application for an event shall contain all of the following information:

1. The name, address, and telephone number of the applicant and an alternative person who may be contacted if the applicant is unavailable.
2. If the event is proposed to be sponsored by an organization, the name, address and telephone number of the organization and the authorized head of the organization. If requested by the Chief of Police, written authorization to apply for the event permit by an officer of the organization may also be required.

3. The name, address and telephone number of the person who will be present and in charge of the event on the day of the event.
4. The nature or purpose of the event.
5. Date and estimated starting and ending times of the event.
6. Location of the event, including its boundaries.
7. Estimated number of participants in the event.
8. The type and estimated number of vehicles, animals or structures which will be used at the event and information as to whether there will be sponsor-provided water, aid or emergency aid stations at the event.
9. Description of any sound amplification equipment which will be used at the event.
10. Whether any food or beverages, including alcoholic beverages, will be distributed at the event.
11. Whether monitors will be employed at the event.
12. Anticipated parking needed for the event participants.

B. **ADDITIONAL INFORMATION REQUIRED FOR CERTAIN EVENTS**. Events occurring along a planned route shall also provide the following information:
1. The assembly point for the event and the time at which units of the parade or other event will begin to assemble.
2. The proposed route to be traveled.
3. Whether the parade or other event will occupy all or only a portion of the streets proposed to be traversed.
4. The intervals of space to be maintained between units of the parade or other event.
5. The number, types, and size of floats, if any.
6. Material and maximum size of any signs or banners to be carried along the route.

C. **SUPPLEMENTAL INFORMATION**. Any supplemental information for a non-First Amendment event application, which the Chief of Police shall find reasonably necessary under the particular circumstances of the event application, to determine whether to approve or conditionally approve an event permit application pursuant to the provisions of this Chapter. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.060 Action on Application.

The Chief of Police shall approve, conditionally approve, or deny an application on the grounds specified in Section 9.12.070. Such action shall be taken as expeditiously as possible and, in any case, (i) no later than four (4) days after the Chief receives a completed application pursuant to Section 9.12.040(B) or (C) unless the applicant agrees, upon the request of the Chief of Police, to extend the time for making decision to a later date, or (ii) no later than fifteen (15) days after the Chief receives a completed application for any other event.

If the application is denied, or approved on conditions other than those accepted by the applicant, the Chief of Police shall inform the applicant of the grounds for denial in writing, or the reason for the conditions imposed, simultaneously with notice of the decision, and shall further inform the applicant of his or her right of appeal. If the Chief of Police relied on information about the event other than that contained in the application, he shall also inform the applicant of the additional information he considered. The applicant shall be notified in writing of any permit conditions at the time the application is approved and of the applicant's right to appeal the permit conditions. If the Chief of Police determines that good cause to consider a late application does not exist under Section 9.12.040(B) or (C) within forty-eight (48) hours of receipt of the late application, the Chief of Police shall inform the applicant in writing of the reason for his determination regarding lack of good cause and of the applicant's right of appeal. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.070 Grounds for Denial of Application for an Event Permit; Imposition of Conditions.

A. **CONSIDERATIONS**. The Chief of Police shall deny an application for an event permit only if he determines from a consideration of the application and other pertinent information that one or more of the following exists:
1. Information contained in the application, or supplemental information requested from the applicant, is found to be materially false or misleading.
2. The applicant fails to complete the application form after having been notified of the additional information or documents requested.
3. The sole purpose of the event is the advertising of any product, good, ware, merchandise or event, and is designed to be held for private profit and not primarily for the purpose of expression protected by the First Amendment.
4. The Chief of Police has earlier received an application to hold another event at the same time and place requested by the applicant, or so close in time and place as to cause undue traffic congestion, or the Police Department is unable to meet the needs for police services for both events.
5. The time, route, or size of the event is reasonably likely to substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or disrupt the use of a street at a time when it is usually subject to great traffic congestion.

6. The concentration of persons, animals and vehicles at the site of the event or the assembly and disbanding areas around an event, is reasonably likely to prevent proper police, fire, or ambulance services to areas contiguous to the event.

7. The size of the event is reasonably likely to require diversion of so great a number of police officers of the City to ensure that participants stay within the boundaries or route of the event, or to protect participants in the event, as to prevent normal protection to the rest of the City of Santa Barbara. Nothing herein authorizes denial of a permit because of the need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of event participants with the number of police officers available to police the event.

8. The parade, or other event moving along a route, is not reasonably likely to move from its point of origin to its point of termination in four hours or less.

9. The location of the event is reasonably likely to substantially interfere with any construction or maintenance work scheduled to take place upon or along the City streets, or with a previously granted encroachment permit.

10. The event is reasonably likely to occur at a time when a school is in session, or at a route or location adjacent to the school, and the noise created by the activities of the event would substantially disrupt the educational activities of the school.

B. **CONDITIONAL APPROVALS**. When the grounds for denial of an application for a permit specified in subsections A(4) through A(10) above can be corrected by altering the date, time, duration, route, or location of the event, the Chief of Police, instead of denying the application, shall conditionally approve the application pursuant to Section 9.12.080. The conditions imposed shall provide for only such modification of the applicant's proposed event as are necessary to achieve compliance with subsections A(4) through A(10) above, and shall be consistent with rules and regulations established by the Chief of Police and approved by a resolution of the City Council. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.080 Permit Conditions.

The Chief of Police may condition the issuance of an events permit by imposing reasonable requirements concerning the time, place, and manner of the event, and such requirements as are necessary to protect the safety of persons and property, and to provide for adequate control of traffic, provided such conditions shall not unreasonably restrict the right of free speech. Such conditions may include, but need not be limited to the following:

A. Alteration of the date, time, route or location of the event proposed on the event application;

B. Conditions concerning the area of assembly and disbanding of parade or other events occurring along a route;

C. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street;

D. Requirements for the use of traffic cones or barricades;

E. Requirements for provision of first aid, sanitary or emergency facilities;

F. Requirements for use of event monitors and some method for providing notice of permit conditions to event participants;

G. Restrictions on the number and type of vehicles, animals, or structures at the event, and inspection and approval of floats, structures, and decorated vehicles for fire safety by the Santa Barbara Fire Department;

H. Compliance with animal protection ordinances and laws;

I. Requirements for use of garbage containers, cleanup and restoration of City property;

J. Restrictions on use of amplified sound;

K. An application for an event permit to conduct a block party event may be conditioned on notice and approval by 50% of the owners or tenants of dwellings or businesses along the affected street(s).

L. Compliance with any relevant ordinance or law in obtaining any legally required permit or license.

M. Restrictions on the sale of alcoholic beverages. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.090 Permit Issuance.

The Chief of Police shall issue the events permit once the application has been approved, the applicant has agreed in writing to comply with the terms and conditions of the permit, and all of the requirements of this Chapter have been satisfied. (Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.100 Appeal Procedure.

A. **CITY COUNCIL**. The applicant shall have the right to appeal (i) denial of a permit, (ii) a permit condition, (iii) a determination that good cause to consider a late or First Amendment application does not exist, and (iv) a determination by the City that the applicant's insurance policy does not comply with the requirements specified in Section 9.12.120. A notice of appeal stating the grounds of appeal with specificity shall be filed with the City Clerk pursuant to the provisions of Section 1.30.050 of this Code.

B. **CITY ADMINISTRATOR**. If there is insufficient time for a timely appeal to be heard by the City Council prior to the date on which the event is scheduled, the applicant may, at his option, request that the City Clerk schedule the appeal before the City Administrator. The City Administrator or his designee shall hold a hearing no later than two (2) business days after the filing of the appeal, and will render his decision no later than one (1) business day after hearing the appeal. If the appeal is heard before the City Administrator, the City Administrator's decision shall be final. (Ord. 5136, 1999; Ord. 4333, 1985.)

9.12.110 Indemnification Agreement.

A. Prior to the issuance of an event permit, the permit applicant or the authorized officer of the sponsoring organization must sign an agreement to reimburse the City of Santa Barbara for any costs incurred by it in repairing damage to City property occurring in connection with the permitted event and proximately caused by the actions of the permittee or sponsoring organization, its officers, employees, or agents, or any person who was under the permittee's or sponsoring organization's control insofar as permitted by law. The agreement shall also provide that the permittee or sponsoring organization shall defend the City against, and indemnify and hold the City harmless from, any liability to any persons resulting from any damage or injury occurring in connection with the permitted event proximately caused by the actions of the permittee or sponsoring organization, its officers, employees or agents, or any person who was under the permittee's or sponsoring organization's control insofar as permitted by law and in a form consistent with this requirement and acceptable to the City Attorney. For purposes of this Section, a person who merely joins in a parade or event is not considered, by reason of that act alone, to be "under the control" of the permittee or sponsoring organization.

B. The indemnification requirement of subsection (A) above shall be waived by the City for those applicants who have established a basis for the waiver of insurance pursuant to subsection 9.12.120 (C) hereof. (Ord. 5414, 2007; Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.120 Insurance.

A. **LIABILITY INSURANCE**.

1. The applicant or sponsor of an event must possess or obtain public liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. Such insurance shall name on the policy or by endorsement as additional insureds the City of Santa Barbara, its officers, employees, and agents. Insurance coverage must be maintained for the duration of the event.

2. Coverage shall include, but is not limited to, a Comprehensive General Liability Insurance Policy with minimum limits of $500,000 combined single-limit bodily injury and property damage for each occurrence.

3. If food or non-alcoholic beverages are sold or served at the event, the policy must also include an endorsement for products liability in an amount not less than $500,000. If alcoholic beverages are sold or served at the event, the policy must also include an endorsement for liquor liability in an amount not less than $500,000. At any time when the insurance coverage required under this section may be purchased by a permit applicant through a City-held insurance policy, such coverage shall be made available to all permit applicants at the rates stated in the policy premium schedule.

B. **CERTIFICATES OF INSURANCE**. A copy of the policy or a certificate of insurance along with all necessary endorsements must be filed with the City's Risk Manager no less than five days before the date of the event unless the City's Risk Manager for good cause waives the filing deadline. The event permit shall not be issued by the Chief of Police until after the insurance policy or certificate of insurance along with necessary endorsements have been filed by the applicant or sponsor and approved by the City's Risk Manager.

C. **WAIVER OF INSURANCE REQUIREMENTS**.

1. **First Amendment Events**. The insurance requirements of subsections A and B above shall be waived by the Chief of Police if the applicant or an officer of the sponsoring organization signs a verified statement that (i) he or she believes the event's purpose is First Amendment expression, and (ii) he or she has determined that (a) the cost of obtaining insurance is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment expression, or (b) it is impossible to obtain insurance coverage. Where the applicant submits the statement required under Paragraph 1, the City of Santa Barbara may, in its discretion and at no charge to the applicant, require the applicant or sponsor to apply for insurance coverage for the event under a policy selected or maintained by the City of Santa Barbara. The applicant or sponsor must provide any information necessary to apply for such insurance coverage.

2. **Other Events**. The insurance requirements of Subsections A and B above may be waived by the Chief of Police for other events if the applicant or an officer of the sponsoring organization establishes to the satisfaction of the Chief of Police that the cost of obtaining insurance is financially prohibitive or it is impossible to obtain insurance coverage. If the Chief of Police determines that a waiver of the insurance requirement is appropriate hereunder, the City of Santa Barbara may, in its discretion, require the applicant or sponsor to apply for insurance coverage for the event under a policy selected or maintained by the City of Santa Barbara, in which case the applicant or sponsor shall provide any information necessary to apply for such insurance coverage and shall pay, upon request of the City, all or a portion of the insurance premium attributable to the event. (Ord. 5414, 2007; Ord. 5350, 2005; Ord. 4333, 1985.)

9.12.130 Cleanup Deposits for Certain Special Events.

A. **CLEANUP DEPOSIT**. The applicant or sponsor of an event involving the sale of food or beverages, erection of structures, participation of horses or other large animals, or use of water aid stations, shall be required to provide a cleanup deposit prior to the issuance of an event permit. The cleanup deposit shall be in the amount established in a cleanup fee schedule for events adopted by resolution of the City Council.

B. **REFUND**. The cleanup deposit shall be returned after the event if the area used for the permitted event has been cleaned and restored to the same condition as existed prior to the event. If the actual cost for cleanup is less than the estimated cost, the applicant will be refunded the difference. Should the amount of the bill exceed the cleanup deposit, the difference shall become due and payable to the City upon the applicant's receipt of the bill.

C. **APPEALS**. If the applicant or sponsor disputes the cleanup charge, he may appeal to the Director of Public Works within five days after receipt of the bill. The decision of the Director of Public Works shall be final.
(Ord. 5350, 2005; Ord. 4333, 1985.)

Chapter 9.16

NOISE

Sections:

9.16.010 Generally.
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9.16.030 Specific Conduct Prohibited.
9.16.040 Construction Work at Night Prohibited.
9.16.050 Leaf Blowers - Restriction on Use.
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9.16.070 Regulation of Noise Affecting Parcels Zoned or Used for Residential Purposes.
9.16.080 Sound Amplification.
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9.16.100 Measurement Methods.
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9.16.120 Violations - Additional Remedies - Injunctions.

9.16.010 Generally.

A. CAUSING ANNOYANCE, DISCOMFORT OR DISTURBING THE PEACE. It shall be unlawful for any person to make, cause or suffer or permit to be made or caused, upon any premises owned, occupied or controlled by said person in the City, any noises or sounds which cause annoyance or discomfort to persons of ordinary sensitivity or which disturb the peace and quiet of any neighborhood.

B. FACTORS USED IN DETERMINING WHETHER A VIOLATION HAS OCCURRED. The factors which shall be considered by the City in determining whether to issue a citation for a violation and whether a violation of this Section has occurred shall include, but not be limited to, the following:

1. The volume of the noise, music, or related sound;
2. The intensity of the noise, music, or related sound;
3. The duration, continuousness or repetitive nature of the noise, music, or related sound;
4. Whether the origin of the noise, music, or related sound is natural or unnatural to the area in which it occurs;
5. The volume and intensity of the background noise or sound, if any;
6. The proximity of the noise, music, or related sound to residential sleeping facilities or to overnight accommodations, such as hotels and motels;
7. The proximity to offices, places of business or other areas where work is known to be carried on, of the noise, music, or related sound;
8. The nature and zoning of the area within which the noise, music, or related sound emanates;
9. The time of day or night the noise, music, or related sound occurs and the relationship of this time to the normal activities of the area in which it occurs and in relation to the other factors listed in this subsection;
10. Whether the noise, music, or related sound is recurrent, intermittent, or constant;
11. Whether the noise, music, or related sound is produced by a commercial or a noncommercial activity;
12. Whether the person or business responsible for the noise, music, or related sound has been previously recently warned that complaints have been received about the noise, music, or related sound and such person or business has failed to reduce it to an appropriate level. (Ord. 5740, 2016; Ord. 5145, 2000; Prior Code §32.28.)

9.16.020 Noise Disturbance Prohibited.

No person shall make, continue or cause to be made or continued, or permit or allow to be made or continued, any noise disturbance in such a manner as to be plainly audible by a person of ordinary sensitivity at a distance of fifty (50) feet from the noise source; provided, nothing in this section shall be construed to prohibit any noise which does not penetrate beyond the boundaries of the noise source's own premises or does not constitute an unreasonable disturbance to people lawfully on those premises. (Ord. 5740, 2016.)

9.16.030 Specific Conduct Prohibited.

A. The following subsections set forth specific conduct which shall be unlawful:

1. Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television set, music player, drum, musical instrument, or similar device which produces or reproduces sound between the hours of ten (10) P.M. and seven (7) A.M. in such a manner as to create a noise disturbance audible by a person of ordinary sensitivity across a residential or commercial real property line.

2. Loudspeakers and Amplified Sound. Using or operating for any purpose any loudspeaker, loudspeaker system or similar device between the hours of ten (10) P.M. and seven (7) A.M. in such a manner that the sound creates a noise disturbance audible by a person of ordinary sensitivity across a residential real property line.

3. Animals and Birds. Keeping, maintaining or possessing or harboring any animal or bird which frequently or for long duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance audible by a person of ordinary sensitivity across a residential or commercial real property line.

B. EXCLUSIONS.

1. Amplification of sound by a person as part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County, provided the County has adopted or approved a sound control plan for the property which is applicable to the event or activity.

2. Amplification of sound by a person as a part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County of Santa Barbara and for which property the County has not developed a sound control plan.

3. Amplification of sound by a person as part of an activity or event sponsored or approved by the City of Santa Barbara on property owned by or leased to the City of Santa Barbara.

4. Amplification of sound by a person as part of an activity or event sponsored by or approved by a nursery school or day care, elementary school, secondary school or college or university on property owned by or leased to the educational institution.

5. Amplification of sound by a person as part of an activity or event sponsored by or approved by a public entity on property owned by or leased to the public entity. (Ord. 5740, 2016.)

9.16.040 Construction Work at Night Prohibited.

It shall be unlawful for any person, between the hours of 8:00 P.M. of any day and 7:00 A.M. of the following day to erect, construct, demolish, excavate for, alter or repair any building or structure unless a special permit has been applied for and granted by the Chief Building Official. In granting such special permit, the Chief Building Official shall consider if construction noise in the vicinity of the proposed work site would be less objectionable at night than during daytime because of different population levels or different neighboring activities, if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during daytime, if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site, if the neighborhood of the proposed work site is primarily residential in character wherein sleep could be disturbed, if great economic hardship would occur if the work were spread over a longer time, if the work will abate or prevent hazard to life or property, if the proposed night work is in the general public interest; and he shall prescribe such conditions, working times, types of construction equipment to be used, and permissible noise emissions, as he deems to be required in the public interest. This section shall not be applicable to activities of public or private utilities when restoring utility service following a public calamity or when doing work required to protect persons or property from an imminent exposure to danger. (Ord. 5740, 2016; Ord. 4039, 1980.)

9.16.050 Leaf Blowers - Restriction on Use.

A. DEFINITIONS

1. Leaf Blower. Any device used, designed or operated to produce a current of air by fuel, electricity or other means to push, propel or blow cuttings, refuse or debris.

2. Noise Level Standards. Measured in accordance with those standards developed under the supervision of the American National Standards Institute's (ANSI) "Committee for Sound Level Labeling Standard for Hand Held and Back Pack Gasoline Engine Powered Blowers" presently adopted as ANSI B-175.2-1990 with the maximum noise level of 65 decibels.

B. PROHIBITION IN RESIDENTIAL ZONES.

It is unlawful for any person to operate a leaf blower within two hundred fifty feet (250') of any residential zone, as that term is defined in Title 28 of this Code, before 9:00 A.M. or after 5:00 P.M. Monday through Saturday, or at any time on Sundays or national holidays, provided that the City Parks and Recreation Department employees shall be allowed to use leaf blowers between the hours of 7:00 A.M. and 9:00 A.M. Monday through Saturday when cleaning parking lots adjacent to the City's Beachfront parks.

C. CLEANUP OF DEBRIS

It is unlawful for any person operating any type of leaf blower to blow cuttings, refuse or debris onto a neighboring property or into a street or gutter. It is also unlawful for any person operating any leaf blower to fail to properly dispose of accumulated debris, leaves, or refuse in a sealed trash or refuse container.

D. PHASE-OUT OF CERTAIN LEAF BLOWERS

1. Existing Leaf Blowers. The use of leaf blowers which are not manufactured to meet or exceed the Noise Level Standards is prohibited in all areas of the City, under all circumstances, after October 9, 1997.

2. Sale of New Leaf Blowers. It is unlawful to sell or offer for sale within the City of Santa Barbara leaf blowers which are not manufactured to meet or exceed the Noise Level Standards of 65 decibels.

E. CERTIFICATION.

Owners and operators will present equipment to the City Parks and Recreation Director or designee, with an application and reasonable fee, for noise testing according to ANSI testing criteria in the Noise Level Standards. Leaf blowers which generate 65 decibels or less according to the test will be issued a certification sticker, which is valid for one year following the date of testing. The use of a leaf blower, without a current and valid certification sticker affixed to it, within the City after July 1, 1998, is an infraction. All sound level measurements described in this section shall be taken with a Sound Level Meter.

F. GUIDELINES FOR THE PROPER USE OF LEAF BLOWERS.

The City Parks and Recreation Director is hereby authorized and directed to adopt guidelines for the proper use of leaf blowers, which guidelines shall promote the safe and efficient use of leaf blowers, while also mitigating, to the extent possible, the noise and nuisance effects of leaf blowers. The Finance Department is hereby directed to provide a copy of this ordinance and the leaf blower guidelines to each person obtaining a City business license for the operating of a gardening or landscaping maintenance service or business within the City. The operator of every business establishment selling leaf blowers within the City of Santa Barbara shall post in a conspicuous location and shall distribute to all purchasers a copy of this ordinance and the guidelines. (Ord. 5740, 2016; Ord. 5037, 1997; Ord. 5024, 1997; Ord. 4720, 1991; Ord. 4718, 1991; Ord. 4452, 1987.)

9.16.060 Use of Gasoline-Powered Leaf Blowers Prohibited.

Measure D97, adopted November 4, 1997, provides: In order to secure and promote the public health, comfort, safety and welfare, and to protect the rights of its citizens to privacy and freedom from nuisance, it is the purpose of this ordinance to prohibit unnecessary, excessive and annoying noises at levels which are detrimental to the health and welfare of the community, and to minimize airborne dust and pollen.

It shall be unlawful for any person within the City to use or operate any portable machine powered with a gasoline engine, or gasoline-powered generator, to blow leaves, dirt, and other debris off sidewalks, driveways, lawns, or other surfaces. (Ord. 5036, 1997.)

9.16.070 Regulation of Noise Affecting Parcels Zoned or Used for Residential Purposes.

A. HOURS OF OPERATION. Hours of operation on property zoned for agricultural use and used for planting, grading, vegetation removal, harvesting, sorting, cleaning, packing, shipping, and pesticide application shall be limited to 7:00 A.M. to 7:00 P.M. Monday through Saturday. Hours of operation for the above-stated activities shall be limited to 8:00 A.M. to 7:00 P.M. on Sunday and holidays.

B. MOTOR VEHICLE HORNS AND SIGNALING DEVICES. The following acts and the causing thereof are declared to be in violation of this ordinance:

1. The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger as provided in Section 27000 of the California Vehicle Code.

2. The sounding of any horn or other auditory signaling device which produces a sound level in excess of 60 dB(A) at a distance of 200 feet.

3. Exception. Emergency vehicles may be equipped with and use auditory signaling devices that do not comply with the requirements of this section.

C. MECHANICAL EQUIPMENT. Mechanical equipment other than vehicles and equipment which are operated by electricity obtained from an electricity utility company shall not be used outside before 8:00 A.M. or after 7:00 P.M. on Saturday, Sunday or holidays, or before 7:00 A.M. or after 7:00 P.M. Monday through Friday.

D. NOISE LIMITATIONS. All mechanical equipment other than vehicles (including heating, ventilation, and air conditioning systems) shall be insulated. Sound at the property line of any adjacent parcel used or zoned for residential, institutional, or park purposes shall not exceed sixty A-weighted decibels using the Community Noise Equivalent Level (60 dB(A) CNEL). All wind machines are prohibited in the City. (Ord. 5740, 2016; Ord. 4878, 1994.)

9.16.080 Sound Amplification.

No person shall amplify sound using sound amplifying equipment contrary to any of the following:

A. The only amplified sound permitted shall be either music or the human voice or both.

B. Sound emanating from any public park or place shall not be amplified above the ambient noise level so as to be audible within any hospital, rest home, convalescent hospital, or church while services therein are being conducted.

C. The volume of amplified sound shall not exceed 60dB(A) when measured outdoors at or beyond the property line of the property from which the sound emanates.

D. The volume of amplified sound inside a structure shall not exceed 45dB(A) when measured inside a building used for residential purposes. This maximum noise level shall not apply to the dwelling unit from which the sound is emanating.

E. The limits set forth above shall not apply to the following:

1. Amplification of sound by a person as part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County, provided the County has adopted or approved a sound control plan for the property which is applicable to the event or activity.

2. Amplification of sound by a person as a part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County of Santa Barbara and for which property the County has not developed a sound control plan.

3. Amplification of sound by a person as part of an activity or event sponsored or approved by the City of Santa Barbara on property owned by or leased to the City of Santa Barbara.

4. Amplification of sound by a person as part of an activity or event sponsored by or approved by a nursery school, elementary school, secondary school or college or university on property owned by or leased to said educational institution.

5. Amplification of sound by a person as part of an activity or event sponsored by or approved by a public entity on property owned by or leased to said public entity. (Ord. 5740, 2016; Ord. 4039, 1980.)

9.16.090 Definitions.

Unless the context otherwise clearly requires, technical words and phrases used in this chapter are defined as follows:

A. SOUND AMPLIFYING EQUIPMENT. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music, or any other sound. "Sound amplifying equipment" shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound amplifying equipment" as used in this chapter shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes, and shall not include communication equipment used by public or private utilities when restoring utility service following a public calamity or when doing work required to protect persons or property from an imminent exposure to danger.

B. AMBIENT NOISE. "Ambient noise" is the all-encompassing noise associated with a given environment, being usually composed of sounds from many sources near and far. For the purpose of this ordinance, ambient noise level is the level obtained when the noise level is averaged over a period of five (5) minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.

C. NOISE DISTURBANCE. "Noise disturbance" shall mean any sound which (a) endangers or injures the safety or health of human beings or animals, or (b) annoys or disturbs reasonable persons of normal sensitivities, or (c) endangers or injures personal or real property, or (d) violates the factors set forth in Section 9.16.010 of this Chapter. Compliance with the quantitative standards as listed in this Chapter shall constitute elimination of a noise disturbance.

D. DECIBEL. "Decibel" (dB) shall mean an intensity unit which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio is ten (10) times the common logarithm of this ratio.

E. SOUND LEVEL. "Sound level" (noise level) in decibels is the value of a sound measurement using the "A" weighting network of a sound level meter. Slow response of the sound level meter needle shall be used except where the sound is impulsive or rapidly varying in nature, in which case fast response shall be used.

F. PERSON. "Person" shall mean a person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

G. SOUND LEVEL METER. "Sound level meter" shall mean an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent requirements in American National Standards Institute's specification S1.4 2014 or the most recent revision thereof for type S-2A general purpose sound level meters.

H. SUPPLEMENTARY DEFINITIONS OF TECHNICAL TERMS. Definitions of technical terms not defined herein shall be obtained from the American National Standards Institute's Acoustical Terminology S11 1994 or the most recent revision thereof. (Ord. 5740, 2016; Ord. 4039, 1980.)

9.16.100 Measurement Methods.

A. Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty (20) micronewtons per square meter (0.0002 microbar) as measured with a sound level meter using the "A" weighting, and using the slow meter response.

B. Unless otherwise provided, outdoor measurements shall be taken with the microphone located at any point on the property line of the noise source, but no closer than five (5) feet from any wall or vertical obstruction and three (3) to five (5) feet above ground level whenever possible.

C. Unless otherwise provided, indoor measurements shall be taken inside the structure with the microphone located at any point as follows: (1) no less than three (3) feet above floor level; (2) no less than five (5) feet from any wall or vertical obstruction; and (3) not under common possession and control with the building or portion of the building from which the sound is emanating. (Ord. 4039, 1980.)

9.16.110 Enforcement.

A. PRIMA FACIE VIOLATION. Any noise exceeding the noise level limits in Section 9.16.080, or the prohibited actions as provided in Sections 9.16.010, 9.16.020 and 9.16.030, shall be deemed to be prima facie evidence of a violation of the provisions of this Chapter.

B. VIOLATIONS. Any violation of the provisions of this Chapter shall be an infraction or be subject to administrative code enforcement pursuant to Chapter 1.25 of this code. Each hour such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

C. ABATEMENT ORDERS.

1. In lieu of issuing a notice of violation as provided for in subsection B of this section, the zoning enforcement or police department staff responsible for enforcement of any provision of this Chapter may issue an order requiring abatement of a sound source alleged to be in violation, within a reasonable time period and according to guidelines which the police department may prescribe.

2. No complaint or further action shall be taken in the event that the cause of the violation has been removed, the condition abated or fully corrected within the time period specified in the written notice.

D. CONTINUED VIOLATIONS. Once a violation of any provision of this Chapter has been verified by zoning enforcement or police department staff, the owner(s) of the property where the violation occurred may be subject to administrative action or infraction citation for allowing a subsequent violation of this Chapter to occur on the property within nine (9) months after the date of a previous violation, provided the property owner has received notification from the City of the previous violation and at least fourteen (14) days have passed since the date the notification was mailed to the property owner(s). (Ord. 5740, 2016.)

9.16.120 Violations - Additional Remedies - Injunctions.

As an additional remedy, the operation or maintenance of any sound amplifying equipment, device, instrument, vehicle, or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 4039, 1980.)

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Chapter 9.20

SMOKING PROHIBITED IN CERTAIN PUBLIC AREAS

Sections:

9.20.010	**Definitions.**	**9.20.050**	**Areas Where Smoking is Not Prohibited.**
9.20.020	**Application to Facilities and Vehicles Owned or Leased by the City.**	**9.20.060**	**Regulation of the Sale and Distribution of Tobacco Products.**
9.20.030	**Regulation of Smoking in Public Places.**	**9.20.070**	**Posting of Signs.**
		9.20.080	**Enforcement.**
9.20.040	**Regulation of Smoking in Places of Employment.**	**9.20.090**	**Public Education.**

9.20.010 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this section:

A. **BAR.** Any business licensed or required to be licensed by the Department of Alcoholic Beverage Control for alcoholic beverage on-sale privileges as a “public premise” as defined by California Business and Professions Code section 23039.

B. **CUSTOMER SERVICE AREA.** Any enclosed area of any business or public place to which this Chapter is applicable and to which customers or members of the public have access, including, but not limited to, hallways, waiting areas, lobbies, entrances and exits, or portions of a dining area not occupied by counters or tables.

C. **DINING AREA.** An enclosed area containing a counter or tables upon which food is served.

D. **EMPLOYEE.** A person who is employed by any employer in consideration for direct or indirect monetary wages or profit and any person who volunteers his or her services for a nonprofit entity.

E. **EMPLOYER.** A person, partnership, firm, or corporation, including public and nonprofit entities, which employs any person other than an owner of the entity.

F. **ENCLOSED AREA.** All space between a floor and ceiling which is enclosed on all sides by solid walls, or windows, or doors, which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid. (For the purposes of this Chapter, the term "enclosed" or "enclosed facilities" shall refer to an "enclosed area.")

G. **PLACE OF EMPLOYMENT.** An enclosed area under the control of any employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, hallways and employer-furnished motor vehicles. A private residence is not a "place of employment" unless it is used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health & Safety Code.

H. **PUBLIC PLACE.** Any area to which the public is invited or in which the public is generally permitted. For the purposes of this Chapter, a private residence is not a "public place" except when the residence is used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health & Safety Code.

I. **RESTAURANT.** Any coffee shop, cafeteria, luncheonette, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, boardinghouse, or guest house, which gives or offers for sale food to the public, which is not licensed or not required to be licensed by the Department of Alcoholic Beverage Control for alcoholic beverage on-sale privileges.

J. **RESTAURANT-BAR COMBINATION.** Any restaurant (as defined above) which is licensed or required to be licensed by the Department of Alcoholic Beverage Control for alcoholic beverage on-sale privileges as a “bona fide eating place” as defined by California Business and Professions Code section 23038.

K. **RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories.

L. **SELF-SERVICE DISPLAYS.** An open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without the intervention of an employee.

M. **SERVICE LINE.** A line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

N. **SMOKING.** Inhaling, exhaling, burning or carrying any lighted pipe, cigar, cigarette, weed, plant or other combustible organic or chemical substance, the smoke from which is specifically designed or intended to be inhaled or drawn into the nose or mouth.

O. **SPORTS AREA.** An enclosed or open sports pavilion, gymnasium, health spa, stadium, boxing arena, swimming pool, roller and ice rink, bowling alley, and other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events, including the customer service areas, and the lobby, foyer, or concession-stand areas thereof.

P. **TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

Q. **TOBACCO VENDING MACHINE.** Any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, bills, trade checks, slugs or other form of legal tender or consideration.

R. **VENDOR-ASSISTED**. When a store employee has access to the tobacco product and assists a customer by supplying the product. (Ord. 5243, 2002; Ord. 4877, 1994.)

9.20.020 Application to Facilities and Vehicles Owned or Leased by the City.

Smoking is prohibited in all enclosed areas of City facilities and all vehicles owned, leased or operated by the City. (Ord. 4877, 1994.)

9.20.030 Regulation of Smoking in Public Places.

A. **GENERAL PROHIBITIONS.** Smoking shall be prohibited in all enclosed public places and non-enclosed public places where specified herein within the City of Santa Barbara including, but not limited to, the following public places:

1. Elevators, enclosed or not.
2. Buses, taxicabs, and other means of public transit, enclosed or not.
3. Ticket, or boarding areas of public transit depots, enclosed or not.
4. Bus stops, enclosed or not.
5. Restrooms.
6. Service lines, enclosed or not.
7. Retail stores, enclosed or not.
8. Malls, except in outdoor malls.
9. All enclosed areas available to, and customarily used by, the general public in all businesses, nonprofit entities and public agencies patronized by the public including, but not limited to, ticket, boarding, and waiting areas of public transit depots, offices, banks, laundromats, beauty and barber shops, and the common areas of hotels and motels.
10. Enclosed common areas in apartment buildings, condominiums, retirement facilities, and nursing homes.
11. Enclosed areas of child day care facilities and private residences while used as child care, health care, board and care, and community foster care facilities as those terms are defined by the state Health & Safety Code.
12. Galleries, aquariums, libraries, and museums, enclosed or not.
13. Within any area or facility, enclosed or not, which is primarily used for, or designed for the primary purpose of exhibiting any motion picture, stageplay, drama, lecture, musical recital, or other similar performance, including the lobby, foyer, and concession-stand areas thereof. To the extent that the act of smoking forms part of a dramatic live stage production, this Chapter shall not be construed so as to prohibit the smoking of non-tobacco-product "stage cigarettes" or similar materials in the form of cigars or pipes.
14. Restaurants, including customer service areas and outdoor seating sections, except that twenty-five percent (25%) of the outdoor seating sections of restaurants may be set aside and designated and maintained as smoking sections so long as:
    a. The entire smoking section is in the same area;
    b. The entire smoking section is located the furthest distance from the entrance of the building; and
    c. The smoking section is clearly marked or labeled with signs.
15. Restaurant-bar combinations, including customer service areas and outdoor seating sections, except that twenty-five percent (25%) of the outdoor seating sections of restaurant-bar combinations may be set aside and designated and maintained as smoking sections before 10:00 p.m. so long as:
    a. The entire smoking section is in the same area;
    b. The entire smoking section is located the furthest distance from the entrance of the building; and
    c. The smoking section is clearly marked or labeled with signs.

In addition, one hundred percent (100%) of the outdoor seating areas of restaurant-bar combinations may be set aside and designated as smoking sections after 10:00 p.m.

16. Within sports arenas and convention halls.
17. Video arcades, bingo parlors, card rooms, game rooms, pool halls, dance halls, amusement centers, and bowling alleys.
18. Every room, chamber, or place of indoor meeting or indoor public assembly.
19. Waiting rooms, hallways, wards, and patient rooms, and customer service areas of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
20. Areas which share air space (including but not limited to air conditioning, heating, or other ventilation systems) with other areas in which smoking is prohibited.
21. Polling places, enclosed or not.
22. Some of the rooms in any hotel or motel; these rooms shall be designated and maintained as non-smoking rooms.

B. **SMOKE FREE AREAS.** Notwithstanding any other provision of this Chapter, any owner, operator, manager, or other person who controls any establishment described in this Chapter may declare that entire establishment to be a non-smoking establishment. (Ord. 5243, 2002; Ord. 4877, 1994.)

9.20.040 Regulation of Smoking in Places of Employment.

A. **EMPLOYER RESPONSIBILITY.** It shall be the responsibility of employers to provide a smoke-free place of employment for all employees.

B. **SMOKING POLICY.** Within 90 days of the effective date of this Chapter, each employer having an enclosed place of employment located within the City shall adopt, implement, make known to its employees, and maintain a written smoking policy which shall contain the following minimum requirements:

1. Smoking shall be prohibited in all enclosed facilities within a place of employment, without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
2. Smoking outside of the work building shall occur only at a reasonable distance from the building which minimizes any smoke entering the building from doors or windows.
3. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption, and at least annually thereafter.
4. All employers shall supply a written copy of the smoking policy to any existing or prospective employee who so requests.
5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights to a smoke-free place of employment afforded by this Chapter or because any such employee or applicant is in full compliance with this Chapter. (Ord. 4877, 1994.)

9.20.050 Areas Where Smoking is Not Prohibited.

A. **AREAS WHERE SMOKING IS PERMITTED.** Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

1. Private residences, except when used as a child care, health care, board and care, or community foster care facility as those terms are defined by the state Health & Safety Code.
2. Any place of employment which employs only the owner and no other employee, provided that the enclosed area containing the place of employment does not share a ventilation system with any other enclosed place of employment or public place.
3. Retail tobacco stores.
4. Designated hotel and motel guest rooms provided that some of the guest rooms in such hotel or motel are designated and maintained as non-smoking rooms.
5. Twenty-five percent (25%) of the outdoor seating sections of restaurants so long as:
   a. The entire smoking section is in the same area;
   b. The entire smoking section is located the furthest distance from the entrance to the building; and
   c. The smoking section is clearly marked or labeled with signs.
6. Twenty-five percent (25%) of the outdoor seating sections of restaurant-bar combinations before 10:00 p.m. so long as:
   a. The entire smoking section is in the same area;
   b. The entire smoking section is located the furthest distance from the entrance to the building; and
   c. The smoking section is clearly marked or labeled with signs.
7. One hundred percent (100%) of the outdoor seating areas of restaurant-bar combinations after 10:00 p.m.
8. One hundred percent (100%) of the outdoor seating areas of bars. (Ord. 5243, 2002.)

9.20.060 Regulation of the Sale and Distribution of Tobacco Products.

A. **POSTING OF SIGNS.** Any person, business, tobacco retailer, or other establishment subject to this Chapter shall post STAKE Act signs at the point of purchase of tobacco products, which are in compliance with signage specifications and state:

> "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. VALID IDENTIFICATION MAY BE REQUIRED, TO REPORT AN UNLAWFUL TOBACCO SALE, CALL 1-800-5ASK-4-ID. BUSINESS AND PROFESSIONS CODE SECTION 22952."

B. **SALES TO MINORS.** No person, business, tobacco retailer, or owner, manager, or operator of any establishment subject to this Chapter shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser's age as eighteen years or greater unless the seller has some reasonable basis for determining that the buyer is at least eighteen years of age.

C. **SELF-SERVICE SALES OF TOBACCO.**

1. Sales of Tobacco Products by the Pack. It shall be unlawful for any person, business, or tobacco retailer within the City to sell, offer for sale, or display for sale any tobacco product by means of a self-service display. All tobacco products (other than cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco displayed for sale pursuant to subparagraph C(2) below) shall be offered for sale exclusively by means of vendor/employee assistance.

2. Sales of Cartons, Cigars, and Pipe Tobacco. Cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco may be sold by means of self-service merchandising displays only when such product displays are under the direct observation of a vendor/employee. Tobacco products shall be deemed to be under direct observation of a vendor/employee only if the tobacco products themselves (and not merely the racks, shelves, kiosks, etc., where the products are displayed) are in the plain and direct view of a store employee at all times.

D. **TOBACCO VENDING MACHINES.** No person, business, tobacco retailer, or other establishment subject to this Chapter shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance, or use of, on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of this Chapter shall be removed within thirty (30) days after the effective date of this Chapter.

This provision shall not apply to vending machines which are located in bars provided that such vending machines in bars must be located at least twenty-five (25) feet from any entry into the bar.

E. **OUT OF PACKAGE SALES.** No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings. (Ord. 5243, 2002; Ord. 4992, 1996; Ord. 4897, 1994; Ord. 4877, 1994.)

9.20.070 Posting of Signs.

A. **REQUIREMENTS FOR NO SMOKING SIGNS.** "Smoking" or "No Smoking," signs, whichever are appropriate, with letters of not less than one inch (1") in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is regulated by this Chapter, by the owner, operator, manager or other person having control of such building or other place.

B. **REGULATIONS WITH RESPECT TO THEATER SIGNS.** Every theater owner, manager, or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium and, in the case of motion picture theaters, such information shall be shown upon the screen for at least five (5) seconds prior to the showing of each motion picture.

C. **REGULATIONS WITH RESPECT TO RESTAURANT SIGNS.** Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

D. **REGULATIONS WITH RESPECT TO HOTEL/MOTEL SIGNS.** Every hotel and motel shall have signs posted conspicuously in the registration and lobby areas which state that non-smoking rooms are maintained and may be available; rooms designated as being non-smoking shall have signs announcing such restriction conspicuously placed within each room. (Ord. 4877, 1994.)

9.20.080 Enforcement.

A. **CITY ENFORCEMENT.** The City Administrator, in cooperation with the County Health Officer of the County of Santa Barbara, shall enforce and implement this Chapter.

B. **PRIVATE CITIZENS.** Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the City Administrator or the County Health Officer of the County of Santa Barbara.

C. **VIOLATIONS/PENALTIES.** Any person, business owner or proprietor, or employer of any business or establishment subject to the requirements of this Chapter who violates any mandatory provision of this Chapter shall be guilty of an infraction punishable in accordance with Chapter 1.28 of this Code.

D. **PRIVATE RIGHT OF LEGAL ACTION.** Notwithstanding any other provision of this Chapter, a private citizen may bring legal action to enforce this Chapter. (Ord. 4877, 1994.)

9.20.090 Public Education.

A. **PROGRAM OF PUBLIC EDUCATION.** The City Administrator, in conjunction and coordination with the County Health Officer and, where feasible, appropriate health or safety oriented community-based organizations and coalitions, shall engage in a continuing program to explain and clarify the purposes of this Chapter to citizens affected by it, and to guide owners, operators, and managers in their compliance with it.

B. **GOVERNMENTAL COOPERATION.** The City Administrator shall annually request such governmental and educational agencies having offices with the City to establish local operating procedures and procedures that are in cooperation and comply with this Chapter. The City Administrator shall urge Federal, State, and special districts to enact and enforce no-smoking prohibitions and restrictions for their facilities within the City that are in accordance with this Chapter. (Ord. 4877, 1994.)

Chapter 9.21

REGULATION OF TOBACCO RETAILERS

Sections:

9.21.010 Findings.
9.21.020 Purpose.
9.21.030 Definitions.
9.21.040 Requirement for Tobacco Retailer License.
9.21.050 Application Procedure.
9.21.060 Issuance of Tobacco Retailer License.
9.21.070 Display of Tobacco Retailer License.
9.21.080 Fees for Tobacco Retailer License.
9.21.090 Tobacco Retailer License Non-Transferable.
9.21.100 Suspension of Tobacco Retailer License; Appeals.
9.21.110 Administrative Fines; Penalties; Enforcement.
9.21.120 Grace Period.

9.21.010 Findings.

The City Council of the City of Santa Barbara is reliably informed that:

A. State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors.

B. State law requires tobacco retailers to check the identification of tobacco purchasers who reasonably appear to be under 18 years of age and provides procedures for onsite sting inspections of tobacco retailers using persons under 18 years of age.

C. The results of the 2000 California Youth Tobacco Purchase Survey demonstrate that 12.8% of retailers surveyed sold tobacco product to minors, however, the most recent local youth purchase survey showed youth buy rates of 38%.

D. The California courts in such cases as Cohen v. City Council, 40 Cal.3d 277 (1985), and Bravo Vending v. City of Rancho Mirage, 16 Cal.App.4th 383 (1993), have affirmed the power of cities to regulate business activity in order to discourage violations of state law.

E. The City has the power to regulate the operation of lawful businesses to avoid circumstances that facilitate violations of the state, federal, and local laws. (Ord. 5260, 2002.)

9.21.020 Purpose.

It is the intent of the City Council, in enacting this Chapter, to discourage violations of laws which prohibit or discourage sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by state or federal law are criminally proscribed. (Ord. 5260, 2002.)

9.21.030 Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. **Licensing Agent**. The City of Santa Barbara Business License Office.

B. **Health Officer**. The County Health Officer or his/her duly authorized designee.

C. **Person**. Any natural person, partnership, cooperative association, private or public corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

D. **Police Chief**. The Chief of Police for the City of Santa Barbara or his/her duly authorized designee.

E. **Tobacco Product**. Any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, smokeless tobacco, chewing tobacco, dipping tobacco, or any other preparation of tobacco, including Indian cigarettes called “bidis” which may be used for smoking, chewing, inhalation or other manner of ingestion.

F. **Tobacco Retailer**. Any person who sells, offers for sale, or offers to exchange for any form of consideration, tobacco, or tobacco products; “tobacco retailing” shall mean the doing of any of these things.

G. **Tobacco Retailer License**. A license that permits the retail sale of tobacco products. (Ord. 5260, 2002.)

9.21.040 Requirement for Tobacco Retailer License.

A. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer license pursuant to this Chapter for each location at which that activity is to occur.

B. No tobacco retailer license may be issued to authorize tobacco retailing at a location other than a fixed

location.

C. Tobacco retailer licenses are valid for one (1) year and each tobacco retailer shall apply for renewal of the tobacco retailer license prior to its expiration.

D. The receipt of a tobacco retailer license does not exempt any business that is subject to the smoke-free work place provisions within the Santa Barbara Municipal Code and Labor Code Section 6404.5. (Ord. 5260, 2002.)

9.21.050 Application Procedure.

A. A completed application and a copy of the completed application for a tobacco retailer license shall be submitted to the Licensing Agent in the name of the person proposing to conduct retail tobacco sales and shall be signed by such person or an authorized agent thereof. All applications shall be submitted on a form supplied by the Licensing Agent and shall contain the following information:

1. The name, address, and telephone number of the applicant;
2. The business name, address, and telephone number of each location for which a tobacco retailer license is sought; and
3. Such other information as the Police Chief deems necessary for enforcement of this Chapter.

(Ord. 5260, 2002.)

9.21.060 Issuance of Tobacco Retailer License.

A. Within thirty (30) days of the Licensing Agent's receipt of an application for a tobacco retailer license, the Licensing Agent shall issue a tobacco retailer license, unless it has been determined by the Licensing Agent that the issuance of the tobacco retail license should be denied, based on the following criteria:

1. The application is incomplete or inaccurate; or
2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to Section 9.21.100 of this Chapter.

B. A denial of a license may be appealed pursuant to Section 9.21.100.

C. The Licensing Agent shall keep a permanent record of all tobacco retail licenses issued, but may destroy such records as provided by law with the approval of the City Council. (Ord. 5260, 2002.)

9.21.070 Display of Tobacco Retailer License.

Each tobacco retailer licensee shall prominently display the tobacco retailer license at each location where tobacco retailing occurs. (Ord. 5260, 2002.)

9.21.080 Fees for Tobacco Retailer License.

A. The fee for a tobacco retailer license shall be established by resolution of the City Council and shall be calculated so as to no more than recover the cost of the tobacco retailer license program. The fee for a tobacco retailer license shall be paid to the Licensing Agent.

B. A tobacco retailer license shall be valid for a term of one year, commencing on January 1 and ending on December 31 of each year. If a tobacco retailer license is issued after January 1, the fee shall be pro-rated on a quarterly basis accordingly. (Ord. 5260, 2002.)

9.21.090 Tobacco Retailer License Non-Transferable.

A. A tobacco retailer license is nontransferable.

B. In the event a person to whom a tobacco retailer license has been issued changes business location or sells the business referenced in that person's tobacco retailer license, that person must apply for a new tobacco retailer license prior to acting as a tobacco retailer at the new location. The transferee of the tobacco retailer license must apply for a tobacco retailer license in the transferee's name before acting as a tobacco retailer. (Ord. 5260, 2002.)

9.21.100 Suspension of Tobacco Retailer License; Appeals.

A. **GROUNDS FOR SUSPENSION**.

1. A tobacco retailer license shall be suspended if the tobacco retailer licensee or his or her agent or employee has violated any state or local law governing the sale, advertisement or display of tobacco products, including but not limited to: Penal Code Section 308a, or Business and Professions Code Sections 22950 et. seq. (Stop Tobacco Access to Kids Enforcement Act "STAKE Act") or 22962, or Business and Professions Code 25612.5 (c)(7) based on information provided by the Police Department, Health Officer, or any other governmental agencies.
2. The Police Chief shall provide notice of suspension to a tobacco retailer licensee by personal service or by certified mail, return receipt requested, addressed to the business where the tobacco retailer license was issued. The suspension shall be effective when notice is personally served or when the certified mail return receipt is returned.

B. **SUSPENSION OF LICENSE**. If the Police Chief determines that there are grounds for suspension of a license, based upon information provided by the Health Officer, the Police Department, or any other governmental agencies, the following sanctions shall be imposed:

1. Upon a first finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer licensee shall receive a letter of warning.

2. Upon the second finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or by any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer license shall be suspended for thirty (30) days.

3. Upon the third finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or by any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer license shall be suspended for ninety (90) days.

4. Upon a fourth or subsequent finding of a violation of any state or local law governing the sale, advertisement or display of tobacco products, by a tobacco retailer licensee or by any agent or employee of a tobacco retailer licensee within any two (2) year period, the tobacco retailer license shall be suspended for twelve (12) months.

C. **REINSTATEMENT OF TOBACCO RETAILER LICENSE**.

1. Upon the end of a suspension period and so long as there are no outstanding violations, the Licensing Agent may reinstate a tobacco retailer license.

D. **APPEAL OF DENIAL OR SUSPENSION**.

1. A tobacco retailer licensee may appeal a denial or suspension of a tobacco retailer license to the Board of Fire and Police Commissioners. All appeals shall be conducted in accordance with the procedures, where applicable, set forth in Sections 1.25.090, 1.25.100, and 1.25.110 of this Code.

2. The tobacco retailer licensee may seek judicial review of the decision of the Board of Fire and Police Commissioners in accordance with Code of Civil Procedure sections 1094.5 and 1094.6. (Ord. 5260, 2002.)

9.21.110 Administrative Fines; Penalties; Enforcement.

A. Any violation of the provisions of this Chapter by any person may be either an infraction or a misdemeanor. Any violation of the provisions of this Chapter by any person is also subject to administrative fines as provided in Chapter 1.25.

B. If the Police Chief finds, based on substantial record evidence that any unlicensed person has engaged in tobacco retailing activities in violation of Section 9.21.040 of this Chapter, the City shall fine that person as follows.

1. Each day that an unlicensed person offers tobacco, tobacco products, or tobacco for sale or exchange shall constitute a separate violation and that person is subject to assessed fines in accordance with Chapter 1.25 of this Code.

C. Violations of this ordinance are hereby declared to be public nuisances.

D. In addition to other remedies provided by this Chapter or by other law, any violation of this ordinance may be remedied by a civil action brought by the City Attorney, including but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief. The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. (Ord. 5260, 2002.)

9.21.120 Grace Period.

Any person who is selling tobacco products as of the effective date of this Chapter shall obtain a tobacco retailer license within thirty (30) days of the effective date of this Chapter. (Ord. 5260, 2002.)

Chapter 9.25

GAMBLING

Sections:

9.25.010 Gambling Place Prohibited.
9.25.020 Playing or Betting Prohibited.
9.25.030 Exceptions.

9.25.010 Gambling Place Prohibited.

It is hereby declared unlawful for any person to keep, conduct, or maintain within the City, or knowingly to permit any house, room, apartment or place, owned by him or under his charge or control in the City, where any game not mentioned in Sections 330, 330a and 337a of the Penal Code of the State of California, including but not limited to draw poker, lowball poker, high-low split or panguinque, is played, conducted, dealt or carried on with cards, dice or other device, for money, checks, chips, credit or any other representative of value. (Ord. 4094, 1981.)

9.25.020 Playing or Betting Prohibited.

It is hereby declared unlawful for any person to play or bet at or against any game not mentioned in Sections 330, 330a, and 337a of the Penal Code of the State of California, including but not limited to draw poker, lowball poker, high-low split or panguinque, which is played, conducted, dealt or carried on with cards, dice or other device, for money, checks, chips, credit or any other representative of value, at any place within the corporate limits of the City. (Ord. 4094, 1981.)

9.25.030 Exceptions.

Sections 9.25.010 and 9.25.020 shall not apply to bingo conducted in accordance with Chapter 9.26 of Title 9 of this Code. (Ord. 4908, 1995; Ord. 4094, 1981.)

Chapter 9.26

BINGO

Sections:

9.26.010 Definitions.
9.26.020 Bingo Permitted.

9.26.010 Definitions.

For the purposes of this Chapter, the following words and phrases are identified as follows:

(1) "Bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Bingo includes a punch board which is defined as any card, board or other device which may be played or operated by pulling, pressing, punching out or otherwise removing any slip, tab, paper or other substance therefrom to disclose any concealed number, name or symbol.

(2) "Organizations" means organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701g, and 23701l of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations. (Ord. 4395, 1986; Ord 4073, 1980; Ord. 4002 §1, 1979; Ord. 3858, 1976.)

9.26.020 Bingo Permitted.

Organizations are hereby permitted to conduct bingo within the City of Santa Barbara provided that it is conducted in accordance with the limitations contained in Section 326.5 of the Penal Code. (Ord. 4002 §1, 1979; Ord. 3858, 1976.)

Chapter 9.30

AMBULANCE SERVICE

Sections:

9.30.010 Purpose.
9.30.020 Adoption and Applicability.
9.30.030 Penalty.

9.30.010 Purpose.

It is the purpose of this chapter, among other things, to protect the health, safety and public welfare of the City of Santa Barbara by the reasonable regulation of ambulances in the City. The County of Santa Barbara, hereinafter referred to as "County", adopted Ordinance No. 2881 (Chapter 5 of the Santa Barbara County Code) on August 23, 1976, which provides for the regulation and licensing of ambulance service. Pursuant to said Ordinance, the County adopted the Emergency Medical Response Manual, hereinafter referred to as "EMRM." The City desires uniform regulation of ambulance service within both the City and County of Santa Barbara. The City further desires to adopt the provisions of County Ordinance No. 2881 and regulations adopted pursuant to said Ordinance and to transfer the licensing and regulation of ambulance service to the County. (Ord. 3935 §1, 1978.)

9.30.020 Adoption and Applicability.

Santa Barbara County Ordinance No. 2881 (Chapter 5 of the Santa Barbara County Code) and regulations promulgated pursuant thereto, which are on file with the City Clerk, are adopted by the City and shall apply within the territorial limits of the City. The City further requires that any licensee for ambulance service under this chapter supply adequate insurance and agree to hold harmless and indemnify the City, its officers or employees from any damages, claims, liabilities, costs, suits or other expenses resulting from its operations that have been licensed under this chapter.

The City desires to adopt the EMRM and grant the County the authority to make amendments thereto. Any and all such amendments, as and when they occur, shall be effective within the City upon the date of receipt by the City Clerk of a certified copy of the amendment, but City can reject any such amendment if the City Council passes a resolution rejecting any such amendment within thirty (30) days after receiving the aforementioned certified copy of any such amendment. Any such amendment shall be null and void in the City after such a rejecting resolution is approved. (Ord. 3935 §1, 1978.)

9.30.030 Penalty.

Any violation of this chapter is declared to be a misdemeanor and any such violation shall be punish-able by a fine not exceeding five hundred dollars ($500.00), or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Every day that any violation of this chapter shall continue shall constitute a separate offense. (Ord. 3935 §1, 1978.)

Chapter 9.32

UNLAWFUL AREAS TO PLAY GOLF

Section:
9.32.010 Unlawful Areas to Play Golf.

9.32.010 Unlawful Areas to Play Golf.

It shall be unlawful for any person to play or practice golf on any public park or public place in the City except in areas specifically designated for such play or practice by the Parks Director. (Ord. 3837, 1976.)

Chapter 9.34

DISCHARGE OF FIREARMS

Sections:
9.34.010 Guns - Air, Spring and Bow.
9.34.020 Discharge of Firearms - Authorization of City Council.
9.34.030 Unlawful Use of a Firearm - Destruction.

9.34.010 Guns - Air, Spring and Bow.

No person shall discharge upon any public street or in any public place in the City, any gun by means of which any missile is projected by means of a spring, bow or compressed air. (Ord. 3763 §2, 1975.)

9.34.020 Discharge of Firearms - Authorization of City Council.

It shall be unlawful to discharge any firearm of any description in the City of Santa Barbara; provided, that this section shall not be construed to prohibit:

A. Any Peace Officer or other person duly constituted and authorized by law to discharge a firearm when lawfully defending person or property; nor

B. Any citizen to discharge a firearm within any building or structure expressly constructed for and commonly used as a rifle or pistol range; and provided further, that any person desiring to operate any mechanical amusement device, which in its operation involves the discharge of any firearm, shall apply to the City Council in writing for such authorization. (Ord. 3763 §2, 1975.)

9.34.030 Unlawful Use of a Firearm - Destruction.

A. A firearm of any nature used in violation of Section 9.34.020 is, upon a conviction of the defendant, or upon a plea of no contest or guilty to the violation, or upon voluntary payment of the bail or fine by the defendant without an appearance in court, or upon a juvenile court finding that the offense which would be a violation of Section 9.34.020 if committed by an adult was committed by a juvenile, a nuisance. A finding that the defendant was guilty of a violation of Section 9.34.020 but was insane at the time the offense was committed is a conviction for the purposes of this Section.

B. A firearm determined to be a nuisance pursuant to the provisions of Subsection A hereof shall be destroyed or sold at public auction in accordance with the provisions of California Penal Code Section 12028. (Ord. 4908, 1995; Ord. 4464, 1987.)

Chapter 9.36

SALE OF FIREARMS

Sections:

9.36.010	**Definitions.**
9.36.020	**Purpose of Chapter.**
9.36.030	**Enforcement.**
9.36.040	**Certain Persons Not Permitted to Sell, Transfer, Etc.**
9.36.090	**Delivery of Firearms to Minors Prohibited.**
9.36.100	**Criminal Prosecution for Violation of Section 9.36.090 - Admissible Evidence.**
9.36.110	**Refusal to Sell Without Bona Fide Evidence of Age.**
9.36.120	**False Evidence of Age.**
9.36.130	**Sale of Ammunition to Certain Persons Prohibited - Exception.**
9.36.160	**Dealings Without Permit Prohibited.**
9.36.170	**Permit Application - Form - Approval.**
9.36.180	**Permit Application - Fee.**
9.36.190	**Permit Application - Issuance or Denial - Appeal.**
9.36.200	**Issuance - Approval of Police Chief.**
9.36.210	**Duration - Grounds for Revocation.**
9.36.220	**Persons to Whom Permits May Not be Issued.**
9.36.230	**Prior Revocations of Permit - Application.**
9.36.240	**Permit Nontransferable.**
9.36.250	**Permit Suspension for Violation.**

9.36.010 Definitions.

For the purposes of this chapter, the following words and phrases when used in this chapter shall have the meanings respectively ascribed to them by this section:

(1) "Business" means retail and not wholesale business.

(2) "Convicted" means entry of plea of guilty, or found guilty by court or jury.

(3) "Firearms" means any gun, rifle, shotgun, pistol, revolver or any other device which projects a missile by an explosive type of ammunition, including but not limited to firearms capable of being concealed upon the person.

(4) "Permit" means any permit issued under and as provided in this chapter.

(5) "Permittee" means any person issued a permit under the provisions of this chapter. (Ord. 3124 §1, 1966; prior Code §17.1.)

9.36.020 Purpose of Chapter.

This chapter is an exercise of the Police power of the City for the protection of the safety, welfare, health, peace and morals of the peoples of this City, and to eliminate the evils of unregulated and unlawful selling at retail of firearms as a business. (Ord. 3124 §2, 1966; prior Code §17.6.)

9.36.030 Enforcement.

The Tax and Permit Inspector and the Police Department are hereby designated the enforcing agencies of this chapter. (Ord. 3763 §4, 1975; Ord. 3124 §3, 1966; prior Code §17.7.)

9.36.040 Certain Persons Not Permitted to Sell, Transfer, Etc.

No permittee under this chapter shall permit anyone, to whom the transfer of any firearm is prohibited, to sell, deliver, lease, rent or in any manner transfer any firearm. (Ord. 3124 §4, 1966; prior Code §17.8.)

9.36.090 Delivery of Firearms to Minors Prohibited.

No person engaged in the business of selling or otherwise transferring firearms shall sell, deliver, lease, rent or in any manner transfer, furnish, give or cause to be sold, delivered, leased, rented, transferred, furnished or given any firearm to any person under the age of eighteen (18) years. Members of businessman's immediate family are excepted. (Prior Code §17.9.)

9.36.100 Criminal Prosecution for Violation of Section 9.36.090 - Admissible Evidence.

In any criminal prosecution or proceeding for violation of Section 9.36.090, proof that the defendant permittee, or his agent, demanded and was shown immediately prior to the sale or transfer of any firearm bona fide documentary evidence of sufficient age and identity shall be a defense to the prosecution. A bona fide identity card issued by a Federal, State, County or municipal government or subdivision or agency thereof, including but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or identification card issued to a member of the armed forces, shall be deemed to be documentary evidence for the purpose of this chapter. (Ord. 3124 §5, 1966; prior Code §17.10.)

9.36.110 Refusal to Sell Without Bona Fide Evidence of Age.

A permittee under this chapter may refuse to sell, or otherwise transfer, a firearm to any person who is unable to produce bona fide documentary evidence that he has attained the age of eighteen (18) years. (Ord. 3124 §6, 1966; prior Code §17.11.)

9.36.120 False Evidence of Age.

No person shall offer to any permittee under this chapter, his agent or employee, any documentary evidence of age or identity which is false, fraudulent or not actually his own for the purpose of procuring any firearm or ammunition therefor, the sale or other transfer of which would be prohibited under this chapter by the permittee. (Ord. 3124 §7, 1966; prior Code §17.12.)

9.36.130 Sale of Ammunition to Certain Persons Prohibited - Exception.

No person, whether or not such person is engaged in the business of selling ammunition for firearms, shall sell ammunition for any firearm to any person to whom the sale or transfer of any firearm using such ammunition is prohibited under this chapter. Minors with written consent of their parent or legal guardian are excepted. (Prior Code §17.13.)

9.36.160 Dealings Without Permit Prohibited.

No person without holding a current permit as provided in this chapter shall engage in the business of selling or otherwise transferring or advertising for the sale of any firearms. (Ord. 3124 §9(part), 1966; prior Code §17.14.)

9.36.170 Permit Application - Form - Approval.

An application for the permit required by the preceding section shall be made on a form obtainable from, and filed with, the Tax and Permit Inspector, together with the application fee required by Section 9.36.180. Applications shall be in the form prescribed by the Chief of Police and Tax and Permit Inspector. Each application shall be approved by the Chief of Police prior to issuance of a permit. (Ord. 3763 §4, 1975; Ord. 3124 §9(part), 1966; prior Code §17.15.)

9.36.180 Permit Application - Fee.

An application fee of twenty-five dollars ($25.00) is required to accompany each application required by Section 9.36.170 to cover the costs of investigation and processing. Such fee is not refundable in the event the permit required by this chapter is denied. The application fee is to be paid to the Tax and Permit Inspector of the City. Business establishments having more than one (1) location shall be required to pay one (1) application fee only for all locations. (Ord. 3124 §9(part), 1966; prior Code §17.16.)

9.36.190 Permit Application - Issuance or Denial - Appeal.

An application for a permit required by this chapter shall be deemed approved, unless written notice is deposited in the regular course of mails within sixty (60) days of the filing of the application in the Office of the Tax and Permit Inspector to the applicant, that the application is denied. In the event that an application is denied, the applicant may appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3763 §4, 1975; Ord. 3124 §9(part), 1966; prior Code §17.17.)

9.36.200 Issuance - Approval of Police Chief.

Upon approval of the application by the Chief of Police or upon approval as provided in Section 9.36.190, the Tax and Permit Inspector shall issue a permit; provided, that all applicable license fees have been paid by the applicant. (Ord. 3763 §4, 1975; Ord. 3124 §9(part), 1966; prior Code §17.18.)

9.36.210 Duration - Grounds for Revocation.

Permits required by this chapter shall be effective for one (1) year, and shall be subject to renewal annually upon application thirty (30) days prior to date of expiration, and approval by the Chief of Police. A renewal fee of ten dollars ($10.00) shall be required with each such application. Any permit issued pursuant to this chapter may be revoked by the Tax and Permit Inspector upon recommendation of the Chief of Police for breach of any of the following conditions:

(1) The business shall be carried on only on premises designated in the permit;

(2) The permit or a copy of the permit, certified by the issuing authority, shall be displayed on the premises where it can easily be read;

(3) No pistol or revolver shall be delivered unless all of the following conditions are complied with:

(a) Within five (5) days of the application for the purchase,

(b) Unless the same shall be unloaded and securely wrapped, and

(c) Unless the purchaser either is personally known to the seller or shall present bona fide documentary evidence of his identity;

(4) No pistol or revolver or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside;

(5) The happening of any event or the performance of any subsequent act which would render the permittee a person to whom a permit cannot be issued in the first instance;

(6) The misrepresentation of a material fact by any applicant in obtaining any permit. (Ord. 3763 §4, 1975; Ord. 3383 §1, 1969; Ord. 3124 §9(part), 1966; prior Code §17.19.)

9.36.220 Persons to Whom Permits May Not be Issued.

In no event shall a permit required by this chapter be issued to any of the following persons:

(1) Persons who are prohibited from possessing firearms capable of being concealed upon the person under the provisions of Section 12021 of the State Penal Code;

(2) Anyone convicted of any violation of any provision of the law of the State dealing with the unlawful use of narcotic, hypnotic or dangerous drugs or under similar laws of the United States;

(3) Anyone not of good moral character;

(4) Anyone under the age of twenty-one (21) years. (Ord. 3124 §9(part), 1966; prior Code §17.20.)

9.36.230 Prior Revocations of Permit - Application.

Application for permits may not be made by any person who has had a permit revoked within three (3) years of the date of the application, nor shall any application be made by any person if any other person whose permit has been revoked within three (3) years has a financial interest in excess of twenty-five percent (25%) in the business for which the application is made. (Ord. 3124 §9(part), 1966; prior Code §17.21.)

9.36.240 Permit Nontransferable.

No permit issued under the provisions of this chapter shall be transferable to any person. No person shall attempt or purport to effect such a transfer. (Ord. 3124 §9(part), 1966; prior Code §17.22.)

9.36.250 Permit Suspension for Violation.

Upon any violation of Section 9.36.040, 9.36.090, or 9.36.130, the Tax and Permit Inspector upon recommendation of the Chief of Police may suspend any permit issued under this chapter, for a period of seven (7) days upon the first violation and for twenty-one (21) days upon a second violation. Upon any third or subsequent violation, the permit may be revoked. (Ord. 3124 §9(part), 1966; prior Code §17.23.)

Chapter 9.39

ESCORT BUREAUS AND INTRODUCTORY SERVICES

Sections:

9.39.010	**Definitions.**	**9.39.080**	**Escorts, Permit Required.**
9.39.020	**Escort Bureau and Introductory Service, Permit Required.**	**9.39.090**	**Permit Identification Card.**
9.39.030	**Permit Term.**	**9.39.100**	**Escort Permit; Renewal Application.**
9.39.040	**Permit Renewal.**	**9.39.110**	**Prohibited Activities.**
9.39.050	**Exception.**	**9.39.120**	**Sale or Transfer.**
9.39.060	**Application for Escort Bureau or Introductory Service Permit; Contents; Renewals; Required Fees.**	**9.39.130**	**Change of Location or Name.**
		9.39.140	**Records of Escort Transactions.**
		9.39.150	**Suspension or Revocation of a Permit.**
9.39.070	**Employment and Activities of Escorts.**	**9.39.160**	**Fees.**
		9.39.170	**Appeal.**

9.39.010 Definitions.

For the purpose of this chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent from the context that a different meaning is intended.

A. "Escort" means any person who, for pecuniary compensation:

(1) escorts, accompanies or consorts with other persons to, from or about social affairs, entertainments, places of public assembly or places of amusement located or situated within the City of Santa Barbara; or

(2) escorts, accompanies or consorts with other persons in or about any place or public or private resort or within any private quarters located or situated within the City of Santa Barbara; or

(3) escorts, accompanies or consorts with other persons in or about any business or commercial establishment, or part or portion thereof, located or situated within the City of Santa Barbara.

B. "Escort bureau" means any business, agency or self-employed or independent escort who, for pecuniary compensation, furnishes or offers to furnish escorts.

C. "Introductory service" means a service offered or performed by any person for pecuniary compensation, the principal purpose of which is to aid persons to become socially acquainted or to otherwise assist persons to meet for social purposes, or which service is generally known or should be known by the offering or performing party to be used by the recipients thereof for the purpose of obtaining information about other persons to be used for social purposes.

D. "Pecuniary compensation" means any commission, fee, gratuity, hire, profit, reward, or any other form of consideration.

E. "Profit interest" means any interest or share in the present or prospective profit of an escort bureau or introductory service. (Ord. 4127, 1981.)

9.39.020 Escort Bureau and Introductory Service, Permit Required.

It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located or situated within the City of Santa Barbara, the activities of an escort bureau or introductory service, unless there has been granted to such person a valid permit, pursuant to the provisions of this chapter. A separate permit shall be required for each location within the City of Santa Barbara at which an escort bureau or introductory service is to be established. (Ord. 4127, 1981.)

9.39.030 Permit Term.

The term of an Escort Bureau, Introductory Service or Escort Permit, unless sooner suspended or revoked, shall be for a period of one (1) year. (Ord. 4127, 1981.)

9.39.040 Permit Renewal.

An Escort Bureau, Introductory Service or Escort Permit, issued pursuant to the provisions of this chapter, which has not been suspended or revoked, may be renewed for a period of not to exceed one (1) year on written application to the Police Chief made at least ninety (90) days prior to the expiration date of the current valid permit. (Ord. 4127, 1981.)

9.39.050 Exception.

The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to a person in the lawful business of an employment agency licensed under the laws of the State of California. (Ord. 4127, 1981.)

9.39.060 Application for Escort Bureau or Introductory Service Permit; Contents; Renewals; Required Fees.

A. Any person desiring to obtain a permit, or renew an existing permit, to operate an escort bureau or an introductory service, shall make application to the Police Chief or his designated representative. Prior to submitting such application for a permit or renewal of a permit, a nonrefundable fee shall be paid to the Finance Department. The Finance Department shall issue a receipt showing that such application or renewal fee has been paid. The receipt, or a copy thereof, shall be supplied to the Police Chief at the time such application is filed. Permit issuance or renewal fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter of this Code.

B. Neither the filing of an application for a permit or renewal thereof, nor payment of an application or renewal fee, shall authorize the operation of an escort bureau or introductory service until such permit has been issued by the Police Chief.

C. Each applicant for an Escort Bureau or Introductory Service Permit, or renewal thereof, shall furnish the following information:

(1) The present or proposed address where the business is to be conducted;

(2) The name under which the business will be conducted;

(3) Any other names used by the applicant;

(4) The present residence and business addresses and telephone numbers of the applicant;

(5) Each residence and business address of the applicant for the five (5) year period immediately preceding the date of filing of the application and the inclusive dates of each such address;

(6) California driver's license or identification number and social security number of the applicant;

(7) Acceptable written proof that the applicant is at least eighteen (18) years of age;

(8) The applicant's height, weight, color of eyes and hair and date of birth;

(9) Two (2) photographs of the applicant, at least two (2) inches by two (2) inches in size, taken within the six (6) month period immediately preceding the date of the filing of the application;

(10) The business, occupation or employment history of the applicant for the three (3) year period immediately preceding the date of the filing of the application;

(11) The permit history of the applicant, for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant, in previously operating in this or any other city, county, state, or territory, has ever had any similar license or permit issued by such entity revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason or reasons therefor;

(12) All criminal convictions of the applicant, including ordinance violations but excepting minor traffic offenses, stating the date, place, nature and sentence of each such conviction;

(13) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and date of birth of each of the partners, including limited partners and profit interest holders. If the applicant is a limited partnership, the applicant shall furnish a copy of the certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall also apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee will be charged;

(14) In the event the applicant is not the owner of record of the real property upon which the escort bureau or introductory service is or is to be located, the application must be accompanied by a notarized statement from the owner of record of the property acknowledging that an escort bureau or introductory service is or will be located on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name and address of the owner of record of the property, as well as a copy of the lease or rental agreement pertaining to the premises in which the escort bureau or introductory service is or will be located;

(15) A description of the service to be provided;

(16) The true name and residential address of all persons employed or intended to be employed as escorts;

(17) Such other identification and information as the Police Chief may reasonably require.

D. The applicant, if an individual, or a designated responsible managing officer if the applicant is a partnership or corporation, shall personally appear at the Police Department of the City of Santa Barbara and produce proof that the required application or renewal fee has been paid and shall present the application containing the information and supporting documentation required by the Police Chief.

E. The Police Chief may require the applicant, if an individual, or the designated responsible managing officer if the applicant is a partnership or corporation, to appear in person at the Police Department in order to be photographed and fingerprinted.

F. When any change occurs regarding the written information submitted to the Police Chief pursuant to Section 9.39.060, the applicant or permit holder, as the case may be, shall give written notification of such change to the Police Chief within twenty-four (24) hours after such change.

G. The Police Chief, or his representative, shall, within sixty (60) days after the date of the filing of the application, render a written decision, as to approval or denial of the application for the permit or renewal thereof.

H. The Police Chief shall grant the permit, or renewal thereof, only if he finds that all of the following requirements have been met:

(1) The required fees have been paid;

(2) The application conforms in all respects to the provisions of this chapter;

(3) The applicant has not knowingly made a material misrepresentation of fact in the application;

(4) The applicant, if an individual; or any of the directors, officers, or stockholders holding more than five percent (5%) of the stock of the corporation; or any of the partners, including limited partners, the holder of any lien of any nature or profit interest holder, manager or other person principally in charge of the operation of the existing or proposed escort bureau or introductory service; or an individual employed or contracted with to be an escort or to provide escort services; has not been convicted or found guilty in a court of competent jurisdiction by final judgment within the last five years of an offense involving:

(a) prostitution, pimping or pandering;

(b) the presentation, exhibition or performance of an obscene production, motion picture or play;

(c) lewd conduct;

(d) larceny or extortion; or

(e) the use of force and violence upon another person.

(5) The escort bureau or introductory service, as proposed by the applicant, would comply with all applicable City of Santa Barbara, county and state laws, including but not limited to health, zoning, fire and safety requirements and standards; and

(6) The applicant, manager or other person principally in charge of the operation of the business is at least eighteen (18) years of age.

I. If the Police Chief does not find that all of the requirements set forth in Subsection H of Section 9.39.060 have been met, he shall deny application for the permit or renewal thereof. In the event the application for the permit or renewal thereof is denied by the Police Chief, written notice of such denial shall be given to the applicant, specifying the ground or grounds of such denial. Notice of denial of the application for the permit, or renewal thereof, shall be deemed to have been served if in fact it is personally served on the applicant or when deposited in the United States mail with the postage prepaid and addressed to the applicant at an address set forth in the application for the permit or renewal thereof. Any applicant whose application for an Escort Bureau or Introductory Service Permit, or renewal thereof, has been denied by the Police Chief, may appeal such denial to the Board of Fire and Police Commissioners. (Ord. 4127, 1981.)

9.39.070 Employment and Activities of Escorts.

A. No holder of an Escort Bureau or Introductory Service Permit shall employ as an escort any person under eighteen (18) years of age.

B. No holder of an Escort Bureau or Introductory Service Permit shall furnish any escort or introductory service to, or accept employment from any patron, customer or person to be escorted, who is under eighteen (18) years of age, except at the special instance and request of a parent, guardian or other person in lawful custody of the person upon whose behalf the escort or introductory service is engaged. (Ord. 4127, 1981.)

9.39.080 Escorts, Permit Required.

It shall be unlawful for any person to act as an escort unless there has been provided to such person a valid permit, pursuant to the provisions of this chapter. Such permit shall be issued to the address of the employer of the escort, who must in turn also hold a valid Escort Bureau or Introductory Service Permit issued by the City of Santa Barbara pursuant to the provisions of this chapter. (Ord. 4127, 1981.)

9.39.090 Permit Identification Card.

Each escort permit holder shall be issued an identification card which will also serve as an Escort Permit. The permit holder shall carry such card upon his or her person when acting as an escort and produce the same for inspection upon request. Each permit holder shall immediately surrender, to the Police Chief, any Escort Permit issued by the City of Santa Barbara upon the suspension, revocation, or expiration of such permit, or upon leaving employment as an escort. (Ord. 4127, 1981.)

9.39.100 Escort Permit; Renewal Application.

A. Any person desiring to obtain a permit, or renewal of an existing permit, to act as an escort, shall make application to the Police Chief or his designated representative. Prior to submitting such application for a permit or renewal of a permit, a nonrefundable fee shall be paid to the Finance Department. The Finance Department shall issue a receipt showing that such permit application or renewal fee has been paid. The receipt, or a copy thereof, shall be supplied to the Police Chief at the time such application is filed. Permit fees required under this chapter shall be in addition to any license, permit or fee required under any other section of this Code.

B. Neither the filing of an application for a permit, or renewal thereof, nor the payment of an application or renewal fee, shall authorize a person to act as an escort until such permit has been granted or renewed.

C. Each applicant for an Escort Permit, or renewal thereof, shall furnish the information required by Subsections C (1) through (12) of Section 9.39.060 and shall, in addition, furnish the following information:

(1) Satisfactory evidence that the applicant is employed, or has been offered employment, by an escort bureau or introductory service holding a valid permit issued by the City of Santa Barbara, including the name and address of the employer or prospective employer and the fact that such employment or continued employment is contingent upon the issuance of said permit; and

(2) Such other identification and information as the Police Chief may reasonably require.

D. The Police Chief may require the applicant to appear in person at the Police Department in order to be photographed and fingerprinted.

E. The Police Chief, or his representative, shall, within sixty (60) days after the date of the filing of the application, render a written approval or denial of the application for the permit or renewal thereof.

F. The Police Chief shall grant the permit, or renewal thereof, only if he finds that all of the requirements of Subsections H (1) through (3) of Section 9.39.060 have been met, and, in addition, if he finds that the following additional requirements have been met:

(1) The applicant has not had an Escort Bureau, Introductory Service or Escort Permit or other similar license or permit denied or suspended or revoked for cause by the City of Santa Barbara or any other city or county located in or out of this state within the one (1) year immediately preceding the date of the filing of the application;

(2) The applicant is at least eighteen (18) years of age;

(3) The applicant has not been convicted or found guilty in a court of competent jurisdiction by final judgment within the last five (5) years of any offense referred to in Subsection H(4) of Section 9.39.060.

G. If the Police Chief does not find that all of the requirements set forth in Subsection F of this Section 9.39.100 have been met, he shall deny the application for the permit or renewal thereof.

In the event the application for the permit, or renewal thereof, is denied by the Police Chief, written notice of such denial shall be given to the applicant specifying the ground or grounds of such denial. Notice of denial of the application for the permit, or renewal thereof shall be deemed to have been served if it in fact is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at an address as set forth in the application for an Escort Permit, or renewal thereof. Any applicant whose application for an Escort Permit or renewal thereof has been denied by the Police Chief, may appeal such denial to the Board of Fire and Police Commissioners.

H. When any change occurs regarding the written information required by Subsection (c) of this Section 9.39.100, the applicant or permit holder, as the case may be, shall give written notification of such change to the Police Chief within twenty-four (24) hours after such change. (Ord. 4127, 1981.)

9.39.110 Prohibited Activities.

No holder of an Escort Permit shall escort, offer to escort or perform any activity described in this chapter to any person under eighteen (18) years of age, except at the special instance and request of the parent, guardian or other person in lawful custody of the person on whose behalf the escort or introductory service is engaged. (Ord. 4127, 1981.)

9.39.120 Sale or Transfer.

Upon the sale or transfer of any interest in an escort bureau or introductory service, the permit shall immediately become null and void. A new application shall be made by any person, firm or entity desiring to own or operate the escort bureau or introductory service. A fee as established by resolution of City Council shall be payable for each such application. Any application involving the sale or other transfer of any interest in an existing escort bureau or introductory service, as well as any permit which may there-after be granted, shall be subject to the provisions of this chapter. (Ord. 4127, 1981.)

9.39.130 Change of Location or Name.

A. A change of location of any premises or real property where a permitted escort bureau or introductory service is conducted may be approved by the Police Chief provided all requirements of this chapter and all ordinances and regulations of the City of Santa Barbara are complied with and a change of location fee as established by resolution of the City Council is deposited with the Finance Department. Application for such change shall be made within three (3) days of such change.

B. No permit holder shall operate an escort bureau or introductory service under any name or designation not specified in the permit. (Ord. 4127, 1981.)

9.39.140 Records of Escort Transactions.

Every escort bureau and introductory service shall maintain a record of every transaction whereby any escort is employed or engaged, or whereby any introductions are arranged for on behalf of any patron, customer or person. Such record shall include the following information:

(1) The date and hour of the transaction;

(2) The name, address and telephone number of the patron, customer or person requesting or employing the escort bureau or introductory service; and

(3) The name of the escort furnished or other persons who were introduced or arranged to be introduced.

Such records shall be made available to law enforcement officers, upon request, for inspection, review and copying. (Ord. 4127, 1981.)

9.39.150 Suspension or Revocation of a Permit.

If the Police Chief finds that any person holding an Escort Bureau or Introductory Service Permit under the provisions of this chapter has violated any of the provisions of this chapter or conducts such business in such a manner as would have been grounds for denial of a permit as set forth in Subsection H of Section 9.39.060, or if the Police Chief finds that any person holding an Escort Permit is engaging in behavior or actions which violate any of the provisions of this chapter or which would have been grounds for denial of a permit as set forth in Subsection F of Section 9.39.100, he may suspend or revoke the permit. No such suspension or revocation shall become effective until the permit holder has been notified in writing of the right of such permit holder to appeal the suspension or revocation. Notification of the permit holder shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the permittee at such permittee's address as set forth on the application for a permit or renewal thereof. If a timely appeal is filed, the suspension or revocation shall be stayed and shall become effective only upon decision of the Board of Fire and Police Commissioners. Otherwise the suspension or revocation shall become effective after the appeal period has expired. (Ord. 4127, 1981.)

9.39.160 Fees.

Fees for applications, permits and appeals under this chapter shall be established by resolution of the City Council. The fees for applications shall be established to defray, in part, the costs of investigations and reports required under this chapter. (Ord. 4127, 1981.)

9.39.170 Appeal.

A. Time to Appeal.

Any written decision of the Police Chief under this chapter may be appealed to the Board of Fire and Police Commissioners, but such an appeal must be filed with the Clerk of the Board of Fire and Police Commissioners within ten (10) days after notice of the decision is personally delivered or mailed to the applicant or permittee and must be accompanied by an appeal fee.

B. Notice.

The applicant or permittee shall be given notice of a hearing at least ten (10) days prior to the hearing. Such notice shall be served when it is personally delivered to the applicant or permittee or it is deposited in the United States mail with postage prepaid and addressed to the applicant or permittee.

C. Procedure.

The hearing shall be conducted in the manner set forth in Subsections C, D, E, F and I of Section 9.45.050 of this Code, but the provisions contained in this chapter shall prevail where there is any conflict. (Ord. 4127, 1981.)

Chapter 9.40

DISTRIBUTING FOOD AND DRUG SAMPLES AND ADVERTISING

Sections:

9.40.010 Distributing Food and Drug Samples.

9.40.020 With Sound Equipment.

9.40.010 Distributing Food and Drug Samples.

It shall be unlawful for any person within the limits of the City, to deposit, or cause to be deposited, upon the premises of another, without permission of the occupant, or upon any public street or place, any drug, nostrum or any article of food as a sample, or for the purpose of advertisement. (Prior Code §32.2.)

9.40.020 With Sound Equipment.

It shall be unlawful for any person whether acting as principal, agent, employee or otherwise, to operate, place, conduct or maintain upon or in any public street of and in the City, any advertising radio playing, phonograph playing, loudspeaker using, noise producing, music playing or carrying vehicle, van or wagon operated merely for advertising purposes. (Prior Code §32.3.)

Chapter 9.43

AMUSEMENT GAME ARCADES AND AMUSEMENT GAME MACHINES

Sections:

9.43.010	**Definitions.**	**9.43.060**	**Appeals.**
9.43.020	**Permit and Compliance Required.**	**9.43.070**	**Modification of Requirements.**
9.43.040	**Requirements for Operation of Amusement Game Arcade.**	**9.43.080**	**Suspension and Revocation.**
		9.43.090	**Fees.**
9.43.045	**Awards and Prizes.**	**9.43.100**	**Rules and Regulations.**
9.43.050	**Permit, Application, Issuance.**		

9.43.010 Definitions.

For the purposes of this Chapter, the following words and terms shall have the meanings indicated in this Section, unless otherwise expressly stated or the context clearly indicates a different intention:

A. AMUSEMENT GAME MACHINE. Any electronic or mechanical device which operates, or may be operated, through the exercise of skill or chance, as a game, contest, or for amusement, when such operation results from the payment or insertion of a coin, dollar bill or other thing representative of value, in any slot or receptacle attached to the device, or connected to the device or which provides access to the device.

B. AMUSEMENT GAME ARCADE. Any premises containing any combination of twenty (20) or more amusement game machines whether or not said machines constitute the primary use or an accessory use of the premises.

Any reference to "arcade" in this Chapter shall mean an amusement game arcade.

Amusement game arcade includes, but is not limited to, any premises which has twenty (20) or more amusement game machines where access or admittance to the amusement game machine or machines is allowed, upon payment of money or any other thing representative of value, whether or not such money or other thing representative of value is inserted into the machine. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.020 Permit and Compliance Required.

A. PERMIT REQUIRED. It is unlawful for any person to use or permit the use of any building or portion thereof as an amusement game arcade unless an arcade permit has been issued pursuant to this Chapter for the operation of that arcade and there is compliance with all conditions of that permit.

B. COMPLIANCE. It is unlawful for a person to violate any provision of this Chapter or any rules and regulations duly adopted pursuant thereto.

C. The permits and fees required by this Chapter shall be in addition to any other permits, licenses, fees, approvals or requirements of any other City or State law.

D. Nothing in this Chapter shall be deemed to regulate those businesses defined in Chapter 5.68, Pool and Billiard Rooms. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.040 Requirements for Operation of Amusement Game Arcade.

A. MINIMUM FLOOR AREA REQUIREMENTS. No more than one (1) amusement game machine shall be permitted in an arcade for every twenty (20) square feet of floor area.

B. AISLES REQUIRED. The aisles in arcades shall be a minimum of five (5) feet in width.

C. BICYCLE PARKING SPACES REQUIRED. Arcades shall be required to provide bicycle parking spaces as determined by the City Parking and Transportation Division and as described in administrative regulations for such parking adopted by the City Parking and Transportation Manager.

D. LIGHTING. The lighting in the arcade shall be adequate so that all places in the interior of the arcade are easily visible.

E. VISIBILITY. All amusement game machines in an arcade shall be visible from a place on the first floor of the arcade that is within fifteen (15) feet of the main entrance of the arcade.

F. TOILETS. All arcades shall have adequate toilet facilities for use by their patrons.

G. ADULT SUPERVISION. An arcade shall be supervised by a manager who is at least eighteen (18) years old and is on the premises at all times the arcade is open for business. A sign with the name of this manager must be displayed in a conspicuous place near the main entrance of the arcade while the arcade is open for business so that the sign identifies the manager for the patrons of the arcade.

H. SECURITY PLAN. An arcade must comply with a security plan that has been approved by the Chief of Police.

I. PERSONS UNDER AGE OF 16 YEARS. Persons under the age of 16 years are not permitted in arcades during regular public school hours unless they are accompanied by their parent or guardian. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.045 Awards and Prizes.

A. It shall be unlawful for any person to pay any award in cash on the results of the operation of any amusement game machine.

B. Nothing in this section shall prohibit the operation of an amusement game machine designed and manufactured for bona fide amusement purposes which may, by application of skill, entitle the player to immediate merchandise, replay of the game or device at no additional cost or receive a check, slug, token, ticket or other thing representative of value which may later be redeemed for merchandise.

C. The value of merchandise made available to players shall not have a wholesale value greater than 15 times the value of one play.

D. The number of redemption tickets or points required to obtain merchandise shall be clearly posted.

E. The owner of any establishment where the operation of amusement game machines occurs is the responsible party and shall maintain compliance with this section. (Ord. 4909, 1995.)

9.43.050 Permit, Application, Issuance.

A. FILING WITH TAX AND PERMIT INSPECTOR. A complete application for a permit to operate an arcade and any required fee shall be filed with the City Tax and Permit Inspector. If the application is not complete, the Tax and Permit Inspector shall return the application to the applicant and summarize in writing the inadequacies contained therein.

B. ISSUANCE REQUIRED FOR OPERATION AND POSTING OF NOTICE OF APPLICATION. Neither the filing of an application nor the payment of any fee shall authorize the operation of any arcade.

C. POSTING OF NOTICE OF APPLICATION. Upon the acceptance of a completed application by the City, the City Tax and Permit Inspector shall provide a written notice to the applicant (in a form adopted by the City for such purposes) which notice shall be prominently posted on each street frontage of the building in which the proposed arcade is to be operated.

1. The notice shall advise the public of its right to have the application determined by the Chief of Police pursuant to the procedural requirements of this Section. Said notice shall be posted and maintained on the building frontage in a manner acceptable to the Tax and Permit Inspector for a period of not less than fourteen (14) days immediately after acceptance of the completed application.

2. The notice shall state that any comments to be reviewed must be sent to the Chief of Police in writing.

D. REQUIRED INFORMATION. Each application for an arcade shall contain the following information:

1. The names, addresses and telephone numbers of all owners of the arcade and all owners and lessees of the premises on which the arcade will be located.

2. The present or proposed address where the arcade will be operated.

3. The name under which the arcade will be operated.

4. The zone in which the arcade will be operated.

5. The number of amusement game machines for which the permit is sought.

6. The square footage of the floor area of the premises in which the arcade will be located.

7. A plan of the premises where the arcade will be located. This plan shall be drawn to scale and shall show:

(a) Dimensions of premises in which amusement game machines will be located.

(b) Location and dimensions of offices, restrooms and storage areas.

(c) Areas where amusement game machines will be located.

(d) Bicycle parking spaces.

8. A proposed security plan.

9. Necessary information, including business license information, for the business to which the arcade is accessory, if applicable.

10. Such other information as the Police Chief may reasonably require.

E. REVIEW BY DEPARTMENTS. After receipt of a completed application, the Tax and Permit Inspector shall immediately submit the application to the Police, Community Development and Fire Departments and to the Parking and Transportation Division of the Public Works Department for a review of compliance with the applicable laws and regulations.

The Director of Community Development shall advise the Police Chief if the proposed operation will or will not comply with all applicable laws and regulations pertaining to zoning, building, and any required design review.

The Fire Marshal shall advise the Police Chief if the proposed operation will or will not comply with all applicable laws and regulations pertaining to fire safety.

The Parking and Transportation Division shall advise the Police Chief if the applicant's plans for the required bicycle parking are satisfactory and, if not, what steps must be taken to provide the necessary bicycle parking.

F. ACTION BY POLICE CHIEF. Applications for an Amusement Game Arcade Permit shall be determined by the Police Chief.

Within thirty (30) days of the City's acceptance of a completed application for a proposed amusement game arcade, the Police Chief shall review the information received from the Director of Community Development, Fire Chief and the Parking and Transportation Division and shall make a decision for either: 1. approval or 2. approval with restrictions or conditions, or 3. denial of the application.

If the Police Chief determines that the application would comply with all applicable laws and regulations, he or she shall grant approval or approval with the necessary conditions. If the Police Chief does not approve the arcade permit, he or she shall give the applicant written notice of the reasons for denial. No permit shall be denied without specific written findings relating to concerns for the public health, welfare, and safety relating to the applicant or the proposed location and shall explain how such concerns have not been adequately addressed by the applicant.

Any application not acted upon within 30 days of the acceptance of the completed application shall be deemed approved.

G. ISSUANCE OF PERMIT. After approval of a permit by the Chief of Police, the Tax and Permit Inspector shall issue an amusement game arcade permit if all necessary permits and licenses to conduct business have been issued and all necessary fees have been paid.

H. SPECIFIC LOCATION AND MAXIMUM NUMBER OF AMUSEMENT GAME MACHINES. An arcade permit is only valid for the premises for which it was issued and is limited to the maximum number of amusement game machines set forth in the permit.

I. TRANSFER PROHIBITED. An amusement arcade permit cannot be assigned or transferred without the written approval of the Police Chief, but the Police Chief shall not unreasonably withhold such approval. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.060 Appeals.

A. APPEAL. All decisions of the Police Chief pursuant to this Chapter are appealable to the Board of Fire and Police Commissioners. Such appeal shall be in writing and filed with the Commission pursuant to the provisions of Section 1.30.050 of this Code.

B. APPEAL TO THE CITY COUNCIL. All decisions of the Board of Fire and Police Commissioners pursuant to this Chapter are appealable to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.070 Modification of Requirements.

A. PERMITTEE'S REQUEST FOR MODIFICATION. The Chief of Police is authorized to grant modifications of the requirements of this Chapter for a specific arcade if he or she deter-mines that the modification of those requirements would not be detrimental to the public peace, safety, or general welfare as it specifically relates to the applicant or the location of the arcade. Such modifications may contain conditions that are consistent with the above determinations. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.080 Suspension and Revocation.

The Board of Fire and Police Commissioners shall have the authority to review any arcade permit to determine if the arcade has complied with all provisions of this Chapter and any conditions of its permit. If, after written notice to the Permittee and a hearing thereon, the Board of Fire and Police Commissioners determines that the arcade Permittee has failed to so comply, the Board of Fire and Police Commissioners may suspend or revoke the arcade permit upon making specific findings with respect to the need for the suspension or revocation with regard to public health, and safety and welfare. The amusement game arcade permit holder may appeal such suspension or revocation to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.090 Fees.

Any fees for any permits, hearings or other matters related to this Chapter may be established by resolution of the City Council. (Ord. 4791, 1992; Ord. 4205, 1983.)

9.43.100 Rules and Regulations.

The Chief of Police may adopt rules and regulations for the implementation and interpretation of this Chapter and such rules and regulations shall not be effective until approved by resolution of the City Council. Such regulations may include, but are not limited to, administrative procedures or an expedited review of license applications, administrative procedures prescribing when and under what circumstances a criminal background history check will be required of license applicants and may include regulations governing the hours of operation, noise and any required lighting at arcade locations. (Ord. 4909, 1995; Ord. 4791, 1992; Ord. 4205, 1983.)

Chapter 9.45

DISPLAY OF DRUG PARAPHERNALIA

Sections:

9.45.010 Definition, Exemption.
9.45.020 Prohibition.
9.45.030 Violation, Nuisance.
9.45.040 Relevant Evidence.
9.45.050 Revocation of Business License, Permit or Other Entitlement.

9.45.010 Definition, Exemption.

A. As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

b) Water pipes.

c) Carburetion tubes and devices.

d) Smoking and carburetion masks.

e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.

f) Miniature cocaine spoons, and cocaine vials.

g) Chamber pipes.

h) Carburetor pipes.

i) Electric pipes.

j) Air-driven pipes.

k) Chillums.

l) Bongs.

m) Ice pipes or chillers.

B. Exemption. This chapter shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in subsection (11) of section 9.45.010A upon the prescription of a physician, dentist, podiatrist or veterinarian.

(2) Any physician, dentist, podiatrist or veterinarian who furnishes or prescribes drug paraphernalia described in subsection (11) of section 9.45.010A to his or her patients.

(3) Any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in subsection (11) of section 9.45.010A. (Ord. 4083, 1980.)

9.45.020 Prohibition.

A. Minors. No owner, manager, proprietor or other person in charge of any room or place of business selling, or displaying drug paraphernalia shall allow or permit any person under the age of eighteen (18) years to be, remain in, enter or visit such room or place.

B. Minors - Excluded. A person under the age of eighteen (18) years shall not be, remain in, enter or visit any room or enclosure in any place used for sale, or display of drug paraphernalia.

C. Sale and Display Rooms. A person shall not maintain in any place of business to which the public is invited the display for sale, or the offering to sell, drug paraphernalia unless within a separate room or enclosure to which persons under the age of eighteen (18) years are excluded, nor shall drug paraphernalia or any other contents in such separate rooms or enclosures be visible from outside such rooms or enclosures. Each entrance to such a room shall be sign posted in reasonably visible and legible words to the effect that persons under the age of eighteen (18) years are not permitted in such room or enclosure. (Ord. 4083, 1980.)

9.45.030 Violation, Nuisance.

A. Business License. A violation of this chapter or California Health and Safety Code Sections 11364.5, 11364.7(a) or 11364.7(b) is not punishable under Sections 1.28.010, 1.28.020 and 1.28.030 of this Code, but shall be grounds for revocation or non-renewal of any license, permit or other entitlement for the privilege of doing business that was issued by the City and shall be grounds for denial of any future license, permit or other entitlement authorizing the conduct of such business.

B. Nuisance. The violation of a provision of this chapter or California Health and Safety Code Sections 11364.5, 11364.7(a) or 11364.7(b) is hereby declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the Code of Civil Procedure of the State of California. This remedy is in addition to any other remedy or relief provided by this Code or other law. (Ord. 4218, 1983; Ord. 4083, 1980.)

9.45.040 Relevant Evidence.

A. Evidence. In determining whether an object is drug paraphernalia, a court, the Board of Fire and Police Commissioners or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of any owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

B. Standard of Proof. The degree of proof under this chapter shall be the preponderance-of-the--evidence standard. (Ord. 4083, 1980.)

9.45.050 Revocation of Business License, Permit or Other Entitlement.

A. Notice of Violation. An officer of the City authorized to enforce this chapter by the City Administrator who finds any person or business within the City of Santa Barbara operating in violation of this chapter or California Health and Safety Code Sections 11364.5 or 11364.7 shall deliver a notice to the owner, manager, proprietor or other person in apparent charge or control of any such business clearly specifying the nature of the violation and demanding that said business immediately cease and desist from violating the provisions of this chapter or Health and Safety Code Sections 11364.5 or 11364.7. After twenty-four (24) hours have elapsed after the delivery of the above notice, the City Administrator or his delegate is authorized to issue a second notice if the same or similar violations continue.

B. Revocation. If any person or business receives two (2) notices referred to in section 9.45.050A within a period of eighteen (18) months, the City Administrator or his delegate shall schedule a revocation hearing before the Board of Fire and Police Commissioners requesting the revocation of a permit, license or other entitlement to conduct such business.

C. Notice of Hearing. At least ten (10) days prior to the hearing requesting the revocation of the permit, license or other entitlement to conduct business, the City Administrator or his delegate shall give written notice to the permittee or licensee of business. Said notice shall give the time, date and place of the hearing and specify the grounds for revocation. The permittee or licensee shall be entitled to review any documentary or physical evidence that will be introduced at the hearing if such a request is made in a timely manner before the hearing.

D. Conduct of Hearing. The Board of Fire and Police Commissioners shall establish the rules for hearings conducted under this chapter.

E. Evidence. The following evidentiary rules shall apply to hearings conducted under this chapter:

(1) Oral evidence shall be taken only under oath.

(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him. If the permittee or licensee does not testify in his own behalf, he may be called and examined as if under cross-examination.

(3) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

F. Decision and Findings. The Board of Fire and Police Commissioners shall make findings relating to its decision on a revocation or denial of a permit, license or other entitlement to conduct business.

G. Revocation. If the Board of Fire and Police Commissioners makes a finding that the permittee or licensee has violated the provisions of this chapter or Health and Safety Code Sections 11364.5 or 11364.7, the permit, license or other entitlement shall be revoked for sixty (60) days and the permittee or licensee shall not be issued another such permit, license or entitlement by the City during that period of revocation. If a person or business has such a permit, license or entitlement revoked for a second time within two years, the period of the second revocation shall be six (6) months.

H. Denial of Permit. The denial of a permit, license or other entitlement under this chapter shall be appealable to the Board of Fire and Police Commissioners.

I. Final Decision. The decision and findings under this chapter of the Board of Fire and Police Commissioners are final. (Ord. 4218, 1983; Ord. 4083, 1980.)

Chapter 9.48

COMMERCIAL USE OF CITY STREETS

Section:
9.48.010 Commercial Use of City Streets.

9.48.010 Commercial Use of City Streets.

A. GENERALLY. It shall be unlawful for any person, whether acting as principal, agent, clerk, employee, or otherwise, to use any public street, public parking lot, public street furniture, or public sidewalk in the City for the purpose of selling, vending, offering for donations, offering for sale or soliciting or receiving orders for the sale of any goods, wares or merchandise.

B. SALE OF NEWSPAPERS. Notwithstanding subsection A hereof, nothing herein shall prohibit any person from selling or offering for sale newspapers, magazines and periodicals upon any of the public sidewalks of the City in the present customary and usual manner of selling and offering for sale of newspapers, magazines, and periodicals in the City.

C. EXEMPTION FOR SIDEWALK SALES, FARMERS' MARKETS, AND SIDEWALK CAFE TABLES. Notwithstanding subsection A hereof, an individual or an organization may, upon the issuance of a permit by the Director of Public Works in accordance with the requirements of this Chapter and the administrative regulations adopted pursuant hereto, use a public street or sidewalk in the City for the following limited purposes:

1. Sidewalk Sales. A retail business licensed to do business at a location within the City may conduct a sale of merchandise on a City sidewalk under the following conditions:

a. the sale occurs only on a public sidewalk immediately adjacent to the retail business; and

b. the retail business does not conduct such sidewalk sales for more than a total of ten (10) days for each calendar year provided, however, that those businesses within a two (2) block radius of a construction project which impacts pedestrian or vehicular access to the City block within which the business is located for a period exceeding fourteen (14) consecutive days may be allowed up to twenty (20) days for sidewalk sales during the year in which the construction project is undertaken.

2. Farmers' Markets. An individual or an organization may use a public street or City parking lot for the purpose of conducting a Certified Farmers' Market [as defined and provided for in Title 3, Chapter 3 of the California Code of Regulations] under the following conditions:

a. the merchandise offered for sale at the Farmers' Market is allowed to be sold at a Certified Farmers' Market; and

b. the use of the street or public parking lot is authorized by and pursuant to a written license agreement between the City and the Market sponsor, which license agreement limits the Market to a specified day or days of the week and to certain limited hours; and,

c. the vendors of merchandise at the Farmers' Market are authorized to conduct such sales by the organization sponsoring the Market and entering into the license agreement with the City.

3. Limited Nonprofit Sidewalk Sales. In connection and concurrent with a Parade or Event (as permitted and defined in Municipal Code Section 9.12.020), which Parade or Event is sponsored by a nonprofit entity (as evidenced by tax-exempt status under state and federal tax laws), a public sidewalk may be used for the limited merchandising of items or services under the following conditions:

a. the sidewalk sales may occur for a period not to exceed five (5) days in any calendar year, and the sales must be concurrent with the associated Parade or Event; and,

b. the location of any booth or table used by a sidewalk vendor under this subsection shall be at a specific location approved in advance by the City; and,

c. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization(s); and,

d. the persons conducting such sales are authorized in writing to do so by the nonprofit organization sponsoring the event; and,

e. for the purposes of this subsection, the word “concurrent” shall be defined as occurring within the same calendar week (Sunday through Saturday).

4. Sidewalk Sales in Connection with a Reserved Park Event. A public street or sidewalk immediately adjacent to a City park facility may be used for the limited merchandising of items under the following conditions:

a. the person or organization sponsoring the merchandising is a nonprofit entity, and it has reserved the adjacent park facility for an event pursuant to the requirements of Santa Barbara Municipal Code Chapter 15.05 and 15.16; and,

b. the sales occur only during the time the park is being used for the reserved event; and,

c. the persons conducting such sales are authorized in writing to do so by the nonprofit sponsoring the event; and

d. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization.

5. Sidewalk Cafe Tables Under Chapter 9.95. For the placement of sidewalk cafe tables in accordance with Santa Barbara Municipal Code Chapter 9.95.

D. SIDEWALK MERCHANDISING REGULATIONS AND PERMITS. The City Administrator, acting by and through the Director of Public Works, is hereby directed to prepare an appropriate administrative process (along with related administrative regulations) for the City's acceptance, review, and processing of applications for the issuance of sidewalk merchandising permits, as such permits are allowed by and consistent with the requirements of this Section. (Ord. 5688, 2015; Ord. 5350, 2005; Ord. 5236, 2002; Ord. 4843, 1993; Ord. 4751, 1992; Ord. 3880, 1976; Ord. 3852, 1976; prior Code §32.23.)

Chapter 9.50

PROHIBITION OF ABUSIVE PANHANDLING

Sections:

9.50.010 Purpose.
9.50.020 Definitions.
9.50.030 Abusive Panhandling Prohibited; Specific Locations Where Active Panhandling is Restricted.
9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.
9.50.050 Penalty for Abusive Panhandling.

9.50.010 Purpose.

In order to protect and promote the rights of the general public to be free from inappropriate conduct and from the intimidating physical confrontations associated with panhandling, the City Council finds that there is a need to adopt a City ordinance which imposes reasonable and specific time, place, and manner limitations on those forms of inappropriate and unlawful conduct which may be associated with abusive and active panhandling. At the same time, the Council seeks to properly and duly recognize, as well as protect to the fullest extent possible, the First Amendment free speech rights of all concerned.

The Council finds that balancing the need for public safety with the need to protect constitutional rights is especially critical in certain popular retail and visitor-serving areas of the City. Specifically, Cabrillo Boulevard, lower Milpas Street, and certain blocks of State Street (those within the City Central Business District) are popular public gathering spaces and are often crowded with members of the public and visitors to the Santa Barbara area. Moreover, these areas provide only limited public amenities, such as public seating and outdoor dining areas, and members of the public should be free to use those areas without fear of coercive panhandling with its attendant risk of fraud, intimidation and violence. The Council further finds that, because these areas of Santa Barbara often have thousands of visitors each day and because there is limited public seating and gathering areas available within these blocks of these streets, it is necessary and appropriate to provide panhandling regulations which prevent some persons from monopolizing the use of a public bench or a public seating area, as well as nearby sidewalk areas, for active panhandling. There is therefore a necessity for the City Council to adopt regulations which provide for the shared and reasonable use of these public facilities by all members of the public, especially the elderly and persons with special access needs.

The City Council further finds that panhandling near automated bank teller machines is particularly problematic because persons who use such machines may have large quantities of cash in their possession and generally feel vulnerable to attack or intimidation. Likewise, active panhandling on buses and other forms of public transportation threatens the person being solicited because they are in a confined space with no means of leaving the area in order to avoid being panhandled.

The City Council finds that these panhandling regulations will not prevent those persons who wish to solicit alms or charitable donations from appropriately using public benches and public seating facilities within these areas of the City for temporary respite purposes, nor will these panhandling regulations impact the content of any protected forms of expressive statements made by a panhandler or otherwise improperly restrict anyone's First Amendment rights.

The City Council also finds that these panhandling regulations have been demonstrated, by careful mapping of the regulated areas which has been considered by Council, to leave open ample alternative locations within the City for active and passive panhandling. Active panhandling on or near public benches and seating areas is prohibited only in the most crowded and intensely used areas of the City's commercial districts, and even with those areas many areas are open for active and passive panhandling. (Ord. 5689, 2015; Ord. 5499, 2009.)

9.50.020 Definitions.

The following words or phrases as used in this Chapter shall have the following meanings:

A. Panhandling.

1. Forms of Panhandling. Panhandling may occur in two forms as follows:

a. Active Panhandling. Any verbal request made by one person to another person seeking a direct response of an immediate donation of money or other item of value.

b. Passive Panhandling. The act of only passively displaying a sign or using any other non-verbal indication that a person is seeking donations without addressing a verbal request or solicitation to any specific person, other than in response to an inquiry from that person.

B. Donation. A gift of money or other item of value and including the purchase of an item for an amount far exceeding its value under circumstances where a reasonable person would understand that the purchase is in substance a gift.

C. Abusive Panhandling. To do one or more of the following acts while engaging in panhandling or immediately thereafter:

1. Blocking or impeding the passage or the free movement of the person panhandled;
2. Following the person panhandled by proceeding behind, ahead or alongside of him or her after the person panhandled declines to make a donation;
3. Threatening, either by word or gesture, the person panhandled with physical harm or an assault;
4. Abusing the person being panhandled with words which are offensive and inherently likely to provoke an immediate violent reaction;
5. Touching the person being panhandled without that person's consent; or
6. Engaging in Active Panhandling in any of the prohibited places or under any of the circumstances specified in subparagraph B of section 9.50.030 hereof. (Ord. 5499, 2009.)

9.50.030 Abusive Panhandling Prohibited; Specific Locations Where Active Panhandling is Restricted.

A. Abusive Panhandling Prohibited. Abusive Panhandling is unlawful and prohibited entirely within the city of Santa Barbara.

B. Active Panhandling Restricted. Active Panhandling is prohibited when the person being panhandled is in any of the following locations:

1. Waiting at a bus stop;
2. In a vehicle on a public street or alleyway;
3. In a City parking lot or parking structure without regard to whether the person is in a vehicle or not;
4. Within twenty-five feet of an outdoor dining area of a restaurant or other dining establishment serving food for immediate consumption;
5. Within fifty feet of an automated bank teller machine;
6. Within twenty-five feet of a queue of persons waiting to gain admission to a place of business or to a vehicle, or waiting to purchase an item or admission ticket; or
7. On buses or other public transportation vehicles. (Ord. 5689, 2015; Ord. 5499, 2009.)

9.50.040 Use of Public Benches and Facilities on Certain Streets for Active Panhandling.

Active Panhandling is prohibited while seated on or otherwise using a public bench or seating area (including any landscape planter or other public street furniture which can be sat upon), and within twenty-five feet of such benches and seating areas, within the following areas of the City:

1. **State Street.** On either side of State Street from the 400 block to the 1200 block; or
2. **Milpas Street.** Either side of Milpas Street from the 00 block South to the 200 block North; or
3. **Cabrillo Boulevard.** Cabrillo Boulevard between Castillo Street and Milpas Street. (Ord. 5689, 2015; Ord. 5499, 2009.)

9.50.050 Penalty for Abusive Panhandling.

Any person who engages in abusive panhandling as defined herein shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one thousand dollars ($1000) or be imprisoned for a period not to exceed six months, or both. Other violations of this chapter shall be prosecuted in accordance with the requirements of Santa Barbara Municipal Code Section 1.28.010. (Ord. 5499, 2009.)

Chapter 9.60

CITY BUILDINGS AND FACILITIES

Section:
9.60.010 City Buildings and Facilities - Nighttime Closure.

9.60.010 City Buildings and Facilities - Nighttime Closure.

A. ENTERING AND REMAINING AFTER CLOSING TIME. No person shall enter or remain in any City building or facility (or upon the grounds or premises thereof) when the same is closed to the public unless such person is authorized to do so by the City Administrator.

B. CLOSING HOURS. The City Administrator is authorized to determine appropriate nighttime closing hours for all City buildings and facilities other than City parks and park facilities, City recreational facilities, and City waterfront facilities regulated pursuant to Title 15 and Title 17 respectively.

C. POSTING. The Director of Public Works shall, by appropriate signs or other means, give notice of the closing times for public buildings and facilities.

D. ACTIVITIES AFTER CLOSING. Any portion of a City building or facility in which a City-sponsored or permitted meeting or activity open to the public is being conducted or is scheduled to be conducted, shall not be considered closed to members of the public who are participants, observers and attendees of said meeting or activity, and who are within the meeting or activity portion of the building or facility being used for the meeting or activity, or any buildings, premises, or off-street parking area intended for use in connection therewith, until thirty (30) minutes after the conclusion of the meeting or activity. (Ord. 4488, 1988.)

Chapter 9.65

DISPLAY OF AEROSOL SPRAY PAINT CONTAINERS AND MARKER PENS

Section:
9.65.010 Display.

9.65.010 Display.

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers, or marker pens with tips exceeding four millimeters in width, containing anything other than a solution which can be removed with water after it dries, shall store or cause such aerosol containers or marker pens to be stored in an area viewable by, but not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens or paint containers. (Ord. 4809, 1993.)

Chapter 9.66

GRAFFITI REMOVAL AND ABATEMENT

Sections:

9.66.010	**Title.**	**9.66.060**	**Graffiti Abatement Procedures – Property Owner's Consent.**
9.66.020	**Purpose and Intent.**		
9.66.030	**Definitions.**	**9.66.070**	**Notice of Graffiti Abatement Action.**
9.66.040	**Graffiti – Public Nuisance.**	**9.66.080**	**Graffiti Abatement Action; Hearing.**
9.66.050	**Prohibition of Graffiti on Property.**	**9.66.090**	**Limitation of Liability.**

9.66.010 Title.

This Chapter shall be known as the City of Santa Barbara "Graffiti Removal and Abatement Ordinance." (Ord. 5349, 2005.)

9.66.020 Purpose and Intent.

The City Council hereby finds and declares that:

A. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property may be disregarded with impunity.

B. This perception fosters a sense of disrespect of the law that results in an increase in crime; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property.

C. Graffiti is a threat to public safety and must be quickly abated, as provided herein, to prevent its proliferation and harm to persons and property in the City as the re-application, and spread of, graffiti has been found to dramatically decrease when it is removed in a timely fashion.

D. This Chapter is intended to be consistent with Government Code sections 38772 et seq. and 53069.3 which authorize the enactment of ordinances for the use of City funds to remove graffiti from public or privately owned permanent structures located on public or privately owned real property from the city.

E. The enlistment of business and property owners in the City and their assistance, active resistance, and prior consent to allow the City to abate graffiti on their property is recognized and emphasized as a key element in combating graffiti crime.

F. It is the purpose of this Chapter to provide for a City sponsored program for the removal of graffiti from walls, pavement, structures and other improvements on both public and private property. Towards that end, the City Council hereby deems it appropriate for the Director of Public Works, acting under the supervision of the City Administrator, to utilize City funds and designate the City employees or City contractors necessary to establish a program of effective and prompt graffiti removal by the City for all real property within the City. Subject to the required appropriation of funds, this program may utilize City Public Works employees, materials, and equipment and other City resources which may be necessary to accomplish the graffiti abatement and removal purposes of the program, particularly with respect to graffiti on publicly owned property. The program shall also be made available to property owners within the City, on a cost reimbursement basis, for the removal of graffiti from private property pursuant to a standard agreement between the property owner and the City. (Ord. 5349, 2005.)

9.66.030 Definitions.

For the purposes of this Chapter, the listed terms are defined as follows:

A. Abate, or Abatement. To properly and correctly remove graffiti or the removal of graffiti.

B. Abatement Accounting. An accounting of graffiti abatement costs by the City.

C. Director. The Director of Public Works for the City of Santa Barbara.

D. Graffiti. Any inscription, word, figure, marking or design that is marked, etched, scratched, drawn, affixed, or painted on any property, including any building, structure, fixture or other improvement, whether permanent or temporary, that was not authorized in advance by the owner of such property.

E. Graffiti Abatement Action. An administrative procedure which identifies graffiti, provides notice to the owner to abate the graffiti and provides for abatement by the City in the absence of a timely response by the property owner.

F. Graffiti Abatement Notice. Written notice informing the property owner that graffiti exists on his/her/their property and that it must be removed within three (3) days or the City will remove it.

G. Graffiti Abatement Order. An order by the Director that graffiti exists on the property and that it must be abated.

H. Graffiti Implement. An aerosol type paint container, etching cream, a felt tip marker, or any device (including a sticker) or material capable of being used to create a visible mark at least one eighth (1/8) of an inch in width, or visible from five or more feet away.

I. Property Owner. Any one of the legal owner(s), if multiple owners, or any person as shown on the latest equalized tax assessment roll(s) of the affected property. If designated in writing, the owner's authorized agent or any person who may be in possession of, or who has a right to possess such property. (Ord. 5349, 2005.)

9.66.040 Graffiti - Public Nuisance.

Pursuant to the authority of California Government Code Section 38771, graffiti, whether on public property or on private property, is hereby declared a public nuisance in the City. (Ord. 5349, 2005.)

9.66.050 Prohibition of Graffiti on Property.

It shall be unlawful for the owner of any real property within the City, whether public or private, to allow graffiti to remain in place on such property or to maintain graffiti that has been placed upon such property. (Ord. 5349, 2005.)

9.66.060 Graffiti Abatement Procedures - Property Owner's Consent.

A. Graffiti Removal by Public Works as Authorized by the Property Owner. With the prior written consent of a property owner and upon an agreement regarding any necessary reimbursement by the owner to the City, the Director may immediately remove any graffiti he or she determines to be in violation of Section 9.66.050 of this Chapter.

B. Standard Consent/Release Forms – Agreement to Pay for Abatement. In order to accomplish the purposes of this Section, the Director shall prepare and distribute to property owners within the City a standard City consent/release and reimbursement agreement (as prepared and approved by the City Attorney.) The consent/release and reimbursement agreement shall be sufficient for the purposes of authorizing graffiti abatement removal on that owner's property by work crews designated by the City for the purposes of entering the property to abate the graffiti. The agreement shall also contractually commit the property owner to reimburse the City for the graffiti abatement costs incurred.

As a pre-condition for the City's removal of graffiti, the property owner shall have provided the City with a fully-executed copy of the standard City release/consent and reimbursement agreement for each property owned by such owner(s). The prior consent/release and reimbursement agreement may be revoked or cancelled by the owner at any time by notifying the Director in writing. The standard release/consent and reimbursement agreement shall provide that the property owner agrees to be responsible to the City for the costs of graffiti abatement by the City in accordance with a standard graffiti abatement cost schedule to be made readily available by the City for review by a property owner.

After the graffiti is abated by the City, the City Finance Director will send the owner an itemized bill and an abatement accounting for the costs of the graffiti abatement. The property owner shall than pay the City the amount set forth in the abatement accounting within thirty (30) days of the date of the mailing.

C. Properties for Which the Property Owner Has Not Consented or Refuses to Consent. If the Director is otherwise unable to obtain consent from the property owner or if the property owner does not abate the graffiti voluntarily in accordance with the requirements of this Chapter, the Director may proceed with a graffiti abatement action as set forth in Section 9.66.070.

D. Graffiti on Public Property. Where property defaced by graffiti is owned by a public entity other than the City, the Director shall cause removal of the graffiti only after securing the consent of an authorized representative of the public entity that has jurisdiction over the property. However, any public entity may provide the City with a general standard consent agreement applicable to some or all of that entity's property, as determined appropriate by the public entity. (Ord. 5349, 2005.)

9.66.070 Notice of Graffiti Abatement Action.

A. Initiation of Abatement Action. Whenever the Director determines that graffiti exists in violation of Section 9.66.050 and the Director has been unable to obtain the owner's consent to remove the graffiti in accordance with Section 9.66.060 and the property owner has failed to abate graffiti on the property, the Director may initiate a graffiti abatement action by causing a graffiti abatement notice to be served on the Owner as follows:

1. One copy of the graffiti abatement notice shall be posted in a conspicuous place upon the public street frontage side of the building or property at or near the place of the graffiti.

2. One copy of the graffiti abatement notice shall be served upon each of the following by regular mail:

a. The person, if any, in real or apparent charge and control of the premises or property involved, such as a tenant or occupant; and

b. The owner of record as listed on the last equalized County assessment roll.

B. Time for Removal - Hearing Before Director. The graffiti abatement notice shall provide the property owner three (3) calendar days from the date of the graffiti abatement notice to do one of the following: 1. to remove the graffiti, or 2. to authorize the removal of the graffiti by the Director by notifying the Director in writing that he or she has consented or consents to the graffiti abatement and will reimbursement the City for the removal costs (in accordance with Section 9.66.060, or 3. the property owner may demand a hearing before the Director regarding the abatement order.

If the property owner fails to take one of these actions within the above time period of three (3) days, the property shall thereafter be subject to abatement of the graffiti by the Director in accordance with Section 9.66.080.

If no hearing is requested or if the Owner provides the City with the required consent/release and reimbursement agreement within the three (3) day period required and if the graffiti has not been removed, then the Director may immediately remove the graffiti and bill the owner for the amount to be reimbursed. (Ord. 5349, 2005.)

9.66.080 Graffiti Abatement Action; Hearing.

A. Abatement Hearing with Director. If a property owner requests a hearing pursuant to Section 9.66.070B, the Director shall provide notice of the time and place of the hearing in accordance with the notice provisions of California Government Code Section 65094 at least seven (7) days prior to the scheduled hearing date.

At the Abatement Hearing, the owner shall be entitled to present written evidence relevant to show that his or her property does not contain graffiti. Upon the conclusion of the hearing, if the Director determines that the property contains graffiti, the Director may order that the graffiti be immediately abated. The determination of the Director at the Hearing shall be final and may not be appealed.

B. Abatement After Hearing. Upon the conclusion of an abatement hearing and before ordering abatement by City designated workers, the Director shall give written notice (a “graffiti abatement order”) which notice shall be served in accordance with Section 9.66.070(A) that, unless the graffiti is removed within) two (2) calendar days from the date of the graffiti abatement order, the City shall enter upon the property and cause the removal, painting over or such other abatement of the graffiti as the Director determines appropriate.

C. Procedures for Abatement. The following procedures shall apply to actions by the Director to abate graffiti pursuant to this Section and to recover costs for abatement of graffiti on private property:

1. Abatement Action. Not sooner than the expiration of the time specified in the graffiti abatement order, the Director shall immediately implement the graffiti abatement order and utilize the City’s own forces to remove the graffiti.

Thereafter, the City Finance Director, upon the written request of the Director, shall provide an abatement accounting to the owner of the costs of the abatement action on a full cost recovery basis not later than ten (10) days from the date the abatement action is completed. The abatement accounting shall include all administrative costs incurred by the Department in abating graffiti on the property. The total amount set forth in the abatement accounting shall be due and payable by the owner within 30 days from the date of the abatement accounting.

2. Lien on the Real Property. If all or any portion of the amount set forth in the abatement accounting remains unpaid by the owner after thirty (30) days of the mailing of the abatement accounting, such portion shall constitute a lien on the property which was the subject matter of the graffiti abatement action. Such a lien shall be levied and collected by the City in accordance with Section 1.25.130 of this code as if they were a fine imposed pursuant to that Section. Property owners seeking to challenge the amount of the abatement accounting may do so at the hearing authorized by Section 1.25.130. (Ord. 5349, 2005.)

9.66.090 Limitation of Liability.

By adopting this Graffiti Abatement and Removal Ordinance and in establishing a City graffiti abatement program, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 5349, 2005.)

Chapter 9.68

INJURING OR INTERFERING WITH PROPERTY

Sections:

9.68.010 City Fixtures - Damaging - Misdemeanor.
9.68.020 City Fixtures - Railroad Crossings.
9.68.030 Stakes and Markers - Interference.
9.68.040 Streets, Gardens, Plazas, Etc. - Injuring, Etc.
9.68.050 Trees - Cutting, Breaking, Etc.
9.68.060 City-Owned Parking Lots and Structures.

9.68.010 City Fixtures - Damaging - Misdemeanor.

Every person who unlawfully displaces, injures or damages any warning signs, or lampposts, or any fixtures or appurtenances thereof, upon any street or sidewalk within the City, shall be guilty of a misdemeanor. (Prior Code §32.7.)

9.68.020 City Fixtures - Railroad Crossings.

It shall be unlawful for any person wilfully and maliciously to take down, raise up, molest, injure or in any way impair the efficiency or proper working of any gate, bar or rail, the purpose of which is public protection, now erected or that may hereafter be erected at any grade crossing of any railroad in the City. (Prior Code §32.18.)

9.68.030 Stakes and Markers - Interference.

It shall be unlawful for any person without the consent of the owner, if the same be upon private property, otherwise the consent of the City Engineer, to displace, remove or destroy, or in any manner interfere with any survey stakes, bench marks, grade stakes, block monuments or any other such marks or monuments. (Prior Code §32.49.)

9.68.040 Streets, Gardens, Plazas, Etc. - Injuring, Etc.

No person shall, in any manner, wilfully injure or deface any part of any street of the City, or any of the fixtures or appurtenances thereof, or any part of the garden or plaza connected with such streets or any part of the fixtures or appurtenances of such garden plaza. (Prior Code §32.50.)

9.68.050 Trees - Cutting, Breaking, Etc.

It shall be unlawful for any person to cut, break or mutilate any tree which is the property of another within the corporate limits of the City. (Prior Code §32.51.)

9.68.060 City-Owned Parking Lots and Structures.

A. PROHIBITION. No person shall enter or remain in any City owned or operated parking lot or parking structure except to park a vehicle therein and to exit the lot or structure or to enter a lot or structure in order to retrieve any parked vehicle and to depart therefrom or to use the restroom facilities and immediately exit the structure or except pursuant to a permit issued by the City.

B. NOTICE. The Director of Public Works shall post a notice describing the requirements of the above paragraph at appropriate entrances to all City owned or operated parking lots and structures. (Ord. 4908, 1995; Ord. 4421, 1986.)

Chapter 9.70

SOCIAL HOST ORDINANCE

Sections:

9.70.010	**Definitions.**	**9.70.030**	**Civil Penalty.**
9.70.020	**Unlawful Gatherings on Private Real Property When Alcohol is Served to Minors; Host Presumption; Declaration of Public Nuisance.**	**9.70.040**	**Remedies Cumulative; Actions; Relationship to Other Laws.**

9.70.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meaning and be construed as defined in this section.

A. **PARTY, GATHERING, OR EVENT**. A group of two or more persons who have assembled or are assembling for a social occasion or a social activity.

B. **PERSON**. Includes, but is not limited to:

1. the person who owns, rents, leases, or otherwise has control or is in charge of the premises where the party, gathering, or event takes place, irrespective of whether such person knew of the event or knew or intended that alcohol beverages would be possessed or consumed by minors during the party, gathering, or event;

2. the person who organized the party, gathering, or event; or

3. if the person who organized the party, gathering, or event is a juvenile, then both the parents (or legal guardians) of that juvenile and the juvenile shall be considered "persons" and, as such, shall be jointly and severally liable for the civil penalties imposed pursuant to this chapter, irrespective of whether the parent(s) (or legal guardians) knew of the party, gathering, or event, or knew or intended that alcohol beverages would be possessed or consumed by minors at the party, gathering, or event.

C. **JUVENILE**. Any minor child under the age of 18 years.

D. **MINOR**. Any person under the age of 21 years. (Ord. 5457, 2008.)

9.70.020 Unlawful Gatherings on Private Real Property When Alcohol is Served to Minors; Host Presumption; Declaration of Public Nuisance.

A. **Unlawful Gatherings**. No person shall permit, allow, or host a party, gathering, or event at his or her place of residence (or other private real property under his or her ownership or control) where alcoholic beverages are in the possession of, or consumed by, any minor.

B. **Host Presumption**. It is presumed that the owner of the private real property on which the party, gathering, or event occurs is a person who has permitted, allowed, or hosted the party, gathering or event, unless the private real property is rented, in which case it is presumed that the tenant has permitted, allowed, or hosted the party, gathering, or event.

C. **Public Nuisance**. It is hereby declared to be a public nuisance for any person to permit, allow, or host a party, gathering, or event at his or her place of residence (or other private real property under his or her ownership or control) where alcoholic beverages are in the possession of, or are being consumed by, any minor. (Ord. 5457, 2008.)

9.70.030 Civil Penalty.

A. **Violation.** Any person who permits, allows, or hosts a party, gathering, or event at his or her place of residence (or other private property under his or her control) where alcoholic beverages are in the possession of, or are being consumed by, any minor in violation of this chapter shall be liable and responsible for, and shall pay to the City, civil penalties in the amount specified in subsection (B) hereof. Such civil penalties shall be imposed and collected in the manner specified in Chapter 1.25 of this Code.

B. **Civil Penalties.**

1. A first violation of this Chapter 9.70 shall make the person responsible for the violation liable for a civil penalty of one thousand dollars ($1,000); provided however, the civil penalty for such responsible persons who are first time offenders of this Chapter 9.70 may be waived upon submission of proof of completion, within one hundred twenty (120) days of receipt of notice of the violation, of a City-recognized alcohol counseling program, such as teen court or an alcohol rehabilitation or education program, as such programs may be designated in writing by the City Administrator of the City from time to time.

2. A second violation of this Chapter 9.70 by the same responsible person shall make the person responsible for the violation liable for a civil penalty of two thousand dollars ($2,000); provided however, the civil penalty for such responsible persons who are second time offenders of this Chapter 9.70 may be reduced to one thousand dollars ($1,000) upon submission of proof of completion, within one hundred twenty (120) days of receipt of notice of the violation, of a City-recognized counseling program, such as teen court or an alcohol rehabilitation or education program, as such programs may be designated in writing by the City Administrator of the City from time to time.

3. A third or subsequent violation of this Chapter 9.70 by the same responsible person shall be punishable by a civil penalty of two thousand dollars ($2,000).

C. If a responsible person wishes to have a civil penalty waived or reduced pursuant to Paragraphs B.1 or B.2 above, the responsible person shall submit to the City Administrator evidence of enrollment in a recognized counseling or rehabilitation program within four (4) weeks of receipt of notice of the violation. Furthermore, if the counseling or rehabilitation program lasts longer than four (4) weeks, the responsible person shall submit evidence of continued enrollment every two (2) weeks until completion of the program. (Ord. 5457, 2008.)

9.70.040 Remedies Cumulative; Actions; Relationship to Other Laws.

The remedy provided under this chapter is cumulative, and shall not restrict the City to any other remedy to which it is entitled under law or equity. Nothing in this chapter shall be deemed to preclude the imposition of any criminal penalty under state law or the Municipal Code. Nor shall anything in this chapter be deemed to conflict with any penalty or provision under state law, or to prohibit any conduct authorized by the state or federal constitution. (Ord. 5457, 2008.)

Chapter 9.76

HAZARDOUS HOLES

Sections:

9.76.010 Prevention of Hazard - Types Designated.

9.76.020 Abandoned Hole - Precautions Required.

9.76.030 Notice to Remedy - Failure a Violation.

9.76.010 Prevention of Hazard - Types Designated.

It shall be unlawful for any person to maintain, operate, abandon or allow to exist upon any premises within the City owned by or under the control of the person, any well hole or well hole casing, cesspool, septic tank, sump or pipe or any other hole in the ground that is hazardous to the life or limb of child or adults unless proper precautions are taken by the person to prevent such well hole or well hole casing, cesspool, septic tank, sump or pipe from being a hazard to the life or limb of child or adults. (Prior Code §32.20(part).)

9.76.020 Abandoned Hole - Precautions Required.

It shall be unlawful for any person to abandon such well hole or well hole casing, cesspool, septic tank, sump or pipe within the City without first taking proper precautions to prevent such abandoned well hole or well hole casing, cesspool, septic tank, sump or pipe from being a hazard to the life or limb of child or adults. (Prior Code §32.20(part).)

9.76.030 Notice to Remedy - Failure a Violation.

In the event that any owner or person, having under his control premises upon which such hazard exists, is notified by the Police Department of the City, in writing, that such hazard exists and such person fails, within twenty-four (24) hours, to remedy the condition then existing, each day that such hazard continues shall be considered a separate and distinct violation of this chapter. (Prior Code §32.20(part).)

Chapter 9.84

IDENTIFICATION CARDS AND PHOTOGRAPHIC PRINTS

Sections:

9.84.010 Sale of Photographic, Etc., Prints, Identification Cards, Etc., by Police Department Authorized.

9.84.020 Moneys Collected Paid Into General Fund.

9.84.010 Sale of Photographic, Etc., Prints, Identification Cards, Etc., by Police Department Authorized.

The Police Department is hereby authorized to issue identification cards to persons applying therefor and to sell photographic or photostatic prints from film or other records which have been made by the Police Department in its routine work, and to require the payment of an amount for such cards, photographic or photostatic prints as may be fixed by the Board of Fire and Police Commissioners. The issuance of such cards and sale of such prints shall at all times be subject to such rules and orders as may be prescribed by the Board. (Prior Code §2.5(part).)

9.84.020 Moneys Collected Paid Into General Fund.

All moneys collected by the Police Department from the issuance of identification cards or the sale of photographic prints as provided shall be paid into the General Fund of the City. (Prior Code §2.5(part).)

Chapter 9.88

LOST AND UNCLAIMED PROPERTY

Sections:

9.88.010	**Definitions.**	**9.88.050**	**Auction Sale - Time - Conduct.**
9.88.020	**Destruction of Unsafe, Etc., Property.**	**9.88.060**	**Expenses of Sale - Disposition of Sale Receipts.**
9.88.030	**Police to Store - Restoration to Owner.**	**9.88.070**	**Unsold Items - Disposition.**
9.88.040	**Notice of Auction Sale of Unclaimed Property.**	**9.88.080**	**Exceptions to Chapter.**

9.88.010 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Abandoned property" means all property whose former owner has voluntarily and intentionally given up possession.

(2) "Unclaimed property" means all personal property that is lost, found, abandoned, stolen, embezzled or deposited with the Police Department. (Prior Code §28.1.)

9.88.020 Destruction of Unsafe, Etc., Property.

The Chief of Police may destroy any unclaimed property deemed by him to be inimicable to the health, safety or welfare of the City. (Prior Code §28.2.)

9.88.030 Police to Store - Restoration to Owner.

All unclaimed personal property coming into the possession of the Police Department shall be stored in a safe place by the Chief of Police. The Chief of Police shall restore such property to its legal owner, upon proof of such ownership satisfactory to him and upon the payment of all reasonably necessary costs in the care and protection thereof, unless such property is held by the Police for evidence in a pending case in which event it shall be disposed of only upon order of the proper court. (Prior Code §28.3.)

9.88.040 Notice of Auction Sale of Unclaimed Property.

At any time after such unclaimed property has been stored by the Chief of Police for a period of four (4) months, or, in the case of unclaimed bicycles, after such bicycles have been stored for a period of three (3) months, the Chief of Police may publish once in a newspaper of general circulation in the City a notice of his intention to sell at public auction to the highest bidder at the time and place therein specified, all such unclaimed personal property. At the request of the Chief of Police, the Purchasing Division shall cause the notice to be published. (Ord. 3288 §1, 1968; Ord. 2960 §1, 1963; prior Code §28.4.)

9.88.050 Auction Sale - Time - Conduct.

The sale mentioned in Section 9.88.040 shall be held not less than five (5) days after the publication of the notice of the sale and each item shall be separately sold at public auction to the highest bidder, except in cases where there may be several of the same kind of articles or accessories thereof of little value, in which case they may be sold by lot or parcel. At the request of the Chief of Police, the Purchasing Division shall conduct the sale. (Prior Code §28.5.)

9.88.060 Expenses of Sale - Disposition of Sale Receipts.

The expenses connected with the sale authorized by the preceding section shall be a proper charge against the funds of the Police Department and the receipts and proceeds received from the sale shall first be applied to reimburse the Police Department for the expenses and the balance of all proceeds received from the sale shall be delivered to the City Treasurer for deposit in the Service Retirement Fund of the Fire and Police Pension Fund. (Prior Code §28.6.)

9.88.070 Unsold Items - Disposition.

The Chief of Police shall report any items remaining unsold after the public auction to the City Administrator who shall instruct the Chief what disposition shall be made thereof as he may see fit in the public interest. (Prior Code §28.7.)

9.88.080 Exceptions to Chapter.

The provisions of this chapter shall not apply to property subject to confiscation or special disposition under the

laws of the State or of the United States of America. (Prior Code §28.8.)

Chapter 9.95

USE OF CITY SIDEWALKS AND RIGHTS-OF-WAY FOR DINING PURPOSES

Sections:

9.95.010	**Purpose.**	**9.95.060**	**Alcoholic Beverage Restrictions.**
9.95.020	**Outdoor Dining - Defined.**	**9.95.070**	**Special Closures.**
9.95.030	**Outdoor Dining License Required.**	**9.95.080**	**Issuance of License.**
9.95.040	**Where Outdoor Dining in Public Rights-of-Way Permitted.**	**9.95.090**	**Term and Renewal.**
9.95.050	**Sidewalk Required to Accommodate Pedestrian Traffic.**		

9.95.010 Purpose.

The purpose of the regulations and standards in this chapter are to allow increased business and pedestrian traffic by providing safe and visually appealing opportunities for outdoor dining. (Ord. 4820, 1993.)

9.95.020 Outdoor Dining - Defined.

"Outdoor dining" means the use of City sidewalks and public rights-of-way for the consumption of food or beverages in conjunction with the operation of a food service establishment properly licensed for such service under state and county health regulations and which provides on-premises customer seating. (Ord. 4820, 1993.)

9.95.030 Outdoor Dining License Required.

A. Outdoor dining is not allowed without an outdoor dining license agreement with the City as set forth in this Chapter 9.95.

B. The owner or operator of a business or service which includes outdoor dining shall maintain such operation in compliance with all provisions of the outdoor dining license and the administrative regulations approved pursuant to this Chapter 9.95. (Ord. 5130, 1999; Ord. 4820, 1993.)

9.95.040 Where Outdoor Dining in Public Rights-of-Way Permitted.

Outdoor dining is not permitted where, in the opinion of the City Engineer, the speed, volume or nearness of vehicular traffic is not compatible with outdoor dining. All outdoor dining areas must be adjacent to and incidental to the operation of a food service establishment providing on-premises customer seating properly licensed for such service pursuant to state and county health regulations. Use of the sidewalk or public right-of-way must be confined to the actual sidewalk and public right-of-way frontage of the restaurant or food service building. (Ord. 4820, 1993.)

9.95.050 Sidewalk Required to Accommodate Pedestrian Traffic.

Outdoor dining is permitted only where, in the opinion of the City Engineer, the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed outdoor dining. Along State Street, between Cabrillo Boulevard and Victoria Street, the outdoor dining area shall leave not less than eight (8) consecutive feet of sidewalk width which is clear and unimpeded at all points for pedestrian traffic. Outdoor dining operations must maintain adequate clearance for all normal uses of the sidewalk and any special or occasional uses that may arise from time to time. (Ord. 5130, 1999; Ord. 5047, 1998; Ord. 5013, 1997; Ord. 4820, 1993.)

9.95.060 Alcoholic Beverage Restrictions.

The service of alcoholic beverages shall be restricted solely to on-premise consumption by customers within the outdoor dining area. Each of the following standards apply to outdoor dining areas which provide alcoholic beverage service:

A. The outdoor dining area must be immediately adjacent to and abutting an indoor restaurant which provides food and beverage service;

B. The outdoor dining area must be clearly and physically separated from pedestrian traffic;

C. The operator shall post a written notice to customers that the drinking or carrying of an open container of alcohol is prohibited outside the outdoor dining area;

D. The outdoor dining operations must be duly licensed by the state Department of Alcoholic Beverage Control. (Ord. 4820, 1993.)

9.95.070 Special Closures.

Outdoor dining is an interruptible or terminable license granted by the City pursuant to a contract. The City shall have the right and power, acting through the City Engineer, to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area or right-of-way. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area.

To the extent possible, the licensee shall be given prior written notice of any time period during which the operation of the outdoor dining area will be prohibited by the City. (Ord. 4820, 1993.)

9.95.080 Issuance of License.

The City Engineer may issue an outdoor dining license pursuant to administrative regulations issued by the Public Works Director and approved by resolution of the City Council.

At a minimum such regulations shall determine and require the following:

1. The approval and execution of a standard license agreement in a form acceptable to the City Attorney;
2. Proof of insurance naming the City as an additional insured acceptable to the City Administrator;
3. Special site conditions as needed or desirable;
4. Whether the design for seating and signage meets the minimum standards of the established administrative regulations;
5. Such other conditions as are necessary for public safety or to protect public improvements, such as the posting of appropriate security to guarantee the restoration of the right-of-way upon termination of the license;
6. Conditions necessary to restore the appearance of the sidewalk or right-of-way on termination of use;
7. Compliance with the applicable City building, zoning and design review requirements, particularly those requirements with respect to automobile parking.
8. Some form of fair market rent as compensation to the public for use of the sidewalk or right-of-way in an amount established by a resolution of the City Council;
9. The payment of an appropriate license application fee in an amount established by resolution of the City Council;
10. Adequate setback and clearances for all expected pedestrian uses of the sidewalks, as well as for unusual or occasional public uses that can be anticipated. (Ord. 5130, 1999; Ord. 4820, 1993.)

9.95.090 Term and Renewal.

The maximum term of an outdoor dining license is one year. Thereafter, the City Engineer may extend the license for additional periods, not to exceed one year each, following review and approval of the operation. If the City Engineer considers additional or revised conditions desirable, such new conditions may be imposed upon the extension, including the imposition of a license renewal fee. (Ord. 4820, 1993.)

Chapter 9.97

SITTING OR LYING ON SIDEWALKS AND PASEOS ALONG CERTAIN DOWNTOWN PORTIONS OF STATE STREET

Section:

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

A. Prohibition. No person shall sit or lie down upon a public sidewalk or public Paseo, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or public paseo, during the hours between 7:00 a.m. and 2:00 a.m. of the following day along the first thirteen (13) blocks of State Street from Cabrillo Boulevard to and including the 1300 block of State Street.

For the purposes of this subsection (A), the terms "public sidewalk or public paseo" shall also include those public pedestrian sidewalks or public paseos which serve as access to and from State Street and the City parking facilities adjacent to State Street within the designated blocks, which shall also specifically include the area known as "Storke Placita," as well as the railings, statues, sculptures, or planter areas within the designated blocks.

B. **Exceptions.** The prohibitions of Subsection A shall not apply to any person or persons:

1. who is sitting or lying down on a public sidewalk due to a medical emergency;
2. who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
3. who is operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit issued pursuant to Chapter 9.95 of this Title or who is participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on public sidewalk pursuant to a street use or other applicable parade permit issued by the City in accordance with this Code.

Nothing in any of these exceptions shall be construed to permit any conduct which is otherwise prohibited by this Code.

C. **Scope.** Nothing herein shall be deemed to apply the requirements of subsection (A) to the following:

1. a person who is sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner for such purposes or;
2. a person who is sitting on a public sidewalk within a bus stop zone while waiting for public transportation.

D. **Prior Warning.** No person shall be prosecuted for a violation of this Chapter unless the person engages in conduct prohibited by this Chapter after having been notified by a law enforcement officer that the conduct violates this Chapter. (Ord. 5690, 2015; Ord. 5009, 1997.)

Chapter 9.98

PEDESTRIANS BLOCKING PUBLIC SIDEWALKS

Sections:

9.98.010 Unlawful Street or Sidewalk Obstruction.

9.98.030 Penalty for Violation.

9.98.010 Unlawful.

No person shall stand, or sit, or congregate in or upon any street, sidewalk or crosswalk in the City with the intent to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians, or to block the entrance to a building, and refuse to disperse after having been ordered to do so by the police when the police reasonably believe an immediate threat to public safety is present. (Ord. 5691, 2015; Ord. 3162 §1, 1966.)

9.98.030 Penalty for Violation.

Any person who violates the provisions of this chapter is deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding five hundred dollars ($500.00) or imprisonment for a term of not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 3162 §3, 1966.)

Chapter 9.99

ACCESS TO HEALTH CARE FACILITIES AND PLACES OF WORSHIP

Sections:

9.99.010 Definitions.
9.99.020 Access to Driveway Areas.
9.99.030 Private Right of Action.

9.99.010 Definitions.

As used in this Chapter, the following terms and phrases shall have the indicated meanings:

A. HEALTH CARE FACILITY. Any medical or health facility, hospital or clinic within the City which is licensed under State law or any building, office or other place within the City regularly used by any health care provider licensed under State law to provide medical, nursing, or health care or advice to patients. A health care facility includes but is not limited to any buildings, appurtenances and grounds, entrances, parking facilities, and driveways.

B. PLACE OF WORSHIP. A place of worship includes but is not limited to any buildings, appurtenances and grounds, entrances, parking facilities, and driveways where persons gather to worship when the same are used solely and exclusively for religious worship.

C. DEMONSTRATION ACTIVITY. All expressive and symbolic conduct, whether active or passive, which shall include, but not be limited to, protesting, picketing, distributing literature, and engaging in oral or silent protest, education or counselling activities.

D. DRIVEWAY AREA. That portion of a street right-of-way (including a sidewalk) generally improved for the purposes of providing vehicular access to adjacent private property. At the request of a health care facility or place of worship, the City of Santa Barbara will indicate (such as through the use of painted lines) the perimeter boundaries of a driveway area. (Ord. 5108, 1999; Ord. 4812, 1993.)

9.99.020 Access to Driveway Areas.

No person shall conduct any demonstration activity within the driveway area or within eight (8) feet of the driveway area of a health care facility or place of worship, provided however that it shall be lawful for a person to use a public sidewalk or street right-of-way adjacent to a health care facility or place of worship in order to traverse a driveway area. No person shall impede access to a driveway entrance of a health care facility or place of worship by any conduct which delays or impedes the flow of pedestrian or vehicular traffic in or out of such facility. (Ord. 4812, 1993.)

9.99.030 Private Right of Action.

A. REMEDIES. Any person who is seeking or intends to seek access to a health care facility or place of worship and is aggrieved by an act prohibited by this Chapter may bring an action for damages, injunctive and/or declaratory relief, as appropriate, in a court of competent jurisdiction against any person who has violated, has conspired to violate or proposes to violate its provisions.

B. ATTORNEY FEES - CIVIL PENALTIES. Any person who prevails in such an action shall be entitled to recover from the violator those damages, costs, attorneys' fees and such other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved person a civil penalty of up to One Thousand Dollars ($1,000) for each violation.

C. REMEDIES NOT EXCLUSIVE. The remedies provided by this Section are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.
(Ord. 4812, 1993)

Chapter 9.100

BURGLARY AND ROBBERY ALARM SYSTEMS

Sections:

9.100.010 Purpose and Scope.
9.100.020 Definitions.
9.100.030 Alarm Installation Company Operators.
9.100.040 Alarm Installation Agents.
9.100.050 Alarm Registration Required.
9.100.060 Alarm Registration Application.
9.100.070 Alarm Registration Duration and Renewal.
9.100.080 Registration Fees.
9.100.090 Duties of the Alarm User.
9.100.100 Duties of the Alarm Installation Company and Monitoring Company.
9.100.110 Alarm School.
9.100.120 Warning Letters and Penalties.
9.100.130 Right of Appeal.
9.100.140 Confidentiality.

9.100.010 Purpose and Scope.

A. **PURPOSE**. The purpose of this Chapter is to encourage Alarm Users and alarm companies to properly use and maintain the operational effectiveness of Alarm Systems in order to improve the reliability of Alarm Systems and reduce or eliminate False Alarms.

B. **APPLICATION**. This Chapter governs Alarm Systems intended to summon law enforcement response; it requires registration, establishes fees, provides for penalties for violations of the Chapter, and it establishes a system of administration for responding to Alarm Systems. (Ord. 5329, 2004.)

9.100.020 Definitions.

All words and phrases used in this Chapter which are defined in the California Private Investigator and Adjuster Act (the "Act," state California Business and Professions Code Section 7500 et seq.) shall have the same meaning as in said Act, and certain additional words and phrases used in this Chapter are defined as follows:

A. **ALARM DISPATCH REQUEST**. A notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular Alarm site.

B. **ALARM INSTALLATION COMPANY**. A Person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an Alarm System in an Alarm Site.

C. **ALARM REGISTRATION**. Authorization granted by the Police Department to an Alarm User to operate an Alarm System.

D. **ALARM SCHOOL**. A class conducted for the purpose of educating Alarm Users about the responsible use, operation, and maintenance of Alarm Systems and the problems created by False Alarms.

E. **ALARM SITE**. A single fixed premises or location served by an Alarm System or Systems. Each unit, if served by a separate Alarm System in a multi-unit building or complex, shall be considered a separate Alarm Site.

F. **ALARM SYSTEM**. Any device or series of devices, including but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response. Alarm System does not include an alarm installed in a vehicle or on someone's person.

G. **ALARM USER**. Any person who has contracted for monitoring, repair, installation or maintenance service from an Alarm Installation Company or Monitoring Company for an Alarm System, or who owns or operates an Alarm System which is not monitored, maintained, or repaired under contract.

H. **AUDIBLE ALARM**. A device designed for the detection of unauthorized entry on premises which generates a silent or audible sound on the premises when it is activated.

I. **BOARD**. The Board of Fire and Police Commissioners of the City of Santa Barbara.

J. **CANCELLATION**. The process where response is terminated when a Monitoring Company for the Alarm Site notifies the responding law enforcement agency that there is not an existing situation at the Alarm Site requiring law enforcement agency response after an Alarm Dispatch Request.

K. **FALSE ALARM**. An alarm signal, either silent or audible, necessitating response by the Police Department where an emergency situation for which the alarm system was designed or used does not exist. Activation of an audible alarm system for five (5) seconds or less shall not be deemed a false alarm. Activation of an alarm system due to abnormal conditions (windstorms, downed trees, power outages caused by grid failure, and other natural disasters) beyond the control of the Alarm User shall not be deemed a false alarm.

L. **MONITORING**. The process by which a Monitoring Company receives signals from an Alarm System and relays an Alarm Dispatch Request to the Police Department for the purpose of summoning law enforcement to the Alarm Site.

M. **MONITORING COMPANY**. A Person in the business of providing Monitoring services.

N. **PANIC ALARM**. An audible or silent Alarm System signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement and/or medical response.

O. **PERSON**. An individual, corporation, partnership, association, organization or similar entity.

P. **RESPONDER**. An individual capable of reaching the Alarm Site and having access to the Alarm Site, the code to the Alarm System and the authority to approve repairs to the Alarm System.

Q. **TAKEOVER**. The transaction or process by which an Alarm User takes over control of an existing Alarm System, which was previously controlled by another Alarm User. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.030 Alarm Installation Company Operators.

It shall be unlawful for any person required to have a valid state license as an alarm system operator issued by the Bureau of Security and Investigative Services per the Business and Professions Alarm Company Act to engage in the business of alarm company operator within the City without first filing a copy of the state license with the City of Santa Barbara and obtaining a Business License from the City. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.040 Alarm Installation Agents.

It shall be unlawful for any person required to have a state issued identification card as an alarm agent issued by the Bureau of Security and Investigative Services per the Business and Professions Alarm Company Act to act as an alarm agent within the City without first registering his or her name and filing a copy of the state identification card with the Police Department. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.050 Alarm Registration Required.

A. **REGISTRATION REQUIRED.** It shall be unlawful for any person to use, install or cause to be installed an Alarm System on any premises within the City without having first registered said Alarm System with the Police Department.

B. **SEPARATE SYSTEMS**. A separate Alarm Registration is required for each Alarm Site.

C. **TRANSFERABILITY**. An Alarm Registration cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Police Department of any change that alters any of the information listed on the Alarm Registration application within ten (10) business days of such change.

D. **PAYMENT OF PENALTIES AND FEES**. All penalties and fees owed by an applicant to the City must be paid in full before an annual Alarm Registration may be issued or renewed. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.060 Alarm Registration Application.

An application for an Alarm System permit shall be submitted to the Chief of Police and shall set forth the following information:

A. The name, complete address, and telephone numbers of the Person who will be the registration holder and be responsible for the proper maintenance and operation of the Alarm System and payment of fees assessed;

B. The classification of the Alarm Site as either residential (includes apartment, condo, mobile home, etc.) or commercial;

C. For each Alarm System located at the Alarm Site, the classification of the Alarm System (i.e. Burglary, Holdup, Duress, Panic Alarms, or other) and for each classification whether such alarm is audible or silent;

D. Any dangerous or special conditions present at the Alarm Site;

E. The type of business conducted at a commercial Alarm Site;.

F. The address at which the Alarm System is to be installed and used and hereinafter referred to as the Alarm Site.

G. If the applicant is a corporation, the names and addresses of its principal officers.

H. If the applicant is a partnership, association, or other business entity, the names and addresses of the partners or persons comprising the same.

I. The names, addresses and telephone numbers of three (3) or more persons who will be available to secure the premises during any hour of the day or night.

J. If the application is for a commercial Alarm System, an on-site phone number must be provided at which an employee of the business can be reached before and after closing hours. (Ord. 5329, 2004; Ord. 4908, 1995; Ord. 4420, 1986.)

9.100.070 Alarm Registration Duration and Renewal.

Each Alarm Registration shall be valid for a period of only one year and must be renewed annually by submitting an updated application and a registration renewal fee to the City of Santa Barbara. The Alarm User will be notified in writing by the City of the need to renew each registration not less than thirty (30) days prior to the expiration of each registration. It shall be the responsibility of the Alarm User to submit an application and the appropriate fees prior to the registration expiration date. A late fee may be assessed if the renewal application fee is not paid within thirty (30) days of the date of the registration expiration. (Ord. 5329, 2004.)

9.100.080 Registration Fees.

A. **FEE RESOLUTION**. The amount of the fee for an initial Alarm Registration or an Alarm Registration renewal shall be established in an Alarm System Fee Resolution adopted by the City Council. No partial refund of a registration or registration renewal fee will be made if an Alarm System is deactivated.

B. **INITIAL FEE PAYMENT**. The initial Alarm Registration fee for newly installed Alarm Systems must be submitted to the City within ten (10) days after the Alarm System installation or Alarm System Takeover.

C. **RENEWAL FEES**. The Alarm Registration renewal fees must be submitted to the City within thirty (30) days of the date of renewal; failure to pay the Alarm Registration renewal fees will result in late fees, in an amount established by the City Council under Fee Resolution. Failure to register an Alarm System prior to the end of the Registration period will result in non-registered False Alarm fees for any False Alarms within this time. False Alarms emitted during an expired Registration period shall not be excused.

D. **PANIC ALARM REGISTRATION**. Registration for Panic Alarms will be free of charge but still subject to fines as they relate to False Alarms. (Ord. 5329, 2004.)

9.100.090 Duties of the Alarm User.

A. **ALARM USER RESPONSIBILITIES**. An Alarm User shall be responsible for the following:

1. To maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms; and
2. To make every reasonable effort to have a Responder to the Alarm System's location when requested by the Police Department in order to do the following:
   a. Deactivate an Alarm System;
   b. Provide access to the Alarm Site; or
   c. Provide alternative security for the Alarm Site.

B. **INSPECTION REQUIREMENT**. An Alarm User shall have a licensed Alarm Installation Company inspect the Alarm System after two (2) False Alarms in a one (1) year period. After four (4) False Alarms within a one (1) year period, the Alarm User must have a licensed Alarm Installation Company modify the Alarm System to be more false alarm resistant or provide additional user training as appropriate.

C. **LIMIT ON AUDIBLE ALARMS**. An Alarm User shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an Alarm Site will sound for no longer than ten (10) minutes after being activated.

D. **PERMISSIBLE ALARM SOUNDS**. No alarm shall be installed or used which emits a sound which is similar to that of an emergency vehicle siren or a civil defense warning system. (Ord. 5329, 2004.)

9.100.100 Duties of the Alarm Installation Company and Monitoring Company.

A. The Alarm Installation Company shall be responsible for the following:

1. To provide written and oral instructions to each of its Alarm Users in the proper use and operation of their Alarm Systems;
2. On a quarterly basis, provide a list of all Alarm Users to the Police Department.

B. A Monitoring Company shall be responsible for the following:

1. To report alarm signals by using telephone numbers designated by the Police Department;
2. To communicate any available information about the location on all alarm signals related to the Alarm Dispatch request;
3. After an Alarm Dispatch Request, to promptly advise the law enforcement agency if the Monitoring Company knows that the Alarm User or the Responder is on the way to the Alarm Site.

C. An Alarm Installation Company or a Monitoring Company that purchases Alarm System accounts from another Person shall notify the Alarm User of their duty to register their alarm system with the Police Department. (Ord. 5329, 2004.)

9.100.110 Alarm School.

Alarm Users who have three or more false alarms within a 12-month Registration period will be eligible to attend Alarm School at which time a waiver will be given to the Alarm User excusing one False Alarm. The purpose of said class is to inform Alarm Users of the problems created by False Alarms and teach Alarm Users how to avoid generating False Alarms. Alarm Users with three or more false alarms can attend one of two sessions per year to waive one False Alarm. (Ord. 5329, 2004.)

9.100.120 Warning Letters and Penalties.

A. **WARNING LETTERS**. If an alarm system emits a false alarm, a warning letter directed to the Alarm User will be issued by the Police Department.

B. **CIVIL PENALTIES FOR FALSE ALARMS**. Each registered Alarm User shall pay civil penalties for each False Alarm beginning with the third False Alarm in a 12-month registration period. The penalty will be based on a penalty schedule approved by resolution of the City Council adopted concurrently with the enactment of this Chapter.

C. **NON-REGISTERED ALARM USERS**. Each non-registered Alarm User shall be directed to register their Alarm System with the Police Department. The registration fee shall be based on a schedule approved by resolution of the City Council adopted concurrently with the enactment of this Chapter.

D. **NON-REGISTERED FALSE ALARM PENALTIES**. Each non-registered Alarm User shall pay a civil penalty for each False Alarm beginning with the first False Alarm. The penalties will be based on a fee schedule approved by City Council resolution.

E. **CANCELLATION OF AN ALARM**. If Cancellation occurs prior to law enforcement arriving at the scene, it shall not be considered a False Alarm for the purpose of the imposition of penalties, and no penalties shall be assessed.

F. **WRITTEN NOTIFICATION OF FALSE ALARMS**. The Chief of Police shall notify the Alarm User in writing after each False Alarm. The notification shall include the following: 1. if applicable, the amount of the penalty for the False Alarm, 2. when applicable, a notice that the Alarm User can attend Alarm School to waive a penalty, and 3. a description of the appeals procedure available to the Alarm User pursuant to Section 9.100.130. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.130 Right of Appeal.

A. **RIGHT TO APPEAL; NOTICE OF APPEAL**. The action of the Police Chief notifying an Alarm User of a civil penalty and imposing the penalty may be appealed to the Board by filing written notice of appeal with the City Clerk within fifteen (15) days after the date appearing on the Warning Letter issued pursuant to Section 9.100.120.

B. **HEARING AND DETERMINATION**. The Board shall hear and determine such an appeal at its next regular meeting following filing of the appeal. Written notice of the time and place of hearing shall be served on the Alarm User not less than seven (7) days prior to the date of the scheduled Board appeal hearing. Upon conducting a hearing regarding the appeal, the Board may uphold, reverse, or modify the Police Chief's decision. The procedures for the conduct of an appeal hearing held by the Board pursuant to this Section shall be those procedures established in Santa Barbara Municipal Code Section 1.25.100. An affirmative vote of a majority of the membership of the Board shall be required to reverse or modify any decision ordered by the Police Chief. The decision of the Board shall constitute a final administrative decision regarding the appeal and the imposition of the civil penalty.

C. **BILLING FOR PENALTIES.** Not less than once a year, the Chief of Police shall certify to the Finance Director of the City the following information: 1. the names of those Alarm System users for which civil penalties have been imposed, 2. the address of Alarm Systems for which false alarms have emanated and for which penalties have been imposed, and 3. the amount of the penalties then due the City from such Alarm System users, which penalties have either not been appealed to the Board pursuant to this section or for which the Board, after conducting the required appeal hearing, has upheld the imposition of penalties under this Chapter.

Thereafter, the Finance Director shall bill the Alarm Users for all penalty amounts duly imposed pursuant to this Chapter.

D. **COLLECTION OF UNPAID PENALTIES**. Those penalties which remain unpaid after billing pursuant to subsection (C) above may be collected as a lien against the real property upon which the Alarm System is located, provided the pre-conditions and the due process procedures provided for such manner of collections as established in subsections (B) and (C) of Santa Barbara Municipal Code Section 1.25.130 are duly followed. For the purposes of this Section, the term “Director” as used in Section 1.25.130 shall be deemed to be the Chief of Police.

E. **RIGHT OF JUDICIAL REVIEW**. An Alarm User or affected real property owner shall have the rights described in Santa Barbara Municipal Code Section 1.25.120 to obtain judicial review of any action of the Chief of Police or of the Board taken pursuant to this Chapter, including but not limited to, actions taken to impose civil penalties. (Ord. 5329, 2004; Ord. 4420, 1986.)

9.100.140 Confidentiality.

In the interest of public safety, all information contained in and gathered through Alarm Registration applications, applications for appeals, and Alarm User lists shall be held in confidence by all employees or representatives of the municipality and by any third-party administrator or employees of a third-party administrator with access to such information to the full extent allowed by law. (Ord. 5329, 2004.)

Chapter 9.114

POLICE RESERVE CORPS

Sections:

9.114.010 Short Title.
9.114.020 Establishment, Composition and Compensation.
9.114.030 Function of the Corps.
9.114.040 Training and Assignments.
9.114.050 Qualifications.
9.114.060 Rules and Regulations.
9.114.070 Termination and Resignation from Membership.
9.114.080 Issuance of Identification.
9.114.090 Carrying Arms.
9.114.100 Authority.
9.114.110 Increasing or Decreasing Membership.
9.114.120 Uniform, Sidearms, Belt, Holster, Etc.
9.114.130 Not Members of City Police Department.
9.114.140 Protection and Benefits.
9.114.150 Misrepresentation Unlawful.
9.114.160 Technical Reserves.

9.114.010 Short Title.

This chapter shall be known as the Police Reserve Corps Ordinance of the City of Santa Barbara. (Ord. 3010 §1, 1964.)

9.114.020 Establishment, Composition and Compensation.

There is hereby established in and for the City of Santa Barbara a Police Reserve Corps, hereinafter referred to as the "Corps". The Corps is so established as a voluntary organization composed of persons to be appointed by the Chief of Police hereinafter referred to as the "Chief". Each and all of the persons so appointed and composing the Corps shall serve gratuitously with the following exceptions.

(1) Such reserve members may be reimbursed in the manner provided by law, in the amount of one (1) complete work uniform excluding gun, handcuffs and all leather goods after six (6) months of satisfactory attendance, performance and service. Upon reimbursement, the complete uniform shall become the property of the Santa Barbara Police Department and is to be returned on termination or resignation from the Corps.

(2) Whenever in his judgment an actual compelling emergency situation or situations arise or exist and the regular force be inadequate, the Chief may assign members of the Corps to such duties as he may prescribe, provided that where practicable and advance time permits, the approval of the City Administrator shall be obtained. Such services may be compensated for in an amount commensurate with compensation paid to order local auxiliary Police forces.

(3) When the Chief directs a member of the Corps to perform a special duty and the City receives reimbursement of the cost of that duty from the party who requested that special duty, the member shall receive compensation at the rate established by the City.

The Chief shall have complete authority and control over the Corps. The membership of the Corps shall not exceed fifty (50), excluding Technical Reserves. The Chief may appoint as members of the Corps, any persons whom he deems to be qualified and he may reject any application for membership.

(4) In accordance with FLSA Regulation 29 C.F.R., Sections 553.106(a) and (e), any Reserve Officer who fulfills the monthly minimum requirements as prescribed by the Chief of Police and is otherwise in good standing to include current weapons qualification, will receive a "Nominal Fee" of $50 for that month. An additional $50 stipend will be paid to any Reserve Officer serving in a leadership position of Lieutenant or Sergeant, providing they have met the conditions above, in recognition of the increased duties and responsibilities associated with those positions. (Ord. 4638, 1990; Ord. 4019, 1979.)

9.114.030 Function of the Corps.

The Corps shall function as a unit of the Police Department, and shall also function to assist regular Police Officers of the City in law enforcement and the maintenance of peace and order in all cases where, in the opinion of the Chief, it is impracticable to furnish adequate Police protection solely by means of the regular Police Officers of the City. (Ord. 3010 §3, 1964.)

9.114.040 Training and Assignments.

The Chief shall provide for the training of candidates for membership in the Corps and for the further training of members of the Corps in all fields of Police activity, and for that purpose may assign such members to any of the various Police duties of the Police Department of the City. (Ord. 3010 §4, 1964.)

9.114.050 Qualifications.

No person shall become a member of the Corps until he has taken the training and is able to meet all other requirements prescribed by the Chief for such membership. When so qualified, and when selected by the Chief, such member shall then be sworn in by the Chief, or his duly authorized representative, as a member of the Corps and shall take and file with the City Clerk the required loyalty oath. (Ord. 3010 §5, 1964.)

9.114.060 Rules and Regulations.

In order to effectuate the purpose of the Corps, the Chief shall promulgate and establish rules and regulations to govern the Corps, including the fixing of specific duties of its members and providing for the maintenance of discipline. He may change such orders from time to time. Such rules and regulations shall be approved by the Fire and Police Commission and shall become effective upon the date of such approval. (Ord. 3010 §6, 1964.)

9.114.070 Termination and Resignation from Membership.

The membership of any person in the Corps may be terminated by the Chief at any time, and any member of said Corps may resign from the Corps at any time upon notifying the Chief of Police in writing of his resignation at least ten (10) days prior to the effective date of such resignation. (Ord. 3010 §7, 1964.)

9.114.080 Issuance of Identification.

When a selected and designated person has been duly sworn in and has subscribed and filed the required loyalty oath, a Police Identification Card, Civil Defense Identification Card, badge and cap piece, and such other insignia or evidence of identification as the Chief may prescribe shall be issued to such person who shall thereupon be a member of the Corps. (Ord. 3010 §8, 1964.)

9.114.090 Carrying Arms.

No member of the Corps shall carry any firearm until he has qualified for and received authorization by the Chief. No reserve member shall carry a firearm except while on, and to and from a duty status. All members of the Corps when on duty shall carry the regulation Police baton unless otherwise instructed by the Chief. (Ord. 3010 §9, 1964.)

9.114.100 Authority.

A member of the Corps when on duty as assigned by the Chief or his duly authorized representative, shall have the authority to direct traffic in accordance with the provisions of the ordinances of the City and the laws of the State of California, and shall have the same general power of arrest as regular personnel of the Police Department, subject, however, to any limitation which the Chief or his duly authorized representative may impose. Provided, however, when in off-duty status, a member of the Corps shall have the same general power of arrest as that of a private citizen of this State. (Ord. 3010 §10, 1964.)

9.114.110 Increasing or Decreasing Membership.

Subject to the provisions of Section 9.114.020, the Chief may by order diminish or expand the membership of the Corps at any time as in his discretion may be required. (Ord. 3010 §11, 1964.)

9.114.120 Uniform, Sidearms, Belt, Holster, Etc.

(a) The uniform for members of the Corps shall be similar to but with distinguishing difference to the uniform worn by members of the regular Police Department, and arms carried by members are to be carried in the regulation Police Sam Brown belt and holster, as approved by the Chief. Insignia, identification, baton and badge shall be furnished by the City and shall be and remain the property of the City.

(b) The uniform, badge, cap piece, insignia (other than identification card), gun, belt, holster and baton shall be carried only while the member carrying same is on duty as assigned by the Chief. (Ord. 3010 §12, 1964.)

9.114.130 Not Members of City Police Department.

The members of the Corps shall not for any purpose be deemed to be members of the Police Department of the City. (Ord. 3084 §1(part), 1965; Ord. 3010 §13(part), 1964.)

9.114.140 Protection and Benefits.

Each member of the Corps, when engaged in the performance of duties to which he may be duly and regularly assigned as provided in this chapter, shall be entitled to the protection and benefits of the California Workmen's Compensation and Insurance Act (Division 4, Labor Code). For purposes of this Act, members of the Corps who serve without pay or other consideration shall be registered as disaster service workers and be entitled to benefits under such act as disaster service workers. (Ord. 3084 §1(part), 1965; Ord. 3010 §13(part), 1964.)

9.114.150 Misrepresentation Unlawful.

It shall be unlawful for any person (other than a regular Police Officer of the City) who is not a member of the Corps to wear, carry or display any identification card, badge, cap piece, uniform or insignia of the Corps, or in any manner to represent himself to be connected with the Corps. (Ord. 3010 §14, 1964.)

9.114.160 Technical Reserves.

Individuals desiring to volunteer time to the Police Department in various capacities, such as Assistant Armorer, Crime Analyst, etc., may be assigned as Technical Reserves (Level 3). No weapons, uniforms, or compensation will be issued. (Ord. 4638, 1990)

Chapter 9.116

CIVIL DEFENSE AND DISASTER

Sections:

9.116.010 Purposes.
9.116.020 Definitions.
9.116.030 Emergency Services Council - Membership.
9.116.040 Emergency Services Council - Powers and Duties.
9.116.050 Director of Emergency Services - Powers and Duties.
9.116.060 Powers of Director During an Emergency.
9.116.070 Emergency Services Organization.
9.116.080 Divisions, Services and Staff of the Emergency Services Organization.
9.116.090 Line of Succession for Mayor During Emergency.
9.116.100 Emergency Operation Centers.
9.116.110 Punishment of Violations.

9.116.010 Purposes.

The declared purposes of this ordinance are to provide for the preparation and carrying out of plans for the protection of persons, property and the environment within this City in the event of an emergency or disaster; the direction of emergency organization; and the coordination of the emergency functions of the City with the County Operational Area, other public agencies or entities, and affected private persons, corporations, or organizations. Any expenditures made in connection with such Emergency Services activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants of the City. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.020 Definitions.

As used in this Chapter, the following terms shall have the designated meanings:

A. “State of Emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, civil unrest, drought, sudden and severe energy shortage, plant or animal infestation, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency”, which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

B. "State of War Emergency" means a condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

C. "Local Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, civil unrest, drought, sudden and severe energy shortage, plant or animal infestation, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

D. "Operational Area" means an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area. Pursuant to Government Code Section 8559, each county is designated as an Operational Area. The Operational Area for the City of Santa Barbara is the County of Santa Barbara.

E. "Standardized Emergency Management System" (SEMS) means the system required to be established by Government Code Section 8607(a) for managing emergencies involving multiple jurisdictions and agencies.

F. Any other term or phrase used herein which is not defined herein but is defined within the Emergency Services Act, Government Code Section 8550, et seq., shall have the meaning ascribed therein. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.030 Emergency Services Council - Membership.

The Emergency Services Council is hereby created and shall consist of the following:

A. The City Administrator, who serves as Director of Emergency Services, shall be Chair.

B. The Emergency Services Manager, who serves as Vice-Chair.

C. The Chief of Police, the Fire Chief, the Director of Public Works, and such representatives of departments, services or divisions as are designated by the City Administrator.

D. Such representatives of the community as may be appointed by the City Administrator with the consent of the City Council. (Ord. 5594, 2012; Ord. 4158, 1982; Ord. 3769, 1975; Ord. 3082, 1965.)

9.116.040 Emergency Services Council - Powers and Duties.

It shall be the duty of the Santa Barbara Emergency Services Council, and it is hereby empowered, to review and recommend for adoption by the City Council emergency preparedness and mutual aid plans and agreements, and such ordinances and resolutions and rules as are necessary to implement such plans and agreements. The Emergency Services Council shall meet upon call of the Director of Emergency Services, or in his or her absence from the City or inability to call such meeting, the Assistant City Administrator, or, in the absence or inability of both the Director of Emergency Services and the Assistant City Administrator, the Emergency Services Manager. The Emergency Services Council shall be responsible for the development of the City of Santa Barbara Emergency Management Plan which shall provide for the effective mobilization of all the resources of the City, both public and private, to meet any condition constituting a Local Emergency, State of Emergency, or State of War Emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. The Emergency Management Plan shall take effect upon adoption by resolution of the City Council. (Ord. 5594, 2012; Ord. 4158, 1982, Ord. 3082, 1965.)

9.116.050 Director of Emergency Services - Powers and Duties.

The Director is hereby empowered:

A. To ask the City Council to proclaim the existence of a local emergency, if the City Council is in session.

B. To proclaim the existence of a local emergency, if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the local emergency shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council.

C. To ask the Governor, through the Operational Area (County), to proclaim a state of emergency when, in the opinion of the Director, the resources of the City or the Operational Area are inadequate to respond to the emergency.

D. To control and direct the effort of the Emergency Services Organization of the City for the accomplishment of the purposes of this ordinance.

E. To direct coordination and cooperation between divisions, services and staff of the Emergency Services Organization of the City and to resolve questions of authority or responsibility that may arise between them.

F. To use all City resources for the preservation of life and property and to reduce the effects of the emergency.

G. To represent the Emergency Services Organization of the City in all dealings with the public or private agencies pertaining to emergency services. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.060 Powers of Director During an Emergency.

In the event a local emergency is proclaimed as provided in this Chapter, or a state of emergency or a state of war emergency is proclaimed by the Governor or the Director of the California Office of Emergency Services, the Director is empowered:

A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergencies, provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.

B. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people and bind the City for the fair value thereof, and if required immediately, to commandeer the same for public use.

C. To require emergency services of any City officer or employee and, in the event of the proclamation of a state of emergency by the Governor in the region in which this City is located, to command the aid of as many citizens of this community as he or she thinks necessary in the execution of his or her duties; and such persons shall be entitled to all privileges, benefits and immunities as are provided by State law for registered Emergency Services volunteers.

D. To requisition necessary personnel or material of any City department or agency.

E. To execute all of his or her ordinary power as City Administrator, all of the special powers conferred upon him or her by this ordinance or by resolution adopted pursuant thereto, all powers conferred upon him or her by any statute, agreement approved by the City Council, or by any other lawful authority, and in conformity with Section 38791 of the Government Code, to exercise complete authority over the City and to exercise all Police power vested in the City by the Constitution and general laws. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.070 Emergency Services Organization.

All officers and employees of this City, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may by agreement or operation of law, including persons pressed into service under the provisions of Section 9.116.060.C be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the Emergency Services Organization of the City of Santa Barbara.

All volunteer forces enrolled to aid the City during an emergency will sign an oath and work as a disaster services worker for the duration of the incident in accordance with California Government Code Sections 3100-3109. (Ord. 5594, 2012; Ord. 3082, 1965.)

9.116.080 Divisions, Services and Staff of the Emergency Services Organization.

The City Council shall pass a resolution adopting the City of Santa Barbara Emergency Management Plan and Local Hazard Mitigation Plan (Federal Disaster Management Act 2000). The Emergency Management Plan shall set forth the form of the Emergency Services Organization, establish and designate divisions and services, assign functions, duties and powers, and designate officers and employees. The Local Hazard Mitigation Plan will outline the natural, technological, and intentional threats to the City. Insofar as possible, the form of organization, titles and terminology shall conform to the state Standardized Emergency Management System (SEMS) and the recommendations of the counterpart Emergency and Disaster Agencies of the Federal Government and the State of California. (Ord. 5594, 2012; Ord. 4158, 1982; Ord. 3082, 1965.)

9.116.090 Line of Succession for Mayor During Emergency.

The line of succession for the position of Mayor, in the case of the absence or disability of the Mayor during a state of emergency, a state of war emergency, a local emergency, or other conditions of disaster, shall commence with the Mayor Pro Tempore and continue through the members of the City Council by seniority. If two members of the City Council have equal seniority, the member whose last name comes earlier alphabetically shall serve as Mayor. (Ord. 5594, 2012.)

9.116.100 Emergency Operation Centers.

Unless exigencies render the same impossible or unduly hazardous, the primary emergency operation center shall be maintained at Fire Station One. The alternate emergency operation center and subsequent disaster operation center are described in the City's Emergency Management Plan. Also, the checklist for setting up the emergency operation center and calling back personnel is specified in the Emergency Management Plan and emergency operation center activation plan. (Ord. 5594, 2012.)

9.116.110 Punishment of Violations.

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars ($500.00), or by imprisonment for not to exceed six (6) months, or both, for any person during a disaster:

A. Wilfully to obstruct, hinder or delay any member of the Emergency Services Organization in the enforcement of any lawful rule or regulation issued pursuant to this ordinance, or in the performance of any duty imposed upon him or her by virtue of this ordinance.

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this City, or to prevent, hinder or delay the defense or protection thereof.

C. To wear, carry or display, without authority, any means of identification specified by the Emergency Services Agency of the State. (Ord. 5594, 2012; Ord. 3082, 1965.)

Chapter 9.118

SUBPOENAS

Sections:

9.118.010 Authority of Board of Fire and Police Commissioners and Board of Civil Service Commissioners to Issue Subpoenas.
9.118.020 Signing, Attestation and Service.
9.118.030 Subpoena Duces Tecum - Affidavit, Prerequisite to Issuance.
9.118.040 Service of Affidavit - Validity.
9.118.050 Testimony of Persons in Attendance Who Were Not Subpoenaed.
9.118.060 Failure to Obey Subpoena or to Testify.
9.118.070 Issuance of Attachment of Person.
9.118.080 Jurisdiction After Attachment of Person.
9.118.090 Right of Person to Purge Himself of Contempt.

9.118.010 Authority of Board of Fire and Police Commissioners and Board of Civil Service Commissioners to Issue Subpoenas.

The Board of Fire and Police Commissioners and Board of Civil Service Commissioners created by the Charter may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding before them. (Prior Code §2.75.)

9.118.020 Signing, Attestation and Service.

Subpoenas issued by this chapter shall be signed by the City Administrator and attested by the City Clerk. They may be served as subpoenas are served in civil actions. (Prior Code §2.76.)

9.118.030 Subpoena Duces Tecum - Affidavit, Prerequisite to Issuance.

Subpoenas for the production of books or other documents for evidence shall not be signed by the City Administrator, unless the proposed subpoena is accompanied by an affidavit specifying the matters or things desired to be produced, and setting forth in full detail, the materiality thereof, to the issues involved in the action or proceeding, and stating that the witness has the desired matters or things in his possession or under his control. (Prior Code §2.77.)

9.118.040 Service of Affidavit - Validity.

The service of a subpoena duces tecum is invalid, unless at the time of such service, a copy of the affidavit upon which the subpoena was issued is served with the subpoena. (Prior Code §2.78.)

9.118.050 Testimony of Persons in Attendance Who Were Not Subpoenaed.

A person present at a hearing of either the Board of Fire and Police Commissioners or the Board of Civil Service Commissioners may be required to testify in the same manner as if he were in attendance upon a subpoena issued by such Board or Commission. (Prior Code §2.79.)

9.118.060 Failure to Obey Subpoena or to Testify.

If any person duly subpoenaed neglects or refuses to obey a subpoena or, appearing, refuses to testify or answer any questions which a majority of the Board decides are proper and pertinent, the City Administrator shall report the

fact to a judge of the Superior Court of the County as contempt. (Prior Code §2.80.)

9.118.070 Issuance of Attachment of Person.

The judge shall issue an attachment directed to the sheriff of the county where the witness was required to appear and failed to do so as provided by Section 9.118.060, commanding him to attach the person, and forthwith bring him before the judge. (Prior Code §2.81.)

9.118.080 Jurisdiction After Attachment of Person.

On return of the attachment and production of the witness as provided by Section 9.118.070, the judge has jurisdiction. (Prior Code §2.82.)

9.118.090 Right of Person to Purge Himself of Contempt.

The right of a witness to purge himself of the contempt and the proceedings, penalties and punishment under this chapter shall be the same as if the contempt had been committed in a civil trial in a Superior Court. (Prior Code §2.83.)

CHAPTER 9.126

NON-DISCRIMINATORY EMPLOYMENT PROVISIONS FOR ALL CONTRACTS OF THE CITY

Sections:

9.126.010 Certificate Generally.
9.126.020 Contents of Certificate.
9.126.030 Application.

9.126.010 Certificate Generally.

Consistent with a policy of non-discrimination in employment on contracts of the City of Santa Barbara and in furtherance of the provisions of Sections 1735 and 1777.6 of the California Labor Code, a "Contractor's Obligation for Non-discriminatory Employment Certificate" as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all bid specifications and contracts of the City for purchases, services, and the construction, repair, or improvement of public works. (Ord. 3500 §1(part), 1972.)

9.126.020 Contents of Certificate.

The "contractor's obligation for non-discriminatory employment" is as follows:

In performing the work of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. The Contractor will take positive action or ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City advising the said labor union or worker's representative of the Contractor's commitments under this provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the City, the Fair Employment Practices Commission, or any other appropriate agency of the State designated by the City for the purposes of investigation to ascertain compliance with the Contractor's obligation for non-discriminatory employment provisions of this contract, or Fair Employment Practices statute.

(5) A finding of willful violation of the non-discriminatory employment practices article of this contract or of the Fair Employment Practices Act shall be regarded by the City as a basis for determining that as to future contracts for which the Contractor may submit bids, the Contractor is a "disqualified bidder" for being "non-responsible".

The City shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429.

Upon receipt of any such written notice, the City shall notify the Contractor that unless he demonstrates to the satisfaction of the City within a stated period that the violation has been corrected, he shall be declared a "disqualified bidder" until such time as the Contractor can demonstrate that he has implemented remedial measures, satisfactory to the City, to eliminate the discriminatory employment practices which constituted the violation found by the Fair Employment Practices Commission.

(6) Upon receipt from any person of a complaint of alleged discrimination under any City contract, the City Administrator shall ascertain whether probable cause for such complaint exists. If probable cause for the complaint is found, the Administrator shall request the City Council to hold a public hearing to determine the existence of a discriminatory practice in violation of this contract.

In addition to any other remedy or action provided by law or the terms of this contract, the Contractor agrees, that should the City Council determine after a public hearing duly noticed to the Contractor that the Contractor has not complied with the non-discriminatory employment practices provisions of this contract or has willfully violated such provisions, the City may, without liability of any kind, terminate, cancel or suspend this contract, in whole or in part. In addition, upon such determination the Contractor shall, as a penalty to the City, forfeit a penalty of $25.00 for each calendar day, or portion thereof, for each person who was denied employment as a result of such non-compliance. Such moneys shall be recovered from the Contractor. The City may deduct any such penalties from any moneys due the Contractor from the City.

(7) The Contractor certifies to the City that he has met or will meet the following standards for positive compliance, which shall be evaluated in each case by the City:

(a) The Contractor shall notify all supervisors, foremen and other personnel officers in writing of the content of the non-discrimination provision and their responsibilities under it.

(b) The Contractor shall notify all sources of employee referrals, (including unions, employment agencies, advertisements, Department of Employment) of the content of the non-discrimination provision.

(c) The Contractor shall file a basic compliance report as required by the City. Willful false statements made in such reports shall be punishable as provided by law. The compliance report shall also specify the sources of the work force and who has the responsibility for determining whom to hire, or whether or not to hire.

(d) The Contractor shall notify the City of opposition to the non-discrimination provision by individuals, firms or organizations during the period of this contract.

(8) Nothing contained in this Contractor's Obligation for Non-discriminatory Employment Certificate shall be construed in any manner to prevent the City from pursuing any other remedies that may be available at law.

(9) (a) In the performance of the work under this contract, the Contractor will include the provisions of the foregoing paragraphs (1) through (8) in all subcontracts and in any supply contract to be performed within the State of California, so that such provisions will be equally binding upon each subcontractor and each supplier.

(b) The Contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction by the City, the Contractor may request the City to enter into such litigation to protect the interests of the City. (Ord. 4465, 1987; Ord. 3500 §1(part), 1972.)

9.126.030 Application.

This chapter shall only apply to contracts entered into following the effective date of the ordinance codified in this chapter, provided that any existing contract which is renewed or extended pursuant to an option shall upon renewal or extension be subject to the terms of this chapter and, as a condition of renewal or extension, such contract shall be revised to incorporate the provisions required by this chapter. (Ord. 3500 §1,(part), 1972.)

Chapter 9.128

CITY SERVICE CONTRACTOR MANDATORY MINIMUM WAGE

Sections:

9.128.010 Definitions.
9.128.020 Minimum Local Wage Payment Requirements for City Service Contractors.
9.128.030 Supercession by Collective Bargaining Agreement.
9.128.040 Enforcement of Chapter Requirements.
9.128.050 Effective Date and Implementation.

9.128.010 Definitions.

Unless otherwise expressly stated or the context clearly requires otherwise, the following terms shall be defined as follows:

A. EMPLOYEE.

1. Generally. The term "Employee" shall refer only to those individuals who directly provide services to the City on behalf of a City Service Contractor and shall not include those employees who would typically be considered administrative or support staff employees, such as, but not limited to, employees performing administration, payroll, personnel, maintenance, or similar employee services for the Contractor. The term Employee shall also be used as that term is generally defined and used in the federal Fair Labors Standards Act of 1938 (29 USC Section 201 et seq., hereinafter the "FLSA") and shall not include those employed persons exempt from the minimum wage or overtime requirements of the FLSA or any person who works as an "executive" or "professional," as such terms are defined in the FLSA.

2. Exemption for Handicapped Individuals and Apprentices. For the purposes of this Chapter, an employee shall not include a "handicapped employee" employed pursuant to a special license issued under Sections 1191 and 1191.5 of the state Labor Code or an "apprentice" or "learner" employed pursuant to a special license issued under Section 1192 of the state Labor Code.

3. Exemption for Student Interns. For the purposes of this Chapter, an employee shall also not include a student intern which shall be defined as a person receiving educational or school credit at a duly licensed and accredited school or educational institution as part of or in connection with his or her employment or service with the City Service Contractor.

B. MANDATORY MINIMUM LOCAL WAGE. A wage payment at an hourly rate of Fourteen Dollars ($14.00) per hour, which wage amount shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%).

C. CITY SERVICE CONTRACTOR. A person or other legal entity (other than a public entity or a nonprofit entity) which enters into one or more contracts with the City to provide services to the City (other than recreation services to the public), where the amount paid by the City to the person or entity may exceed or exceeds Fifteen Thousand Dollars ($15,000) when such compensation is calculated on a City fiscal year basis. A City Service Contractor shall not include a contractor who provides services which are merely incidental to the City's purchase of goods or supplies from that Contractor, such as installation services related to the City's use of the goods or supplies being obtained.

D. BASIC MEDICAL INSURANCE COVERAGE. For the purposes of this Chapter, Basic Medical Insurance Coverage must include, but need not be limited to, offering the employee insurance coverage for the following health and medical care expenses of the Employee:

1. Emergency hospital care and hospitalization care with the payment of a patient co-pay amount not exceeding the maximum per emergency room visit and hospitalization care co-pay and patient deductible amount paid by a City employee under the City's medical insurance coverage plans;
2. Prescription medication coverage with the payment of a patient co-pay amount not exceeding the maximum per prescription co-pay and patient deductible amount paid by a City employee under the City's medical insurance coverage plans;
3. Access to preventative medical care by a licensed physician or surgeon with the payment of a co-pay and patient deductible amount not exceeding the maximum per visit co-pay amount paid by a City employee under the City's medical insurance coverage plans.

E. SUPPLEMENTAL EMPLOYEE BENEFITS COVERAGE. For the purposes of this Chapter, Supplemental Employee Benefits Coverage must include, in addition to Basic Medical Insurance Coverage and Compensated Leave for the Employee, offering to the Employee both of the following:

1. Basic Medical Insurance Coverage for the Employee's spouse, domestic partner, or family (at the Employee's option) with the Employee's share of the cost of the medical insurance coverage provided not exceeding five percent (5%) of the Employee's average gross monthly wages for the previous twelve months;

and at least one of the following additional supplemental Employee benefits:

2. An Employee pension or deferred compensation retirement plan under circumstances where the Service Contractor offers to make an Employer contribution to the plan of not less than five percent (5%) of the Employee's average gross monthly wages for the previous twelve (12) months, and where the plan is regulated and recognized by the federal Employee Retirement Income Security Program Act (hereinafter referred to as "ERISA," 29 USCA §1001 et seq.);

3. Child care or "dependent" care (or monetary assistance for child or dependent care needs) for a dependent(s) of the Employee under circumstances where the cost of the child or dependent care is funded or paid in full by the Employer and where the care is duly licensed and certified by the State. For the purposes of this Chapter, the term "dependent" shall be as that term is used and defined in the federal Internal Revenue Code.

4. The equivalent of Ten (10) Eight (8) hour days of Compensated Leave to the Employee over and above the Compensated Leave as such Compensated Leave is defined in Section 9.128.010(F) hereof.

5. Any additional employee benefit or employee benefit program which the City's Living Wage Advisory Committee, at the request of a City Service Contractor, deems appropriate to qualify as an optional Supplemental Employee Benefit under this subsection E. Examples of additional benefits or benefit programs which may qualify under this subparagraph would be the following: 1. dental insurance coverage for the Employee and the employee's family; 2. life and accidental death or disability insurance for the Employee; 3. medical or health insurance plans which provide out-patient services, such as physical therapy, speech therapy, or mental health or substance abuse counseling and assistance.

F. COMPENSATED LEAVE TIME. For the purposes of this Chapter, the term "Compensated Leave" shall mean the following:

1. Full-Time Employees. Providing not less than three (3) compensated days off per calendar quarter worked to each full-time Employee.

2. Part-Time Employees. Providing the appropriate pro-rated portion of the Compensated Leave required by Subsection (F)(1) above to each part-time Employee, with the pro-ration being that percentage of time the part-time Employee has worked per week (on average) during the previous twelve weeks, with forty hours per week being the equivalent of 100 percent.

3. Full-Time and Part-Time Employee Defined. For the purposes of this section, a "full-time" Employee shall mean an employee who has worked for the Service Contractor forty (40) or more hours per week on average for any ten (10) weeks of the previous twelve-week period. Any Employee who is not a full-time Employee is a part-time Employee.

"Compensated Leave" shall mean that the Employee is allowed leave time and is compensated at the same rate of pay which he or she would have received had they worked a regular day of work for each day of leave time used by the Employee.

Nothing herein shall preclude an Employer from imposing a minimum employment period upon the use of compensated leave provided such minimum period is consistent with the requirements of state law. (Ord. 5384, 2006.)

9.128.020 Minimum Local Wage Payment Requirements for City Service Contractors.

A. MANDATORY MINIMUM LOCAL WAGE.

1. City-Owned or -Operated Work Buildings and Locations. Except as provided in Subsections (B) and (C) hereof, any City Service Contractor providing services to the City shall pay at least the Mandatory Minimum Local Wage to all Employees of the Service Contractor who work at a building, site, or location owned or operated by the City for those hours of the Employee's work at the City building, site, or location and for those work hours at other work locations which can be directly attributed to the services provided to the City by the Service Contractor.

2. Work Sites Located at Non-City-Owned or -Operated Sites. Except as provided in Subsections (B) and (C) hereof, for those City Service Contractors where the work performed under a City Service Contract does not occur at a building, site, or location owned or operated by the City, the Service Contractor shall pay a Mandatory Minimum Local Wage to all Employees for those hours of the Employee's work which can be directly attributed to the services provided to the City by the Service Contractor.

B. EMPLOYEES RECEIVING BASIC MEDICAL INSURANCE COVERAGE AND COMPENSATED HOLIDAYS. City Service Contractors subject to the Mandatory Minimum Local Wage requirement of Subsection (A) hereof which provide an Employee with both Basic Medical Insurance Coverage at no cost to the Employee and Compensated Time-Off may pay a hourly wage of not less than Twelve Dollars ($12.00) to the Employee instead of the Mandatory Local Minimum Wage, which wage amount shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%).

C. EMPLOYEES RECEIVING SUPPLEMENTAL EMPLOYEE BENEFITS IN ADDITION TO BASIC INSURANCE COVERAGE. City Service Contractors subject to the Mandatory Local Minimum Wage requirement of Subsection (A) hereof which provide Supplemental Employee Benefits Coverage may pay an hourly wage of not less than Eleven Dollars ($11.00) instead of the Mandatory Local Minimum Wage, which wage amount shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%).

D. ADJUSTMENT OF SERVICE CONTRACT AMOUNT. The service contract amount set in Section 9.128.010(C) hereof shall be adjusted upward annually each July 1st, beginning in 2006, by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California, provided that no such annual adjustment may exceed the amount of six percent (6%). (Ord. 5384, 2006.)

9.128.030 Supercession by Collective Bargaining Agreement.

The provisions of this Chapter, or any part thereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth in such collective bargaining agreement in express written terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute an express waiver of all or any part of the provisions of this Chapter by the represented employees. (Ord. 5384, 2006.)

9.128.040 Enforcement of Chapter Requirements.

A. COMPLIANCE – CONTRACTUAL OBLIGATION. Every City Service Contract (or any amendment thereto) shall contain express contract provisions requiring the City Service Contractor (as well as all subcontractors, agents, or assignees of the Service Contractor which perform work for the City pursuant to the Service Contract) to comply with the requirements of this Chapter as they exist on the date when the Contractor entered into its Contract or the date when such Contract is amended.

A breach of the applicable requirements of this Chapter, as determined by the City, shall constitute a breach of the Service Contract and may, as shall be expressly provided in all City Service Contracts, be the basis for an immediate termination of the Service Contract in the sole discretion of the City. In the event of a breach of Service Contract for non-compliance with this Chapter, the City may also elect to preclude future City contracts with the non-complying Service Contractor.

B. PAYROLL AND OTHER RECORDKEEPING REQUIREMENTS. City Service Contractors shall maintain adequate payroll, tax, time sheets, personnel, and work records sufficient to allow the City to verify the Contractor's compliance with the requirements of this Chapter. Such records shall be maintained for a period of two (2) years after the completion of the City's contract and shall be made available for review by the City upon the City's request.

C. AUDIT OF PAYROLL AND OTHER RECORDS. The City shall have the right of access to the employee time and work records required by this Section for the purposes of conducting an audit of such records to determine compliance with the requirements of this Chapter during the time the Service Contract is in effect and for a period of two (2) years after the completion of any City Service Contract.

D. PERIODIC CERTIFICATION OF COMPLIANCE. The standard City Service Contract provisions shall also require the Service Contractor to periodically provide an appropriate written certification to the City Finance Department certifying the Contractor's compliance with the terms of this Chapter in a form deemed appropriate by the City Finance Director and at those regular times deemed appropriate by the Finance Director. Such certification may include copies of the Employee time and work records as the City deems appropriate and necessary to verify the Contractor's full compliance with the terms of this Chapter.

E. EMPLOYEE PRIVATE RIGHT OF ACTION. Nothing in this Chapter shall be construed to limit an Employee's right to initiate legal action for a violation of his or her rights under this Chapter. An Employee may bring an action in a court of appropriate jurisdiction of this State for damages caused by a Service Contractor's violation of the requirements of this Chapter. A final court judgment in favor of an Employee establishing that a Service Contractor has violated the requirements of this Chapter shall be deemed a conclusive determination that the Contractor has violated this Chapter and shall allow the City, at the City's discretion, to terminate a Service Contract for breach upon not less than five (5) days written notice to the Contractor. (Ord. 5384, 2006.)

9.128.050 Effective Date and Implementation.

The obligations imposed by this Chapter shall take effect as of the effective date of the ordinance codifying this Chapter and shall apply to those City Service Contracts approved (or substantively amended) by the City on or after that date. (Ord. 5384, 2006.)

Chapter 9.130

NON-DISCRIMINATORY PROVISIONS FOR LEASES

Sections:

9.130.010 Certificate Generally.
9.130.020 Contents of Certificate.
9.130.030 Application.

9.130.010 Certificate Generally.

Consistent with a policy of non-discrimination in the use of real or personal property owned by the City of Santa Barbara a "lessee's obligation for non-discrimination certificate", as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all leases of City owned real or personal property. (Ord. 3501 §1(part), 1972.)

9.130.020 Contents of Certificate.

The "lessee's obligation for non-discrimination" is as follows:

(a) Lessee in the use of the property which is the subject of this lease or in the operations to be conducted pursuant to the provisions of this lease, will not discriminate or permit discrimination against any person or class of persons by reason of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Sections 12900 - 12996) except where such discrimination is related to bona fide occupational qualification.

(b) Lessee shall furnish its accommodations and services on a fair, equal and non-discriminatory basis to all users thereof and lessee shall only charge fair, reason-able and non-discriminatory prices for each unit of service.

Lessee may make reasonable and non-discriminatory rebates, discounts or other similar price reductions to volume purchasers to the extent permitted by law.

(c) Lessee shall make its accommodations and services available to the public on fair and reasonable terms without discrimination on the basis of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Sections 12900 - 12996) except where such discrimination is related to bona fide occupational qualification.

(d) Lessee shall not discriminate or allow discrimination either directly or indirectly, in hiring or employing persons to work on the leased premises.

(e) Lessee agrees that it shall insert the above articles in any agreement by which said Lessee transfers any interest herein or grants a right or privilege to any person, firm or corporation to use the leased premises or to render accommodations and services to the public on the leased premises.

(f) Non-compliance with provisions (a), (b), (c), (d), and (e) above shall constitute a material breach hereof and in addition to any other remedies provided by law or this lease, in the event of such non-compliance the Lessor shall have the right to terminate this lease and the interest hereby created without liability therefor, or at the election of the Lessor, the Lessor shall have the right to enforce judicially said provisions (a), (b), (c), (d), and (e).

In the event the Lessee is found to have failed to comply with the provisions of articles (a), (b), (c), (d), and (e) and notwithstanding any other remedy pursued by Lessor, the Lessee shall pay to the Lessor the sum of $25.00 per day for each incident of a failure to comply. (Ord. 4465, 1987; Ord. 3501 §1(part), 1972.)

9.130.030 Application.

This chapter shall apply to new leases only after the effective date of the ordinance codified in this chapter and shall apply to existing leases upon any renewal of the term thereof after the effective date of the ordinance codified in this chapter. (Ord. 3501 §1(part), 1972.)

Chapter 9.132

AIDS/HIV DISCRIMINATION

Sections:

9.132.010 Findings.
9.132.020 Purpose and Public Policy.
9.132.030 Definitions.
9.132.040 Housing Accommodations and Housing Services.
9.132.050 Business Establishments.
9.132.060 Medical Services.
9.132.070 City Facilities and Services.
9.132.080 Employment.
9.132.090 Advertising.
9.132.100 Testing.
9.132.110 Exceptions.
9.132.120 Liability and Damages.
9.132.130 Enforcement.

9.132.010 Findings.

The City Council finds and declares that:

A. The medical condition known as Acquired Immune Deficiency Syndrome, (commonly known as AIDS/HIV infection), is a deadly communicable disease and has the potential to affect every segment of our City's population.

B. AIDS/HIV infection was first recognized in 1981 by the United States Public Health Service's Center for Disease Control.

C. AIDS, in the opinion of the scientific and medical community, is caused by a virus, known as HIV infection (Human Immunodeficiency Virus) (or in the past, HTLV-III or LAV), which attacks and cripples the body's immune system and neurological system, thereby leaving the body vulnerable to opportunistic infections, certain cancers and neurological diseases.

D. A person afflicted with AIDS/HIV infection can suffer a variety of bacterial, viral, and/or fungal caused illnesses, cancers, protozoan and neurological conditions which debilitate the body resulting in a high mortality rate within several years after diagnosis.

E. The transmission of the virus has occurred through transfer of body fluids, for example blood, blood by-products, body organs and semen. Body fluids can be transferred through intimate sexual contact, through the sharing of hypodermic needles used in drug injections and through to a fetus and/or newborn infant from the mother.

F. No evidence exists to indicate the spread of the virus through casual contact, such as contact at work or at school, through the air or water or through the handling of food by persons having the AIDS virus.

G. Medical studies of family groups in which one or more persons have been diagnosed with AIDS/HIV infection show no spread of the virus except through the exchange of body fluid such as through sexual intimacy, through mother's milk, or through the exchange of blood, such as mother to fetus.

H. A public health danger represented by the HIV virus and its subsequent manifestation as AIDS is caused by the lengthy incubation period during which period an apparently healthy but infected individual may spread the disease to other persons through the transfer of body fluids such as blood, blood by-products, body organs, semen, or vaginal/cervical secretions, perinatally or through the sharing of hypodermic needles used in drug injections.

I. AIDS has been recognized as a national public health emergency with a large proportion of the cases diagnosed in California.

J. AIDS, in the opinion of the scientific and medical community, will continue to increase at a high rate within our City for the foreseeable future.

K. Persons with AIDS, AIDS-related complex (ARC), including persons infected with the HIV virus who may not show AIDS symptoms, or those perceived to fall into one of the above STATED CATEGORIES, are faced with potential discrimination, and such potential for discrimination is sufficient to justify a City ordinance to prohibit those discriminatory practices which are not currently adequately addressed by federal and state law. (Ord. 4758; 1992.)

9.132.020 Purpose and Public Policy.

It is hereby declared as the public policy of the City of Santa Barbara that it is necessary to protect and safeguard the rights and opportunities of persons with AIDS, ARC or HIV infection in respect to discrimination in housing, business establishments, testing, access to medical services and in City facilities and services. (Ord. 4758, 1992.)

9.132.030 Definitions.

A. "AIDS" means Acquired Immune Deficiency Syndrome, a disease complex which occurs when an important part of the human immune system is destroyed by the action of a human immune deficiency virus known as HIV infection and previously referred to as HTLV-III or LAV and as it may be further defined by the United States Public Health Services Center for Disease Control. AIDS is manifested by infections, cancers or neurological diseases. (For purposes of this Chapter, a person is regarded as having AIDS, ARC, or being infected with the virus (HIV infection) that causes AIDS if such person is perceived and treated by an alleged violator of the provisions of this Chapter as having AIDS, ARC, or being infected with the virus that causes AIDS, whether such medical condition exists or not.)

B. "ARC" means AIDS-related complex. ARC occurs when the human immune system is weakened by the AIDS virus, and such conditions as enlarged lymph-nodes, fever, weight loss, malaise, and chronic diarrhea result. ARC may develop into AIDS.

C. "Business Establishment" includes any entity, however organized, which furnishes goods or services, including educational services, or accommodations to the general public; including any entity which has a membership requirement if its membership requirement consists only of the payment of a membership fee and a substantial number of residents within the City of Santa Barbara could qualify.

D. "Employee" includes any person employed by an employer.

E. "Employer" means any person regularly employing one or more persons, or any person acting as an agent of an employer, directly or indirectly.

F. "Employment agency" means any person regularly undertaking compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

G. "HIV infected" means a person infected with the human immune deficiency virus.

H. "Housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons.

I. "Housing Services" shall mean services otherwise provided by the owner of any housing accommodations to persons renting or leasing such housing accommodation, including but not limited to, utilities such as light, heat, water and telephone; ordinary repairs or replacement, and maintenance, including painting; elevator services, laundry facilities and privileges, the use of common recreational facilities, janitorial services, resident manager, refuse removal, furnishings, food service, parking and other benefits, privileges or facilities provided.

J. "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

K. "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations.

L. "Person" includes one or more individuals, partnerships, associations, corporations, labor organizations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

M. "Medical Services" shall mean any public or private service provided by volunteers or paid professionals caring for the injured, or sick in relation to health, medicine, science or the treatment of disease. (Ord. 4758, 1992.)

9.132.040 Housing Accommodations and Housing Services.

A. It shall be unlawful for any owner of any housing accommodation or housing service to discriminate against any person because such person has AIDS, ARC or HIV infection.

B. Nothing in this Section shall:

1. Apply to any housing accommodation in which the owner or any member of his or her family occupies the same housing accommodation in common with the prospective tenant. This exception shall not apply where the owner occupies a separate apartment, condominium or other housing unit in a multiple-unit complex.

2. Permit or require the rental or occupancy of any housing accommodation otherwise prohibited by law.

3. Otherwise interfere with any just cause for an owner to evict a person from any housing accommodation or permit the delay of any unlawful detainer action.

4. Require the renting of any housing accommodation reserved for the housing of students to non-student persons with AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.050 Business Establishments.

It shall be unlawful for any person to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment on the grounds that such person has AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.060 Medical Services.

It shall be unlawful for any paid or unpaid professional, or medical establishment, or institution, public or private, to deny any person full and equal medical services, advantages or accommodations based upon the grounds that such person has AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.070 City Facilities and Services.

A. It shall be unlawful to deny any person the full and equal enjoyment of, or to impose less advantageous terms, or restrict the availability of, the use of any City facility or participation in any City funded or supported service or program on the grounds that such person has AIDS, ARC or HIV infection.

B. Nothing in this Section shall:

1. Apply to any facility, service or program which does not receive any assistance from the City and which is not open to or provided to the public generally;

2. Restrict services or programs specifically designed for persons with AIDS, ARC or HIV infection. (Ord. 4758, 1992.)

9.132.080 Employment.

A. It shall be unlawful:

1. For an employer:

a. To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to compensation, terms, conditions, or privileges of employment, on the basis that such person has AIDS, ARC or HIV infection; or

b. To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect any person's status as an employee, on the basis that such person has AIDS, ARC or HIV infection.

2. For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any person, or to classify or refer for employment any person on the basis that such person has AIDS, ARC or HIV infection.

3. For a labor organization:

a. To exclude or to expel from its membership or otherwise to discriminate against, any person on the basis that such person has AIDS, ARC or HIV infection;

b. To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive any person of employment opportunities, or would limit such employment opportunities or otherwise adversely affect a person's status as an employee or as an applicant for employment, on the basis that such person has AIDS, ARC or HIV infection; or

c. To cause or attempt to cause an employer to discriminate against any person in violation of this Section.

4. For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any person on the basis of AIDS, ARC or HIV infection in admission to, or employment in, any program established to provide apprenticeship or other training.

B. Notwithstanding any other provision of this Chapter, it shall not be unlawful:

1. For an employer to hire, employ, discharge, retire and reassign employees, for an employment agency to classify, or to refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis that such person has AIDS, ARC or HIV infection in those certain instances where the employer can show that the absence of AIDS, ARC or HIV infection is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate against a person on the basis that such person has AIDS, ARC or HIV infection.

3. For an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results of such tests is not designed, intended or used to discriminate against a person on the basis that such person has AIDS, ARC or HIV infection.
(Ord. 4758, 1992.)

9.132.090 Advertising.

It shall be unlawful to make, print, publish, advertise or disseminate in any way, or cause to be made, printed, published, advertised or disseminated in any way, any notice, statement, sign, advertisement, application or contract which indicates an intent to engage in any practice made unlawful by this Chapter. (Ord. 4758, 1992.)

9.132.100 Testing.

A. It shall be unlawful for any person to require another person to take any test or undergo any medical procedure that may be useful to determine that a person has AIDS or ARC or HIV infection.

B. Nothing in this Section shall:

1. Prohibit any testing or medical procedure authorized by the laws of the United States, the State of California or the City of Santa Barbara, or any testing or medical procedure required by the County Department of Health Services to protect the public health; or

2. Apply to an employer who can show that the absence of AIDS, ARC or the AIDS virus (HIV infection) is a bona fide occupational qualification. (Ord. 4758, 1992.)

9.132.110 Exceptions.

A. Nothing in this Chapter shall be construed to prohibit any act specifically authorized by the laws of the United States, the State of California or the City of Santa Barbara, or any act required by the County Department of Health Services to protect the public health.

B. Nothing in this Chapter shall prohibit any act which is necessary to protect the health or safety of the general public. If a party to any action brought under this Chapter asserts that an otherwise discriminatory practice is justified as necessary to protect the health or safety of the general public, that party shall have the burden of proving:

1. that the discrimination is in fact a necessary result of a necessary course of conduct pursued to protect the health or safety of the general public; and

2. that there exists no less discriminatory means of satisfying the necessary protection of the health or safety of the general public. (Ord. 4758, 1992.)

9.132.120 Liability and Damages.

Any person who violates any of the provisions of this Chapter or who assists in the violation of any of the provisions of this Chapter is liable for each and every such offense for damages up to a maximum of three times the amount of actual damages, tort damages plus punitive damages, as may be determined by a jury or a court sitting without a jury, and for costs, including reasonable attorney's fees, as may be determined by the court. (Ord. 4758, 1992.)

9.132.130 Enforcement.

A. Any aggrieved person may enforce the provisions of this Chapter by means of a civil action.

B. Any person who commits, or proposes to commit, an act in violation of this Chapter may be enjoined therefrom by a court of competent jurisdiction.

C. An action for injunction under subdivision B may be brought by any aggrieved person or by any person or entity which will fairly and adequately represent the interests of the aggrieved person.

D. Nothing in this Chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

E. An action arising under this Chapter shall not be rendered moot because of the death or physical or mental incapacity of the person who was the subject of the claimed discrimination.

F. Notwithstanding Section 1.28.010 of the Santa Barbara Municipal Code, no criminal penalties shall attach for any violation of the provisions of this Chapter. (Ord. 4758, 1992.)

Chapter 9.135

REGISTRATION OF DOMESTIC PARTNERSHIPS

Section:
9.135.010 Registration of Domestic Partnerships with the City Clerk.

9.135.010 Registration of Domestic Partnerships with the City Clerk.

A. **Domestic Partnership Defined; City Clerk Registration.** Two persons may declare that a "Domestic Partnership" exists between them regardless of their gender, and each of them shall be the "domestic partner" of the other if they both complete, sign, and cause to be filed with the City Clerk of the City an "Affidavit of Domestic Partnership" attesting to the following:

1. The two parties reside together and share the common necessities of life.
2. The two parties are not married to anyone.
3. The two parties are at least eighteen (18) years of age or older.
4. The two parties are not related by blood so close as to bar marriage in the State of California and are mentally competent to consent to contract.
5. The two parties are each other's sole domestic partner and intend to remain so indefinitely and are responsible for their common welfare.
6. The two parties agree to file a Statement of Termination of Domestic Partnership with the City Clerk if any of the declarations of the Affidavit of Domestic Partnership cease to be true.
7. The two parties understand that the registration of the Affidavit of Domestic Partnership with the City Clerk constitutes a filing of a domestic partnership of continuous duration until either of the parties files a Statement of Termination or upon the death of either of the parties.
8. Neither of the parties has filed a Statement of Termination within the previous six (6) months.
9. The two parties understand that they are solely responsible for any and all statements made in an Affidavit of Domestic Partnership, and for any losses or damages caused thereby, and that they will hold the City of Santa Barbara harmless from any liability arising out of or relating to any Affidavit of Domestic Partnership that is filed with the City of Santa Barbara.

B. **Termination of a Domestic Partnership.** A member of a domestic partnership may end said relationship by filing a Statement of Termination of Domestic Partnership with the City Clerk. In the Statement of Termination, the individual will be required to affirm under penalty of perjury that the partnership is terminated. In case of the death of either party to a Domestic Partnership, a Statement of Termination is not required to be filed.

C. **Filing of Subsequent Affidavits of Domestic Partner Relationship.** No individual who has filed an Affidavit of Domestic Partnership may file another such Affidavit until one hundred eighty (180) days after a Statement of Termination of Domestic Partnership terminating the previous partnership has been filed with the City Clerk.

D. **Reciprocity with Other Communities.** Upon written request, the City Clerk shall confirm the registration of a domestic partnership registered in another community pursuant to the applicable regulations of that community and issue a City of Santa Barbara Certificate of Domestic Partnership for the same individuals. A lesser fee shall be charged for such a Certificate in an amount established by resolution of the City Council.

E. **Administrative Procedures and Fees.** The City Council shall adopt administrative procedures for the processing of domestic partner relationship certificates by the City Clerk's office and establishing the fees applicable to such registrations by resolution of the Council.

F. **No Cause of Action.** This Chapter is not intended to create any private or public cause of action for any person or entity.

(Ord. 5012, 1997.)

Chapter 9.140

SOLICITATION OF EMPLOYMENT, BUSINESS OR CONTRIBUTIONS FROM STREETS

Sections:

9.140.010 Definitions.
9.140.015 Legislative Purpose.
9.140.020 Prohibition of Solicitation in Public Roadway.

9.140.010 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. **BUSINESS.** Any type of product, goods, service, performance or activity which is provided or performed or offered to be provided or performed in exchange for money, labor, goods, or any other form of consideration.

B. **EMPLOYMENT.** The service, industry or labor performed by a person for wages or other compensation or under any contract of hire written or oral, express or implied.

C. **OCCUPANT.** A person who occupies a vehicle.

D. **PEDESTRIAN.** As defined in California Vehicle Code Section 467 as the same now reads or may hereafter be amended.

E. **PERSON.** Any individual, company, corporation, association, business or other legal entity.

F. **ROADWAY.** That portion of the street which is improved, designed or ordinarily used exclusively for vehicular travel.

G. **SOLICIT.** Any request, offer, enticement, or action which announces the availability for or of employment, the sale of goods, or a request for money or other property, or any request, offer, enticement or action which seeks to purchase or secure goods or employment, or to make a contribution of money or other property. As defined herein, a solicitation shall be deemed complete when made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money or other property takes place.

H. **STREET.** A way or place of whatever nature, publicly maintained and open to the use of the public for the purpose of vehicular travel. For the purposes of this chapter, street includes highway and any parking area or lot owned or operated by the City of Santa Barbara or the Santa Barbara Redevelopment Agency.

I. **VEHICLE.** As defined in California Vehicle Code Section 670 as the same now reads or may hereafter be amended. (Ord. 5414, 2007; Ord. 5067, 1998.)

9.140.015 Legislative Purpose.

The purpose of this chapter is to protect the health and welfare of the general public and to promote safer and more efficient traffic flow by reasonably regulating the time, place, and manner of the solicitation of employment, business, or contributions of money or other property from pedestrians and occupants of vehicles on public streets. These regulations are intended to be content neutral and are not intended to restrict the right of free speech or alternative channels of such communication in other areas. (Ord. 5414, 2007.)

9.140.020 Prohibition of Solicitation in Public Roadway.

A. **SOLICITATIONS BY PEDESTRIANS.** It shall be unlawful for any person, while located in any portion of the public roadway to solicit (or attempt to solicit) employment, business or contributions of money or other property from any person traveling in a vehicle along a public roadway unless the vehicle is legally parked or stopped within the roadway.

B. **SOLICITATIONS FROM A VEHICLE.** It shall be unlawful for any person while the occupant of a vehicle that is not legally parked or stopped within a roadway, to solicit (or attempt to solicit) employment, business or contributions of money or other property from a person who is located within a public right-of-way including, but not limited to, any street, roadway, sidewalk, parkway, alley or driveway.

C. **YANONALI STREET.** This section shall not apply to that portion of the south side of Yanonali Street (approximately 170 feet in length) between the Laguna Channel and the west gate drive-way entrance to the City's Corporation Yard Annex at 401 East Yanonali Street, as such area is more specifically designated on signs posted at that location. (Ord. 5414, 2007; Ord. 5067, 1998).

Chapter 9.145

LOWEST LAW ENFORCEMENT PRIORITY POLICY ORDINANCE

Sections:

9.145.010	**Title.**	**9.145.060**	**Community Oversight.**
9.145.020	**Purpose.**	**9.145.070**	**Notification of Federal and State Officials.**
9.145.030	**Findings.**		
9.145.040	**Definitions.**	**9.145.080**	**Enforceability.**
9.145.050	**Lowest Law Enforcement Priority Policy.**	**9.145.090**	**Severability.**

9.145.010 Title.

This chapter shall be known as the Lowest Law Enforcement Priority Policy Ordinance. (Approved by election held November 7, 2006.)

9.145.020 Purpose.

The purpose of this chapter is:

A. To make investigations, citations, arrests, property seizures, and prosecutions for adult marijuana offenses, where the marijuana was intended for adult personal use, the city of Santa Barbara's lowest law enforcement priority; and

B. To transmit notification of the enactment of this initiative to state and federal elected officials who represent the city of Santa Barbara. (Approved by election held November 7, 2006.)

9.145.030 Findings.

A. The federal government's war on drugs has failed.

B. Santa Barbara should determine its marijuana policies locally, not hand them over to the federal Drug Enforcement Administration.

C. Otherwise law-abiding adults are being arrested and imprisoned for nonviolent marijuana offenses, which is clogging courts and jails in California.

D. Each year, California spends more than $150 million of taxpayer money enforcing marijuana laws.

E. Law enforcement resources would be better-spent fighting serious and violent crimes.

F. Making adult marijuana offenses Santa Barbara's lowest law enforcement priority will reduce the city's spending on law enforcement and punishment.

G. Decades of arresting millions of marijuana users have failed to control marijuana use or reduce its availability.

H. Current marijuana policies continue to needlessly harm medical marijuana patients, despite the passage of Proposition 215, which affirmed California voters' support for medical marijuana. (Approved by election held November 7, 2006.)

9.145.040 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. "Adult" means an individual who is 21 years of age or older.

B. "Santa Barbara law enforcement officer" means a member of the Santa Barbara Police Department or any other city agency or department that engages in law enforcement activity.

C. "Lowest law enforcement priority" means a priority such that all law enforcement activities related to all offenses other than adult, personal-use marijuana offenses shall be a higher priority than all law enforcement activities related to marijuana offenses, where the marijuana was intended for adult personal use, other than the exceptions designated in this chapter.

D. "Marijuana" means all parts of the cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. (Approved by election held November 7, 2006.)

9.145.050 Lowest Law Enforcement Priority Policy.

A. Santa Barbara law enforcement officers shall make law enforcement activity relating to marijuana offenses, where the marijuana was intended for adult personal use, their lowest law enforcement priority. Law enforcement activities relating to marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana offenses.

B. This lowest law enforcement priority policy shall not apply to use of marijuana on public property or driving under the influence.

C. The lowest law enforcement priority policy shall apply to cooperating with state or federal agents to arrest, cite, investigate, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy.

D. Santa Barbara law enforcement officers shall not accept or renew formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for marijuana offenses included in the lowest law enforcement priority policy.

E. Santa Barbara shall not accept any federal funding that would be used to investigate, cite, arrest, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy. (Approved by election held November 7, 2006.)

9.145.060 Community Oversight.

A. The committee will be composed of two city residents; one criminal defense attorney; one civil liberties advocate; one medical marijuana patient; one medical professional; and one drug abuse, treatment, and prevention counselor, each of whom shall be appointed by the Santa Barbara mayor. The committee members shall serve at the pleasure of the Santa Barbara mayor, who shall appoint replacement committee members on an as-needed basis. The Santa Barbara Police Department, the Santa Barbara County Public Health Department, and the Santa Barbara County District Attorney's Office shall each send one representative as a nonvoting liaison to each of the committee's meetings.

B. Responsibilities of the committee shall include:

1. ensuring timely implementation of this chapter, with the cooperation of the Santa Barbara County District Attorney's Office, the Santa Barbara Police Department, and any other Santa Barbara law enforcement agencies in providing needed data;

2. receiving any grievances from individuals who believe they were subjected to law enforcement activity contrary to the lowest law enforcement priority policy;

3. designing a supplemental report form for Santa Barbara law enforcement officers to use to report all adult marijuana arrests, citations, and property seizures and all instances of officers assisting in state or federal arrests, citations, and property seizures for any adult marijuana offenses. The supplemental report form shall be designed with the goal of allowing the committee to ascertain whether the lowest law enforcement priority policy was followed;

4. requesting additional information from any Santa Barbara law enforcement officer who engaged in law enforcement activity relating to one or more marijuana offenses under circumstances which appear to violate the lowest law enforcement priority policy. An officer's decision not to provide additional information shall not be grounds for discipline; and

5. submitting written reports semiannually to the Santa Barbara City Council on the implementation of this ordinance, with the first report being issued nine months after the enactment of this chapter. These reports shall include, but not necessarily be limited to: the number of all arrests, citations, property seizures, and prosecutions for marijuana offenses in Santa Barbara; the breakdown of arrests and citations by race, age, specific charge, and classification as infraction, misdemeanor, or felony; any instances of law enforcement activity that the committee believes violated the lowest law enforcement priority policy; and the estimated time and money spent by the city on law enforcement and punishment for adult marijuana offenses.

C. Santa Barbara law enforcement officers shall submit to the committee a supplemental report within two weeks after each adult marijuana arrest, citation, or property seizure or instance of assisting in a state or federal arrest, citation, or property seizure for any adult marijuana offense in Santa Barbara. (Approved by election held November 7, 2006.)

9.145.070 Notification of Federal and State Officials.

Beginning three months after the enactment of this chapter, the city clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to Santa Barbara voters' U.S. representative or representatives, both of California's U.S. senators, Santa Barbara voters' senators and Assembly members in the California State Legislature, the governor of California, and the president of the United States. This letter shall state, "The citizens of Santa Barbara have passed an initiative to de-prioritize adult marijuana offenses, where the marijuana is intended for personal use, and request that the federal and California state governments take immediate steps to enact similar laws." This duty shall be carried out until state and federal laws are changed accordingly. (Approved by election held November 7, 2006.)

9.145.080 Enforceability.

All sections of this chapter are mandatory. If any provision of this chapter is not carried out properly, any person who is registered to vote in Santa Barbara may seek a writ of mandate to ensure the law is fully implemented. (Approved by election held November 7, 2006.)

9.145.090 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby. (Approved by election held November 7, 2006.)

Chapter 9.150

SINGLE-USE CARRYOUT BAGS

Sections:

9.150.010 Definitions.
9.150.020 Plastic Carryout Bags Prohibited.
9.150.030 Permitted Bags.
9.150.040 Regulation of Recyclable Paper Carryout Bags.
9.150.050 Use of Reusable Bags.
9.150.060 Exempt Customers.
9.150.070 Enforcement and Violations – Penalties.
9.150.080 Operative Date.

9.150.010 Definitions.

The following definitions apply to this Chapter:

A. Customer. Any person purchasing goods from a store.

B. Operator. The person in control of, or having the responsibility for, the operation of a store, which may include, but is not limited to, the owner of the store.

C. Person. Any natural person, firm, corporation, partnership, or other organization or group however organized.

D. Plastic carryout bag. Any bag made predominantly of plastic derived from either petroleum, natural gas, or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags.

E. Post-consumer recycled material. A material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

F. Produce bag or product bag. Any bag without handles used exclusively to carry produce, meats, or other food items from a display case within a store to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

G. Recyclable. Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

H. Recyclable paper carryout bag. A paper bag (of any size) that meets all of the following requirements: 1. contains no old growth fiber; 2. is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; 3. is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; 4. is accepted for recycling in curbside programs in the City; 5. has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of post-consumer recycled material used; and 6. displays the word "Recyclable" in a highly visible manner on the outside of the bag.

I. Reusable bag. A bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: 1. has a minimum lifetime of 125 uses, which for purposes of this subsection means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; 2. has a minimum volume of 15 liters; 3. is machine washable or is made from a material that can be cleaned or disinfected; 4. does not contain lead, cadmium, or any other heavy metal in toxic amounts; 5. has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of post-consumer recycled material used, if any; and 6. if made of plastic, is a minimum of at least 2.25 mils thick.

J. Store. Any of the following retail establishments located and operating within the City:

1. A store of at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200 of Division 2 of the Revenue and Taxation Code) and which sells a line of dry grocery or canned goods, or non-food items together with some perishable food items or a store that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or

2. A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other similar retail store or entity engaged in the retail sale of a limited line of grocery items or goods which typically includes, but is not limited to, milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 liquor license issued by the state Department of Alcoholic Beverage Control. (Ord. 5636, 2013.)

9.150.020 Plastic Carryout Bags Prohibited.

A. No store shall provide any customer with a plastic carryout bag.

B. The prohibition on providing plastic carryout bags applies only to bags provided by a store for the purpose of carrying away goods from the point of sale within the store and does not apply to produce bags or product bags supplied by a store. (Ord. 5636, 2013.)

9.150.030 Permitted Bags.

All stores shall provide or make available to a customer only recyclable paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter prohibits customers from using bags of any type which the customer may bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store. (Ord. 5636, 2013.)

9.150.040 Regulation of Recyclable Paper Carryout Bags.

A. Any store that provides a recyclable paper carryout bag to a customer must charge the customer ten cents ($0.10) for each bag provided, except as otherwise allowed by this Chapter.

B. No store shall rebate or otherwise reimburse a customer any portion of the ten cent ($0.10) charge required in subparagraph A, except as otherwise allowed by this Chapter.

C. All stores must indicate on the customer receipt the number of recyclable paper carryout bags provided and the total amount charged the customer for such bags.

D. All charges collected by a store under this Chapter may be retained by the store and used for one or more of the following purposes: 1. the costs associated with complying with the requirements of this Chapter; 2. the actual costs of providing recyclable paper carryout bags; 3. the costs of providing low or no-cost reusable bags to customers of the store who are exempted by Section 9.150.060; or 4. the costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any.

E. All stores shall report to the City Finance Director, on an annual (calendar year) basis, the total number of recyclable paper carryout bags provided, the total amount of monies collected for providing recyclable paper carryout bags, and a summary of any efforts a store has undertaken to promote the use of reusable bags by customers in the prior year. Such reporting must be done on a form prescribed by the City Finance Director, and must be signed by a responsible agent or officer of the store in order to confirm that the information provided on the form is accurate and complete. Such reports shall be filed no later than ninety (90) days after the end of each year following the year in which this chapter becomes effective. (Ord. 5636, 2013.)

9.150.050 Use of Reusable Bags.

A. All stores must provide reusable bags to customers, either for sale or at no charge.

B. Stores are strongly encouraged to educate their staff to promote the use of reusable bags and to post signs and other informational materials encouraging customers to use reusable bags. (Ord. 5636, 2013.)

9.150.060 Exempt Customers.

All stores must provide at the point of sale, free of charge, either reusable bags or recyclable paper carryout bags or both, at the store's option, to any customer participating either in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, or in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the state Welfare and Institutions Code. (Ord. 5636, 2013.)

9.150.070 Enforcement and Violations – Penalties.

A. Administrative Enforcement. The City Finance Director (or his designee) shall have the primary responsibility for enforcement of this Chapter. The Director is authorized to promulgate Departmental regulations to assist stores in understanding and in complying with this Chapter and to take any and all other actions reasonable and necessary to enforce and interpret this Chapter.

B. Regulations on Free Reusable Bags. If determined to be appropriate and necessary, the City Finance Director may adopt regulations restricting or limiting the ability of those stores defined in subparagraphs J.1 and J.2 of Section 9.150.010 to offer customers free reusable bags as a promotional item. (Ord. 5636, 2013.)

9.150.080 Operative Date.

For those stores defined in subparagraph J.1 of Section 9.150.010, this Chapter shall become operative One Hundred Eighty (180) days after the effective date of the City ordinance adopting this Chapter. For stores defined in subparagraph J.2 of Section 9.150.010, this Chapter shall become operative one year after the effective date of the City ordinance adopting this Chapter. (Ord. 5636, 2013.)

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TITLE 10
Transportation and Parking

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5684	Prima Facie Speed Limits	May 28, 2015	Section 10.60.015
5685	Speed Zoning Near Children's Playgrounds and Schools	May 28, 2015	Chapter 10.20
5694	Parking of Recreational Vehicles and Definition of "Excessive" Numbers of Such Vehicles	July 2, 2015	Section 10.44.205
5697	Prohibition of Display of Unauthorized Signs	July 2, 2015	Section 10.12.170
5698	Bus Zones to be Established	July 2, 2015	Section 10.48.090
5699	Curb Markings to Indicate Parking Regulations	July 2, 2015	Section 10.48.040
5708	Prima Facie Speed Limits	August 13, 2015	Section 10.60.015
5725	Carshare Vehicle Permit Program	November 26, 2015	Chapter 10.73
5734	Parking Upon Municipally-Owned and/or –Operated Parking Lots	February 25, 2016	Sections 10.44.152 and 10.44.153

TITLE 10

TRANSPORTATION AND PARKING

Chapter: 10.02 Penalties
Chapter: 10.04 Definitions
Chapter: 10.06 Skateboarding, Roller Skating and In-Line Skating.
Chapter: 10.08 Administration and Obedience to Traffic Regulations
Chapter: 10.12 Traffic Control Devices
Chapter: 10.16 Stop and Yield Regulations
Chapter: 10.20 Special Speed Zones
Chapter: 10.24 Turning Movements
Chapter: 10.28 One-Way Streets and Alleys
Chapter: 10.32 Crosswalks
Chapter: 10.36 Commercial Vehicles
Chapter: 10.40 Miscellaneous Driving and Safety Rules
Chapter: 10.44 Stopping, Standing and Parking Generally
17.Chapter: 10.46 Permit Parking
Chapter: 10.48 Stopping, Standing and Parking - Time Limits and Loading Zones
Chapter: 10.52 Bicycles
Chapter: 10.55 Minor Encroachment Permits
Chapter: 10.56 Impounding Property Obstructing Streets
Chapter: 10.58 Abandoned Vehicles
Chapter: 10.60 Schedules
Chapter: 10.68 Off-Street Parking
Chapter: 10.70 Assessments and Assessment Bonds.
Chapter: 10.72 Parking Assessments.
Chapter: 10.73 Carshare Vehicle Permit Program.

Chapter 10.02

PENALTIES

Sections:
10.02.010 Penalty for Violation.

10.02.010 Penalty for Violation.

The violation of any provision of this Title shall constitute an infraction, except if specifically designated otherwise. (Ord. 4194, 1983; Ord. 4067, 1980; Ord. 4004, §1, 1979.)

Chapter 10.04

DEFINITIONS

Sections:
10.04.010 State Vehicle Code.
10.04.020 Generally.
10.04.025 Block.
10.04.030 Bus Loading Zone.
10.04.040 Central Traffic District.
10.04.050 Commercial Vehicle Loading Zone.
10.04.060 Council.
10.04.070 Chief.
10.04.080 Director.
10.04.090 Holidays.
10.04.100 Official Time Standard.
10.04.110 Parkway.
10.04.120 Passenger Loading Zone.
10.04.130 Pedestrian.
10.04.140 Police Officer.
10.04.150 Section.
10.04.160 Stand or Standing.
10.04.170 Stop or Stand.
10.04.180 Transportation Engineer.
10.04.190 Residential District, Defined for Certain Purposes.
10.04.200 Numbering of Revised Vehicle Code.

10.04.010 State Vehicle Code.

Whenever any words or phrases used in this title are not defined in this chapter but are now defined in the Vehicle Code of this State, such definitions are incorporated herein and shall be deemed to apply to such words and phrases used in this title. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(a).)

10.04.020 Generally.

Whenever in this title the following words and phrases set forth in this chapter are used, they shall for the purpose of this chapter have the meanings respectively ascribed to them in this chapter. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b).)

10.04.025 Block.

Both sides of any street within a one hundred address designation. For example, the 000 Block, 100 Block, 200 Block of a street. (Ord. 4781, 1992)

10.04.030 Bus Loading Zone.

"Bus loading zone" means the space adjacent to the curb or edge of a roadway reserved for the exclusive use of buses during the loading or unloading of passengers. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.040 Central Traffic District.

"Central Traffic District" means all streets or portions of streets within the area described as follows:

Commencing at the southeasterly corner of the intersection of Cabrillo Boulevard and Santa Barbara Street; thence northwesterly along the northeasterly line of Santa Barbara Street to its intersection with the northwesterly line of Micheltorena Street; thence southwesterly along the northwesterly line of Micheltorena Street to its intersection with the southwesterly line of De la Vina Street; thence southeasterly along the southwesterly line of De la Vina Street to its intersection with the southeasterly line of Gutierrez Street; thence northeasterly along the southeasterly line of Gutierrez Street to its intersection with the southwesterly line of Chapala Street; thence southeasterly along the southwesterly line of Chapala Street to its intersection with the southeasterly line of Cabrillo Boulevard; thence northeasterly along the southeasterly line of Cabrillo Boulevard to the point of beginning. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code 31.1(b)(part).)

10.04.050 Commercial Vehicle Loading Zone.

"Commercial Vehicle Loading Zone" means that space adjacent to the curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.060 Council.

"Council" means the City Council of the City of Santa Barbara. (Ord. 3033 §1(part, 1965; Ord. 2713 (1(part), 1959; prior Code §31.1(b)(part).)

10.04.070 Chief.

"Chief" means the Chief of Police of the City of Santa Barbara. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.080 Director.

"Director" means the Director of Public Works of the City of Santa Barbara. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.090 Holidays.

Within the meaning of this title, holidays are the first day of January, the twelfth day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the ninth day of September, the second Monday in October, the eleventh day of November, Thanksgiving Day, and the twenty-fifth day of December.

If January 1st, February 12th, July 4th, September 9th or December 25th falls on a Sunday, the following Monday is a holiday. (Ord. 3456 §1, 1970; Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.100 Official Time Standard.

Whenever certain hours are named in this title, they shall mean standard time or daylight saving time as may be in current use in this City. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.110 Parkway.

"Parkway" means that portion of a street other than a roadway or sidewalk. (Ord 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.120 Passenger Loading Zone.

"Passenger Loading Zone" means that space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.130 Pedestrian.

"Pedestrian" means any person afoot. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.140 Police Officer.

"Police Officer" means every member of the Police Department sworn to perform regular Police duties, or any other Peace Officer sworn to perform general or special Police duties involving enforcement of all or any portion of the California Vehicle Code or all or any portion of the provisions of this title, or both. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.150 Section.

"Section" means a section of this title unless some other title, ordinance or statute is specifically mentioned. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.160 Stand or Standing.

"Stand" or "standing" means "stop" or "stopping". (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.170 Stop or Stand.

"Stop" or "stand" when prohibited means any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a Police Officer or official traffic control device. (Ord. 3033 §1(part), 1965; Ord. 2713 §1(part), 1959; prior Code §31.1(b)(part).)

10.04.180 Transportation Engineer.

"Transportation Engineer means the Director of Public Works of the City of Santa Barbara or any deputy of the Director designated as the Transportation Engineer or designated to carry out the duties of a transportation engineer by the Director. (Ord. 3865, 1976; Ord. 3033, 1965; Ord. 2713, 1959.)

10.04.190 Residential District, Defined for Certain Purposes.

For the purposes of sections of this title, "residential district" means those zones established and in effect under the current Zoning Ordinance of the City, as amended, and designated as A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3 and R-4 Zones. (Ord. 3033 §2, 1965; prior Code §31.1(a).)

10.04.200 Numbering of Revised Vehicle Code.

Whenever in this title any California Vehicle Code section number is immediately followed by a bracketed number, such bracketed number represents the corresponding section number of the revised California Vehicle Code as re-enacted by the Legislature as Chapter 3, Statutes of 1959. (Ord. 2713 §1(part), 1959; prior Code §31.114.)

Chapter 10.06

SKATEBOARDING, ROLLER SKATING AND IN-LINE SKATING

Sections:

10.06.010 Skateboarding, Roller Skating and In-Line Skating.

10.06.010 Skateboarding, Roller Skating and In-Line Skating.

(a) PROHIBITION. No person shall ride a skateboard, roller skate, in-line skate or similar device upon any public street, or upon the following City sidewalks, City walkways, City boardwalks, or public ways owned or maintained by the City:

(1) Within the area of the downtown bounded by the following streets (including the perimeter streets): Sola Street on the north, Chapala Street on the west, Santa Barbara Street on the east and Cabrillo Boulevard on the south.

(2) The south sidewalk of Cabrillo Boulevard from Santa Barbara Street to Milpas Street.

(3) The sidewalks on either side of and along the entire length of Coast Village Road.

(4) On and along the following sidewalks, adjacent to the Santa Barbara Harbor: i) the sidewalks directly adjacent to the Harbor seawall, beginning at a point adjacent to the public launching ramps and extending to Harbor Way, and ii) the sidewalk along the southerly side of the Harbor beginning at the intersection with the sidewalk described in i) and continuing southerly and easterly to the most easterly point of the Breakwater.

(5) On the docks, floats and ramps in the Santa Barbara Harbor.

(6) Public parking facilities, public parking lots, or other public areas the entrances to which are posted with signs prohibiting skateboarding and roller skating.

(b) The Department of Public Works shall post appropriate signs as necessary to advise the public of the requirements of this Chapter.

(c) This Section shall not apply to any person skateboarding, in-line skating or roller skating on a public street while participating in an event that has been issued a special event permit by the Chief of Police specifically allowing skateboarding, in-line skating or roller skating on public streets. (Ord. 5159, 2000; Ord. 4954, 1996; Ord. 4910, 1995; Ord. 4622, 1990; Ord. 4439, 1986; Ord. 4133, 1982; Ord. 4016 §1, 1979; Ord. 3991, 1979.)

Chapter 10.08

ADMINISTRATION AND OBEDIENCE TO TRAFFIC REGULATIONS

Sections:

10.08.010 Duties of Police Department.
10.08.020 Traffic Accident Studies by Transportation Engineer.
10.08.030 Traffic Accident Reports - Filed with Transportation Engineer.
10.08.040 Crossing Guards.
10.08.050 City Transportation Engineer - Duties.
10.08.060 Emergency Regulations - Police Chief.
10.08.070 Emergency and Experimental Regulations - Transportation Engineer.
10.08.080 Duties of Police.
10.08.100 Obedience to Police and Fire Department Officials, Markings and Signs.
10.08.110 Persons Other Than Officials Shall Not Direct Traffic.
10.08.120 Deputies.
10.08.130 School Crossing Guards - Authorization by Police Chief.
10.08.140 Public Employees to Obey Traffic Regulations.
10.08.150 Exemptions to Certain Vehicles - Authorized Emergency Vehicles.
10.08.160 Persons Propelling Push Carts or Riding Animal to Obey Traffic Regulations.

10.08.010 Duties of Police Department.

It shall be the duty of the Chief of Police to cooperate with the City Transportation Engineer and other officers of the City in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the Chief by this title and the traffic ordinances of this City. (Ord. 2713 §1(part), 1959; prior Code §31.2).)

10.08.020 Traffic Accident Studies by Transportation Engineer.

Whenever the accidents at any particular location become numerous, the Chief shall cooperate with the City Transportation Engineer in conducting studies of such accidents and determining remedial measures. (Ord. 2713 §1(part), 1959; prior Code §31.3.)

10.08.030 Traffic Accident Reports - Filed with Transportation Engineer.

The Chief shall make traffic accident reports available for the use and information of the City Transportation Engineer. The City Transportation Engineer shall maintain an accident location file of information from the reports. (Ord. 2713 §1(part), 1959; prior Code §31.4.)

10.08.040 Crossing Guards.

The Council hereby delegates to the Transportation Engineer authority on behalf of the City to adopt standards under which the City shall provide school crossing guards. If it is determined that a crossing guard is warranted at a certain location, the Chief of Police shall assign a crossing guard to that location. It shall be the duty of the Chief to hire, train, supervise, and otherwise administer crossing guards. (Ord. 4031, 1979; Ord. 2713 §1(part), 1959; prior Code §31.5.)

10.08.050 City Transportation Engineer - Duties.

It shall be the general duty of the City Transportation Engineer, under the direction of the Director of Public Works to determine the location, installation and proper timing and maintenance of traffic control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions and to cooperate with other City officials in the development of ways and means to improve traffic conditions, and to carry out any additional powers and duties imposed by ordinances of this City. (Ord. 2731 §1(part), 1959; prior Code §31.6.)

10.08.060 Emergency Regulations - Police Chief.

(a) Whenever the Chief of Police determines that emergencies, special conditions or events make necessary the temporary suspension or alteration of the usual traffic flow, traffic control or vehicle parking regulations, the Chief of Police is given the power and authority to adopt and enforce temporary regulations to make effective such temporary suspension or alteration. Such temporary regulations shall become effective when the Chief of Police places or removes or causes the placing or removing, of signs, signals or markings, or when the Chief of Police stations a Police Officer to give notice of such temporary regulations. The Chief of Police shall reinstate the usual traffic flow, traffic control or vehicle parking regulations by removing or replacing, or causing the removal or replacement, of such signs, signals or markings, or by removing the Police Officer from his station, immediately upon the termination of the emergency, special condition or event, unless otherwise directed by the City Council.

(b) If, in order to provide for the emergency, special condition or event, the Chief of Police determines that parking on all or any portion of any street shall be prohibited, any vehicle parked contrary to such temporary regulation may be removed or caused to be removed from such street by a Police Officer in the manner and subject to the provisions of the California Vehicle Code, if signs have been erected or placed at least twenty-four (24) hours prior to the removal of such vehicle giving notice that such vehicle may be removed.

(c) No person shall operate, park or stand any vehicle contrary to any temporary regulations adopted and made effective as provided in Subsection (a) of this section. (Ord. 2994 §1, 1964; Ord. 2713 §1(part), 1959; prior Code §31.7.)

10.08.070 Emergency and Experimental Regulations - Transportation Engineer.

The Transportation Engineer is empowered to make regulations necessary to make effective the provisions of this title, to cover emergencies or special conditions and to make temporary or experimental regulations. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days. In the event that after ninety (90) days the experimental regulations have proved satisfactory, they may be placed into effect permanently by Council authorization. (Ord. 2713 §1(part), 1959; prior Code §31.8.)

10.08.080 Duties of Police.

It shall be the duty of members of the Police Department to enforce the provisions of this title.

Officers of the Police Department or such officers as are assigned by the Chief of Police are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that in the event of a fire or in event of parades or other emergency, or to expedite traffic or to safeguard pedestrians, Officers of the Police Department or Officers assigned, may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws. (Ord. 2713 §1(part), 1959; prior Code §31.9.)

10.08.100 Obedience to Police and Fire Department Officials, Markings and Signs.

A. No person shall willfully fail or refuse to comply with any lawful order, direction or signal of a Police Officer or member of the Fire Department while directing traffic or performing official duties.

B. The operator of any vehicle, and any pedestrian using the streets, shall obey the instructions of any traffic control device, barrier, sign, marking, barrier tape or other device placed or erected pursuant to the provisions of this Chapter.

C. No person shall stop, leave standing or park any vehicle contrary to a prohibition imposed pursuant to the provisions of this Chapter. No person shall stop, leave standing or park any vehicle within an area designated as prohibited, or contrary to the restrictions or limitations indicated by barriers, signs, marking, barrier tape or other device provided pursuant to the provisions of this Chapter. (Ord. 4885, 1994; Ord. 2713 1959; prior Code §31.11.)

10.08.110 Persons Other Than Officials Shall Not Direct Traffic.

No person other than an Officer of the Police Department or person authorized or deputized by the Chief of Police or person authorized by law shall direct or attempt to direct traffic by voice, hand or other signal, except, that persons may operate when and as provided in this title, any mechanical pushbutton signal erected by order of an authorized public body. (Ord. 2713 §1(part), 1959; prior Code 31.12.)

10.08.120 Deputies.

Whenever, by the provisions of this title, a power is granted to a public officer, or a duty imposed upon such officer, the power may be exercised or duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless it is expressly otherwise provided. (Ord. 2713 §1(part), 1959; prior Code §31.16.)

10.08.130 School Crossing Guards - Authorization by Police Chief.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of any person appointed by the Chief of Police to control traffic at school crossings, provided that such person giving any order, signal or direction at such school crossing shall at the time be wearing some insignia, or carrying some insignia, indicating such appointment.

It shall be unlawful for any person driving or operating, propelling, or causing to be propelled, any vehicle, to fail to stop within twenty-five feet (25') of the nearest side of a school pedestrian lane where any signal device, flagman or other person is stationed, giving warning that children are about to cross or are crossing the street; and it is further declared unlawful to proceed until such signal has stopped, raised, or been removed, or the flagman or person stationed at such pedestrian lane has given a signal to go or has left the locality. (Ord. 2713 §1(part), 1959; prior Code §31.13.)

10.08.140 Public Employees to Obey Traffic Regulations.

The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States Government, any State, any County, City and County or municipal corporation, or other public agency, and it shall be unlawful for any such driver to violate any of the provisions of this title except as otherwise permitted in this title. (Ord. 2713 §1(part), 1959; prior Code §31.14.)

10.08.150 Exemptions to Certain Vehicles - Authorized Emergency Vehicles.

(a) The provisions of this title regulating the operation, parking and standing of vehicles shall not apply to any vehicle of the Police or Fire Department, any public ambulance, or any public utility vehicle or private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle when any vehicle mention in this section is operated in the manner specified in the California Vehicle Code in response to any emergency call.

(b) The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his willful disregard of the safety of other.

(c) The provisions of this chapter regulating the parking or standing of vehicles shall not apply to any vehicle of a Fire Department, or Police Department, or public utility, or City department, which necessarily is used for construction or repair work, or any vehicle owned by the United States, while in use for the collection, transportation or delivery of United States mail or parcel post.

(d) The provisions of this chapter shall not apply to any vehicle of a public utility, City department or licensed construction contractor necessarily used in connection with construction or repair work for periods of time in excess of parking time limits herein prescribed, provided that any such construction contractor shall apply for and obtain from the Police Department a permit for such excess time parking and which said permit shall designate the time required for such construction or repair work and said permit shall be conspicuously attached to the vehicle. (Ord. 3065 §1, 1965; Ord. 2713 §1(part), 1959; prior Code §31.15.)

10.08.160 Persons Propelling Push Carts or Riding Animal to Obey Traffic Regulations.

Every person propelling any push cart or riding an animal or driving a horse-drawn vehicle upon a roadway, shall be subject to the provisions of this title applicable to the driver of any vehicle, except those provisions of this title which by their very nature can have no application. (Ord. 2713 §1(part), 1959; prior Code §31.16.)

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Chapter 10.12

TRAFFIC CONTROL DEVICES

Sections:

10.12.010 Authorization of Signs - Transportation Engineer.
10.12.020 Authority to Install Traffic Control Devices - Transportation Engineer.
10.12.030 Vehicle Code Restrictions.
10.12.040 Traffic Engineering Principles - Transportation Engineer to Follow.
10.12.050 Required for Enforcement Purposes.
10.12.060 Installation of Traffic Signals - Transportation Engineer.
10.12.070 Information for Determination of Traffic Signal Locations.
10.12.080 Temporary Removal of Signal and Other Facilities - Transportation Engineer.
10.12.090 Distinctive Roadway Markings - Transportation Engineer.
10.12.100 Traffic Markings on Pavement to Direct Movement.
10.12.110 Removal of Signs and Markings - Council Finding.
10.12.120 Removal of Signs and Markings - Transportation Engineer Finding.
10.12.130 Interference with Signs - Misdemeanor.
10.12.140 Hours of Operation to be Determined by Transportation Engineer.
10.12.150 Obedience to Traffic Control Devices Required.
10.12.160 Push Button Signals.
10.12.170 Displaying of Unauthorized Signs Prohibited - Nuisance.
10.12.180 Unauthorized Curb or Street Markings.
10.12.190 Regulations on State Highways - City Council.

10.12.010 Authorization of Signs - Transportation Engineer.

(a) The Council hereby determines that insofar as they are applicable to City streets, all warning, regulatory and direction signs appearing on the Uniform Sign Chart as approved by the California Traffic Control Devices Committee are official signs.

(b) The Transportation Engineer shall determine and designate the character of all official warning, regulatory and direction signs other than those signs for which specifications are established by the Vehicle Code. (Ord. 2713 §1(part), 1959; prior Code §31.18.)

10.12.020 Authority to Install Traffic Control Devices - Transportation Engineer.

Except as outlined in Sections 10.08.060 and 10.24.020, the Transportation Engineer shall have the power and duty to place and maintain or cause to be placed and maintained official traffic control devices when and as required under the traffic laws of the City to make effective the provisions of said laws. (Ord. 2713 §1(part), 1959; prior Code §31.19.)

10.12.030 Vehicle Code Restrictions.

Whenever the Vehicle Code of the State of California requires for the effectiveness of any provisions thereof that traffic control devices be installed to give notice to the public of the application of such law, the Transportation Engineer is authorized to install or cause to be installed the necessary devices subject to any limitations or restrictions set forth in the law applicable thereto. (Ord. 2713 §1(part), 1959; prior Code §31.20.)

10.12.040 Traffic Engineering Principles - Transportation Engineer to Follow.

The Transportation Engineer may also place and maintain or cause to be placed and maintained such additional traffic control devices as he may deem necessary to regulate traffic or to guide or warn traffic, but he shall make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations and rules as may be set forth in the traffic laws of the City, or as may be determined by ordinance or resolution of the Council. (Ord. 2713 §1(part), 1959; prior Code §31.21.)

10.12.050 Required for Enforcement Purposes.

No provision of the Vehicle Code of the State of California or of this title for which signs are required shall be enforced against an alleged violator unless appropriate signs are in place and sufficiently legible to be seen by an ordinarily observant person, giving notice of such provisions of the traffic laws. (Ord. 2713 §1(part), 1959; prior Code §31.22.)

10.12.060 Installation of Traffic Signals - Transportation Engineer.

The Transportation Engineer shall install official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard. (Ord. 2713 §1(part), 1959; prior Code §31.23.)

10.12.070 Information for Determination of Traffic Signal Locations.

The Transportation Engineer shall ascertain and determine the locations where such signals are deemed by him to be necessary for the preservation of the public safety by resort to field observations, traffic counts and other traffic information as may be pertinent. (Ord. 2713 §1(part), 1959; prior Code §31.24.)

10.12.080 Temporary Removal of Signals and Other Facilities - Transportation Engineer.

The Transportation Engineer may temporarily remove traffic signals and necessary appurtenances and any other sign or device when such removal becomes necessary because of street, utility or sewer construction or because of driveway construction or relocation. When such construction or relocation has been completed, the Transportation Engineer shall replace the required signals, appurtenances, signs or devices. (Ord. 2713 §1(part), 1959; prior Code §31.25.)

10.12.090 Distinctive Roadway Markings - Transportation Engineer.

The Transportation Engineer is authorized to place distinctive roadway markings as described in Section 525.2(21459) of the Vehicle Code on those streets or parts of streets where the volume of traffic, alignment or width of the roadway renders it hazardous to drive on the left side of such markings or signs and markings. Such markings or signs and markings shall have the same effect as set forth in Section 525.2(21459) of the Vehicle Code. (Ord. 2713 §1(part), 1959; prior Code §31.26.)

10.12.100 Traffic Markings on Pavement to Direct Movement.

The Transportation Engineer may place appropriate traffic guidelines dividing highways into the number of traffic lanes that is proper and necessary and to place such other pavement markings as are necessary to direct vehicular movements in accordance with requirements of this title and the California Vehicle Code. (Ord. 2713 §1(part), 1959; prior Code §31.27.)

10.12.110 Removal of Signs and Markings - Council Finding.

If the Transportation Engineer has erected any sign or placed on the pavement any markings pursuant to a finding of the Council that facts existed necessitating the traffic regulation or prohibition indicated by such sign or markings, and the Council finds that such regulation or prohibition no longer is necessary, the Transportation Engineer shall remove such sign or markings. (Ord. 2713 §1(part), 1959; prior Code §31.28.)

10.12.120 Removal of Signs and Markings - Transportation Engineer Finding.

If the Transportation Engineer has erected any sign or placed on the pavement any markings pursuant to his finding that facts existed necessitating the traffic regulation or prohibition indicated by such sign or markings, and he finds that such regulations or prohibition no longer is necessary, he shall remove such sign or markings. (Ord. 2713 §1(part), 1959; prior Code §31.29.)

10.12.130 Interference with Signs - Misdemeanor.

Every person who, without permission of the Transportation Engineer to do so, removes, defaces, damages, or causes the removal, defacement, or damage of any sign erected pursuant to this title is guilty of a misdemeanor. (Ord. 2713 §1(part), 1959; prior Code §31.30.)

10.12.140 Hours of Operation to be Determined by Transportation Engineer.

The Transportation Engineer shall determine the hours and days during which any traffic control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this title or established by order of the Council. (Ord. 2713 §1(part), 1959; prior Code §31.31.)

10.12.150 Obedience to Traffic Control Devices Required.

(a) The operator of any vehicle, and any pedestrian using the streets, shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with this title, unless otherwise directed by a Police Officer, subject to the exemptions granted the driver of an authorized emergency vehicle when responding to emergency calls.

(b) The operator of any vehicle and every pedestrian using the streets shall obey the instructions of any barrier or sign erected by any of the public departments of this City, or public utilities of this City, or by any other person pursuant to law. (Ord. 2713 §1(part), 1959; prior Code §31.32.)

10.12.160 Push Button Signals.

No person shall operate a pedestrian push button signal, other than a pedestrian for the purpose of immediately crossing the roadway. (Ord. 2713 §1(part), 1959; prior Code §31.33.)

10.12.170 Displaying of Unauthorized Signs Prohibited - Nuisance.

It shall be unlawful for any person to place or maintain or display any device, other than an official warning or directional sign, or sign erected under competent authority, upon or in view of a street, which purports to be or is an imitation of or resembles an official warning or directional sign or signal or which attempts to direct or regulate movement of traffic, parking, or the acts of operators. Any such device shall be a public nuisance and subject to penalty under Chapters 1.25 and 1.28 of the Santa Barbara Municipal Code. The Chief of Police may remove or cause to be removed any display, sign, or device deemed to be an immediate traffic hazard without notice. (Ord. 5697, 2015; Ord. 2713 §1(part), 1959; prior Code §31.34.)

10.12.180 Unauthorized Curb or Street Markings.

It shall be unlawful for any person to apply to a curb or street on any street in the City any paint or markings which shall tend to mislead operators of vehicles into believing that the same is an official traffic parking or loading zone marker, or no parking area. (Ord. 2713 §1(part), 1959; prior Code §31.34a.)

10.12.190 Regulations on State Highways - City Council.

Any provision of this title which regulates traffic or delegates the regulation of traffic upon State Highways in any way for which the approval of the State Department of Public Works is required by State law, shall cease to be operative six (6) months after receipt by the City Council of written notice of withdrawal of approval of the State Department of Public Works.

Whenever this title delegates authority to a City officer, or authorizes action by the City Council to regulate traffic upon a State Highway in any way which by State law requires the prior approval of the State Department of Public Works, no such officer shall exercise such authority nor shall such action by the City Council be effective with respect to any State Highway without the prior approval in writing of the State Department of Public Works when and to the extent required by Division 9 and Division 11 of the Vehicle Code. (Ord. 2713 §1(part), 1959; prior Code §31.34b.)

Chapter 10.16

STOP AND YIELD REGULATIONS

Sections:

10.16.010 Stop Signs - Transportation Engineer to Erect.
10.16.020 Obedience to Stop Signs at Intersections.
10.16.030 Exceptions to Stops at Intersections.
10.16.040 Emerging from Alley or Private Driveway.
10.16.050 Obedience to Signal Indicating Approach of Railroad Train.
10.16.060 Yield Right-of-Way Signs.
10.16.070 Obedience to Yield Signs.

10.16.010 Stop Signs - Transportation Engineer to Erect.

The Transportation Engineer shall erect or cause to be erected, boulevard stop signs complying with provisions of the Vehicle Code at the entrance to every intersection of two (2) or more streets which he has determined is an intersection at which there is special hazard to life or property by reason of the volume of traffic upon such street, or at such intersections, or because of the number of reported accidents or the apparent probability thereof, or by reason of physical conditions which render any such streets or intersections exceptionally dangerous or hazardous to life or property, and where the factors creating the special hazard are such that according to the principles and experience of traffic engineering the installation of stop signs is reasonably calculated to reduce the expectancy of accidents, and that the use of warning signs would be inadequate. (Ord. 2713 §1(part), 1959; prior Code §31.35.)

10.16.020 Obedience to Stop Signs at Intersections.

When stop signs are erected as provided, at the entrance to any intersection, every driver of a vehicle shall stop at every such sign, before entering the intersection. (Ord. 2713 §1(part), 1959; prior Code §31.36.)

10.16.030 Exceptions to Stops at Intersections.

No stop need be made at any such intersection where:

(1) A Police Officer is on duty and directs traffic to proceed.

(2) A traffic signal is in operation and indicates that traffic may proceed.

(3) The operator turns right into a highway from a separate right turn lane which lane is delineated by buttons, markers, or channelization, and no stop sign is in place at the intersection of such separate right turn lane and such highway. (Ord. 2713 §1(part), 1959; prior Code §31.37.)

10.16.040 Emerging from Alley or Private Driveway.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alley-way, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway. (Ord. 2713 §1(part), 1959; prior Code §31.38.)

10.16.050 Obedience to Signal Indicating Approach of Railroad Train.

Whenever any person driving a vehicle approaches a railroad grade crossing under any of the following circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than ten feet (10') from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives a warning of the immediate approach of a railroad train.

(2) A crossing gate is lowered or when a human flagman gives or continues to give signal of the approach or passage of a railroad train.

(3) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(4) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed. (Ord. 2713 §1(part), 1959; prior Code §31.39.)

10.16.060 Yield Right-of-Way Signs.

Pursuant to the authority contained in Section 471.1(21356) of the Vehicle Code of the State of California, the Transportation Engineer is authorized to erect or cause to be erected yield right-of-way signs at one (1) or more approaches to an intersection of streets and highways in the City which are not through streets. (Ord. 2713 §1(part), 1959; prior Code §31.40.)

10.16.070 Obedience to Yield Signs.

When yield signs are erected as provided, at the entrance to any intersection every driver of a vehicle shall yield the right-of-way as stated in Section 550.1(21803) of the Vehicle Code except when directed to proceed by a Police Officer. (Ord. 2713 §1(part), 1959; prior Code §31.41.)

Chapter 10.20

SPECIAL SPEED ZONES

Sections:

10.20.015 Speed Zoning on Other than State Highways.
10.20.020 Speed Restriction on Street Adjacent to a Children's Playground (Shoreline Park and Leadbetter Beach).
10.20.030 Speed Restrictions - Bridges and Structures.
10.20.040 Extended School Zone Speed Zoning.

10.20.015 Speed Zoning on Other than State Highways.

Pursuant to Section 22357 and 22358 of the Vehicle Code, the City Council hereby determines, upon the basis of engineering and traffic investigation, that a speed greater than 25 miles per hour would be reasonable and safe upon the streets designated in Section 10.60.015 of this Code which are otherwise subject to a prima facie speed limit of 25 miles per hour under the said Vehicle Code, and that the maximum limit of 55 miles per hour is more than is reasonable and safe upon the streets designated in Section 10.60.015, which are otherwise subject to a maximum speed limit of 55 miles per hour under the said Vehicle Code. The Public Works Department is hereby authorized and directed to establish appropriate signs giving notice of the prima facie speed limits established by Section 10.60.015. (Ord. 4069, 1980.)

10.20.020 Speed Restriction on Street Adjacent to a Children's Playground (Shoreline Park and Leadbetter Beach).

Pursuant to Section 22357.1 of the California Vehicle Code the prima facie speed limit on Shoreline Drive between Loma Alta Drive and the westerly terminus of Shoreline Park shall be twenty five (25) miles per hour, every day, from sunrise to sunset. (Ord. 5685, 2015; Ord. 4804, 1993.)

10.20.030 Speed Restrictions - Bridges and Structures.

Whenever the Council finds on the basis of an engineering investigation, the maximum speed, not less than five (5) miles per hour, which can be maintained with safety on any bridge or elevated structure within the City, and a public hearing is held as provided in Section 516(22404) of the Vehicle Code, the Council may make its order in writing determining such maximum speed and the City Transportation Engineer shall erect and maintain signs specifying such maximum speed in the manner provided by law. (Ord. 2713 §1(part), 1959; prior Code §31.44.)

10.20.040 Extended School Zone Speed Zoning.

Pursuant to Section 22358.4 of the Vehicle Code of the State of California, the City Council hereby extends the length of the prima facie school zone speed limit of 25 mph, established by Section 22352 of the Vehicle Code of the State of California, at certain school zones. Where appropriate school zone warning signs are erected giving notice thereof, the prima facie speed limit of 25 miles per hour shall be in effect while children are going to or leaving the school, either during school hours or during the noon recess period, at the following locations:

A. ANACAPA STREET – East Islay Street to East Micheltorena Street
B. FLORA VISTA DRIVE – Calle Andulucia to Cliff Drive
C. LAGUNA STREET – East Los Olivos Street to a point 30 feet north of East Islay Street.

(Ord. 5685, 2015.)

Chapter 10.24

TURNING MOVEMENTS

Sections:

10.24.010 Authority to Place and Obedience to Turning Markers, Intersection, Multiple Lanes - Transportation Engineer.
10.24.020 Authority to Place Restricted Turn Signs - Transportation Engineer.
10.24.030 U-Turns.
10.24.040 Obedience to No Turn Signs.
10.24.050 Authority to Prohibit Turns Against Traffic Signal - Transportation Engineer.

10.24.010 Authority to Place and Obedience to Turning Markers, Intersection, Multiple Lanes - Transportation Engineer.

(a) The Transportation Engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. The Transportation Engineer is authorized to allocate and indicate more than one (1) lane of traffic from which drivers or vehicles may make right or left hand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law.

(b) When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (Ord. 2713 §1(part), 1959; prior Code §31.45.)

10.24.020 Authority to Place Restricted Turn Signs - Transportation Engineer.

The Transportation Engineer is authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections, when such signs are required by the State Vehicle Code. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event they shall be plainly indicated on the signs or they may be removed by the Chief of Police when such turns are permitted. (Ord. 2713 §1(part), 1959; prior Code §31.46.)

10.24.030 U-Turns.

No vehicle shall be turned at any time in a complete circle or in such a manner as to proceed in the opposite direction upon the street upon which such vehicle is travelling at the time of entering any intersection on State Street between the northwesterly line of Micheltorena Street and the southwesterly line of Gutierrez Street. (Ord. 2713 §1(part), 1959; prior Code §31.47.)

10.24.040 Obedience to No Turn Signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Ord. 2713 §1(part), 1959; prior Code §31.48.)

10.24.050 Authority to Prohibit Turns Against Traffic Signal - Transportation Engineer.

The Transportation Engineer is hereby authorized to determine those intersections within any business or residence district at which drivers of vehicles shall not make rights or left turns against a traffic signal and shall erect proper signs giving notice of such prohibition. No driver of a vehicle shall disobey the directions of any such sign. (Ord. 2713 §1(part), 1959; prior Code §31.49.)

Chapter 10.28

ONE-WAY STREETS AND ALLEYS

Section:

10.28.010 Designation - Transportation Engineer to Place Signs.

10.28.010 Designation - Transportation Engineer to Place Signs.

Whenever any ordinance or resolution of this City designates any one-way street or alley, the Transportation Engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. It is hereby declared that the direction of travel shall be as set forth on those streets or parts of streets designated in a schedule as set forth in Section 10.60.030. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited, and it shall be unlawful for any person to drive or operate a vehicle in a direction on any of those streets, except as indicated by the signs. (Ord. 2713 §1(part), 1959; prior Code §31.50.)

Chapter 10.32

CROSSWALKS

Sections:

10.32.010 Crosswalks - Transportation Engineer to Designate, Establish and Maintain.
10.32.020 Crossing in Central Traffic District.
10.32.030 Authority to Designate Portions of City Property for Pedestrian Traffic.

10.32.010 Crosswalks - Transportation Engineer to Designate, Establish and Maintain.

(a) The Transportation Engineer shall establish, designate and maintain crosswalks, by appropriate devices, marks or lines upon the surface of the roadway, where he determines that there is a particular hazard to pedestrians crossing the roadway subject to the limitation contained in (b) of this section.

(b) Other than crosswalks at intersections, no crosswalk shall be established in any block which is less than four hundred feet (400') in length. Elsewhere not more than one (1) additional crosswalk shall be established in any one (1) block and such crosswalk shall be located as nearly as practicable at midblock.

(c) The Transportation Engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing that pedestrians shall not cross in the crosswalk so indicated. (Ord. 3803, 1975; Ord. 2713 §1(part), 1959; prior Code §31.51.)

10.32.020 Crossing in Central Traffic District.

No pedestrian shall cross a roadway other than at a crosswalk in the Central Traffic District or in any business district. (Ord. 2713 §1(part), 1959; prior Code §31.52.)

10.32.030 Authority to Designate Portions of City Property for Pedestrian Traffic.

Upon request of the City commission or department having jurisdiction over a particular parcel of City property, the Chief of Police may designate portions of the City property for pedestrian traffic, and may prohibit such uses of the property as are deemed inconsistent with pedestrian traffic. When areas have been so designated by the Chief of Police, the City Transportation Engineer shall cause signs to be erected giving notice of such designation and enumerating those uses of the property which are prohibited. When areas have been so designated and appropriate signs erected, it shall be unlawful for any person to use such area in the manner prohibited. (Ord. 3217 §1, 1967.)

Chapter 10.36

COMMERCIAL VEHICLES

Sections:

10.36.010 Certain Vehicles Prohibited in Central Traffic District.
10.36.020 Advertising Vehicles.
10.36.030 Heavy Vehicles Prohibited from Using Certain Streets - Transportation Engineer to Post Signs.
10.36.031 Commercial Vehicles Over Seven (7) Tons in Weight Prohibited from Using Hermosillo Road.
10.36.040 Permit for Movement of Overweight, Etc., Vehicles Over Streets.
10.36.050 Streets Designated as Prohibited to Commercial Vehicle Travel.
10.36.070 Airport Director to Erect Signs.

10.36.010 Certain Vehicles Prohibited in Central Traffic District.

No person shall operate any of the following vehicles in the Central Traffic District between the hours of ten a.m. (10:00) and six p.m. (6:00) of any day:

(1) Any freight vehicle more than eight and one-half feet (8-1/2') in width, with load or any freight vehicle so loaded that any part of its load extends more than twenty feet (20') to the front or rear of such vehicle; provided, that the Chief of Police may, by written permit, authorize the operation of any such vehicle for the purpose of making necessary emergency deliveries to or from points within the Central Traffic District.

(2) Any vehicle carrying building material that has not been loaded, or is not to be unloaded at some point within the Central Traffic District, except that such vehicles may travel upon Carrillo Street, Montecito Street or Gutierrez Street.

(3) Any vehicles carrying crude or fuel oil, except that such vehicles may be operated upon Montecito and Gutierrez Streets and may be operated in the district where the same is to be unloaded, in whole or in part, within such District. (Ord. 2713 §1(part), 1959; prior Code §31.56.)

10.36.020 Advertising Vehicles.

No person shall operate, drive, tow, draw, transport, move, park or stand any vehicle used for commercial advertising purposes, or for the purpose of displaying such vehicle for sale, or as a prize, on or upon any public street or alley at any time, excepting that the City Council may grant special permission to organizations when it so deems worthy. (Ord. 2713 §1(part), 1959; prior Code §31.57.)

10.36.030 Heavy Vehicles Prohibited from Using Certain Streets - Transportation Engineer to Post Signs.

(a) Whenever any ordinance of this City designates and describes any street, or portion thereof, as a street, the use of which is prohibited by any vehicle exceeding a maximum gross weight limit of three (3) tons, the City Transportation Engineer shall erect and maintain appropriate signs on those streets affected by such ordinances.

(b) Those streets and parts of streets described in the schedule as set forth in Section 10.60.040 are hereby declared to be streets, the use of which is prohibited by any vehicle exceeding a maximum gross weight limit of three (3) tons. The provisions of this section shall not apply to private or public school buses or to passenger buses under jurisdiction of the California Public Utilities Commission. (Ord. 3033 §3, 1965; Ord. 2713 §1(part), 1959; prior Code §31.58.)

10.36.031 Commercial Vehicles Over Seven (7) Tons in Weight Prohibited from Using Hermosillo Road.

Pursuant to Section 35701 of the Vehicle Code of the State of California, Hermosillo Road, from Coast Village Road north to the City Limits, is hereby declared to be a street, the use of which is prohibited to any commercial vehicle exceeding a maximum gross weight limit of seven (7) tons. (Ord. 5611, 2013; Ord. 4027, 1979.)

10.36.040 Permit for Movement of Overweight, Etc., Vehicles Over Streets.

A fee of ten dollars ($10.00) shall be charged by the City for the issuance of each permit after application in writing therefor to the Public Works Department for the movement of vehicles and loads exceeding the size, weight and loading requirements of the Vehicle Code of the State over streets and public places of the City. The City shall determine the route and require a deposit from each permittee to cover the cost of inspection of the route to be taken by the vehicle, or load, for which a permit is required, such inspection to be made both before and after the movement of the subject vehicle or load. Actual costs of inspection, based upon the fourth (4th) salary step of the employee classification utilized for inspection, plus fifteen percent (15%) for transportation, overhead for supervision, workmen's compensation, retirement, vacation, sick leave and office rental shall be charged against the deposit and billed against the permittee if the deposit proved insufficient. Any balance in the deposit for inspection shall be refunded to the permittee upon completion of inspection. Nothing in this section shall apply to any house trailer being moved under a permit issued by the State Department of Motor Vehicles. (Ord. 2713 §1(part), 1959; prior Code §31.59.)

10.36.050 Streets Designated as Prohibited to Commercial Vehicle Travel.

Pursuant to the provisions of Section 35701 of the Vehicle Code of the State of California, Robert Troup Road from its intersection with Hollister Avenue, at the Santa Barbara Airport, southwesterly to the City limits and East "A" Road at the Santa Barbara Airport from Building No. 126 south to the City limits and Troup Road from its intersection with West "A" Road, near Hollister Avenue at the Santa Barbara Airport, southwesterly to the City limits are hereby declared to be streets, the use of which is prohibited to any commercial vehicle exceeding a maximum gross weight limit of four (4) tons. Providing, however, that this chapter shall not be construed to prevent any commercial vehicle from delivering or receiving a load on the streets within one (1) block of an intersecting street or from crossing the streets at any intersection, nor shall this chapter apply to any vehicle subject to Sections 1031 to 1036, inclusive, of the Public Utilities Code. (Ord. 2741 §1, 1959; prior Code §31.59A(part).)

10.36.070 Airport Director to Erect Signs.

The Airport Director shall cause to be erected and maintained appropriate signs on Robert Troup Road, East "A" Road and West "A" Road designating such weight limit. (Ord. 2740 §3, 1959; prior Code §31.59A(part).)

Chapter 10.40

MISCELLANEOUS DRIVING AND SAFETY RULES

Sections:

10.40.010 Interference with Fire Apparatus - Following and Parking Distance.
10.40.020 Driving Through Funeral Procession.
10.40.040 Operation of Vehicles on Sidewalks.
10.40.050 Driving on New Pavement and Paint Markings.
10.40.055 Operating Vehicles on Private Property Prohibited.
10.40.060 Restricted Access.
10.40.070 Molesting of Traffic Counting Devices Prohibited.
10.40.080 Riding Horses on Sidewalks.
10.40.090 Vehicles and Horses Forbidden on Public Beaches.
10.40.100 Throwing Articles on Streets.
10.40.110 Obedience to Signs and Barriers.
10.40.130 Solicitation for Sight-seeing Vehicles.
10.40.140 Submitting Notification.

10.40.010 Interference with Fire Apparatus - Following and Parking Distance.

(a) No driver of a vehicle shall follow any fire apparatus answering a fire alarm, closer than three hundred feet (300'), or park any vehicle within three hundred feet (300') of a fire, or operate or park any vehicle in such a manner as to interfere with any fire apparatus or line of fire hose when in use at a fire or when in place for use in response to a fire alarm.

(b) No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street, private driveway, to be used at any fire or alarm of fire without the consent of the members of the Fire Department in command. (Ord. 2713 §1(part), 1959; prior Code §31.60.)

10.40.020 Driving Through Funeral Procession.

No driver of a vehicle shall drive between the vehicles comprising a funeral procession while they are in motion and when the vehicles in such procession are conspicuously so designated. (Ord. 2713 §1(part), 1959; prior Code §31.61.)

10.40.040 Operation of Vehicles on Sidewalks.

The driver of any vehicle shall not drive within any sidewalk or parking area except at a permanent or temporary driveway; provided, that by permit granted by the City Council, upon application, a jeep propelled tourist tram may be operated upon and along the sidewalk situated on the southerly side of Cabrillo Boulevard between Castillo Street and State Street; such permit may be granted by the City Council upon such terms and conditions as will insure the safety of pedestrians using such sidewalk. No such jeep and tram vehicle shall be operated under the permit without being equipped with a warning bell adequate to warn pedestrians of the approach of such vehicle, and such vehicle shall not be driven at a speed in excess of five (5) miles per hour upon or along the sidewalk. The permit shall also provide that the Chief of Police may suspend the operation of such vehicle during special events in the Cabrillo Boulevard area, including parades, pageants and other civic events attended by large crowds. (Ord. 3350 §1, 1969.)

10.40.050 Driving on New Pavement and Paint Markings.

No person shall ride or drive any animal, animal-drawn vehicle, or any vehicle over or across any newly made pavement or freshly painted markings in any street when a barrier or sign is in place, warning persons not to drive over or across such pavement or markings, or when a sign is in place stating that the street or any portion thereof is closed. (Ord. 2713 §1(part), 1959; prior Code §31.65.)

10.40.055 Operating Vehicles on Private Property Prohibited.

No person shall operate or drive a motor vehicle including, but not limited to a motorcycle, minibike, trailbike, dune buggy, motor scooter, jeep or other similar motor vehicle upon the private property of another or upon any public property which is not held open to the public for vehicular use and which is not subject to the provisions of the Vehicle Code. The provisions of this section shall not apply to governmental agencies, emergency vehicles responding to a call of emergency, nor to persons driving upon such property with the written consent of the owner or the person in lawful possession of such property, nor to the owner himself, the members of his immediate family and his duly authorized employees, agents, or tenants. (Ord. 3449 §1, 1970.)

10.40.060 Restricted Access.

No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are established by public authority. (Ord. 2713 §1(part), 1959; prior Code §31.66.)

10.40.070 Molesting of Traffic Counting Devices Prohibited.

Unless authorized by the Transportation Engineer, a person shall not move, molest, tamper with, or damage in any way any traffic counting device which has been located within a City street or adjacent thereto by authority of the Transportation Engineer. (Ord. 2713 §1,(part), 1959; prior Code §31.67.)

10.40.080 Riding Horses on Sidewalks.

No person shall ride or drive a horse or drive a horse-drawn vehicle upon any sidewalk in the City except at a driveway. (Ord. 2713 §1(part), 1959; prior Code §31.68.)

10.40.090 Vehicles and Horses Forbidden on Public Beaches.

A. No person shall operate any vehicle along or upon any of the publicly owned beaches within the City closer to the ocean line than one hundred feet (100') from the mean high tide line of the Pacific Ocean, except when authorized to do so by permit from the Chief of Police, or except while such vehicle is actively and necessarily engaged in the launching or removal of any boat upon or from the ocean.

B. No person shall ride any horse or drive any horse-drawn vehicle upon or along any of the publicly owned beaches within the City between Lighthouse Point and the easterly City limits closer to the ocean than one hundred feet (100') from the mean high tide line of the Pacific Ocean, except when authorized to do so by a special events permit from the Chief of Police according to Chapter 9.12 and a use permit from the Director of Parks and Recreation according to Chapter 15.05, and if all horses are restrained in conformance with the provisions of Section 6.08.020. (Ord. 4943, 1996; Ord. 2713 §1(part), 1959; prior Code §31.69.)

10.40.100 Throwing Articles on Streets.

No person shall throw or permit to be dropped on to any street, sidewalk or parkway, from any vehicle, any paper, refuse, dirt, gravel, sand, glass, crockery, tin cans, nails or other sharp metal objects. (Ord. 2713 §1(part), 1959; prior Code §31.107.)

10.40.110 Obedience to Signs and Barriers.

The driver of any vehicle, and the person in charge of any animal, shall obey the instructions of any barrier or sign erected by any of the public departments of the City, or by any other person pursuant to law. (Ord. 2713 §1(part), 1959; prior Code §31.108.)

10.40.130 Solicitation for Sight-seeing Vehicles.

No person shall use or occupy any part of a public street or sidewalk for the purpose of soliciting patronage or customers for any motor vehicle which is run, driven or operated over the public streets of the City for the purpose of sight-seeing or showing points of interest, or conveying persons to points within or without the City to show or exhibit lands or houses or other property or interests in property, real or personal, for the purpose of effecting, or attempting to effect, the sale of any such lands or houses or of any other property.

This section shall not prohibit the stopping or standing of sight-seeing buses for loading and unloading of passengers at points of interest on regular tours. (Ord. 2713 §1(part), 1959; prior Code §31.110.)

10.40.140 Submitting Notification.

All automobile dismantlers shall submit to the Police Department a copy of each notification required to be submitted to the California Department of Motor Vehicles pursuant to Section 11520 of the California Vehicle Code. Such notification shall be submitted within twenty-four (24) hours of obtaining actual possession of the vehicle. (Ord. 3265 §1, 1967.)

Chapter 10.44

STOPPING, STANDING AND PARKING - GENERALLY

Sections:

10.44.010 Application of Regulations.
10.44.020 Prohibited - Signs to be Posted by Transportation Engineer.
10.44.025 Procedure for Recovery of Removed Vehicles.
10.44.030 Emergency Parking Signs.
10.44.032 Temporary Signs when Street Work Being Done.
10.44.034 Water and Sewer System Work.
10.44.040 Parking for Certain Purposes Prohibited.
10.44.050 Parking of Broken Down or Wrecked Vehicles.
10.44.055 Operating Vehicles on Private Property Prohibited.
10.44.060 Use of Streets for Storage of Vehicles Prohibited - Removal by Police Chief.
10.44.070 Parking near Police Department, Sheriff's Office and Fire Stations.
10.44.080 Standing in Parkways Prohibited.
10.44.090 Parking Prohibited - Private Property.
10.44.095 Sign Prohibiting Parking.
10.44.100 Trains Not to Block Streets.
10.44.110 Designation of Angle Parking or Diagonal Parking.
10.44.120 Parking Parallel with Curb.
10.44.130 Parking on Hills.
10.44.140 Parking in Intersections.
10.44.150 Parking Space Markings.
10.44.151 Regulation of Traffic Upon Municipally Owned and/or Operated Parking Lots.
10.44.152 Regulation of Parking Upon Municipally Owned and/or Operated Parking Lots.
10.44.153 Penalties For Vehicle Parking Over 72 Hours in Parking Lots.
10.44.160 Preferential Parking Rights.
10.44.200 Unlawful Parking of Trailers, Mobilehomes, Recreational Vehicles, Trucks and Buses.
10.44.205 Public Works Director Authority to Regulate Parking of Recreational Vehicles.
10.44.210 Parking of Vehicles Used for Transportation of Property for Hire.
10.44.250 Preferential Parking for Sight-seeing Buses - Generally.
10.44.260 Sight-seeing Buses - Curb Markings.
10.44.270 Sight-seeing Buses - Termination of Parking Privilege.

10.44.010 Application of Regulations.

The provisions of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a Police Officer or official traffic control device. (Ord. 2713 §1(part), 1959; prior Code §31.71.)

10.44.020 Prohibited - Signs to be Posted by Transportation Engineer.

The Transportation Engineer shall appropriately sign or mark any place where he determines that it is necessary in order to eliminate dangerous traffic hazards; and, when so signed or marked, no person shall stop, stand or park a vehicle in any of said places. (Ord. 2713 §1(part), 1959; prior Code §31.72.)

10.44.025 Procedure for Recovery of Removed Vehicles.

(a) Recovery. If a vehicle is removed pursuant to this chapter, the owner or person entitled to possession thereof shall be given notice of the four (4) options available to recover the vehicle:

(1) Pay the towing and storage fees, recover said vehicle and defend the citation for violation of this chapter; or

(2) Post security for the fees, recover said vehicle and defend the citation for violation of this chapter; or

(3) Request the Police Chief or his designee to conduct an informal hearing concerning the issuance of the citation for violation of this chapter and order the release of the vehicle if it is determined that such citation was issued wrongfully; or

(4) Defend the citation for violation of this chapter and request an early hearing on the matter.

(b) Exemption from Towing Fees. If the citation is not filed, dismissed on motion of the prosecution, or if the person receiving the citation is acquitted of the violation by a court of competent jurisdiction, the owner or person entitled to possession of the vehicle shall not be liable for any costs for towing fees and up to seventy-two (72) hours storage fees.

(c) Notice. Notice of the four (4) options for recovery shall be posted in all places where members of the public come to recover removed vehicles and in the appropriate areas of the Police station. Such notice shall be legible and clearly visible for members of the public who come to recover such vehicles. (Ord. 4249, 1984; Ord. 4011 §1, 1979; Ord. 3969, 1978.)

10.44.030 Emergency Parking Signs.

(a) Whenever the Chief of Police shall determine that an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings or functions, or for other reasons, the Chief of Police shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the Chief of Police shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency and the Chief of Police shall cause such signs to be removed promptly thereafter.

(b) Any vehicle parked contrary to the directions and provisions of signs erected or placed pursuant to Subsection (a) may be removed or caused to be removed from any street by a Police Officer in the manner and subject to the provisions of the California Vehicle Code if such signs give notice that such vehicle may be removed and are erected or placed at least twenty-four (24) hours prior to the removal of such vehicle.

(c) When signs authorized by the provisions of Subsection (a) are in place, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs. (Ord. 2994 §2, 1964; Ord. 2713 §1(part), 1959; prior Code §31.73.)

10.44.032 Temporary Signs when Street Work Being Done.

(a) Whenever the Street Superintendent shall determine that the use of a street or portion thereof is necessary for the cleaning, repair or construction of the street or for the installation of underground utilities, other than water and sewer, he shall have the power and authority to order temporary signs to be erected or posted indicating that the parking of vehicles is prohibited on such street during such times as are indicated on such temporary signs.

(b) Any vehicle parked contrary to the directions and provisions of signs erected or placed pursuant to Subsection (a) may be removed or caused to be removed from any street by a Police Officer in the manner and subject to the provisions of the California Vehicle Code if such signs give notice that such vehicle may be removed and are erected or placed at least twenty-four (24) hours prior to the removal of such vehicle.

(c) When signs authorized by the provisions of Subsection (a) are in place, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs. (Ord. 3269 §1, 1968.)

10.44.034 Water and Sewer System Work.

(a) Whenever it is necessary to use any street or portion thereof for a purpose by or on behalf of the City which is not specified in Sections 10.44.030 or 10.44.032, and which is other than for the normal flow of traffic, and it is determined that the parking of vehicles along such street would prohibit or interfere with such use of the street, the head of the City department having control over the particular use of the street shall have power and authority to order temporary signs to be erected or posted indicating that the parking of vehicles is prohibited on such street during such times as are indicated on such temporary signs. Uses of the street included in this section include but are not limited to work done in connection with the City water facilities, the City sanitary sewer system and the City street trees.

(b) Any vehicle parked contrary to the directions and provisions of signs erected or placed pursuant to Subsection (a) may be removed or caused to be removed from any street by a Police Officer in the manner and subject to the provisions of the California Vehicle Code if such signs give notice that such vehicle may be removed and are erected or placed at least twenty-four (24) hours prior to the removal of such vehicle.

(c) When signs authorized by the provisions of Subsection (a) are in place, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs. (Ord. 3269 §2, 1968.)

10.44.040 Parking for Certain Purposes Prohibited.

No person shall park a vehicle upon any street for the principal purpose of:

(1) Displaying such vehicle for sale.

(2) Repairing such vehicle except repairs necessitated by an emergency.

(3) Washing such vehicle except by the owner or by a person under direct control or supervision by the owner of such vehicle. (Ord. 2713 §1(part), 1959; prior Code §31.74.)

10.44.050 Parking of Broken Down or Wrecked Vehicles.

No person shall park or stand or permit to remain for a longer period than two (2) hours on any public street, any motor vehicle which is wrecked or incapable of operating under its own power. (Ord. 4409, 1986; Ord. 2713 §1 (part), 1959; prior Code §3175.)

10.44.055 Operating Vehicles on Private Property Prohibited.

No person shall operate or drive a motor vehicle including, but not limited to a motorcycle, minibike, trailbike, dune buggy, motor scooter, jeep or other similar motor vehicle upon the private property of another or upon any public property which is not held open to the public for vehicular use and which is not subject to the provisions of the Vehicle Code. The provisions of this section shall not apply to governmental agencies, emergency vehicles responding to a call of emergency, nor to persons driving upon such property with the written consent of the owner or of the person in lawful possession of such property, nor to the owner himself, the members of his immediate family and his duly authorized employees, agents, or tenants. (Ord. 3449 §1, 1970.)

10.44.060 Use of Streets for Storage of Vehicles Prohibited - Removal by Police Chief.

(a) No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of seventy-two (72) hours.

(b) In the event a vehicle is parked or left standing upon a street in excess of a consecutive period of seventy-two (72) hours, any member of the Police Department authorized by the Chief of Police may remove the vehicle from the street in the manner and subject to the requirements of the Vehicle Code. (Ord. 2976 §1, 1959; Ord. 2713 §1(part), 1959; prior Code §31.76.)

10.44.070 Parking Near Police Department, Sheriff's Office and Fire Stations.

The portion of the roadway adjacent to the curb within eighty feet (80') on either side of the entrance to the headquarters or substation of the Police Department or Sheriff's Office and Fire Stations may be reserved exclusively for the use of official Police or Sheriff's and Fire cars, and when so marked, it shall be unlawful for any other vehicles to park within such area or zone. (Ord. 2713 §1(part), 1959; prior Code §31.77.)

10.44.080 Standing in Parkways Prohibited.

No person shall stop, stand or park a vehicle within any parkway. (Ord. 2713 §1(part), 1959; prior Code §31.78.)

10.44.090 Parking Prohibited - Private Property.

It shall be unlawful for any person to park a motor vehicle upon private property without the consent of the owner or occupant of said property provided that (i) a sign, prohibiting public parking and conforming to the requirements of the California Vehicle Code and Santa Barbara Municipal Code Section 10.44.095, is displayed in plain view at each vehicular entrance to such property, or (ii) the vehicle is parked upon a lot or parcel improved with one single family dwelling. (Ord. 4338, 1985; Ord. 2713 Section 1(part), 1959; prior Code Section 31.79.)

10.44.095 Sign Prohibiting Parking.

A. MINIMUM SIZE. Each sign required under Section 10.44.090 shall comply with the following standards:
   1. The minimum size of the sign shall be eighteen (18) inches by twenty-four (24) inches.
   2. The letters in the heading shall have a minimum height of two (2) inches.
   3. All other letters on the sign shall have a minimum height of one (1) inch.

B. SIGNS EXEMPT FROM SIGN ORDINANCE. A sign required by Section 10.44.090 is an exempt sign under Subsection B of Section 22.70.030 if the sign does not exceed the minimum size specified in Subsection A above. However, a sign required by Section 10.44.090 that has larger dimensions than specified in Subsection A above is subject to review and approval by the Sign Committee. (Ord. 4338, 1985.)

10.44.100 Trains Not to Block Streets.

No person shall operate any train or train of cars, or permit the same to remain standing, so as to block the movement of traffic upon any street for a period of time longer than five (5) minutes. (Ord. 2713 §1(part), 1959; prior Code §31.79A.)

10.44.110 Designation of Angle Parking or Diagonal Parking.

A. The Transportation Engineer shall determine those portions of City streets upon which angle parking or diagonal parking shall be permitted. The Transportation Engineer is authorized to place pavement markings or signs within or adjacent to such portions of City streets in which angle parking or diagonal parking shall be permitted, indicating the angle at which vehicles shall be parked. Angle parking, in accordance with the designation placed by the Transportation Engineer, shall be permitted within the areas so designated.

B. When signs or pavement markings are in place indicating angle parking as herein provided, no person shall park or stand a vehicle at that location other than at the angle to the curb or edge of the roadway indicated by such signs or pavement markings. (Ord. 4887, 1994; Ord. 2713 §1 (part), 1959; prior Code §31.91.)

10.44.120 Parking Parallel with Curb.

(a) Subject to other and more restrictive limitations, a vehicle may be stopped or parked within eighteen inches (18") of the left-hand curb facing in the direction of traffic movement upon any one-way street unless signs are in place prohibiting such stopping or standing.

(b) In the event a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are in place permitting such standing or parking.

(c) The Transportation Engineer is authorized to determine when standing or parking may be permitted upon the left-hand side of any one-way roadway of a street having two (2) or more separate roadways and shall erect signs giving notice thereof.

(d) The requirement of parallel parking shall not apply in the event any commercial vehicle is actually engaged in the process of loading or unloading freight or goods, in which case that vehicle may be backed up to the curb, provided that such vehicle does not extend beyond the centerline of the street and does not block traffic thereby. However, no such angle parking for loading shall be permitted if the physical features of the area are such that loading can be accomplished in some other manner. (Ord. 2713 §1(part), 1959; prior Code §31.92.)

10.44.130 Parking on Hills.

No person shall park or leave standing any vehicle unattended on a street when upon any grade exceeding three percent (3%) within any business or residential district without blocking the wheels of the vehicle by turning them against the curb or by other means. (Ord. 2713 §1(part), 1959; prior Code §31.93.)

10.44.140 Parking in Intersections.

An operator may park within an intersection adjacent to the curb if the Transportation Engineer finds, and determines, pursuant to Section 586(22500(a)) of the California Vehicle Code, that the width of the street and traffic conditions are such that such parking will not constitute a traffic hazard or impede the free flow of traffic. (Ord. 2713 §1(part), 1959; prior Code §31.94.)

10.44.150 Parking Space Markings.

The Transportation Engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs where authorized parking is permitted, and to indicate parking spaces within parking lots owned and/or operated by the City, and to indicate those locations wherein the parking of vehicles which are 24 feet or longer shall be prohibited.

When such parking space markings are placed in the street or in a municipally owned and/or operated parking lot, subject to other and more restrictive limitations, no vehicle shall be stopped, left standing or parked other than within a single space unless the size or shape of such vehicle makes compliance impossible.

Where signs or markings are installed pursuant to this Chapter to indicate that parking vehicles that are 24 feet or longer is prohibited, no vehicle which is 24 feet in length, or longer, shall be stopped, left standing or parked contrary to such prohibition or within an area designated as prohibited. (Ord. 4759, 1992; Ord. 3199 §1, 1967; Ord. 2713 §1(part), 1959; prior Code §31.95.)

10.44.151 Regulation of Traffic Upon Municipally Owned and/or Operated Parking Lots.

Whenever the Transportation Engineer shall determine the necessity of regulations governing the operation and parking of vehicles upon or the exclusion of vehicles from parking lots owned, operated or controlled by the City, the Transportation Engineer shall have the power and authority to erect signs or otherwise mark such lots to indicate such regulations; and when signs or markings authorized by the provisions hereof are in place giving notice thereof, no person shall operate, stand or park any vehicle upon such parking lot contrary to such regulations or directions of such signs or markings.

Any person parking a motor vehicle in violation of a curb marking or sign restricting parking to vehicles displaying a distinguishing license plate or placards issued to disabled persons pursuant to the Vehicle Code shall be punished by a fine of not less than twenty-five dollars ($25.00). (Ord. 4759, 1992; Ord. 3913 §1, 1977; Ord. 3199 §2, 1967.)

10.44.152 Regulation of Parking Upon Municipally Owned and/or Operated Parking Lots.

(a) No person shall park a motor vehicle in a municipally owned and/or operated parking lot and fail to pay the parking fee established by resolution and posted for the use of said lot. Said fee shall be paid no later than time of departure from the lot, except that a person departing a lot with no parking attendant present shall deposit said fee or mail said fee in accordance with the instructions on the envelope securely attached to the vehicle by the parking attendant before his departure from the lot; said fee to be mailed or delivered within three (3) days.

(b) It shall be unlawful for any person to use or permit or cause to be used a monthly parking permit by a person not authorized in the permit agreement.

(c) Any person removing a vehicle from the lot and re-entering a lot for the sole purpose of avoiding payment of parking fees shall pay a parking fee as if said vehicle had not departed the lot.

(d) It shall be unlawful to present a subsequent, counterfeit, or other substitute evidence of entry into any municipally owned and/or operated parking lot for the purpose of reducing or avoiding the parking fee established for the use of said lot.

(e) In an action for violation of this section, proof that a person was the registered owner of a motor vehicle at the time the vehicle was parked unattended in a municipally owned and/or operated lot is prima facie evidence that the registered owner was the person who parked the vehicle. The registered owner shall be given written notice of the violation and an opportunity to respond as provided in Section 40202 of the Vehicle Code of the State of California as it exists today and may be amended in the future.

(f) In addition to the penalties provided for violation of this code, the use of a municipally owned and/or operated parking lot in violation of this Municipal Code, the regulations established by the Transportation Engineer, or the applicable fee requirements, shall be subject to use fees that are twice the fees for proper use.

(g) The Transportation Engineer shall make provision to mark, chalk, photograph, record or otherwise identify such use of municipally owned and/or operated parking lots as may be required for the reasonable enforcement of this Chapter.

(h) No person who owns, or has possession, custody or control of any vehicle shall park, stop or leave the vehicle in excess of a period of seventy-two (72) consecutive hours in a municipally-owned parking lot.

(i) Notwithstanding (h), the Public Works Director may issue a permit allowing for parking in excess of seventy-two (72) consecutive hours in a municipally-owned parking lot. (Ord. 5734, 2016; Ord. 5061, 1998; Ord. 4760, 1992; Ord. 3864, 1976.)

10.44.153 Penalties for Vehicle Parking Over 72 Hours in Parking Lots.

A. PENALTIES FOR VEHICLE PARKING OVER 72 HOURS, OR PARKING OF INOPERABLE VEHICLES, UPON MUNICIPALLY-OWNED PARKING LOTS. In the event a vehicle is parked, stopped or left standing in any of the municipally-owned parking lots, except as permitted per Section 10.44.152 (h), in excess of a period of seventy-two (72) consecutive hours, the vehicle may be cited and the vehicle may be removed from the municipally-owned parking lots by any member of the Police Department authorized by the Chief of Police in the manner and consistent with the requirements of the California Vehicle Code. (Ord. 5734, 2016.)

10.44.160 Preferential Parking Rights.

Whenever a space is vacant next to a curb sufficient only for the parking of one (1) vehicle, and any vehicle has been stopped in the line of traffic for the purpose of backing into such space, such vehicle shall have preferential right to such parking space over any following vehicle. (Ord. 2713 §1(part), 1959; prior Code §31.96.)

10.44.200 Unlawful Parking of Trailers, Mobilehomes, Recreational Vehicles, Trucks and Buses.

A. **STREET PARKING**. No person shall park or stand or permit to remain for a longer period than two (2) hours on any street or highway or public alley or on a parkway area between curb and sidewalk, any trailer, semi-trailer, or bus (all as defined in the California Vehicle Code) or any mobilehome (as defined in Title 28 of this Code), or any truck used primarily for business or commercial hauling and of a weight in excess of three quarters (3/4) ton capacity, unless such person has a written authorization from the Chief of Police or his delegate.

B. **OVERNIGHT PARKING**. No person shall park or stand or permit to stand any of the following vehicles: 1. trailer, 2. semi-trailer, 3. bus (all as defined in the California Vehicle Code), 4. mobilehome (as defined in Title 28 of this Code), or 5. any vehicle which is capable of greater than 1500 pounds (3/4 ton) cargo capacity on any city street between the hours of two (2:00) a.m. and six (6:00) a.m. of any day.

C. **RV OVERNIGHT PARKING RESTRICTED AREA**. No person shall park or stand or permit to stand any recreational vehicle or temporary recreational vehicle (as those terms are defined in Section 15.16.060 of this Code) between the hours of twelve (12:00) midnight and six (6:00) a.m. in the following area of the City: south of the U.S. 101 freeway, and between Castillo Street and the eastern boundary of the City at the Andre Clark Bird Refuge and Coast Village Road (as depicted on the map attached to this chapter entitled "RV Overnight Parking Restricted Area, dated February 6, 2007.")

D. **EXCEPTION**. This section shall not apply to a commercial truck (as established by a current registration with the state Department of Motor Vehicles):

1. While such truck is being loaded or unloaded and such additional time is reasonably required for such loading and unloading operations; or

2. When such vehicle is parked in connection with, and in aid of, the performance of a service to or on a property in the block on which such vehicle is parked for a period reasonably necessary to complete such service. (Ord. 5411, 2007; Ord. 5263, 2002; Ord. 4269, 1984; Ord. 3317 §1, 1968; Ord. 3239 §1, 1967; Ord. 2713 §1(part), 1959; prior Code §31.100.)

10.44.205 Public Works Director Authority to Regulate Parking of Recreational Vehicles.

A. **RECREATIONAL VEHICLES**. For the purposes of this section, the term "Recreational Vehicle" shall be as defined in Section 18010 of the state Health and Safety Code, as it is presently enacted or hereafter amended.

B. **AUTHORITY OF PUBLIC WORKS DIRECTOR – PARKING OF RECREATIONAL VEHICLES**. In accordance with the authority provided by state Vehicle Code Section 22507, the Public Works Director, upon the advice of the Chief of Police, may designate those streets or portions of streets (including specific block faces) within the City where it is necessary to prohibit or restrict the stopping, standing, or parking of Recreational Vehicles in order to decrease parking by an Excessive number of such vehicles and to provide for the public health and safety, provided that the streets or street block faces so designated are located within five hundred (500) feet of at least one of the following land uses:

1. any School or Educational Institution, provided further that the Public Works Director shall post all of the streets or portions of streets in the City within five hundred (500) feet of any School or Educational Institution to prohibit stopping, standing or parking a Recreational Vehicle;
2. any Child Care Center, Family Day Care Home, or Group Home;
3. any park, public library, or museum open to the public;
4. any community center or social service center, public or private;
5. any City or nonprofit recreational facility;
6. any Community Care Facility, Skilled Nursing Facility, health care facility, or hospital;
7. any homeless shelter;
8. any church or other religious facility;
9. any designated safe route to schools.

C. **NOTICE OF RESTRICTIONS**. When signed or marked in accordance with state Vehicle Code requirements, no person shall stop, stand, or park a Recreational Vehicle in or on any street, portion of street or block face so designated generally (where designated) or in violation of any hourly restrictions so signed or marked.

D. **MEASUREMENT OF DISTANCE**. For the purposes of this Section, distance shall be measured in a straight line, without regard to intervening structures or objects, and shall be based on property lines or street right-of-way lines.

E. **DEFINITIONS**. Capitalized terms used herein shall be construed and applied as defined by Title 28 of the Santa Barbara Municipal Code. The term "Excessive" shall mean two or more vehicles. (Ord. 5694, 2015; Ord. 5475, 2008.)

10.44.210 Parking of Vehicles Used for Transportation of Property for Hire.

No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the City Council which shall designate the specific location where such vehicle may stand. (Ord. 2713 §1(part), 1959; prior Code §31.101.)

10.44.250 Preferential Parking for Sight-seeing Buses - Generally.

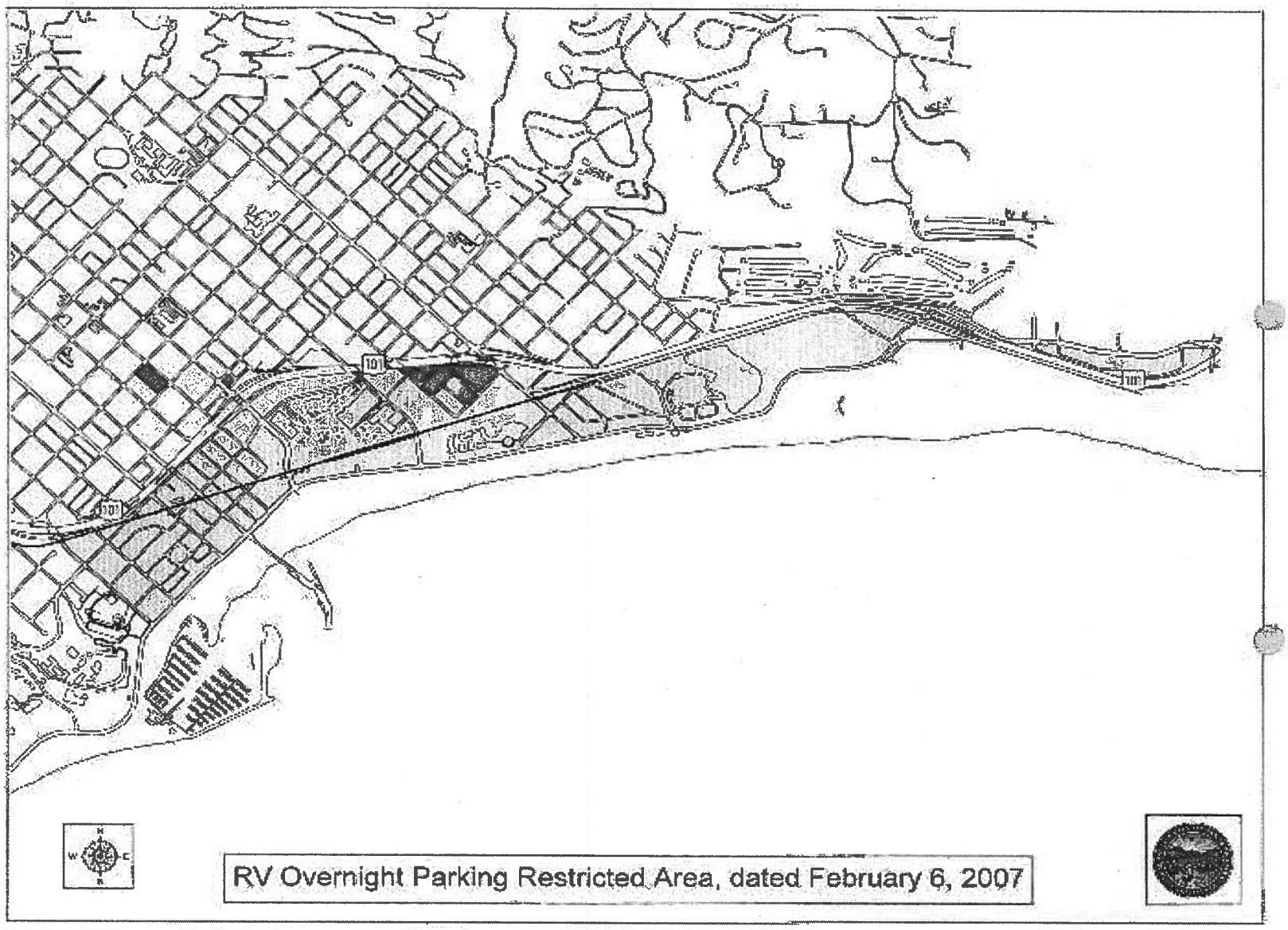
Upon written application made and upon good and sufficient cause shown to the City Council a preferential right to a definite parking space on any street in the City, of not to exceed thirty-five feet (35') in length, shall be allotted to any applicant so applying, for such applicant's exclusive use, and to the use of which such applicant shall by such allotment be exclusively entitled as against all persons except the City during such hours as the Council may so allot. In parking any automobile motor vehicle being used commercially by such applicant as a public sight-seeing bus operating as a common carrier of human passengers, from such parking place for at least six (6) days out of each week over a regular and fixed route or itinerary in whole or in part within the City; provided, however, that no such preferential parking privilege shall be granted by the Council except upon such applicant's reasonably satisfying the Council that the applicant intends, if granted such a preferential parking privilege, to operate such bus over such route at least six (6) days out of each week for not less than twelve (12) consecutive weeks of time. (Ord. 2713 §1(part), 1959; prior Code §31.105(part).)

10.44.260 Sight-seeing Buses - Curb Markings.

Any preferential parking space allotted under the provisions of this section shall be designated by having the curb length alongside which the same is allotted painted "sight-seeing bus stop" in letters at least four inches (4") in height, for and prior to the painting of which applicant shall pay the City the sum of five dollars ($5.00) to cover the cost of painting. The Transportation Engineer shall cause the painting to be done within three (3) days' time from the granting of the preferential parking privilege to be so designated and no grant of any preferential parking privilege shall be of any force or effect until the parking space thereof shall be so marked. (Ord. 2713 §1(part), 1959; prior Code §31.105(part).)

10.44.270 Sight-seeing Buses - Termination of Parking Privilege.

Every preferential parking privilege allowed upon application made under the provisions of Sections 10.44.240 - 10.44.260 shall be terminable by the Council either upon or without good cause being shown therefor to the Council. (Ord. 2713 §1(part), 1959; prior Code §31.105(part).)



RV Overnight Parking Restricted Area, dated February 6, 2007

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Chapter 10.46

PERMIT PARKING

Sections:

10.46.010 Definitions.
10.46.020 Designation of Permit Parking Area.
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10.46.050 Recommendation of the Transportation Engineer.
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10.46.060 Parking Permits; General Rules.
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10.46.110 Prohibition of Falsification, Transfer and Counterfeiting; Penalty Provision.
10.46.125 Obedience to Parking Limitations.
10.46.130 Emergency and Special Condition Parking Restrictions - Chief of Police.

10.46.010 Definitions.

For the purpose of this Chapter, the following words are defined and will be construed as hereinafter set out, unless it shall be apparent from the context that they have a different meaning:

A. HOTEL. A building, group of buildings or portion of a building as defined in Section 28.04.395 of this Code.

B. HOTEL GUEST PARKING PERMIT. A permit that is issued pursuant to Section 10.46.066 of this Code.

C. PARKING PERMIT. A Resident Parking Permit, Temporary Resident Parking Permit, Visitor Parking Permit, Hotel Guest Parking Permit, Special Circumstances Parking Permit, or Employee Parking Permit, as provided in this Chapter.

D. PERMIT. A Parking Permit.

E. PERMIT PARKING AREA. An area designated as hereinafter provided.

F. PERMITTED VEHICLE. A motor vehicle for which a permit has been issued.

G. RESIDENT PARKING PERMIT. A permit that is issued pursuant to Section 10.46.062 of this Code.

H. TEMPORARY RESIDENT PERMIT. A permit that is issued pursuant to Section 10.46.065 of this Code.

I. VISITOR PARKING PERMIT. A permit that is issued pursuant to Section 10.46.064 of this Code.

J. SPECIAL CIRCUMSTANCES PARKING PERMIT. A permit that is issued pursuant to Section 10.46.069 of this Code.

K. EMPLOYEE PARKING PERMIT. A permit that is issued pursuant to Section 10.46.068 of this Code. (Ord. 5459, Section 3, 2008; Ord. 4885, 1994; Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.020 Designation of Permit Parking Area.

The City may designate by resolution any area of the City which satisfied the criteria established by this Chapter as a Permit Parking Area and may authorize the Transportation Engineer to establish parking restrictions and limitations within that Area or any portions thereof. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.030 Designation Criteria.

In determining whether to designate an area as a Permit Parking Area or establish or modify parking exemptions or restrictions within any portion of that Area, the Transportation Engineer and the City Council shall consider at least the following criteria:

1. The extent to which the residents and merchants of an area desire and need permit parking;
2. The extent to which on-street parking spaces are available for use by vehicles of the residents, their visitors and merchants and are not occupied by vehicles of others;
3. The size and configuration of the area as it relates to enforcement of parking and traffic regulations and the potential impact of parking and traffic congestion on this and adjacent areas as the result of the establishment of a Permit Parking Area;
4. Whether other regulatory measures will better solve the problem. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.040 Initiation, Recommendation, Hearing and Notice.

A. RECOMMENDATION. Upon the request of the City Council, the Transportation Engineer will undertake surveys or studies as he deems necessary to prepare a report and recommendation to the City Council as to whether an area should be designated as a Permit Parking Area.

B. HEARING. After the completion of his report and recommendation, the Transportation Engineer shall give notice and conduct one or more public hearings for the purpose of receiving public comments on the proposed designation of a Permit Parking Area.

C. NOTICE. Notice of the public hearing provided for herein shall be published once in a newspaper of general circulation in the City of Santa Barbara and shall be posted in the City Hall by the City Clerk at least ten (10) days prior to said hearing. The notice shall clearly state the purpose of the hearing and shall include a description of the location and boundaries considered for the proposed Permit Parking Area, the streets involved, the parking restrictions and limitations being proposed, and the fees proposed to be charged for Permits. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.050 Recommendation of the Transportation Engineer.

A. After the completion of said hearing or hearings, the Transportation Engineer shall submit his report and recommendations to the City Council, which shall include at least the following:

1. Boundaries of the proposed Permit Parking Area;
2. Existing and proposed parking restrictions which may vary within a Permit Parking Area;
3. Information generated as a result of surveys and studies;
4. Significant comments submitted at the public hearings;
5. Information upon which the City Council may determine whether the criteria set forth in Section 10.46.030 of this Code have been satisfied;
6. Any other relevant information.

B. The designation process and the designation criteria set forth in this Chapter shall also be utilized by the Transportation Engineer and the City Council to modify or terminate a Permit Parking Area. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.055 Designation of Streets Within a Permit Parking Area.

A. The City Council may, at the time a Permit Parking Area is established or modified, establish permit parking restrictions for all or a portion of that Area.

B. After establishment of a Permit Parking Area, the Transportation Engineer may establish or modify permit parking exemptions and restrictions in accordance with applicable rules and regulations adopted pursuant to Section 10.46.100. (Ord. 4303, 1984.)

10.46.060 Parking Permits; General Rules.

A. ELIGIBLE VEHICLES. Parking Permits may only be issued for use by passenger motor vehicles, motor driven cycles, and trucks of 3/4 ton capacity or less. No Parking Permit may be issued for use by any other vehicles, including but not limited to motor vehicles in excess of 3/4 ton capacity, recreational motor homes, buses, motor vehicles not legally licensed to travel on a public highway, or motor vehicles exceeding seven feet six inches (7' 6") in height or twenty-two feet (22') in length.

B. ISSUED FOR SPECIFIC VEHICLES. Resident Parking Permits, Special Circumstances Parking Permits, and Employee Parking Permits may be used only by the vehicle which is identified in the application for the Permit. (Ord. 4885, 1994; Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.062 Resident Parking Permits.

A. ELIGIBLE PERSONS. Resident Parking Permits for a designated Permit Parking Area may only be obtained by a natural person who is a bona fide resident of that Permit Parking Area as determined by the Transportation Engineer. No more than three (3) annual Resident Parking permits may be issued to residents of any one legal dwelling unit as that term is defined by Section 28.04.260 of this Code.

B. SPECIFIC RESIDENT VEHICLE. A Resident Parking Permit may only be used by the Resident Vehicle which is identified in the application for the Permit. (Ord. 5459, Section 3, 2008; Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194 Subsections 1 and 2 of Section 10.46.060, 1983.)

10.46.064 Visitor Parking Permits.

One (1) Visitor Parking Permit may be issued for each legal dwelling unit within a designated Permit Parking Area for use by the resident or the resident's temporary visitors in accordance with applicable rules and regulations adopted under Section 10.46.100. The same privileges and restrictions applicable to a Resident Parking Permit shall be applicable to a Visitor Parking Permit. A Visitor Parking Permit may be issued for a period that does not exceed one (1) year. (Ord. 4303, 1984.)

10.46.065 Temporary Resident Parking Permits.

No more than three (3) Temporary Resident Parking Permits may be issued for a legal dwelling unit at any one time. The same privileges and restrictions applicable to a Resident Parking Permit shall be applicable to a Temporary Resident Parking Permit except that a Temporary Resident Parking Permit shall not be valid for a period that exceeds forty-five (45) days. (Ord. 4303, 1984.)

10.46.066 Hotel Guest Parking Permits.

A. ELIGIBILITY. Hotel Guest Parking permits may be obtained by a hotel which (i) is located within a Permit Parking Area; (ii) was operated as a hotel on November 13, 1984; and (iii) was a nonconforming structure as to parking on that date. For purposes of this section, a "nonconforming structure as to parking" shall include a hotel to which a modification, variance or similar approval has been granted and which would be nonconforming as to parking in the absence of such approval.

B. CERTIFICATE OF ALLOTMENT. A Certificate of Allotment shall authorize issuance of a number of Hotel Guest Parking Permits not to exceed the hotel's "parking deficiency," as calculated pursuant to the following subsection. In order to obtain a Certificate of Allotment for a hotel that is located within a Permit Parking Area, the owner of that hotel must file an application for such a Certificate with the Transportation Engineer.

C. COMPUTATION OF PARKING DEFICIENCY. Parking deficiency for a hotel shall be calculated as follows: (i) the number of parking spaces required by Section 28.90.100 of this Code if the hotel were not legally nonconforming as to parking and the actual number of parking spaces that the hotel possesses shall be determined; (ii) the actual number of parking spaces shall be subtracted from said required number of parking spaces; and (iii) the remainder would establish the parking deficiency and the maximum number of parking spaces that would be authorized in the Certificate of Allotment.

D. PROCEDURE. The Transportation Engineer shall refer a complete application for a Certificate of Allotment to the Community Development Department within ten (10) days after its receipt. The Community Development Department shall review the application and advise the Transportation Engineer within thirty (30) days after said application is referred to it, (i) if the hotel is legally nonconforming as to parking; and (ii) the amount of the parking deficiency.

Within fifteen (15) days after receipt of the advice from the Community Development Department, the Transportation Engineer shall (i) approve, approve with modifications or deny the application for a Certificate of Allotment and (ii) mail the applicant written notification such approval or denial.

E. REVIEW BY DIRECTOR OF PUBLIC WORKS. Any applicant for a Certificate of Allotment shall have the right to have the decision of the Transportation Engineer, pursuant to Subsection D of this Section, reviewed by the Director of Public Works or his delegate. Such a request for review must be made in writing and filed with the Director of Public Works within ten (10) days after notification of said decision accompanied by any required fee.

F. ISSUANCE OF HOTEL GUEST PARKING PERMITS. The Transportation Engineer is authorized to issue Hotel Guest Parking Permits to an owner of a hotel in a number not in excess of the number of such permits authorized by the Certificate of Allotment for that hotel.

G. RESTRICTION. A Hotel Guest Parking Permit may only be used by a *bona fide* guest of the hotel and may not be issued to an employee of the hotel. (Ord. 4799, 1993; Ord. 4303, 1984; Ord. 4235, 1983.)

10.46.068 Employee Parking Permits.

A. ISSUANCE. The City Transportation Engineer may issue an Employee Parking Permit to an employee whose place of employment is reasonably near a Permit Parking Area, where such use will not unreasonably displace vehicles of residents, their visitors, or merchants in the area.

B. ELIGIBLE PERSONS. An Employee Parking Permit may only be obtained by a natural person whose place of employment is reasonably near the Permit Parking Area identified on the person's application and who is not a resident of that Permit Parking Area. (Ord. 4885, 1994.)

10.46.069 Special Circumstances Parking Permits.

A. ISSUANCE IN PERMIT PARKING AREAS. The City Transportation Engineer may issue Special Circumstances Parking Permits for use within Permit Parking Areas where the City Transportation Engineer determines that special circumstances within a designated Permit Parking Area require special parking access or restriction.

B. ISSUANCE BY POLICE. The Chief of Police may issue Special Circumstances Parking Permits where the Chief of Police determines that emergencies, special conditions or events, or other circumstances make necessary the suspension or alteration of the usual vehicle standing or parking regulations.

C. MARKING SPECIAL CIRCUMSTANCES PERMIT AREAS. The Chief of Police may place, remove, cover, or install such traffic control device, barrier, sign, marking, barricade tape or other device, or order such action, as necessary to give notice of such special condition or requirements. The Chief of Police may authorize the City Transportation Engineer to place, remove, cover, or install such traffic control device, barrier, sign, marking, barrier tape or other device, as necessary to give notice of such regulations. (Ord. 4885, 1994.)

10.46.070 Exemption from Parking Restrictions.

A. A motor vehicle on which is displayed a valid Parking Permit as provided for herein is exempt from parking restrictions or limitations established pursuant to Section 10.48.020 of this Code, provided that such vehicle is stopped, standing or parking in the Permit Parking Area or portion thereof for which the Permit was issued and has valid and current registration issued by the Department of Motor Vehicles.

B. A Parking Permit shall not guarantee the holder thereof to an on-street parking space in the designated Permit Parking Area.

C. Vehicles displaying a valid Parking Permit will be subject to all on-street parking restrictions and limitations except those restrictions and limitations imposed pursuant to Section 10.48.020 of this Code. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.080 Application for and Duration of Permit.

Except as otherwise provided, each Parking Permit issued by the City Transportation Engineer shall be valid for a period not to exceed one (1) year. Permits may be renewed annually in the manner required by the City Transportation Engineer. Each application for a Parking Permit shall contain information sufficient to identify the applicant, the address of his residence or place of employment, the license number of the motor vehicle for which the application is made, and such other information as may be deemed relevant by the Transportation Engineer. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.090 Fees.

Fees for Parking Permits and activities authorized hereunder shall be established by a resolution of the City Council. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.100 Rules and Regulations.

The Transportation Engineer shall have authority to promulgate and administer rules and regulations needed for the administration and enforcement of this program including but not limited to criteria and procedures for issuance and revocation of a Parking Permit. These rules shall be submitted to and approved by resolution of the City Council. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.110 Prohibition of Falsification, Transfer and Counterfeiting; Penalty Provision.

A. FALSIFICATION. No person shall falsely represent himself as eligible for a Parking Permit or furnish false information in an application for a Parking Permit.

B. ASSIGNMENT. No Parking Permit which has been issued shall thereafter be assigned or transferred and any such purported assignment or transfer shall be void and shall be grounds for revocation of the Permit.

C. COUNTERFEITING. No person shall copy, produce, or create a facsimile or counterfeit Parking Permit; nor shall any person use or display a facsimile or counterfeit Parking Permit.

D. PENALTY. A violation of this section shall be a misdemeanor. (Ord. 4303, 1984; Ord. 4235, 1983; Ord. 4194, 1983.)

10.46.125 Obedience to Parking Limitations.

A. No person shall stop, stand or park any vehicle upon a City street in violation of any of the restrictions, rules or regulations established pursuant to this Chapter.

B. The operator of any vehicle shall obey the instructions of any barrier, sign, marking, barricade tape or other device placed or erected pursuant to the provisions of this Chapter.

C. No person shall stop, leave standing or park any vehicle within an area designated as prohibited, or contrary to the restrictions or limitations indicated by barriers, signs, marking, barricade tape or other device provided pursuant to the provisions of this Chapter. (Ord. 4885, 1994.)

10.46.130 Emergency and Special Condition Parking Restrictions - Chief of Police.

A. Other provisions of this Chapter notwithstanding, whenever the Chief of Police determines that emergencies, special conditions or events, or other circumstances make necessary the temporary suspension or alteration of the usual traffic flow or vehicle standing or parking regulations, the Chief of Police shall have the power and authority to adopt and enforce regulations as necessary to effect such temporary suspension or alteration. The Chief of Police may place, remove, cover, or install such traffic control device, barrier, sign, marking, barrier tape or other device, or station a police officer, or order such action, as necessary to give notice of emergency or special condition regulations. The Chief of Police shall reinstate the usual traffic flow or vehicle standing or parking regulations by the removal or replacement of the device or the Police Officer upon the termination of the emergency, special condition, event or circumstance, unless otherwise directed by the City Council.

B. The Chief of Police may authorize the City Transportation Engineer to place, remove, cover, or install such traffic control device, barrier, sign, marking, barricade tape or other device, as necessary to give notice of such regulations.

C. The operator of any vehicle, and any pedestrian using the streets, shall obey the instructions of any traffic control device, barrier, sign, marking, barricade tape or other device placed or erected pursuant to the provisions of this Chapter.

D. No person shall operate, stop, leave standing or park any vehicle contrary to a prohibition imposed pursuant to the provisions of this Chapter. No person shall operate, stop, leave standing or park any vehicle within an area designated as prohibited, or contrary to the restrictions or limitations indicated by barriers, signs, marking, barricade tape or other device provided pursuant to the provisions of this Chapter. (Ord. 4885, 1994.)

Chapter 10.48

STOPPING, STANDING AND PARKING - TIME LIMITS AND LOADING ZONES

Sections:

10.48.010 Application of Regulations.
10.48.020 Restriction and Limitation on Parking.
10.48.021 Removal of Chalk Marks.
10.48.025 Change of Parking Limitations.
10.48.030 Authority to Establish Loading Zones - Transportation Engineer.
10.48.040 Curb Markings to Indicate Parking Regulations - Authority of Transportation Engineer.
10.48.050 Effect of Permission to Load or Unload.
10.48.060 Standing for Loading or Unloading Only.
10.48.070 Standing in Passenger Loading Zone.
10.48.080 Standing in any Alley.
10.48.085 Repair of Vehicles in Street.
10.48.090 Bus Zones to be Established.
10.48.095 Idling of Parked Vehicles.
10.48.100 Taxicab Stands - Other Vehicles Using.
10.48.110 Taxicab Stands - Curb Markings.
10.48.120 Taxicabs' Use of Stands.
10.48.130 Taxicab Parking.
10.48.140 Parking for Special Events.

10.48.010 Application of Regulations.

The provisions of this chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code or the ordinances of this City, prohibiting or limiting the standing or parking of vehicles in specified places or at specified times. (Ord. 2713 §1(part), 1959; prior Code §31.80.)

10.48.020 Restriction and Limitation on Parking.

No person shall stop, stand or park any vehicle upon the street in any one (1) block for a period of time in excess of any restriction or limitation on such stopping or standing or parking posted on said block by the Transportation Engineer. Compliance requires that vehicles be removed from the block in which parked at the end of the allotted time so designated. (Ord. 4235, 1983; Ord. 4194, 1983; Ord. 2713 §1(part), 1959; prior Code §31.81.)

10.48.021 Removal of Chalk Marks.

A. The owner or operator of any motor vehicle exercising the privilege of parking a vehicle on any street or portion thereof where regulations are in effect restricting the length of time vehicles may be parked on a street or portion thereof does so on the condition that the Police Officers or Vehicle Control Specialists of the City may place chalk or other removable marks on the tire of the vehicle for the purpose of enforcing such parking regulations.

B. It is unlawful for any person to erase, rub out, conceal or otherwise remove, any chalk or other mark so placed by a Police Officer or Vehicle Control Specialist while the marked vehicle remains parked on the said street or portion thereof. For the purpose of this section, the movement of a previously marked vehicle in such a manner as to cause the tire marking to be concealed or removed, and without leaving the parking space or the block where such vehicle was parked when its tires were previously marked shall be deemed to be an erasure or removal of such chalk or other marking. (Ord. 4520, 1988; Ord. 4240, 1983; Ord. 3242 §1, 1967.)

10.48.025 Change of Parking Limitations.

Notwithstanding any other provisions of this title, when it is found by the City Transportation Engineer, based upon traffic engineering studies, that public convenience and necessity requires a change from the parking limitations set forth in this title, the Transportation Engineer shall have authority to install parking signs or markings altering such parking time limitations.

Whenever the City Transportation Engineer has designated any change in parking restrictions as hereinabove stated, and has installed parking signs or markings designating such change, such parking signs or markings designating such change shall supersede and have priority over any adjacent curb markings. (Ord. 3155 §1, 1966; prior Code §31.81.1.)

10.48.030 Authority to Establish Loading Zones - Transportation Engineer.

A. The Transportation Engineer is authorized to determine and to mark loading zones and passenger loading zones as follows:

1. At any place in the Central Traffic District or any business district.

2. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.

B. In no event shall more than one-half (1/2) of the total curb length in any block be reserved for loading zone purposes.

C. Loading zones shall be indicated by yellow paint stenciled with black letters, "loading only", upon the top of all curbs within such zones.

D. Passenger loading zones shall be indicated by white paint stenciled with black letters, "passenger loading only", upon the top of all curbs in loading zones. (Ord. 2713 §1(part), 1959; prior Code §31.82.)

10.48.040 Curb Markings to Indicate Parking Regulations - Authority of Transportation Engineer.

A. The Transportation Engineer is authorized, subject to the provisions and limitations of this title, to place, and when required shall place, the following curb markings to indicate parking or standing regulations, and the curb markings shall have the meanings as herein set forth:

1. Red means no stopping, standing or parking at any time except as permitted by the Vehicle Code, and except that a bus may stop in a red zone marked or signed as a bus loading zone.

2. Yellow means no stopping, standing or parking at any time between seven a.m. (7:00 a.m.) and six p.m. (6:00 p.m.) of any day except Sunday, unless otherwise indicated by posted signage, for any purpose other than the loading or unloading of passengers or freight, providing that the loading or unloading of passengers or the loading or unloading of freight shall not extend beyond the time necessary therefore and in no event exceed the time limits as follows:

a. Commercial vehicles stopping, standing or parking in any yellow zone for the purpose of loading and unloading freight shall be limited to thirty (30) minutes, and during such time no person shall leave any such commercial vehicle unattended for longer than ten (10) minutes.

b. Noncommercial vehicles stopping, standing or parking in any yellow zone shall be limited to three (3) minutes, and during such time no person shall leave any such vehicle unattended.

c. For the purposes of this Section 10.48.040.A.2, "Freight" is defined as goods ordinarily transported by common carrier.

3. White means no stopping, standing or parking for any purpose other than loading or unloading of passengers which shall not exceed three (3) minutes, or the depositing of mail or books in an adjacent designated container. Such restrictions shall apply twenty-four hours a day, seven days a week, unless otherwise indicated by curb markings or posted signs.

4. Green means no standing or parking for longer than fifteen (15) minutes at any time between nine a.m. (9:00 a.m.) and six p.m. (6:00 p.m.) of any day except Sunday, unless otherwise indicated by posted signage.

5. Blue means no stopping, standing or parking at any time except for those physically handicapped persons whose vehicles display a distinguishing license plate or placard issued to disabled persons pursuant to the Vehicle Code.

B. When the Transportation Engineer as authorized under this chapter has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this section.

C. Any person parking adjacent to blue curb markings without displaying a distinguishing license plate or placard issued to disabled persons pursuant to the Vehicle Code shall be punished by a fine of not less than twenty-five dollars ($25.00). (Ord. 5699, 2015; Ord. 5353, 2005; Ord. 4842, 1993; Ord. 4080, 1980; Ord. 3913, 1977; Ord. 3483, 1971; Ord. 3465, 1971; Ord. 2713 §1(part), 1959; prior Code §31.83.)

10.48.050 Effect of Permission to Load or Unload.

A. The stopping or parking of a vehicle for the purposes of loading or unloading materials shall not extend beyond the time necessary therefore, and in no event for more than thirty (30) minutes.

B. Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading for personal baggage but shall not extend beyond the time necessary therefore, and in no event for more than three (3) minutes.

C. All other limitations to loading and unloading of materials and passengers described in Section 10.48.040(A)(2) are additionally incorporated in this Section 10.48.050. (Ord. 5353, 2005; Ord. 3033 §7, 1965; Ord. 2713 §1(part), 1959; prior Code §31.84.)

10.48.060 Standing for Loading or Unloading Only.

No person shall stop, stand or park a vehicle in any yellow loading zone for any purpose other than loading or unloading passengers or material for such time as is permitted in Section 10.48.050. (Ord. 2713 §1(part), 1959; prior Code §31.85.)

10.48.070 Standing in Passenger Loading Zone.

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in Section 10.48.050. (Ord. 2713 §1(part), 1959; prior Code §31.86.)

10.48.080 Standing in any Alley.

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of persons or materials in any alley. (Ord. 2713 §1(part), 1959; prior Code §31.88.)

10.48.085 Repair of Vehicles in Street.

No person shall keep any vehicle upon a public street right-of-way for the purpose of overhaul or repair of such vehicle. Emergency repairs to any vehicle requiring less than two (2) hours to complete are excepted from this section. (Ord. 3319 §1, 1968.)

10.48.090 Bus Zones to be Established.

A. Transportation Engineer. The Transportation Engineer is authorized to establish bus loading zones adjacent to the curb for the purpose of loading and unloading of buses and bus layover zones for the purpose of parking standby buses. The Transportation Engineer is further authorized to determine the location and dimensions of such zones.

B. Definition. The word "bus" as used in this section means a vehicle operated by the Metropolitan Transit District. The words “tour bus” mean a bus defined as a tour bus by the California Vehicle Code.

C. Dimensions. No bus loading zone shall exceed sixty feet (60') in length except that when satisfactory evidence has been presented to the Transportation Engineer showing the necessity therefore.

D. Bus Loading Zone - Marking. Bus loading zones shall be marked to indicate that they have been so designated. The Transportation Engineer shall approve the method of marking such zones with a sign or a red curb with letters stenciled in white.

E. Bus Layover Zones - Marking. The Transportation Engineer shall mark bus layover zones by a sign which gives notice that stopping, standing or parking of vehicles is not permitted except for buses.

F. Prohibition. No person shall stop, stand or park any vehicle except a bus in a bus loading zone or bus layover zone.

G. School Bus Zones. Notwithstanding the other provisions in this section, the Transportation Engineer may designate certain bus loading zones as "school bus zones" and further designate certain hours of the day on certain days of the week during which no person shall stop, stand, or park any vehicle except a school bus in said zone. Said restrictions shall be posted on a sign in a manner easily visible to motorists. At all other times, persons may stop, stand, or park any vehicle in said zone.

H. Tour Bus Loading Zones. Notwithstanding the other provisions in this section, the Transportation Engineer may designate certain curb areas as “tour bus loading zones” for the parking or loading and unloading of passengers, and further designate time limits and certain hours of the day on certain days of the week during which no person shall stop, stand, or park any vehicle except a tour bus in said zone. Said restrictions shall be posted on a sign in a manner easily visible to motorists. At all other times, persons may stop, stand, or park any vehicle in said zone.

I. Permits to Use Bus Loading and Layover Zones. The Public Works Director is authorized to issue permits for the use of bus loading and layover zones for the purposes for active loading and unloading of passengers to buses other than those operated by the Metropolitan Transit District. The permit applicant must demonstrate that it will not impede operations of the Metropolitan Transit District’s use of the bus loading or layover zones.

J. Revocation of Bus Loading and Layover Zone Permit. If it is determined by the Public Works Director that a permittee’s use of a bus loading zone or bus layover is negatively impacting the Metropolitan Transit District’s ability to safely and timely unload passengers, the Public Works Director will cause to be sent a written Notice of Intent to Revoke to the permittee via certified mail. A permittee may request reconsideration of the Notice of Intent to Revoke in writing to the Public Works Director within ten (10) business days of the date of the Notice of Intent to Revoke. The request for reconsideration shall set forth all relevant evidence showing that the permittee’s use of the bus loading or layover zone does not negatively impact the Metropolitan Transit District’s ability to safely and timely unload passengers. The Public Works Director, or his or her designee, shall issue a written Notice of Decision within ten (10) business days of the date of the request for reconsideration. The Notice of Decision shall be sent to the permittee via certified mail and will be deemed final and effective as of the date of the Notice of Decision. Appeal of the Notice of Decision may be brought pursuant to Santa Barbara Municipal Code Chapter 1.30. If a request for reconsideration is not received within ten (10) days of the date of the Notice of Intent to Revoke, the permit shall be deemed revoked on the eleventh day following the date of the Notice of Intent to Revoke. (Ord. 5698, 2015; Ord. 4080, 1980; Ord. 3688, 1974.)

10.48.095 Idling of Parked Vehicles.

Whenever the City Transportation Engineer shall determine the necessity for limitation on noise of operations of standing or parked vehicles, or equipment on vehicles, on any street, alley, right of way, parking lot or parking structure open to public use, the Transportation Engineer shall erect signs or otherwise provide notice of limitation on such noise of operations of such standing or parked vehicles or equipment. Where such signs or notice is provided:

A. No driver shall run or leave idling for a period of longer than three minutes the engine of any vehicle which is parked, standing, or stopped, on any street, alley, right of way, parking lot or parking structure open to public use; and

B. No driver shall run or operate any equipment on standing or parked vehicles, or on vehicles stopped on any street, alley, right of way, parking lot or parking structure open to public use for a period of longer than three minutes. (Ord. 5079, 1998; Ord. 4597, 1989.)

10.48.100 Taxicab Stands - Other Vehicles Using.

It is unlawful for the owner or driver of any vehicle other than a taxicab or pedicab licensed by the City to stop, stand or park in any regularly established taxicab stand. (Ord. 5255, 2002; Ord. 2713 §1(part), 1959; prior Code §31.90(part).)

10.48.110 Taxicab Stands - Curb Markings.

Taxi stands as designated by the City Council in the Central Traffic District shall be designated by white paint upon the surface of the street curb with the letters "taxicabs only" in blue letters thereon and a white line four inches (4") wide to be painted on the surface of the streets; such line to extend seven feet (7') out from the curb and to run the length of the cab stand. The words "taxicabs only" shall be painted on the surface of the street. (Ord. 3913 §2, 1977; Ord. 2713 §1(part), 1959; prior Code §31.90.)

10.48.120 Taxicabs' Use of Stands.

No owner or driver of any taxicab shall park or stand the same upon any street in the City for any period of time longer than is necessary to discharge or receive passengers then occupying or then waiting for such taxicab; provided, that the owner or driver of a taxicab may park in the taxicab stand authorized by the City Council. (Ord. 2713 §1(part), 1959; prior Code §31.90(part).)

10.48.130 Taxicab Parking.

Notwithstanding any other provision in Section 10.48.100 - 10.48.120 to the contrary, one (1) taxicab of each taxi company may park in each block of the City for the solicitation of business, subject to the following conditions:

A. No taxicab shall be parked in excess of the time designated by the zone in which such taxicab is parked;

B. In any block in which taxi stands are designated on the curb, no taxicab shall be parked in such block other than in such designated taxi stand;

C. No taxicab shall be parked within a green or yellow zone in any block between the hours of nine a.m. (9:00) and six p.m. (6:00) of any day, Sundays and holidays excepted, except as otherwise provided in this title;

D. No taxicab shall be parked within a white zone in any block during such time as any parking limitation is in effect therein;

E. For the purpose of this section, a "taxi company" shall be defined as a corporation organized for the purpose of operating a taxi business, regardless of the various names under which such taxicabs operate, and the word "block" includes both sides of the street. (Ord. 3090 §1, 1965; prior Code §31.90A.)

10.48.140 Parking for Special Events.

In the case of special events, such as concerts, theatrical performances, public gatherings or other events where large numbers of persons congregate, the Police Department shall have authority to designate special areas within which taxicab parking may be permitted, and the time within which such parking shall be permitted, and taxicabs may be parked in the areas and during the times so designated, for the solicitation of business. (Ord. 3090 §2, 1965; prior Code §31.90B.)

Chapter 10.52

BICYCLES

Sections:

10.52.010 **Bicycle Defined - License to Operate - Required.**
10.52.015 **License Fees.**
10.52.018 **Recordation of Transfer.**
10.52.020 **Rights and Privileges of License.**
10.52.021 **License Renewals.**
10.52.025 **Change of Address.**
10.52.030 **Issuance of Bicycle Licenses.**
10.52.040 **License Decal or Plate - Attachment - Registration Cards.**
10.52.050 **Removal of Numbers - Destruction of License, Decals or Plates.**
10.52.060 **Registrations, Bicycle Rentals.**
10.52.070 **Bicycle Establishments - Reports to Chief of Police - Responsibilities.**
10.52.080 **Removal of Frame Identification Numbers - Police Authorized to Number Frames.**
10.52.090 **Impounding of Unlawfully Operated Bicycles - Duty of Tax and Permit Inspector or Police Officer - Redemption.**
10.52.100 **Impounding - Sale of Unclaimed Bicycles - Disposition of Sale Proceeds.**
10.52.110 **Police Department to Administer Provisions of Chapter.**
10.52.120 **Manner of Riding Bicycle.**
10.52.130 **No Bicycles on Sidewalk.**

10.52.010 Bicycle Defined - License to Operate - Required.

"Bicycle" means a device upon which any person may ride, propelled by human power through a belt, chain, or gears, and having either two (2) or three (3) wheels of fourteen inches (14") or more in diameter, in a tandem or tricycle arrangement.

It is unlawful for any resident of the City of Santa Barbara to operate a bicycle upon any streets, roads, alleys, highways or other public property within the jurisdiction of the City, without first having registered such bicycle in accordance with the provisions of this chapter.

Any person required to register a bicycle under this section shall apply to the Police Department, or to any other department or agency authorized by the City to issue bicycle registration certificates, on forms to be furnished by the Police Department for such purpose, giving his name and address, the name, frame number, model, and color of the bicycle to be registered, and such other information as may be required by the Chief of Police. (Ord. 3795, 1975.)

10.52.015 License Fees.

The registration fee to be paid for each bicycle registered in accordance with the provisions of this chapter shall be one dollar ($1.00) and shall be paid in advance. (Ord. 3795, 1975.)

10.52.018 Recordation of Transfer.

(a) Whenever the owner of a bicycle licensed pursuant to this chapter sells or otherwise disposes of a bicycle he shall within ten (10) days notify the Chief of Police of such disposition.

(b) Any person who purchases or otherwise acquires possession of a bicycle shall within ten (10) days of taking possession apply to the Chief of Police for the transfer of the license to his name. (Ord. 3795, 1975.)

10.52.020 Rights and Privileges of License.

Registration and/or transfer of ownership registration when issued shall entitle the registrant to operate and use the bicycle within the City limits upon all the public streets, alleys or other public places, exclusive of sidewalks, or other place excluded by law. (Ord. 3795, 1975.)

10.52.021 License Renewals.

Each license shall be renewed, upon payment of a renewal fee determined by the City Council, at the end of a uniform period determined by the State, not to exceed five (5) years. (Ord. 3795, 1975.)

10.52.025 Change of Address.

Whenever the owner of a licensed bicycle changes his address, he shall within ten (10) days notify the Chief of Police of his old and new address. (Ord. 3795, 1975.)

10.52.030 Issuance of Bicycle Licenses.

The Police Department or any other department or agency authorized by the City shall issue bicycle licenses upon written application and physical verification of the bicycle frame number, accompanied by the fee prescribed under the provisions of this chapter. (Ord. 3795, 1975.)

10.52.040 License Decal or Plate - Attachment - Registration Cards.

The license decal or plate will be provided by the State and shall be attached to the frame of the bicycle in a manner prescribed by the State. The size, form, and character of the registration cards shall be designated by the Chief of Police and shall contain information specified by the State in addition to that required by the Chief of Police.

Upon payment of the required bicycle registration fee, it shall be the duty of the duly authorized agent issuing the registration to see that the license decal or plate is immediately attached to the frame of the bicycle for which issued and that the frame of the bicycle is die-stamped with the approved Police Department symbols and/or identifying letters preceding the corresponding registration serial number(s). Such license decal or plate shall remain attached to the bicycle from for the life of the bicycle.

It shall be the duty of the duly authorized agent issuing the registration to issue the bicycle owner a corresponding registration card bearing the same license decal or plate and registration serial number(s) and the date and year of registration, and he shall forward a duplicate copy of the registration card to the Chief of Police within twenty-four (24) hours of the date of such issuance. (Ord. 3795, 1975.)

10.52.050 Removal of Numbers - Destruction of License, Decals or Plates.

No person shall willfully remove, destroy, mutilate, or alter the identification number of any bicycle or bicycle frame either licensed or unlicensed.

No person shall willfully remove, destroy, mutilate, or alter any bicycle license decal, plate or registration card during the time in which such license decal, plate or registration card is operative. Every person upon dismantling or disposing of any bicycle or bicycle frame, registered in accordance with the provisions of this chapter, as junk, shall return the registration card and notify the Chief of Police within ten (10) days of such dismantling or disposal.

No person, partnership, association, or corporation shall purchase, sell, possess, conceal, or dispose of any bicycle or bicycle frame from which the manufacturer's nameplate, frame number, serial number, registration decal, or plate, registration serial number or any other distinguishing mark has been removed, defaced, covered, altered, or otherwise disposed of.

The Chief of Police, his duly authorized agent, or any other department, or agency authorized by the City shall, after satisfactory proof of ownership by the possessor of any bicycle or bicycle frame, register said bicycle or bicycle frame in accordance with the provisions of this chapter.

Nothing in this section shall prohibit the Chief of Police or his duly authorized agent from stamping numbers on the frames of bicycles on which no manufacturer's serial number can be found or on which the manufacturer's serial number is illegible or insufficient for identification purposes. (Ord. 3795, 1975.)

10.52.060 Registrations, Bicycle Rentals.

All persons engaged in operating a bicycle rental or leasing agency shall register all bicycles designated as rental or lease units in accordance with the provisions of this chapter. Registrations thus obtained for bicycles designated as rental or lease units shall not be transferrable to any other bicycles designated as rental or lease units. All transfers of registration must be in accordance with the provisions of this chapter. (Ord. 3795, 1975.)

10.52.070 Bicycle Establishments - Reports to Chief of Police - Responsibilities.

"Bicycle establishment" defines a business operated by any person, partnership, association, or corporation, wherein new or used bicycles or bicycle parts are purchased, sold, exchanged, bartered, repaired, remodeled, dismantled or junked.

No person, partnership, association or corporation shall operate a bicycle establishment until licensed to do so in accordance with the provisions of this chapter.

Every person, partnership, association or corporation engaged in the business of selling new bicycles or bicycle frames, shall die-stamp a serial number, as designated by the Chief of Police and required by the State, on the frame of said bicycles or bicycle frames on which no manufacturer's serial number can be found or on which the manufacturer's serial number is illegible or insufficient for identification purposes, prior to sale of said bicycle or bicycle frame.

Every person, partnership, association or corporation engaged in operating a bicycle establishment and every junk dealer who purchases or otherwise acquires any bicycle or bicycle frame as junk or otherwise, shall report to the Chief of Police in writing within twenty-four (24) hours thereafter, specifying:

(1) The name, address and telephone number of the person from whom each such bicycle or bicycle frame was purchased or otherwise acquired;
(2) The description of such bicycle or bicycle frame purchased or otherwise acquired;
(3) The frame number thereof;
(4) The number of any previously issued license decal or plate found attached thereto and any registration symbols and/or identifying letters preceding the corresponding serial numbers die-stamped to the frame.

In addition to any other reports required in accordance with the provisions of this chapter, every person, partnership, association or corporation engaged in the business of selling secondhand bicycles or bicycle frames from a bicycle establishment is required to make a report to the Chief of Police concerning all such bicycles or bicycle frames sold. Such report shall be made in writing within twenty-four (24) hours of the date of sale and shall specify:
(1) The name, address and phone number of the person to whom each such bicycle or bicycle frame was sold or otherwise disposed of;
(2) The description of such bicycle or bicycle frame sold, or otherwise disposed of;
(3) The frame number thereof;
(4) The number of any previously issued license decal or plate found attached thereto and any registration symbol and/or identifying letters preceding the corresponding serial numbers die-stamped to the frame.

Reports of purchases or otherwise acquired bicycles or bicycle frames and/or reports of the sale or otherwise disposal of bicycle or bicycle frames shall be made in triplicate. The original shall be mailed or delivered to the Chief of Police, the duplicate shall be given to the buyer/seller, and the triplicate shall be kept by the bicycle establishment as a permanent record. The provisions of this section shall not apply to new bicycles or new bicycle frames purchased at wholesale.

No person, partnership, association or corporation operating a bicycle establishment shall purchase, sell, exchange, barter, repair, remodel, dismantle, or junk any bicycle, bicycle frame, or bicycle part from any person under the age of eighteen (18) years, or any person under the influence of any narcotics, drugs and/or intoxicating beverages. (Ord. 3795, 1975.)

10.52.080 Removal of Frame Identification Numbers - Police Authorized to Number Frames.

No person shall willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this chapter.

Nothing in this chapter shall prohibit the Police Department from stamping numbers on the frames of bicycles on which no serial number can be found or on which the number is illegible or insufficient for identification purposes. (Ord. 3795, 1975.)

10.52.090 Impounding of Unlawfully Operated Bicycles - Duty of Tax and Permit Inspector or Police Officer - Redemption.

The Tax and Permit Inspector and any Police Officer of the City may take any bicycle found by him to be operated or used upon the streets of the City in violation of this chapter and impound the same at the City Hall or other convenient place, which bicycle may be redeemed by the owner thereof, upon payment of the license fee and licensing as required for such bicycle. (Ord. 3795, 1975.)

10.52.100 Impounding - Sale of Unclaimed Bicycles - Disposition of Sale Proceeds.

In the event any bicycle impounded by the Police Department is unclaimed by the owner within a period of four (4) months after it is impounded, the same shall be sold at public auction after notice of at least three (3) days by posting a notice of the time and place of the sale and a brief description of the bicycle in three (3) public places in the City. (Ord. 3795, 1975.)

10.52.110 Police Department to Administer Provisions of Chapter.

The Police Department of the City is authorized and directed to administer the provisions of this chapter. (Ord. 3795, 1975.)

10.52.120 Manner of Riding Bicycle.

No person operating a bicycle shall permit any person to ride upon such bicycle except on a seat or package carrier four (4) or more inches in width securely fastened to the bicycle in the rear of the person operating the bicycle. (Ord. 3033 §4, 1965; Ord. 2713 §1(part), 1959; prior Code §31.62.)

10.52.130 No Bicycles on Sidewalk.

No person shall ride a bicycle on any sidewalk except at a driveway; provided, that a person may ride a bicycle on any area designated by the City Council as a bikeway. (Ord. 3350 §1, 1969; Ord. 2713 §1(part), 1959; prior Code §31.64.)

Chapter 10.55

MINOR ENCROACHMENT PERMITS

Sections:

10.55.010 Issuance of Minor Encroachment Permits.
10.55.020 Minor Encroachment Permits - Conditions.
10.55.030 Minor Encroachment Permits - Indemnity, Reimbursement and Insurance.
10.55.040 Minor Encroachment Permits - Appeals.

10.55.010 Issuance of Minor Encroachment Permits.

The Director may issue a permit or consent to conduct, maintain or operate an encroachment to, in or upon any city street, roadway, sidewalk, parkway, parking area or facility or other City property for an encroachment which is intermittent, minor, revocable upon 90 days notice or less, or for a single event or use. The review and issuance of such permit or consent shall be subject to the restrictions of this Code and the Santa Barbara City Charter. The Director shall consult with affected City Departments and other affected agencies prior to issuance of such Minor Encroachment Permit. (Ord. 4751, 1992.)

10.55.020 Minor Encroachment Permits - Conditions.

The Director may condition the issuance of a minor encroachment permit or consent to conduct, maintain or operate an encroachment with conditions or provisions for public safety, the protection of persons or property, the public convenience, the accommodation of public needs, adequate traffic control, crowd control, control over litter and noise, the cleanup and removal of all evidence of use, and such other provision or provisions as may appear to be in the public interest. (Ord. 4751, 1992.)

10.55.030 Minor Encroachment Permits - Indemnity, Reimbursement and Insurance.

Prior to issuance of a minor encroachment permit or consent to conduct, maintain or operate an encroachment, the Director shall, unless waived by the City Council, require the applicant to provide and maintain:

(1) An agreement to investigate, defend, indemnify and hold harmless the City, its officers, agents and employees from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including attorney's fees) and causes of action of whatsoever character which City may incur, sustain or be subjected to on account of loss or damage to property or loss of use thereof, or for bodily injury to or death of any persons arising out of or in any way connected with the encroachment.

(2) An agreement to reimburse the City of Santa Barbara for any costs incurred by the City to repair damage, restore premises, or satisfy claims incurred by reason of the encroachment.

(3) A policy or policies of public liability insurance to protect against loss from liability for damages on account of bodily injury and property damage arising from the encroachment. Such insurance shall name on the policy or by endorsement as additional insureds, the City of Santa Barbara, its officers, employees, and agents. Unless otherwise modified by the City's Risk Manager, such insurance shall include not less than one million ($1,000,000) dollars of Comprehensive General Liability Insurance, including Bodily Injury and Property Damage coverage together with such other and additional coverage as the City's Risk Manager may determine to be prudent. Insurance coverage must be maintained for the duration of the encroachment. A copy of the policy or a certificate of insurance along with all necessary endorsements must be filed with the City no less than five days before the encroachment permit is issued, unless the Director, for good cause, waives the filing deadline.
(Ord. 4751, 1992.)

10.55.040 Minor Encroachment Permits - Appeals.

The decisions of the Director in connection with such minor encroachment permits or consent to conduct, maintain or operate an encroachment may be appealed pursuant to the provisions of Section 1.030.050 of this Code. (Ord. 4751, 1992.)

Chapter 10.56

IMPOUNDING PROPERTY OBSTRUCTING STREETS

Sections:

10.56.010	**Impounding of Miscellaneous Property in Streets, Etc. Authorized - Nuisance.**	**10.56.030**	**Redemption Charges.**
		10.56.040	**Sale of Unredeemed Property.**
		10.56.050	**Tow Away Provisions.**
10.56.020	**Notice of Impounding.**	**10.56.060**	**Emergency Regulations.**

10.56.010 Impounding of Miscellaneous Property in Streets, Etc. Authorized - Nuisance.

In the event any property of any description, except a vehicle, whether an animal or other obstruction, shall be found existing, standing, parked, erected or lying in or upon any part of any public street, avenue, alley, sidewalk, thoroughfare, parkway, park or other public place within the City in violation of and contrary to any of the rules, regulations and ordinances of the City that are in effect, it is hereby declared to be a nuisance, and may be removed and conveyed by or under the direction of the Community Development Director, Public Works Director or a member of the Police Department, or a duly constituted agent thereof, to a designated place of impounding, to be kept until redeemed or sold as provided in this chapter. (Ord. 4861, 1994; Ord. 2713 §1(part), 1959; prior Code §31.111(part).)

10.56.020 Notice of Impounding.

It shall be the duty of the department authorizing the impound immediately following the impounding of such property, where the ownership is ascertainable, to send through the mails to such owner a letter, stating that such property is impounded, giving the date and location of its keeping, together with the information that before the owner or person in charge of the property shall be permitted to remove the same from the custody of the impounding department, evidence of identity and ownership shall be required together with the fees necessary to cover the cost of removal, storage and redemption. (Ord. 4861, 1994; Ord. 2713 §1(part), 1959; prior Code §31.111(part).)

10.56.030 Redemption Charges.

All property impounded as provided in this chapter shall be retained until all costs of impounding, giving notice and redemption shall have been paid. Such charges shall be set by resolution. (Ord. 4861, 1994; Ord. 2713 §1(part), 1959; prior Code §31.111(part).)

10.56.040 Sale of Unredeemed Property.

If the owner or person having custody of such impounded property fails or neglects to call and redeem the same within five (5) days from the date of giving notice as provided in this chapter, then the department head, or designated agent authorizing the impound, shall proceed to sell the property at public auction after giving notice of the time and place of such sale in the same manner as required for the giving of notice of the sale of personal property under execution, and shall apply the proceeds of such sale: (1) to the payment of the costs and expenses of such sale, (2) to the payment of the costs and expenses of impounding and storing of the property, and the balance remaining of such proceeds shall be paid to the person who shall furnish satisfactory evidence of identity and ownership in the property. (Ord. 4861, 1994; Ord. 2713 §1(part), 1959; prior Code §31.111(part).)

10.56.050 Tow Away Provisions.

The City Council shall have authority to establish tow away zones in the City, by resolution. Where tow away zones have been established, any vehicle parked or left standing where signs have been posted, giving notice of the authorized removal of such vehicles, may be removed by any member of the Police Department authorized by the Chief of Police to do so, in the manner and subject to the requirements of the Vehicle Code. (Ord. 3157 §1, 1966; prior Code §31.112.)

10.56.060 Emergency Regulations.

Whenever the Chief of Police, the Fire Chief, the City Water Superintendent or the Public Works Director determines that an emergency exists upon any City street or public parking area, and any vehicle is parked in such manner as to impede the remedy of such an emergency, such officer may cause such vehicle to be removed to the nearest legal parking area. Upon removal of such vehicle, the person causing the removal shall make every possible effort to notify the owner of such vehicle of the reason for removal, the time of removal, and the location from and to which such removal took place. Such notification shall be made to the Police Department in writing within two (2) hours of such removal.

An emergency under this section shall be a condition under which public and/or private property is in danger and/or the continuation of the condition will jeopardize the public health or safety. (Ord. 3156 §1, 1966; prior Code §31.112.1.)

Chapter 10.58

ABANDONED VEHICLES

Sections:

10.58.010 Declaration of Policy.
10.58.020 Definitions.
10.58.030 Exclusions.
10.58.040 Nonexclusive.
10.58.050 City Administrator to Enforce.
10.58.060 Authority to Enter Private Property for Removal.
10.58.070 Amount of Assessment Determined by Council.
10.58.080 City Administrator Has Authority to Remove.
10.58.090 Notice of Intention to Remove.
10.58.100 Public Hearing - Request.
10.58.110 City Council to Conduct Hearing - Decision.
10.58.120 Removal After Notice.
10.58.130 Notice of Removal to Department of Motor Vehicles.
10.58.140 Refusal to Remove.
10.58.150 Assessment.

10.58.010 Declaration of Policy.

In addition to and in accordance with the determination made and the authority granted by the State under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council hereby makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property not including highways is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 3338 §1(part), 1968.)

10.58.020 Definitions.

As used in this chapter:

(a) The term "vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

(b) The term "highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

(c) The term "public property" does not include "highway".

(d) The term "owner of the land" means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last Equalized Assessment Roll.

(e) The term "owner of the vehicle" means the last registered owner and legal owner of record. (Ord. 3609, 1973.)

10.58.030 Exclusions.

This chapter shall not apply to:

(a) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(b) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this chapter. (Ord. 3338 §1(part), 1968.)

10.58.040 Nonexclusive.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction. (Ord. 3338 §1(part),

1968.)

10.58.050 City Administrator to Enforce.

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the City Administrator. In the enforcement of this chapter such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this chapter. (Ord. 3609, 1973.)

10.58.060 Authority to Enter Private Property for Removal.

When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter. (Ord. 3338 §1(part), 1968.)

10.58.070 Amount of Assessment Determined by Council.

The City Council shall from time to time determine and fix an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle or part thereof, under this chapter. (Ord. 3338 §1(part), 1968.)

10.58.080 City Administrator Has Authority to Remove.

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the City, the City Administrator shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein. (Ord. 3609, 1973.)

10.58.090 Notice of Intention to Remove.

A 10-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered or certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE
REMOVE AN ABANDONED, WRECKED
DISMANTLED OR INOPERATIVE VEHICLE OR
PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last Equalized Assessment Roll of the land located at (address), you are hereby notified that the undersigned pursuant to §10.58.050 of the Santa Barbara Municipal Code has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of §10.58.010 of the Santa Barbara Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the City Council within such 10-day period, the City Administrator shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice mailed _____s/_____
City Administrator

NOTICE OF INTENTION TO ABATE
DISMANTLED OR INOPERATIVE VEHICLE OR
PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered and/or
legal owner of record of vehicle - notice
should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc.), you are hereby notified that the undersigned pursuant to §10.58.050 of the Santa Barbara Municipal Code has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of §10.58.010 of the Santa Barbara Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the City Council within such 10-day period, the City Administrator shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice mailed _____s/_____
City Administrator

(Ord. 3609, 1973.)

10.58.100 Public Hearing - Request.

Upon request by the owner of the vehicle or owner of the land received by the City Administrator within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the City Council on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the property on which it is located.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such 10-day period, said statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by registered or certified mail, at least 10 days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said 10 days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing. (Ord. 3609, 1973.)

10.58.110 City Council to Conduct Hearing - Decision.

All hearings under this chapter shall be held before the City Council which shall hear all facts and testimony it deems pertinent. The facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The City Council shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The City Council may impose such conditions and take such other actions as it deems appropriate under the circumstances to carry out the purpose of this chapter. It may delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the City Council may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the City Council shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the City Council but does not appear, he shall be notified in writing of the decision. (Ord. 3609, 1973.)

10.58.120 Removal After Notice.

Five (5) days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five (5) days from the date of mailing of notice of the decision if such notice is required by Section 10.58.010, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard, or any suitable site operated by a local agency. After a vehicle has been removed it shall not thereafter be reconstructed or made operable. (Ord. 3609, 1973.)

10.58.130 Notice of Removal to Department of Motor Vehicles.

Within five (5) days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Ord. 3609, 1973.)

10.58.140 Refusal to Remove.

It is unlawful for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or part thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter of State law where such State law is applicable. (Ord. 3338 §1(part), 1968.)

10.58.150 Assessment.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 10.58.090 are not paid within 30 days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the Tax Collector for collection. Said assessment shall have the same priority as other City taxes. (Ord. 3609, 1973.)

Chapter 10.60

SCHEDULES

Sections:

10.60.015 Streets of Modified Speed Limits.
10.60.030 Schedule of One-Way Streets.
10.60.040 Schedule of Heavy Vehicle Prohibition.
10.60.050 Application to Public Parking Lots.

10.60.015 Streets of Modified Speed Limits.

In accordance with Section 10.20.015, and when properly sign posted, the prima facie speed limit on the following streets, or portions of streets, shall be as follows:

55 miles per hour:
LAS POSITAS ROAD – Cliff Drive to a point 870 feet north of Las Positas Place

45 miles per hour:
CALLE REAL - Las Positas Road to Hitchcock Way
HOLLISTER AVENUE - Fairview Avenue to the westerly City limits
MODOC ROAD - Las Positas Road to westerly City limits
OLD COAST HIGHWAY - Harbor View Drive to Hot Springs Road

40 miles per hour:
CALLE REAL - Hitchcock Way to La Cumbre Road
CARRILLO STREET - San Andres Street to La Coronilla Drive
CLIFF DRIVE – Loma Alta Drive to Las Positas Road
MEIGS ROAD - Cliff Drive to La Coronilla Road

35 miles per hour:

ALAMAR AVENUE - Foothill Road to State Street
ALSTON ROAD - City limits to Eucalyptus Hill Road
BARKER PASS ROAD - Eucalyptus Hill Road to the northerly City limits
CABRILLO BOULEVARD – Calle Cesar Chavez to US Highway 101
CLIFF DRIVE - Westerly City limits to Las Positas Road
FAIRVIEW AVENUE - Placencia Street to Calle Real, those portions within the City limits
HOPE AVENUE - State Street to Pueblo Avenue
HOPE AVENUE - Calle Real to State Street
LA CUMBRE ROAD - Via Lucero to northerly City limits
LA COLINA ROAD - La Cumbre Road to Verano Drive
LAS POSITAS ROAD - State Street to a point 870 feet north of Las Positas Place
LOMA ALTA DRIVE - Cliff Drive (SR 225) to Shoreline Drive
MEIGS ROAD - Cliff Drive to Salida Del Sol
MODOC ROAD - Mission Street to Las Positas Road
OLD COAST HIGHWAY - Salinas Street to Harbor View Drive
SHORELINE DRIVE - Castillo Street to La Marina
STATE STREET - Mission Street to the westerly City limits
VERONICA SPRINGS ROAD - Those portions within the City limits
YANONALI STREET – Calle Cesar Chavez to Garden Street

30 miles per hour:

ALAMAR AVENUE - De La Vina Street to Junipero Street
ALAMEDA PADRE SERRA - Los Olivos Street to Sycamore Canyon Road
ALAMEDA PADRE SERRA - Sycamore Canyon Road to Eucalyptus Hill Road
ANACAPA STREET - Arrellaga Street to Constance Avenue
ANAPAMU STREET - Santa Barbara Street to Milpas Street
BATH STREET - US Highway 101 northbound offramp to Mission Street
CABRILLO BOULEVARD – Castillo Street to Calle Cesar Chavez
CALLE REAL – Pueblo Street to Las Positas Road
CANON PERDIDO STREET - Santa Barbara Street to Milpas Street
CASTILLO STREET – Cabrillo Boulevard to Mission Street
CHAPALA STREET – Gutierrez Street to Alamar Avenue
CLIFF DRIVE – Montecito Street to Loma Alta Drive
CLINTON TERRACE - Samarkand Drive to Tallant Road
COAST VILLAGE ROAD - Olive Mill Road to Cabrillo Boulevard
CONSTANCE AVENUE - State Street to Garden Street
DE LA GUERRA STREET - Santa Barbara Street to Milpas Street
DE LA VINA STREET - State Street to Micheltorena Street
DE LA VINA STREET - Micheltorena Street to Haley Street
GARDEN STREET - Micheltorena Street to Junipero Street
HITCHCOCK WAY - Calle Real to State Street
LA CUMBRE ROAD - Southerly City limits (US Highway 101) to Via Lucero
MILPAS STREET - Anapamu Street to Cabrillo Boulevard
MIRAMONTE DRIVE - Carrillo Street to Via Del Cielo
ONTARE ROAD - Sunset Drive to Foothill Road
SALINAS STREET - US Highway 101 to Sycamore Canyon Road
SAMARKAND DRIVE - De La Vina to Clinton Terrace
SAN PASCUAL STREET - Canon Perdido Street to Coronel Place
SAN ROQUE ROAD - Foothill Road to State Street
SANTA BARBARA STREET - Anapamu Street to Constance Avenue
SHORELINE DRIVE - Salida Del Sol to La Marina
STATE STREET – Victoria Street to Mission Street
TREASURE DRIVE - Tallant Road to Calle Real
VERANO DRIVE - Primavera Road to southerly City limits
YANONALI STREET - Garden Street to State Street

25 miles per hour:

ANACAPA STREET - Arrellaga Street to US Highway 101
BATH STREET – Mission Street to Quinto Street
CARPINTERIA STREET - Milpas Street to Salinas Street
CARRILLO STREET – Chapala Street to San Andres Street
CASTILLO STREET – Mission Street to Pueblo Street
COTA STREET – Santa Barbara Street to Alameda Padre Serra
GUTIERREZ STREET – Santa Barbara Street to Alameda Padre Serra
HALEY STREET – Chapala Street to Milpas Street
MICHELTORENA STREET – San Andres Street to California Street
MISSION STREET – Robbins Street to Anacapa Street
ONTARE ROAD - State Street to Sunset Drive
PUESTA DEL SOL - Alamar Avenue to easterly City limits
SAN ANDRES STREET - Mission Street to Canon Perdido Street
VALERIO STREET – Gillespie Street to westerly cul-de-sac

(Ord. 5708, 2015; Ord. 5684, 2015; Ord. 5563, 2011; Ord. 5530, 2010; Ord. 5491, 2009; Ord. 5466, 2008; Ord. 5251, 2002; Ord. 5194, 2001; Ord. 5157, 2000; Ord. 5127, 1999; Ord. 4988, 1996; Ord. 4958, 1996; Ord. 4875, 1994; Ord. 4818, 1993; Ord. 4769, 1992; Ord. 4734, 1991; Ord. 4660, 1990; Ord. 4566, 1989; Ord. 4527, 1988; Ord. 4516, 1988; Ord. 4486, 1987; Ord. 4398, 1986; Ord. 4384, 1986; Ord. 4367, 1985; Ord. 4341, 1985; Ord. 4322, 1985; Ord. 4309, 1984; Ord. 4290, 1984; Ord. 4267, 1984; Ord. 4248, 1984; Ord. 4233, 1983; Ord. 4232, 1983; Ord. 4069, 1980; Ord. 3787, 1975; Ord. 3775, 1975; Ord. 3697, 1974; Ord. 3629, 1974; Ord. 3628, 1974; Ord. 3611, 1973; Ord. 3551, 1972; Ord. 3457, 1970; Ord. 3429, 1970; Ord. 3348, 1969; Ord. 3299, 1968; Ord. 3294, 1968; Ord. 3208, 1967; Ord. 3168, 1966; Ord. 2713, 1959; prior Code §31.121.)

10.60.030 Schedule of One-Way Streets.

In accordance with Section 10.28.010, and when properly sign posted, it shall be unlawful for the operator of any vehicle to drive in the direction indicated below on the following streets or portions of streets:

1. **Unnamed alley** lying between Anacapa Street and State Street extending from the Lobero Garage Paseo to Carrillo Street: In a southeasterly direction on the unnamed alley lying between Anacapa Street and State Street from the Lobero Garage Paseo to Carrillo Street.
2. **Unnamed alley** lying between Robbins Street and Mountain Avenue adjacent to Harding School: In a northeasterly direction on the unnamed alley lying between Robbins Street and Mountain Avenue adjacent to Harding School.
3. **ALAMEDA PADRE SERRA:** In a westerly direction on the south side of Alameda Padre Serra or in an easterly direction on the north side of Alameda Padre Serra, where the roadway of Alameda Padre Serra is divided by a parkway in the central portion thereof; provided that vehicles traveling in an easterly direction on Alameda Padre Serra may drive to the north side of the dividing wall located between Dover Road and Arbolado Road for the purpose of entering Arbolado Road.
4. **ANACAPA STREET:** In a northwesterly direction on Anacapa Street between Gutierrez Street and Mission Street.
5. **BATH STREET:** In a southeasterly direction on Bath Street between Haley Street and Mission Street.
6. **BAY VIEW CIRCLE:** In a clockwise direction for its entirety.
7. **BRINKERHOFF AVENUE**: In a northeasterly direction on Brinkerhoff Avenue between Cota Street and Haley Street.
8. **CASTILLO STREET:** In a northwesterly direction on Castillo Street between Cota Street and Mission Street.
9. **CHAPALA STREET:** In a southeasterly direction on Chapala Street between Alamar Avenue and Carrillo Street.
10. **CLEVELAND AVENUE:** In a southerly direction on the east side of Cleveland Avenue or in a northerly direction on the west side of Cleveland Avenue in either the nineteen hundred (1900) or two thousand (2000) blocks thereof.
11. **CORONEL STREET:** In a northeasterly direction on Coronel Street from a point one hundred feet northeasterly of the intersection of Coronel Street and Loma Alta Drive to a point 630 feet northeasterly of the intersection of Coronel Street and Loma Alta Drive.
12. **DE LA GUERRA PLAZA:** In a direction other than entry into De La Guerra Plaza via the street on the southwesterly side of De La Guerra Plaza, proceeding in a southeasterly direction along that street on the southwesterly side of De La Guerra Plaza and continuing in a northwesterly direction only along the street on the northeasterly side of De La Guerra Plaza.
13. **DE LA VINA STREET:** In a northwesterly direction on De La Vina Street between Haley Street and Constance Avenue.
14. **EMERSON AVENUE:** In a southerly direction on the east side of Emerson Avenue or in a northerly direction on the west side of Emerson Avenue in either the nineteen hundred (1900) or two thousand (2000) blocks thereof.

15. **EQUESTRIAN AVENUE:** In an easterly direction on Equestrian Avenue between Santa Barbara and Garden Streets.

16. **GRAND AVENUE:** In a westerly direction on the south side of Grand Avenue or in an easterly direction on the north side of Grand Avenue between Pedregosa Street and Moreno Road where the roadway of Grand Avenue is divided into two (2) levels.

17. **PROSPECT AVENUE:** In an easterly direction on Prospect Avenue between Valerio Street and Cleveland Avenue.

18. **SANTA BARBARA STREET:** In a southeasterly direction on Santa Barbara Street between Haley Street and Mission Street.

19. **STATE STREET:** In a northwesterly direction on the southwesterly side of State Street or in a southeasterly direction on the northeasterly side of State Street between Mission Street and Constance Avenue where the roadway of State Street is divided by a central parkway. (Ord. 5641, 2013; Ord. 5567, 2011; Ord. 4958, 1996; Ord. 4890, 1994; Ord. 4796, 1993; Ord. 4570, 1989; Ord. 4512, 1988; Ord. 4410, 1986; Ord. 4211, 1983; Ord. 4103, 1981; Ord. 4069, 1980; Ord. 3963, 1978; Ord. 3821, 1976; Ord. 3458 §1, 1970; Ord. 3210 §1, 1967; Ord. 3015, §1, 1964; Ord. 2804 §1, 1960; Ord. 2785 §1, 1960; Ord. 2713 §§31.122, 1959; prior Code §31.22.)

10.60.040 Schedule of Heavy Vehicle Prohibition.

A. **PROHIBITION.** In accordance with Section 10.36.030, and when properly sign posted, no person shall operate any vehicle exceeding a maximum gross weight of three (3) tons on the following streets or portions of streets:

1. Amapola Drive.
2. Anacapa Street - Micheltorena Street to Constance Avenue.
3. Bath Street - Montecito Street to Cabrillo Boulevard.
4. Calle Canon - Flora Vista Drive to Valerio Street.
5. Chapala Street - Micheltorena Street to Constance Avenue.
6. Constance Avenue - State Street to Garden Street.
7. Eucalyptus Hill Road - Salinas Street to Alameda Padre Serra.
8. Garden Street - Micheltorena Street to Constance Avenue.
9. Hillside Road - Sixteen hundred (1600) block.
10. Laguna Street - Micheltorena Street to Los Olivos Street.
11. Loma Alta Drive.
12. Madrona Drive.
13. Miramonte Drive from Weldon Road twenty-eight hundred feet (2800') westerly.
14. Orella Street.
15. Santa Barbara Street - Micheltorena Street to Constance Avenue.
16. Shoreline Drive - Loma Alta Drive to Salida Del Sol.
17. State Street - Haley Street to Victoria Street except between the hours of 6 a.m. and 10 a.m.
18. State Street - Mission Street to De La Vina Street.
19. Toyon Drive.

B. **EXCEPTION - BUSES.** The provisions of this section shall not apply to private or public school buses or to passenger buses under jurisdiction of the California Public Utilities Commission.

C. **EXCEPTION - DELIVERIES.** The provisions of this section shall not apply where the vehicle is making deliveries or pickups in accordance with the provisions of California Vehicle Code Section 35703. A person charged with a violation of this Section shall plead and prove, as an affirmative defense, that this exception applies. (Ord. 4794, 1993; Ord. 4321, 1985; Ord. 4256, 1984; Ord. 4069, 1980; Ord. 4028, 1979; Ord. 3881, 1977; Ord 3432 §1, 1970; Ord. 3295 §1, 1968; Ord. 3033 §13, 1965; Ord. 2713 §1 (part), 1959; prior Code §31.123.)

10.60.050 Application to Public Parking Lots.

The provisions of this chapter shall be enforced within all municipally owned and/or operated parking lots to the extent that such provisions are applicable thereto. (Ord. 3199 §3, 1967.)

Chapter 10.68

OFF-STREET PARKING

Sections:

10.68.010 Definitions.
10.68.100 Chapter Superior.
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10.68.010 Definitions.

Unless the context otherwise requires, the provisions of this section shall govern the construction of this chapter.

(1) "Council" means the Council of the City of Santa Barbara.

(2) (Repealed by Ordinance No. 3904 §7, 1977.)

(3) "Parking places" means off-street motor vehicle parking places owned, maintained and operated by the City of Santa Barbara, whether financed by gift, purchase, eminent domain, special assessment proceedings conducted under State law or City ordinance, or otherwise.

(4) "Holder of title" means the owner of record of the fee title to land within any of the business districts of the City hereinafter set forth in Section 10.68.040.

(5) "Tenant" means the person in possession of any premises within any of said business districts under written or oral lease.

(6) "Legal representative" means an officer, employee or agent of a corporate holder of title or tenant, duly authorized to act as such representative by the board of directors of such corporation, and means a guardian, conservator, executor or administrator of the estate of any holder of title or tenant who:

(a) is appointed under the laws of this State;

(b) is entitled to the possession of the estate's land;

(c) is authorized by the appointing court or by general law to exercise the particular right, privilege or immunity which he seeks to exercise.

(7) "Downtown business district" means all commercially zoned or used property in the area bounded by Padre Street, Cabrillo Boulevard, State Highway 101 and Rancheria Street projected southeasterly to West Cabrillo Boulevard, and Quarantina Street and its northwesterly and southeasterly projections.

(8) "Northside business district" means all commercially zoned or used property on both sides of State Street and De la Vina between San Marcos Pass Road and Constance Avenue.

(9) "Milpas business district" means all commercially zoned or used property on both sides of Milpas Street between Carrillo Street and Punta Gorda Street.

(10) "Mesa business district" means all commercially zoned or used property in the vicinity of the intersection of Meigs Road and Cliff Drive. (Ord. 3904, 1977; Ord. 3761, 1975; Ord. 2851 Art. 1, 1961.)

10.68.100 Chapter Superior.

The provisions of this chapter shall be controlling to the extent that they are in conflict with any of the provisions of the act. (Ord. 2826 §2, 1961.)

10.68.110 Chapter Not Exclusive.

This chapter is not exclusive. The Council shall have the power to provide other procedures or to follow parking place or district procedures now or hereafter provided by general law. (Ord. 2826 §3, 1961.)

10.68.120 Investigation Act.

Before ordering any acquisitions, or improvements, or both, or the creation of any district pursuant hereto, the Council shall find that the public convenience and necessity require such acquisitions or improvements, or both, in the manner provided in Section 17, Article XIII of the California Constitution. (Ord. 2826 §4(part), 1961.)

10.68.130 Investigation - Preliminary Determination of Necessity.

A resolution of preliminary determination shall be adopted describing in general terms the proposed improvement or acquisition and setting a time and place when and where any and all persons interested may appear and show cause, if any they have, why the Council should not find and determine that the public convenience and necessity require the proposed acquisition or improvement without compliance with the Special Assessment Investigation, Limitation and Majority Protest Act of 1931. (Ord. 2826 §4(a), 1961.)

10.68.140 Investigation - Notice and Hearing.

The resolution shall contain a notice of the time and place of hearing. A copy of the resolution shall be published in one (1) or more issues of a newspaper published and circulated in the City, and a copy shall be posted on or near the Council Chamber door or on a bulletin board in or adjacent to the City Hall. The posting and publication shall be had at least ten (10) days before the date of hearing. The resolution may be consolidated with the resolution of intention. (Ord. 2826 §4(b), 1961.)

10.68.150 Investigation - Objections.

Any person interested may object to undertaking the proceedings without first complying with the provisions of the Investigation Act. (Ord. 2826 §4(c), 1961.)

10.68.160 Investigation - Final Determination of Necessity.

If no protests are made, or when the protests shall have been heard and overruled the Council may adopt a resolution finding and determining that the public convenience and necessity require the proposed improvements and/or acquisitions, and that the investigation act shall not apply. The findings may be incorporated in the resolution ordering the improvement and/or acquisition. (Ord. 2826 §4(d), 1961.)

10.68.170 Resolution of Intention - Modification.

When proceedings are had for a change and modification, the resolution of intention to change and modify shall be deemed as a resolution of intention and the resolution ordering the changes and modifications shall be deemed a resolution ordering the improvement or acquisition as to the changes and modifications. (Ord. 2826 §4(e), 1961.)

10.68.180 Resolution of Intention - Jurisdiction.

The resolution determining the convenience and necessity shall be adopted by the affirmative vote of four-fifths (4/5) of the members of the Council, and its finding and determination shall be final and conclusive. (Ord. 2826 §4(f), 1961.)

10.68.190 Non-Application.

Sections 10.68.120 - 10.68.200 shall not apply when investigation proceedings have been avoided or taken pursuant to the Investigation Act. (Ord. 2826 §4(g), 1961.)

10.68.200 Finality.

Where proceedings for any improvements and/or acquisitions or any part thereof have been undertaken without compliance with the investigation act or without proceedings under this section, proceedings may thereafter be had under this section with reference thereto, and the order of the Council determining convenience and necessity therein shall be final and conclusive. (Ord. 2826 §4(h), 1961.)

10.68.210 Assessment Districts Divided into Zones.

If, in the judgment of the Council, varying benefits will be derived by the different parcels of land lying within the assessment district, the district may be divided into zones according to benefits. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(part), 1961.)

10.68.220 Number of Zones into Which Assessment District May be Divided.

The district may be divided into as many zones up to the total number of parcels of land in the district as may be deemed necessary, and each zone shall be composed of and include all the lands within the district which will be benefited in like manner. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(a), 1961.)

10.68.230 Percentage of Sum - Determination.

The Council shall also determine the percentage of the sum to be raised each year by the levy and collection of the special assessment taxes in the district for the payments on the principal and interest of the bonds, which will be raised from the lands in each zone.

As an alternative, the Council may determine the percentage of assessed valuation of taxable real property within each zone which shall be used in computing the annual rate of ad valorem assessment within the district and to which the annual rate shall be applied. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(b), 1961.)

10.68.240 Resolution of Intention.

When the district is divided into such zones, the resolution of intention shall so state, giving the percentages to be raised from the lands in each zone. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(c), 1961.)

10.68.250 Designation.

Each zone shall be designated by a different letter or number and shall be plainly shown on the map or plat of the assessment district filed in the Office of the City Clerk and referred to in the resolution of intention, either by separate boundaries, coloring or other convenient and graphic method, so that all persons interested may with accuracy ascertain within which zone any parcel of land is located. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(d), 1961.)

10.68.260 Plat.

It shall be sufficient, in all cases where the assessment district is to be divided into such zones according to benefits, if the resolution of intention states that fact and refers to the plat or map for the boundaries and all details concerning the zones. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(e), 1961.)

10.68.270 Changes in Boundaries at Hearing.

At the hearing, the Council may eliminate, create or alter the boundaries of proposed zones in the manner provided for the alteration of the boundaries of the proposed district. (Ord. 2850 §1(part), 1961; Ord. 2826 §5(f), 1961.)

10.68.280 Subsequent Changes in Boundaries.

If the City Council shall from time to time determine that the public interest will be served thereby, it may from time to time add property to a zone or transfer property from a zone of lesser benefit to a zone of greater benefit, in the manner provided for enlarging the district; provided, however, that in the event consent to such addition or transfer is given in writing by all persons having any interest in the property involved, the procedure required for the enlarging of the district shall not be required and such addition of property to a zone or transfer of property from a zone of lesser benefit to a zone of greater benefit shall be effective as of the date of such written consent. (Ord. 3305 §1, 1968; Ord. 2850 §1(part), 1961; Ord. 2826 §5(g), 1961.)

10.68.290 City Volition.

The City may prepare a report, adopt a resolution of intention and form a parking district, without any petition therefor. (Ord. 2826 §6, 1961.)

10.68.300 Parking Places.

It shall be necessary for the proposed parking lots to be located within the parking district. (Ord. 2826 §7, 1961.)

10.68.310 Elapse of Time.

It shall not be necessary for any specified time to elapse between the performance of acts. (Ord. 2826 §8, 1961.)

10.68.320 Period of Notice.

The first publication and the mailing of any resolution or notice shall not be later than ten (10) days before the day fixed therein for hearing or other act. (Ord. 2826 §9, 1961.)

10.68.330 Resolution Sufficient.

The Council may act by resolution where an ordinance is provided. (Ord. 2826 §10, 1961.)

10.68.340 When Bonds May Issue.

The bonds may be issued before contracting or obtaining options for the purchase of the land, property or rights-of-way to be acquired, or obtaining a judgment in eminent domain for the acquisition. (Ord. 2826 §11, 1961.)

10.68.350 Maturity of Bonds.

The bonds may be made payable on July 2nd of each year in such amounts as the Council shall determine. The last installment shall mature not later than thirty-nine (39) years from second day of July next succeeding ten (10) months after their date. (Ord. 2826 §12, 1961.)

10.68.360 Bonds - Registration.

The bonds may be registrable as to principal and interest, or as to principal only, and may be made deregistrable. (Ord. 2826 §13, 1961.)

10.68.370 Divisions.

The bonds may be issued in different divisions with different dates and dates of maturity. (Ord. 2826 §14, 1961.)

10.68.380 Sale.

The bonds may be sold below par in the manner determined by the Council. (Ord. 2826 §15, 1961.)

10.68.390 Bonds - Source of Payment.

Any bonds issued under this chapter, and the interest thereon, shall be payable from annual ad valorem assessments levied upon the taxable real property within the district and the limitations upon the rate or period thereof provided in the Act shall not apply. The bonds may also be payable from on and off-street parking revenues. (Ord. 2826 §16, 1961.)

10.68.395 Supplemental Advances and Levies.

The provisions of Sections 8800 to 8809, inclusive, of the Streets and Highways Code of the State shall apply to assessments levied hereunder. (Ord. 3169 §1, 1966.)

10.68.400 Enlargement of District.

The boundaries of the district heretofore or hereafter formed may be enlarged from time to time.

(1) Resolution of intention. The territory to be annexed shall be set forth in a resolution of preliminary determination and of intention to be adopted by the Council which shall give notice that the matter, and all persons interested, will be heard by the Council at a time to be stated therein.

(2) Publication. The resolution shall be published twice in a newspaper of general circulation published in the City and posted as provided in Section 10.68.140.

(3) Hearing. The hearing may be adjourned from time to time. At the hearing the Council shall have the power to determine whether or not the entire territory, or only a portion thereof, to be annexed, and the district, will be benefited by the annexation.

(4) Order. The Council shall by resolution order the annexation of such territory, defining its boundaries therein, its decision thereon shall be final and conclusive.

(5) Ad valorem assessment. Thereafter the property annexed shall be subject to special levies for maintenance and operation and for any bonds issued for the acquisition or construction of improvements, the same as are the properties already in the parking district. (Ord. 2826 §17, 1961.)

10.68.405 Modifications.

During the progress of a project, in any proceeding heretofore or hereafter taken pursuant to this chapter, the Council may make changes and modifications in such proceedings, including, but not limited thereto by the generality of the foregoing, the maximum rate of interest at which any bonds thereafter to be issued may bear:

(a) Before ordering any change or modification, the Council shall adopt a resolution of intention so to do, which shall contain a time and place of hearing;

(b) All of the applicable provisions of Section 17 of this ordinance shall apply;

(c) All objections not stated in writing, signed by a property owner and filed prior to the hearing, shall be waived;

(d) The provisions of Section 35276 of the Government Code shall apply to the decision of the Council. (Ord. 3437 §1, 1970.)

10.68.410 Additional Street Meter Pledge.

The Council may, from time to time, pledge street meter revenues from without or within the parking district. (Ord. 2826 §18, 1961.)

10.68.420 Additional Parking Place Pledge.

The Council may, from time to time, pledge revenues from off-street parking places theretofore or thereafter acquired in other than the proceedings in addition to those acquired in the proceedings. (Ord. 2826 §19, 1961.)

10.68.430 Other Procedures.

When proceedings are had under said act, its provisions may be supplemented by other proceedings or as otherwise provided in the resolution of intention. (Ord. 2826 §20, 1961.)

10.68.440 Two (2) Parking Districts.

Territory included in one (1) parking district may be included in another parking district if the Council finds that the territory will be benefited by being included in the subsequent parking district. (Ord. 2826 §21, 1961.)

10.68.450 Rental of Facilities.

The City may acquire, construct, rent, lease, maintain, repair, manage and operate all or any portion of any real and personal property, including the leasing of property for parking, the leasing of the operation of the property, and the leasing for commercial purposes of surplus space or space which it is not economic to use for parking purposes. (Ord. 2826 §22, 1961.)

10.68.460 Incidental Use.

As an incident to the operation of any parking facility, the City may devote a portion of its property to uses such as retail stores, bus terminal, gasoline service station, helicopter landing area, or any other commercial use, when in its judgment it is convenient or necessary to conduct or permit such use in order to utilize the property as a parking facility. Any such incidental use shall be secondary to the primary use as a parking facility, and the portion of the land devoted to the incidental use shall not exceed twenty-five percent (25%) of the surface area of the property. If a building is erected on the property for the purpose of parking motor vehicles, the incidental use of the building shall not occupy more than twenty-five percent (25%) of the floor area.

Neither the Commission nor the Council shall manage or operate surplus space devoted to commercial purposes other than parking vehicles, but shall lease such space to private operators. (Ord. 2826 §23, 1961.)

10.68.470 Disposition of Property.

The Council, by four-fifths (4/5's) vote of all of its members, may determine that any parcel of property acquired from the proceeds of the bonds, or any improvements, extensions or replacements thereof or additions thereto, is no longer needed for off-street parking purposes or such facilities may be otherwise better provided. Subject to the provisions of the City Charter, the property may thereafter be sold, leased or otherwise disposed of, either during or after the term of the bonds. The proceeds of the sale, lease or disposal shall be used for the following purposes and in the following order of priority:

(1) For the purchase of other off-street parking places or facilities for the parking district, or for improvements, additions and extensions to the existing facilities thereof.

(2) To pay the principal of and interest on the parking bonds of this issue or any additional parking bonds of the district then outstanding.

(3) To make the refunds provided for in Section 35705 in the act.

(4) No property shall be sold, leased or disposed of until after proceedings for changes and modifications have been had as provided in the act. (Ord. 2826 §24, 1961.)

10.68.480 General Power of Consolidation.

Any two (2) or more vehicle off-street parking districts duly organized and existing within the City limits may be consolidated in accordance with the provisions of Sections 10.68.480 through 10.68.620. (Ord. 3475 §1, 1971.)

10.68.490 Initiation of Proceedings.

Consolidation proceedings may be initiated at any time by the City Council, either on its own motion, or after recommendation therefor by the Off-Street Parking Commission of the City. (Ord. 3475 §2, 1971.)

10.68.500 Resolution of Intention.

The proceedings shall be initiated by adoption of a resolution of intention to consolidate the districts. Said resolution shall set forth:

(a) The names of the districts proposed to be consolidated and further identify said districts by reference to the resolutions of intention by which the proceedings to form said districts were initiated;

(b) Any changes proposed in zones which may have been established in either district, according to benefits, by setting forth the various zones as they are proposed to be modified and established in the consolidated district, which shall be shown on a map to be filed in the Office of the City Clerk in the same manner as provided in the proceedings for the formation of zones;

(c) The time and place for hearing on the question of consolidating said districts;

(d) The reason or reasons for the proposed consolidation;

(e) The fact that any interested person desiring to make written protest against said consolidation shall do so by written communication filed with the City Clerk not later than the hour set for hearing, and that a written protest by land owners shall contain a description sufficient to identify the land owned by him; and

(f) The proposed name of the consolidated district.

(Ord. 3475 §3, 1971.)

10.68.510 Notice.

Notice of the proposed consolidation shall be given by publication, posting and mailing in the same manner as required for the formation of either district. (Ord. 3475 §4, 1971.)

10.68.520 Protests and Objections - Requirements - Waiver.

Any protest or objection pertaining to the regularity or sufficiency of the proceedings must be in writing, clearly specify the defect, error, irregularity or omission to which protest or objection is made and must be filed within the time and in the manner provided by Sections 10.68.480 through 10.68.620. Any such protest or objection not so made and filed shall be deemed voluntarily waived. (Ord. 3475 §5, 1971.)

10.68.530 Hearing.

The hearing shall be held at the time and place set forth in the notices and may be continued from time to time. At such hearing, the Council shall hear and receive any oral testimony in support of or in opposition to the consolidation and receive and consider any written communications. Any person who shall have filed a written protest may withdraw the same at any time prior to the conclusion of the hearing. (Ord. 3475 §6, 1971.)

10.68.540 Determination and Order.

At the conclusion of the hearing, the Council shall adopt a resolution either disapproving the proposed consolidation or ordering the consolidation. (Ord. 3475 §7, 1971.)

10.68.550 Filings.

If the resolution orders the consolidation, certified copies thereof, together with a map showing the boundaries of the consolidated district, shall be filed in the offices of the County Assessor of the County of Santa Barbara and the State Board of Equalization, pursuant to Section 54900 and following of the Government Code of the State of California. (Ord. 3475 §8, 1971.)

10.68.560 Effect of Consolidation.

From and after the effective date of the order of consolidation, all properties in the consolidated district shall be entitled to all of the benefits and shall be subject to all of the liabilities, including bonds, contracts, and other obligations, of each of the two (2) pre-existing districts. All revenues appropriated or pledged to the payment of bonds of either district shall be consolidated and applied to the payment of principal and interest on the bonds of both districts and a uniform rate of ad valorem assessment shall be applied against all properties in the consolidated district subject to such assessment, to pay such portion of said principal and interest which is not paid from said revenues or other sources. (Ord. 3475 §9, 1971.)

10.68.570 Nature of Consolidated District.

The consolidated district shall have all of the powers, characteristics, and features of each of the pre-existing districts consolidated. Bonds, contracts, or other obligations of either of said pre-existing districts shall continue to be valid and subsisting legal obligations of said consolidated district in accordance with their tenor. (Ord. 3475 §10, 1971.)

10.68.580 Rights of Creditors and Bondholders - Enforcement - Districts Liable.

No consolidation proceeding, or any provision thereof, shall impair the rights of any bondholder or other creditor of the City or either pre-existing district. Notwithstanding any provision of Sections 10.68.480 through 10.68.620, or of any consolidation proceeding, or any provision thereof, each and every bondholder or other creditor may enforce all his rights in the same manner and to the same extent as if such consolidation or provision had not been made. (Ord. 3475 §11, 1971.)

10.68.590 Limitation of Actions.

No action, suit, proceeding or defense to set aside, cancel, void or otherwise attack the validity of proceedings for consolidation of districts under Sections 10.68.480 through 10.68.620 shall be maintained by any person unless such action, suit, proceeding or defense is commenced or made within thirty (30) days after the date of adoption of the resolution ordering the consolidation. Unless such action, suit, proceeding, or defense is commenced or made within the period provided in this section, said consolidation proceedings and the resulting consolidated district shall thereafter be deemed valid and incontestable. (Ord. 3475 §12, 1971.)

10.68.600 Construction.

Sections 10.68.480 through 10.68.620 shall be liberally construed to effectuate their purposes. No consolidation proceeding under Sections 10.68.480 through 10.68.620 shall be invalidated by any defect, error, irregularity or omission in any act, determination or procedure which does not adversely and substantially affect the rights of any person, city, county, district, the State or any agency or subdivision of the State. All determinations made by the Council under and pursuant to the provisions of Sections 10.68.480 through 10.68.620 shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion. In any action or proceeding to review any quasi-judicial determination made by the Council the sole inquiry shall be whether there was fraud or prejudicial abuse of discretion. (Ord. 3475 §13, 1971.)

10.68.610 Validating Proceeding.

An action to determine the validity of any consolidated district or proceeding therefor under Sections 10.68.480 through 10.68.620 may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. (Ord. 3475 §14, 1971.)

10.68.620 Constitutionality.

If any section, subsection, sentence, clause, phrase, or word of Sections 10.68.480 through 10.68.620 is held to be unconstitutional or invalid, the decision shall not affect the remaining portions of Sections 10.68.480 through 10.68.620. The Council declares that it would have adopted and passed the ordinance codified herein and each section, subsection, sentence, clause, phrase or word thereof irrespective of the fact that any one (1) or more of other sections, subsections, sentences, clauses, phrases or words of the ordinance codified herein are declared invalid or unconstitutional. (Ord. 3475 §15, 1971.)

Chapter 10.70

ASSESSMENTS AND ASSESSMENT BONDS

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10.70.010 Definitions.

Unless the context otherwise requires, the provisions of this section shall govern the construction of this chapter.

a) The terms defined in section 10.68.010 when used in this chapter have the same meanings as in Chapter 10.68.

b) "Special assessment" means an annual special benefit assessment levied upon real property pursuant to this chapter.

c) "Incidental expenses" means and includes:

1) the cost of printing and advertising provided for in this chapter;

2) fees of legal, engineering, financial, economic, architectural and other consultants employed in connection with any district project;

3) cost of preparing engineering, environmental impact and other reports required for any such project;

4) the cost of any mitigation measures deemed necessary to mitigate adverse environmental effects of any such project;

5) the compensation of the person appointed to take charge of and superintend any of the work;

6) the expenses of making the special assessment and of preparing and typing the resolutions, notices and other papers and proceedings for any work authorized by this chapter;

7) the expenses of making any analysis and tests to determine that the work and any materials or appliances incorporated therein comply with the specifications;

8) all costs and expenses incurred in carrying out the investigations and making the reports required by the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931;

9) any other costs and expenses of providing special services to the district which are of special benefit to the properties in the district; and

10) any other expenses incidental to the acquisition of property and the construction, completion, inspection, maintenance and operation of work in the manner provided for in this chapter.

d) "Related private work" means work done on private property determined in the resolution of intention to be in the public interest and necessary to the achievement of the public purposes sought to be accomplished by the project to include such work in the proceedings. The actual cost of such work may be assessed against the property on which the work is done. (Ord. 4062, 1980.)

10.70.100 Powers of the Council.

The Council may undertake proceedings for the formation of an assessment district and the levy of special assessments and the issuance of bonds pursuant to this chapter. (Ord. 4062, 1980.)

10.70.110 Resolution of Intention.

The Council may adopt a resolution of intention to form an assessment district and to levy assessments and issue bonds pursuant to this chapter. Said resolution shall set forth:

a) The intention of the Council to acquire or construct parking places, to form a special parking assessment district, to levy special assessments and, if intended, to issue bonds under this chapter;

b) A brief description of the proposed parking places;

c) The proposed disposition of the proceeds of the special assessments, pursuant to Section 10.70.150;

d) The maximum number of years during which the special assessment is to be levied, the maximum interest rate to be collected on the special assessments, and, if bonds are to be issued, the maximum number of years within which the bonds shall mature, and the maximum interest rate at which they may be sold; and

e) A direction to the director of public works or other competent person employed for such purpose to prepare a report setting forth the matters required by Section 10.70.130. (Ord. 4062, 1980.)

10.70.120 Investigation Proceedings.

The Council shall also either conduct proceedings pursuant to division 4 of the Streets and Highways Code of the State of California, or pursuant to Sections 10.68.120 to 10.68.200, inclusive, of this code, or otherwise comply with or avoid the necessity for compliance with said division 4. (Ord. 4062, 1980.)

10.70.130 Report - Contents.

The report required by section 10.70.110(e) shall consist of and set forth:

a) Plans and drawings of the proposed parking places and related private work in sufficient detail to identify them;

b) Maps and descriptions of lands, easements and rights to be acquired;

c) A map showing the boundaries of the proposed special assessment district to include the properties which, in the opinion of the person preparing the report, are benefited by such parking places;

d) An estimate of cost showing the estimated total principal amount of the proposed special assessment and the estimated total principal amount of bonds proposed to be issued, if any. The estimated total special assessment may include the estimated cost of acquiring or constructing the proposed parking places and incidental expenses. The estimated total principal amount of bonds proposed to be issued may include, in addition to the estimated cost of acquiring and constructing the proposed parking places and incidental expenses, all costs of the issuance of said bonds, bond reserve funds and working capital and bond interest estimated to accrue during the construction period and for a period of not to exceed twelve months after completion of construction; and

e) A proposed special benefit assessment formula.

The report shall show the various data, rates and factors necessary to compute the annual special assessments under the formula. (Ord. 4062, 1980.)

10.70.140 Annual Special Benefit Assessment Formula.

The special benefit assessment formula required by section 10.70.130(e) shall be based on the benefits derived and to be derived by the real property in the proposed district from the parking places.

Such formula may include a provision for the granting of credits against special assessments to the extent that private off-street parking places and facilities shall have been provided for the year by owners or otherwise on behalf of real property within the district.

The formula may provide for reasonable classifications of property based on zoning, land use, owner-ship and other factors which affect benefits, including, without limitation, the fact that land is greater than a fixed distance from a particular parking place or a combination of distances from parking places at the time of a levy.

The formula may also be based, in whole or in part, upon parking deficiencies, determined in accordance with the requirements of the applicable provisions of the city planning and zoning ordinances, or any other reasonable and uniform method. (Ord. 4062, 1980.)

10.70.150 Disposition of Special Assessment Proceeds.

The proceeds of the special assessments (other than the amounts necessary to pay incidental expenses) may be applied to any one or any combination of two or more of the following purposes and uses:

a) Payments on account of the acquisition of the parking places from the owner thereof, including the city or any other public entity if such be the case, in the form of contract purchase payments, lease purchase payments or otherwise, or payment for the cost of construction of parking places, or both;

b) Maintenance and operation of the parking places;

c) Payment into the bond fund established pursuant to section 10.70.640 for the payment of principal and interest on the bonds or other obligations to be issued under this chapter to represent and be secured by such special assessments, or

d) Any other lawful purpose set forth in the resolution of intention. (Ord. 4062, 1980.)

10.70.160 Filing and Presentation.

When the report provided for in section 10.70.130 is filed with the City Clerk, the City Clerk shall present it to the Council for consideration. The Council may modify it in any respect. The report as modified shall be preliminarily approved and shall stand as the report for the purpose of all subsequent proceedings except that it may be confirmed, modified, or corrected as hereinafter provided. (Ord. 4062, 1980.)

10.70.170 Hearing of Protests and Testimony; Time and Place; Notice.

After preliminary approval of the report, the Council by resolution shall appoint a time and place for hearing protests to and testimony regarding the report, the project and the formation of the district and shall direct the city clerk to give notice of the hearing as provided in this chapter, and shall designate a daily or weekly newspaper published and circulated in the city in which the notice shall be published. The hearing shall be held not less than ten (10) days after the passage of the resolution. (Ord. 4062, 1980.)

10.70.180 Notice of Passage of Resolution of Intention; Posting.

After the passage of the resolution of intention, the filing of the report, and the setting of the time and place for hearing protests, the City Clerk shall cause notices of the passage of the resolution to be posted. The notices shall be posted conspicuously on all the open streets within the proposed district, at not more than 300 feet apart on each street so posted, but not less than three in all. (Ord. 4062, 1980.)

10.70.190 Notice of Passage of Resolution of Intention; Contents.

The notices shall:

a) Be headed "notice of proposed formation of _____parking assessment district" (naming it), in letters of not less than one-half inch in height;

b) In legible characters state the fact and date of passage of the resolution of intention, the filing of the report, and the time and place set for hearing the protests and testimony;

c) Briefly describe the parking places and the proposed annual special benefit assessment formula as stated in the report;

d) Set forth the estimates of cost as stated in the report; and

e) Refer to the resolution of intention and report for further particulars. (Ord. 4062, 1980.)

10.70.200 Notice of Passage of Resolution of Intention; Publication.

The City Clerk shall also cause a notice similar in substance to the notice described in Section 10.70.190 to be published twice in the newspaper designated in section 10.70.170. The notices shall be posted and first published at least ten (10) days before the date set for hearing the protests. (Ord. 4062, 1980.)

10.70.210 Irregularities in Posting; Effect.

No proceeding shall be held invalid for failure to post any street or streets if sections 10.70.180, 10.70.190 and 10.70.200 have been substantially complied with. (Ord. 4062, 1980.)

10.70.220 Mailing Notices of Adoption of Resolution and Filing Report.

At least ten (10) days before the date set for hearing of protests, the City Clerk shall mail, postage prepaid, notices of the adoption of the resolution of intention and the filing of the report as follows:

a) To all persons owning real property proposed to be assessed, whose names and addresses appear on the last equalized assessment roll for city taxes, including the utility roll, at said addresses;

b) In cases of transfers of land, or part thereof, subsequent to the date on which the last assessor's roll was prepared, to such transferee, at his name and address, as the same appear on the records in the assessor's office which the assessor will use to prepare the next ensuring assessor's roll;

c) To each person, including the owner or person having an interest in property assessed by the state under Section 19 of Article XIII of the California Constitution, who has filed with the county assessor for the current fiscal year, a statement of his name, address, and a description of the property owned by him, requesting that a notice of all proposals affecting such property shall be mailed to him (Gov. Code 58905), at said address; and

d) To such person at his address or as otherwise known to the clerk.

In case of doubt as to the name and address of any owner, the City Clerk shall cause said notice to be conspicuously posted on the property of such person in the assessment district, at or near the entrance thereto, so that it will be visible to persons on entering, leaving or passing said property. (Ord. 4062, 1980.)

10.70.230 Contents of Notice.

The notice shall contain the information and statement required by paragraphs (b), (c), (d) and (e) of section 10.70.190, and a statement that any person interested may file a protest in writing as provided in this chapter. (Ord. 4062, 1980.)

10.70.240 Certificate of Compliance.

Upon the completion of the mailing of the notices, the City Clerk shall file with the Council a certificate setting forth the time and manner of the compliance with the requirements of this chapter for publishing, posting and mailing notices. (Ord. 4062, 1980.)

10.70.250 Boundary Map.

The provisions of sections 3100 and 3101 and 3110 through 3117 of the Streets and Highways Code of the State of California shall apply. (Ord. 4062, 1980.)

10.70.260 Protests; Filing; Presentation.

Any interested person may object to the proposed formation and to the extent of the proposed district, or to the proposed special assessment or to the proposed acquisitions and improvements, or to the estimates of cost or to the proposed issuance of bonds by filing a written protest with the City Clerk at or before the time set for the hearing. Such protest must contain a description of the property in which each signer thereof is interested sufficient to identify the same and, if the signers are not shown on the last equalized assessment roll as the owners of such property, must contain or be accompanied by written evidence identifying the nature of signer's interest in such property. The City Clerk shall endorse on each protest the date of its receipt, and at the same time appointed for the hearing shall present to the Council all protests so filed. (Ord. 4062, 1980.)

10.70.270 Oral Protests; Testimony.

Oral protests, further written protests and written or oral testimony may be presented at any time prior to the closing of the hearing and shall be duly considered by the Council in reaching its decision. (Ord. 4062, 1980.)

10.70.280 Waiver of Protest; Effect.

Any written or oral protest not made at the time and in the manner provided in section 10.70.260 or 10.70.270 shall be deemed to be waived voluntarily by any person who might have made such protest and such person shall be deemed to have consented to the proposed district, the extent thereof, the proposed special assessment, the proposed acquisitions and improvements, the proposed issuance of bonds, if any, and any other act, determination, or proceeding on which protest could be made. (Ord. 4062, 1980.)

10.70.290 Remedy, Revision and Correction of Error or Informality by Council.

The Council may remedy, revise, and correct any error or informality in any act, determination, or proceeding of the Council or any officer of the city. The Council may confirm, amend, alter, modify, or correct the report in such manner as to it shall be just and may instruct and direct the person or board making the same to correct it in any particular. (Ord. 4062, 1980.)

10.70.300 Majority Protest; Overruling Protest; Modification or Confirmation of Proposed Assessment.

If the protests filed pursuant to section 10.70.260 and on file with the City Clerk at the time fixed for hearing are against the proposed district or the proposed acquisitions and improvements and the Council finds that such protests are made by the owners of more than one-half of the area of the land to be assessed and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings shall be taken for a period of one year from the date of the decision of the Council on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the Council. Any person making a protest may withdraw the protest, in writing, at any time prior to the conclusion of the protest hearing. (Ord. 4062, 1980.)

10.70.310 Protest; Hearing and Determination.

At the hearing the Council shall hear and determine all protests filed. (Ord. 4062, 1980.)

10.70.320 Protest; Conclusiveness of Decision; Effect of Majority Protest.

The Council's decision on the protests shall be final and conclusive. (Ord. 4062, 1980.)

10.70.330 Hearing; Continuances.

The hearing may be continued from time to time at the discretion of the Council. (Ord. 4062, 1980.)

10.70.340 Hearing; Change of Boundaries.

At the hearing the Council may alter the boundaries of the proposed district as it finds to be proper and advisable and shall define and establish the boundaries, but the Council shall not modify the boundaries so as to include any territory which will not in its judgment be benefited by the proposed district or acquisitions and improvements and no territory shall be excluded from the proposed district which will in the judgment of the Council be benefited by the proposed district or acquisitions and improvements. (Ord. 4062, 1980.)

10.70.350 Changes Proposed by Council; Time for Hearing Objections.

If the Council proposes to make changes in the boundaries of the proposed district or in the acquisitions or improvements, it shall take the proceedings required by sections 10.70.360 and 10.70.400, inclusive, and shall continue the hearing to the time fixed for hearing objections to the proposed changes. (Ord 4062, 1980.)

10.70.360 Changes Proposed by Council; Notice of Intention; Mailing; Time.

The Council shall not change any boundaries except after notice of intention to do so is published pursuant to Section 6061 of the Government Code of the State of California in the newspaper in which the resolution of intention was published. The notice shall specify a time for hearing objections to the pro-posed change, which shall be not less than ten (10) days after the first publication of the notice. If a change proposed is to include additional real property in the district, the City Clerk shall also mail a copy of the notice, postage prepaid, to each owner to whom real property in the area proposed to be assessed is shown on the last equalized assessment roll, at his address as shown upon the roll, and to each person, whether owner in fee or having a lien upon, or legal or equitable interest in, any such real property, whose name and address and a designation of the real property in which he is interested are on file in the office of the Clerk. The notice shall be mailed at least ten (10) days prior to the time set for hearing objections. (Ord. 4062, 1980.)

10.70.370 Boundary Map.

The provisions of Section 3113 of the Streets and Highways Code of the State of California shall apply. (Ord. 4062, 1980.)

10.70.380 Changes Proposed by Council; Objections.

Written objections to any proposed change may be filed with the City Clerk by any interested person at any time prior to the hour set for hearing them. (Ord. 4062, 1980.)

10.70.390 Changes Proposed by Council; Hearing on Objections; Finality.

The Council shall hear and pass upon objections to proposed changes at the time appointed or at any time to which the hearing may be adjourned. Its decision shall be final. (Ord. 4062, 1980.)

10.70.400 Boundary Change; Computation of Majority Protest.

If the boundaries are changed, protests objecting to the formation of the district or acquisitions and improvements made by owners of real property excluded by the change shall not be counted in computing a majority protest as hereinbefore provided, but written protests objecting to the formation of the district or acquisitions and improvements made by owners of real property remaining in the district and by the owners of real property added by the change and filed not later than the time fixed for hearing objections to such change shall be counted in computing a majority protest as hereinbefore provided. (Ord. 4062, 1980.)

10.70.410 Resolution Establishing District.

At the conclusion of the hearing fixed by the resolution of intention, if no majority protest is on file (or, if on file, has been overruled by an affirmative vote of four-fifths of the members of the Council) and if all protests and objections, including protests and objections to changes, have been overruled and denied, the Council may proceed further under this chapter and may adopt a resolution ordering the acquisitions and improvements, approving the report, declaring that the district is formed and levying the assessment. Upon such adoption the district is formed and organized and the assessment is levied. (Ord. 4062, 1980.)

10.70.420 Tardy Protests, Waiver; Ground for Attack Upon Proceedings.

Any objections or protests not made at the time and in the manner provided in this chapter are deemed waived voluntarily. Proceedings under this chapter shall not be attacked after the conclusion of the hearing upon any ground not stated in an objection or protest filed pursuant to this chapter. (Ord. 4062, 1980.)

10.70.430 Certified Copies of Resolution; Filing; Limitation of Actions to Contest Validity of District.

A certified copy of the resolution which declares that the district is formed shall be filed in the office of the City Clerk. (Ord. 4062, 1980.)

10.70.440 Limitation of Actions.

No action, proceeding or defense to correct, set aside, cancel, avoid, annul or otherwise attack any proceedings under this chapter up to and including the adoption of the resolution declaring the district formed shall be maintained by any person unless such action, proceeding or defense is commenced or made within the 30-day period prescribed by section 329.5 of the Code of Civil Procedure of the State of California. The special assessment is levied within the meaning of said section upon the date of adoption of such resolution. No action, proceeding or defense to correct, set aside, cancel, avoid, annul or otherwise attack any proceedings under this chapter taken subsequent to the date of adoption of said resolution shall be maintained by any person unless such action, proceeding or defense is commenced or made within thirty (30) days after the conclusion of such proceedings. (Ord. 4062, 1980.)

10.70.450 Validating Proceedings.

An action to determine the validity of the district and of the proceedings conducted in connection therewith pursuant to this chapter may be brought pursuant to chapter 9 (commencing with section 860) of Title 10 of Part 2 of the Code of Civil Procedure of the State of California. For such purposes, the district shall be deemed to be in existence upon the date of adoption of the resolution declaring the district formed. (Ord. 4062, 1980.)

10.70.460 Modification of Proposed Acquisitions and Improvements, Notice and Hearing; Determination Required.

If at any time either before or after issuing bonds, the Council so determines, it may at one time or from time to time add to, eliminate, change or otherwise modify any of the proposed acquisitions and improvements after notice and hearing in the same manner as provided in sections 10.70.340 to 10.70.390, inclusive. The action to order such addition, elimination, change or modification may be taken by majority vote of the Council. No such addition, elimination, change or modification shall be made unless following such hearing the Council shall determine that all of the territory within the district as originally formed or as changed pursuant to sections 10.70.340 to 10.70.390, inclusive, as the case may be, will be benefited by the acquisitions and improvements remaining after such addition, elimination, change or modification. No such addition, elimination, change or modification shall be made in violation of the provisions of any resolution providing for bonds already issued. (Ord. 4062, 1980.)

10.70.470 Additional Bonds.

If at any time the Council finds that the proceeds of the bonds first issued will be insufficient to make all of the acquisitions and improvements described in the resolution approving the project and to pay the additional items specified in the report may, at one time or from time to time, issue additional bonds to the extent permitted by the provisions, conditions and covenants contained in the resolution providing for the issuance of any bonds previously issued. (Ord. 4062, 1980.)

10.70.480 Change of District Boundaries; Notice; Hearing; Determination Required; Resolution.

At any time prior to the issuance of bonds, the Council may change the boundaries of the district after notice and hearing in the same manner as provided in sections 10.70.340 to 10.70.390, inclusive, but no such change shall be made unless following such hearing the Council shall determine that all of the territory within the district as changed will be benefited by the acquisitions and improvements originally ordered or the acquisitions and improvements as changed pursuant to section 10.70.460, as the case may be. Any such change in boundaries shall be effected by a resolution amending the resolution declaring the district formed. Proceedings under this section may be combined with proceedings under section 10.70.460. (Ord. 4062, 1980.)

10.70.490 Definitions.

As used in this article (comprising sections 10.70.490 to 10.70.550, inclusive), the following terms have the following meanings, unless otherwise indicated:

1) "Assessment" means a levy on businesses for the purpose of obtaining funds to pay principal and interest on bonds issued pursuant to article VI (comprising sections 10.70.640 to 10.70.680, inclusive), or otherwise to pay the cost of acquiring or constructing parking places under this chapter.

2) "Charge" means a levy on businesses for the purpose of paying the annual cost of maintenance and operation of parking places acquired or constructed pursuant to this chapter.

3) "Area" means a parking and business improvement area established pursuant to this article, the boundaries of which may be co-extensive with the boundaries of a special assessment district formed pursuant to article II of this chapter.
4) "Law" means part 6, commencing with section 36500, of division 18 of the Streets and Highways Code of the State of California.
5) "State code" means the Streets and Highways Code of the State of California.
6) "Business" means all types of businesses, including professions. (Ord. 4062, 1980.)

10.70.500 Powers.

The Council may establish an area pursuant to the law and impose assessments and charges on businesses in the area and otherwise exercise all of the powers set forth in the law. (Ord. 4062, 1980.)

10.70.510 Procedures.

The proceedings for the establishment of the area may be conducted concurrently with the proceedings for the formation of a special assessment district under article II of this chapter. The resolution of intention adopted pursuant to section 10.70.110 may include the information required by section 36521 of the state code; the hearing required by section 36523 of the state code may be held concurrently with the hearing required by section 10.70.170; and any changes pursuant to section 36523 of the state code may be ordered concurrently with changes ordered pursuant to section 10.70.350. (Ord. 4062, 1980.)

10.70.520 Establishment of Area.

The Council may establish the area after the hearing by including in the resolution adopted pursuant to section 10.70.410 all of the information required by section 36525 of the state code. (Ord. 4062, 1980.)

10.70.530 Proceeds of Assessments.

The proceeds of assessments levied pursuant to this article when bonds have been issued pursuant to article VI shall be accounted for in the budget provided for in section 10.70.700, deposited in the bond fund created pursuant to section 10.70.640 and applied solely to the purposes of such fund. The proceeds of assessments levied pursuant to this article when no bonds have been issued shall be accounted for and applied in the same manner as special assessments levied pursuant to article VIII. (Ord. 4062, 1980.)

10.70.540 Proceeds of Charges.

The proceeds of charges levied pursuant to this article shall be deposited in the maintenance fund established pursuant to section 10.70.640 and applied solely to the purposes of such fund. (Ord. 4062, 1980.)

10.70.550 Curative and Waiver Provisions; Limitation Periods.

All of the curative, waiver, conclusive evidence and limitation period provisions of article II, including without limitation, the provisions of sections 10.70.210, 10.70.280, 10.70.290, 10.70.320, 10.70.390, 10.70.420, 10.70.440 and 10.70.450, shall apply to proceedings, assessments and charges conducted and levied pursuant to this article. (Ord. 4062, 1980.)

10.70.560 Territory Subject to Annexation.

At any time after any district is formed, territory which is contiguous to any such existing district and which is within the boundaries of the city may be annexed to any existing district by the Council. (Ord. 4062, 1980.)

10.70.570 Resolution of Council.

Whenever the Council determines that in its opinion additional territory should be annexed to a district, it may pass a resolution to that effect. (Ord. 4062, 1980.)

10.70.580 Contents of Resolution.

The resolution shall do all of the following:
a) Identify the district and describe the boundaries of the territory proposed to be annexed;
b) Designate the proposed annexation by an appropriate number; and
c) Name the time and place for the hearing of objections by any person interested in the proposed annexation, to the inclusion in the district of any land described in the resolution;. (Ord. 4062, 1980.)

10.70.590 Publication.

The resolution, together with the names of the members of the Council voting for and against it, shall be published, posted, and mailed as provided in sections 10.70.180, 10.70.200 and 10.70.220, except that in applying such sections the word "district" shall mean the territory proposed to be annexed. (Ord. 4062, 1980.)

10.70.600 Hearing; Exclusion of Territory Not Benefited.

On the day fixed for the hearing, or any day to which the hearing is continued, the Council shall hear and consider any objections presented to the annexation of the territory to the district or to the inclusion of any territory proposed to be annexed. At the hearing the Council shall exclude from the proposed annexation any territory which in its opinion will not be benefited by such annexation. (Ord. 4062, 1980.)

10.70.610 Resolution Ordering Annexation; Minute Entry; File and Recording.

After making all necessary and proper changes in the boundaries, the Council may, by resolution, order the annexation to the district of all or such part of the territory originally proposed to be annexed as the Council determines will be benefited by such annexation and shall describe the boundaries of the territory annexed. The adoption of such resolution shall have the same force and effect as provided in Section 10.70.410 and an amended boundary map shall be recorded as provided in section 10.70.370. (Ord. 4062, 1980.)

10.70.620 Effect of Annexation.

Upon the adoption of such resolution the territory annexed is a part of the district and is subject to all the liabilities including liability for special assessments, and entitled to all the benefits of the district. (Ord. 4062, 1980.)

10.70.630 Additional Parking Places.

Additional parking places may be acquired and constructed for any district formed pursuant to this chapter.

Proceedings may be taken hereunder for such further acquisition or improvement of public parking facilities for the district and the issuance of bonds therefor as provided in this chapter. Any such proceedings may be initiated by the Council. The procedure specified in this chapter for the formation of a district and the issuance of bonds shall be followed so far as applicable; provided, however, that the acquisitions and improvements finally ordered to be made must be ones which the Council, following the hearing, finds to be of benefit to the district as originally formed or modified by annexation proceedings theretofore or concurrently conducted.

Any bonds issued to finance additional public parking facilities for the district may in part be secured by revenues from facilities acquired with the proceeds of bonds previously issued, to the extent that the allocation and pledge of such revenues to payment of the additional bonds is not prohibited by the resolution providing for the bonds previously issued. The revenues from such additional facilities may be used to pay principal and interest on bonds previously issued to the extent authorized by the resolution providing for the issuance of the bonds issued for such additional facilities. (Ord. 4062, 1980.)

10.70.640 Issuance of Bonds.

The Council may by resolution provide for the issuance of bonds of the district in an amount not exceeding the amount estimated to be necessary to make the proposed acquisitions and improvements, to pay the incidental expenses in connection therewith and the proceedings therefor and to establish a reserve fund for the payment of the principal of and interest on the bonds, and for working capital and interest during the period of construction and for a period of not to exceed twelve (12) months thereafter, less any amount to be contributed by the city for such purposes, all as set forth in the report pursuant to section 10.70.130.

When bonds are to be issued in any proceeding had and taken in connection with any project, pursuant to this chapter, the same shall be issued, paid and collected in accordance with sections 10.70.650 to 10.70.680, inclusive.

A special fund, to be appropriately identified with the project and in this chapter called the "bond fund", shall be created and maintained for each issue of bonds. If special assessments or charges or both are levied to pay the annual costs of maintenance and operation of the project, a special fund, to be appropriately identified with the project and in this chapter called the "maintenance fund" shall also be created and maintained for such project.

All moneys pledged and assigned or contributed to the payment of the bonds and the interest thereon, and all special assessments and assessments levied to pay the bonds and the interest thereon, as herein-after provided, shall be deposited in the bond fund for such issue, shall constitute a trust fund therefor, and shall not be expended for any other purpose. The proceeds of all annual special assessments levied to pay the costs of maintenance and operation of the project, together with any other moneys appropriated or contributed for such purposes, including without limitation charges levied under article III shall be deposited in the maintenance fund, shall constitute a trust fund therefor and be applied solely to such purposes. (Ord. 4062, 1980.)

10.70.650 Serial or Term Bonds; Resolution; Conditions.

The bonds may be issued as serial bonds or as term bonds, or the Council in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the Council and shall bear such date or dates, mature at such time or times, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption as the resolution or resolutions of the Council may provide. The bonds may be sold at either a public or private sale and for such prices as the Council shall determine. Pending preparation of the definitive bonds, the city may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for definitive bonds. The Council may sell any bonds or other evidences of indebtedness at a price below the par value thereof. (Ord. 4062, 1980.)

10.70.660 Terms and Conditions.

Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of the bonds:

a) That the bonds shall state in substance that

1) The bond and interest are payable solely from:

(i) the gross or net, as the case may be, revenues from the operation of the parking place or places acquired and improved with the proceeds, if such is the case;

(ii) the net revenues, or a portion thereof, from parking meters on certain public ways within the district, if such is the case;

(iii) annual special benefit assessments, to be levied upon real property in the district, if such is the case; and

2) Neither the city nor any of its officers is to be held otherwise liable for its principal or interest;

b) That maintenance and operation of the parking places shall be provided, and for the fixing and collecting of rentals, fees and charges for the availability or use of parking facilities, for the establishment of a maintenance fund and a bond fund into which all revenues derived from the operation of the parking facilities shall be placed, for the use of moneys in the respective funds, for payment of the expenses of operating and maintaining the parking places, for the payment of the bonds and the interest thereon, or for the establishment and maintenance of any reserve funds, sinking funds or other funds designed for securing or paying the bonds and the interest thereon;

c) Restrictions on the operation by the city or the district of other facilities for the public parking of motor vehicles which would compete with the facilities, the revenues of which are pledged to the payment of the bonds and the interest thereon;

d) Provisions not inconsistent with this chapter, which are necessary or desirable to carry out its intent and purpose;

e) That the provisions of the resolution shall constitute covenants for the benefit and protection of the holders of the bonds, and any holder may enforce the covenants by mandamus or other appropriate remedy;

f) That any provisions of the resolution, except a provision as to the amount or time of payment of principal or interest on the bonds, may be later eliminated or modified by the Council, if the holders of a fixed percentage of the outstanding bonds have agreed in writing to the elimination or modification;

g) That the proceeds of the sale of the bonds shall be placed in the city treasury to the credit of the proper district fund and applied exclusively to the objects and purposes for which the same were issued;

h) That the proceeds may be used to pay the interest on the bonds during the period of construction of any parking place and for a period of twelve (12) months thereafter, except that the total period during which interest is paid from the proceeds shall not exceed three (3) years from the date of the bonds;

i) That when the acquisitions and improvements have been accomplished, any unexpended bond proceeds shall be placed in the bond fund for the payment or securing of the principal and interest of the bonds, or may be used to pay the cost of additional acquisitions and improvements for the district, and expenses incidental thereto, pursuant to change and modification proceedings; and

j) That after the bonds and all interest thereon have been fully paid, or prior thereto to the extent permitted by express provision of the resolution providing for the issuance of the bonds, all revenues derived from the operation of the parking places and not required for the operation and maintenance of the parking places may be used for the further improvement of the parking places for the benefit of the district, as the Council may decide. Any excess revenues shall be paid into the general fund of the city or the fees and charges reduced so that there will be no excessive revenue. (Ord. 4062, 1980.)

10.70.670 Personal Liability.

Neither the members of the Council nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. (Ord. 4062, 1980.)

10.70.680 Refunding Bonds; Issuance; Proceeds; Investments.

The city may provide for the issuance of the bonds for the purpose of refunding any bonds of the city then outstanding including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the city, for the additional purpose of paying all or any part of the cost of additional off-street parking facilities.

The proceeds of refunding bonds issued pursuant to this section may in the discretion of the city, be applied to the purchase or retirement at maturity or redemption of outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending such application, that portion of the proceeds allocated for such purpose may be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date, as may be determined by the city. Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds. Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the city to be used by it for any lawful purpose. That portion of the proceeds of any bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional off-street parking places may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost.

All bonds issued pursuant to this section shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter. (Ord. 4062, 1980.)

10.70.690 Levy of Special Assessments - Bonds Issued.

Bonds issued pursuant to this chapter shall be payable to the extent provided in the resolution providing for the issuance thereof from annual special benefit assessments levied in the manner provided in sections 10.70.700 to 10.70.970, inclusive. (Ord. 4062, 1980.)

10.70.700 Budget.

The City Administrator shall annually cause to be prepared a budget for each bond issue hereunder, which shall include the following:

a) The gross amount required to pay the principal of and interest on said bonds which will become payable before the proceeds of the next succeeding special assessment levy hereunder become available therefor;

b) The balance available therefor at the end of the fiscal year in the bond fund;

c) The amount estimated to become available therefor pursuant to any pledge and assignment of revenues in the special assessment proceedings from any revenues which may be provided to be collected by the city on any parking facilities in or for the district created for said bonds, which amount shall be pro-vided in the city budget for the fiscal year for which an annual special assessment is to be levied;

d) The amount of revenues to be collected from street parking meters within or without the district, which have been pledged and assigned for the servicing of said bonds, which amount shall be provided in the city budget for the fiscal year for which an annual special assessment is to be levied;

e) The amount of contributions, if any, which the city proposes to make to the bond fund for the fiscal year for which an annual special assessment is to be levied, including without limitation assessments under article III, which amount shall be provided in the city budget for the fiscal year for which an annual special assessment is to be levied; and

f) The balance of the amount provided in paragraph (a) of this section, together with the amount necessary to pay any and all costs and expenses of maintaining and operating the parking places then due or thereafter to accrue before the proceeds of another levy shall be available therefor. (Ord. 4062, 1980.)

10.70.710 Special Benefit Assessment; Annual Report.

The Director of Public Works shall annually prepare a report and an assessment roll apportioning and distributing the amount provided in paragraph (f) of section 10.70.700, including adequate provision for anticipated delinquencies, as a special benefit assessment on all real property within the district.

The annual apportionment of said amount in the report shall be in accordance with the formula set forth in the report provided in section 10.70.130 and confirmed by the Council pursuant to section 10.70.140.

As used in this chapter, "real property" means all land and improvements which are subject to special assessment for benefits from local improvements under the State and Federal Constitutions.

The report shall show the various data, rates and factors necessary to compute the annual special assessments. (Ord. 4062, 1980.)

10.70.720 Correction of Errors.

If the special assessment roll in the report contains any error in the description of the land or in any other respect, the list may be corrected at any time before it is finally approved by the Council. Any error or change must be accomplished on notice and hearing in the manner herein provided for modifications, unless such notice is expressly waived by all of the owners of the property involved in the change. (Ord. 4062, 1980.)

10.70.730 Effect of Error.

No error in the special assessment roll shall render the special assessment of a parcel invalid. (Ord. 4062, 1980.)

10.70.740 Certification and Filing.

When the report has been completed, it shall be signed by the Director of Public Works, dated and filed with the City Clerk, on or before May 15 of each year. (Ord. 4062, 1980.)

10.70.750 Hearing.

Said report shall come on regularly for hearing by the Council at its regular meeting held on the second Tuesday of June in each year. (Ord. 4062, 1980.)

10.70.760 Publication and Posting.

The City Clerk shall cause notice of the hearing on the report to be given by publication and by posting. (Ord. 4062, 1980.)

10.70.770 Notice by Mail, First Report.

The City Clerk shall cause notice of the hearing on the first report for any bond issue to be mailed. (Ord. 4062, 1980.)

10.70.780 Mailing, Subsequent Reports.

Notices shall not be required to be mailed to any person as to hearings on subsequent reports, when the report is heard at the time fixed in section 10.70.750. If, for any reason, the report cannot be heard on said date, the City Clerk shall fix another date and shall mail notice of said hearing. The City Clerk may, but is not required to, mail notices to the owner of a parcel, the zoning, use, ownership or improvement of which has changed in such a manner as to produce a higher special assessment thereon than in the preceding year. (Ord. 4062, 1980.)

10.70.790 Notice Form, Published and Posted Notice.

The form of notice to be published and posted shall be substantially as follows:

"NOTICE OF HEARING
ON PARKING SPECIAL ASSESSMENT ROLL
RESOLUTION OF INTENTION NO.___
ADOPTED _____, 19____

NOTICE IS HEREBY GIVEN that the City Director of Public Works has caused to be prepared and filed with the City Clerk a report which provides for levying special assessments on the properties within the special assessment district created and established for the project and pursuant to the resolution of intention cited above. Said report sets forth the amounts proposed to be levied for the fiscal year 19_____, upon the several parcels of real property in the district, which report is open to public information.

Said report will be heard by the Council at its meeting to be held on the _____ day of _____, 19____, at the hour of ____ o'clock ____.m., Council Chambers, City Hall, Santa Barbara, California, at which time said Council will examine said report and hear all persons interested therein.

Any person interested, objecting to the amount of the special assessment on any parcel of real property owned by such person, may file with the City Clerk, at or before the hour fixed for hearing, a protest in writing signed by such person, describing the parcel so that it may be identified, and stating the ground for the protest, and may appear at said hearing and be heard in regard thereto." (Ord. 4062, 1980.)

10.70.800 Id. - Mailing.

The form of mailed notice shall be substantially as set forth in section 10.70.790, but shall also contain a description of the parcel covered by the notice, sufficient to identify it, and the amount of the proposed special assessment against said parcel as set forth in the report. (Ord. 4062, 1980.)

10.70.810 Protests.

The City Clerk shall endorse on each protest the date it is filed with the clerk, and shall show whether said protest was filed prior to the hour fixed for hearing. No protest received after said hour shall be counted in determining the quantum of protest, but the Council may, in its discretion, consider said protests in making its decision. (Ord. 4062, 1980.)

10.70.820 Public Hearing.

At the time and place fixed for the hearing, or at any time to which the hearing is adjourned, the council shall

a) hear all persons having an interest in any real property within the district;

b) hear all objections, protests or other written communications from any persons interested in any real property within the district;

c) take and receive oral and documentary evidence pertaining to the matters contained in the report;

d) remedy and correct any error or informality in the report, and revise and correct any of the acts or determinations of any city officers or employees, as contained therein; and

e) amend, alter, modify, correct and confirm said report and each of the special assessments therein. (Ord. 4062, 1980.)

10.70.830 Certification.

The report, together with the certificate of the clerk as to the fact and date of approval by the Council, shall be delivered, at or before the time the Council fixes the general city tax rate for said fiscal year, to the officer designated by law to extend city taxes upon the tax roll on which they are collected. (Ord. 4062, 1980.)

10.70.840 Posting and Report.

Said officer shall post to the tax roll the individual amounts of the special assessment to be collected for said year, as set forth in said report against the respective parcels of real property shown in the report. (Ord. 4062, 1980.)

10.70.850 Method of Collection.

The special assessment shall be levied and collected upon the last equalized secured and utility tax rolls upon which general city taxes are collected. It shall be in addition to all other taxes levied for general city purposes, and shall be levied, entered and collected together with, and not separate from, general city taxes, and enforced in the same manner and by the same persons and at the same time and with the same penalties and interest as are other taxes for city purposes, and all laws applicable to the levy, collection and enforcement of taxes for city purposes are made applicable to said special assessment levy, and the assessed real property, if sold for taxes, shall be subject to redemption within one year from the date of sale in the same manner as such real property is redeemed from the sale for general city taxes and if not redeemed shall in like manner pass to the purchaser. All of the provisions of the Improvement Bond Act of 1915 relating to sale of delinquent property are applicable to delinquent special assessments levied under this section, except that sections 8804 and 8809 of the Streets and Highways Code shall not apply. The city may covenant, in the resolution providing for the issuance of bonds, that it will initiate the foreclosure action therein authorized promptly upon the occurrence of a delinquency and prosecute such action to conclusion with due diligence. (Ord. 4062, 1980.)

10.70.860 Lien.

The lien of the special assessment levied under this section attaches at the same times and has the same priorities as the lien for general taxes. (Ord. 4062, 1980.)

10.70.870 Contributions.

The Council may annually, at, or prior to, the time the levy is made, or at such other time as it shall determine, transfer to the bond fund or to the maintenance fund such amount or amounts as it shall determine. (Ord. 4062, 1980.)

10.70.880 Public Property.

If the special assessment formula so provides, public property (other than tax-deeded property), whether or not used in the performance of a public function, shall be exempt from the levy of special assessments under this chapter. (Ord. 4062, 1980.)

10.70.890 Omitted Property.

If any parcel of property is omitted from the tax roll for any year, it shall be added at the end of the roll and assessed as contained in the report. If any property is omitted in any such report it shall be assessed for the omitted amount in the next year after said omission is discovered, and appropriate provisions shall be made in the report for said year. (Ord. 4062, 1980.)

10.70.900 Reassessment.

When any court of competent jurisdiction or the Council, of its own volition, determines that any levy of special assessment pursuant to this chapter is void, invalid or unenforceable for any reason, or any court, for any reason, enjoins the collection of any such special assessment, the Council may levy a reassessment.

The engineer's report on reassessment shall be prepared and filed on order of the Council, notice given, hearing held and reassessment levied and confirmed, all in the same manner as the original special assessment, as nearly as may be, except that the formula to be used in the determination of benefits or the properties subject to special assessment, or both, may be other and different from that provided in the original report, if required in order to be consistent with the determinations and orders of the Council and/or court.

The reassessment shall be collected in the same manner as the original special assessment, except that it is levied too late for inclusion in regular city tax bills, it shall be collected on special bills to be prepared and mailed and collected in the same manner as regular tax bills. Section 10.70.850 shall apply just as if regular city tax bills were used.

The reassessment provisions of this section are alternative to the reassessment provisions elsewhere contained in this chapter.

If any reassessment levied under this section or any other part of this chapter is held invalid for any reason, the Council may conduct additional reassessment proceedings under this chapter, or any state law, to the end that the cost of the project is paid by the properties benefited thereby. (Ord. 4062, 1980.)

10.70.910 Id. - Lien.

The lien of any reassessment shall attach at the same time and have the same priority as the lien of the original special assessment. (Ord. 4062, 1980.)

10.70.920 Security for Existing Bonds.

If any invalidity is not in the bonds themselves or in the issuance thereof, the Council may so declare and conduct a reassessment proceeding in the same manner as the proceedings for the formation of the original district, but without the issuance of new bonds. In such event, the reassessment proceedings shall constitute the proceedings providing a legal authority for the issuance of the outstanding bonds, and the bond fund created in any such reassessment proceeding shall constitute a trust fund for their payment. (Ord. 4062, 1980.)

10.70.930 Exchange of Existing Bonds.

If the invalidity is in the bonds themselves or in the issuance thereof, or if the Council shall so determine in the reassessment proceedings, new bonds shall be issued and exchanged for the outstanding bonds. The new bonds shall mature in the amounts and at the times provided for the outstanding bonds, as nearly as may be.

If the Council shall so determine, it may assign different bonds and allot maturities as it shall deem equitable. (Ord. 4062, 1980.)

10.70.940 Limitation of Actions.

The limitation of actions provided in section 329.5 of the Code of Civil Procedure is applicable to any attack on or defense against the collection of the annual special assessment herein provided for. (Ord. 4062, 1980.)

10.70.950 Validating Proceedings.

An action to determine the validity of any special assessment district, bonds, special assessments, supplemental assessments, reassessments, contracts or evidences of indebtedness, and of the proceedings conducted in connection therewith pursuant to this chapter, may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure of the State of California. (Ord. 4062, 1980.)

10.70.960 Assessment Levy for Unsold Bonds; Use of Proceeds.

Chapter 5 (commencing with Section 5400), Division 6, Title 1 of the Government Code of the State of California shall apply to bonds issued pursuant to this chapter, except that the proceeds referred to in Section 5404 of the Government Code shall be used only for some purpose which is of special benefit to the district, including, but not limited to, the payment of or reimbursement for such of the costs and expenses shown in the report as have already been paid or incurred for the benefit of the district and which could have been included in determining the amount of bonds to be issued, or the payment of principal of or interest on bonds previously issued on behalf of the district. (Ord. 4062, 1980.)

10.70.970 Levy of Assessments Without Bond Issuance.

Whenever the proceedings for the formation of the district and levy of special assessments have been conducted on the basis that bonds are not to be issued, annual special assessments may be levied and collected in the amounts, and in the manner provided in sections 10.70.980 to 10.70.990, inclusive. (Ord. 4062, 1980.)

10.70.980 Council Resolution.

The Council shall adopt a resolution providing for the levy of special assessments over a period of years without bonds. The resolution shall provide for and set forth:

a) The total principal amount of special assessments to be collected;

b) The total number of years during which the special assessment is to be levied, the amounts of principal to be collected each year and the interest rate to be applied to the unpaid principal balances and collected;

c) The establishment and maintenance of special funds into which the proceeds of special assessments shall be paid in order to accomplish the purposes of the proceedings;

d) Procedures for collection of special assessments and the interest thereon pursuant to this chapter; and

e) Any other matters deemed necessary to accomplish the collection of the full amount of the total special assessment with interest over a period of years in the manner herein set forth. (Ord. 4062, 1980.)

10.70.990 Levy and Collection Procedures.

The annual principal payments on the special assessments and the interest on the unpaid principal thereof, as set forth in the resolution adopted pursuant to section 10.70.980, together with such additional amounts as are required for maintenance and operation of the parking places, shall be levied and collected annually in the manner set forth in sections 10.70.690 to 10.70.890, inclusive, with suitable changes to accommodate the fact that no bonds have been issued. All of the provisions of sections 10.70.900 to 10.70.950, inclusive, except insofar as they relate to bonds, shall apply to special assessments collected under this article. (Ord. 4062, 1980.)

10.70.1000 Constitutionality.

If any article, section, subsection, sentence, clause, phrase or word of this chapter is held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this chapter. The Council hereby declares that it would have adopted and passed this chapter and each article, section, sub-section, sentence, clause, phrase and word hereof, irrespective of the fact that any one or more of other articles, sections, subsection, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional. (Ord. 4062, 1980.)

10.70.1010 Waiver.

All objections not made within the time and manner provided are waived. (Ord. 4062, 1980.)

10.70.1020 Orders Final.

All decisions and determinations of the Council upon notice and hearing, shall be final and conclusive upon all persons entitled to appeal, as to all errors, informalities, omissions and irregularities which might have been avoided, or which might have been remedied and as to illegalities not amounting to a want of due process of law. (Ord. 4062, 1980.)

10.70.1030 Liberally Construed.

This chapter shall be liberally construed in order to effectuate its purpose. No error, irregularity, informality, omission or illegality, and no neglect or omission of any officer, in any procedure taken here-under, which does not directly affect the constitutional jurisdiction of the Council to order the work or improvement, shall void or invalidate such proceeding or any special assessment, or charge for the cost of any work or acquisition or service hereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the Council in accordance with the provisions hereof. (Ord. 4062, 1980.)

10.70.1040 Validity.

No step in any proceeding shall be invalidated or affected by any error or mistake or departure from the provisions of this chapter as to the officer or person posting or publishing or mailing, or procuring the publication or posting or mailing, of any notice, resolution, order or other matter when such notice is actually given for the time required. (Ord. 4062, 1980.)

10.70.1050 Effect of Publication.

No assessment, special assessment, charge, reassessment, supplemental assessment, warrant, diagram or bond, or any of their levy or issuance, and no proceedings for same, shall be held invalid by any court for any error, informality, omission, irregularity, illegality or other defect in the same, where the resolution of intention or notice of improvement have been actually published as herein provided. (Ord. 4062, 1980.)

10.70.1060 Dedication.

No proceeding shall be held to be invalid upon the ground that the property upon which the work or improvement or part thereof is to be or was done, had not been lawfully dedicated or acquired, provided the same shall have been lawfully dedicated or acquired or an order for immediate possession and use thereof shall have been obtained at any time before judgment is entered in any legal action. (Ord. 4062, 1980.)

10.70.1070 Reassessment.

Proceedings for reassessment shall be conducted pursuant to Section 10.70.1080 under any of the circumstances and upon any of the grounds set forth in Section 1 of Ordinance No. 3282, adopted by the Council on March 19, 1968, with respect to:

a) Any assessment levied pursuant to this chapter; or

b) Any assessment, whether it be ad valorem or fixed lien, and whether levied pursuant to state law, any city ordinance or any provision of the Santa Barbara Municipal Code. (Ord. 4062, 1980.)

10.70.1080 Procedure.

In any of the events set forth in Section 1 of Ordinance No. 3282, the Council shall adopt a resolution directing reassessment proceedings. Said proceedings may be total or partial and may be conducted con-currently or in combination with proceedings for changes and modifications in the acquisitions, improvements, district or proceedings, as authorized by this chapter or any other Council ordinance or the general law. Any changes and modifications in any of said matters which are not authorized in any of said ordinances or laws, and which are deemed necessary or desirable to establish or confirm the validity of the contract, project, district, proceedings, assessments or bonds, are hereby authorized.

Said reassessment proceedings shall be conducted in accordance with the applicable provisions of this chapter providing for the formation of the district and the levy of the assessment except that Section 10.70.120 shall not apply unless compliance therewith is required by the provisions of the State or Federal Constitution. The report required by Section 10.70.130 shall be and constitute the report for the purpose of the reassessment proceedings, and the Resolution of Intention to undertake reassessment proceedings shall provide that the proceedings are being taken under this section.

Except as in this section otherwise expressly provided, all of the provisions of Ordinance No. 3282 shall apply. (Ord. 4062, 1980.)

Chapter 10.72

PARKING ASSESSMENTS

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10.72.010 Purpose.

The purpose of this chapter is to establish an alternative procedure for fixing the amount of billing and collecting any assessments or reassessments duly levied under Chapter 10.68, under Ordinance No. 3282, or under any other City ordinance or general law. Its provisions shall apply to the fiscal year 1973-74 and any succeeding fiscal year as to which the Council adopts, prior to August 1, a resolution declaring that its provisions apply to the fiscal year set forth in said resolution. The provisions of the general law and Chapter 10.68 shall apply to the levy, billing and collection of assessments for fiscal years not identified in such a resolution. (Ord. 3598, 1973.)

10.72.020 Annual Assessment Roll.

Annually, between the first Monday in March and the first Monday in September, the City Treasurer shall assemble and prepare an assessment roll in which shall be listed all of the property within the assessment district which is subject to assessment for district purposes under applicable law. (Ord. 3598, 1973.)

10.72.030 Budget, Contents.

The Director of Finance shall annually cause to be prepared a budget for each bond issue hereunder which shall include the following:

(1) The gross amount required to pay the principal and interest on the bonds which has or will accrue before the proceeds of the next assessment levy shall be available therefor;

(2) The balance available therefor in the bond interest and redemption fund created for said bonds;

(3) The amount estimated to become available therefor pursuant to any pledge in the assessment proceedings, from any revenues which may be provided to be collected by the City on any vehicle off-street parking places or facilities in or for the parking assessment district created for said bonds, which amount shall be provided in the City budget for the fiscal year for which an annual assessment is to be levied;

(4) The amount of additional contributions, if any, which the City proposes to make to the bond fund for said year, which amount shall be provided in the City budget for the fiscal year for which an annual assessment is to be levied;

(5) The balance of the amount provided in subsection (1). (Ord. 3598, 1973.)

10.72.040 Ad Valorem Assessment.

The amount provided in Section 10.72.030(5), including provisions for anticipated delinquencies, shall be raised by annual ad valorem assessments on all real property subject to assessment within the parking assessment district, in the ratio of its net adjusted assessed valuation as determined under Section 10.72.050, until all of the bonds and the interest to accrue thereon have been paid in full. (Ord. 3598, 1973.)

10.72.050 Contents of Assessment Roll.

The roll prepared pursuant to Section 10.72.020 shall contain in separate columns under the appropriate heading:

(a) The name of the assessee as shown by the last equalized County Assessment Roll or as known to the City Treasurer, and if not so shown or known, "unknown owners";

(b) The County Assessor's parcel number or other description sufficient to identify the property;

(c) The assessed valuation of the land, the assessed valuation of the improvements, and the total assessed valuation of land and improvements, as to each parcel, all as shown on the current County Assessment Roll. The County Assessor of the County of Santa Barbara shall be requested, pursuant to Section 2056 of the Revenue and Taxation Code, to provide in writing an estimate of the value of all publicly-owned properties within the assessment district for the fiscal year 1973-74 and any other year as to which the procedures of this chapter are applicable, as provided in Section 10.72.010, according to his current assessment practices, and such estimate shall be deemed to be the assessed value for assessment purposes.

In the event the County Assessor fails or refuses to provide such estimate for any fiscal year, the estimated assessed value of such public property shall be determined by the Director of Public Works in consultation with the County Assessor, to the extent such consultation is possible, as provided in Section 16 of Ordinance No. 2826, added by Ordinance No. 3576. In making such estimate, the Director of Public Works may enlist the services of competent appraisers and shall conform to current assessment practices of the County Assessor insofar as such practices may be ascertained, through the County Assessor or otherwise;

(d) The zone within which each parcel is located, as established in the proceedings, and the adjusted assessed valuation resulting from the zone percentages;

(e) The amounts of any credits applied for and granted on account of off-street parking facilities provided under the criteria established in the proceedings;

(f) The net adjusted assessed valuation for each parcel;

(g) The total net adjusted assessed valuation of all assessable properties in the district;

(h) The changed assessed values of property after the equalization hearing hereinafter provided, the resulting changes in net adjusted assessed valuation, and the total thereof;

(i) Any other things necessary or desirable for understanding and clarity. (Ord. 3598, 1973.)

10.72.060 Official Map.

The roll shall be accompanied by an official map of the district, which shall show the district boundaries, parcel boundaries and numbers, zoning, streets, off-street parking lots and facilities and other data necessary for identification of the properties subject to assessment. (Ord. 3598, 1973.)

10.72.070 Completion and Delivery of Roll.

On or before the first Monday in August in each year the Director of Public Works shall complete his assessment roll of public properties and deliver it to the City Treasurer; provided that the roll for the fiscal year 1973-74 shall be delivered on or before September 20, 1973. (Ord. 3598, 1973.)

10.72.080 Notice of Meeting.

Upon receiving notice from the City Treasurer that the assessment rolls are available, the City Clerk shall immediately give notice of the time, fixed by the Council, when the Council acting as a Board of Equalization will meet to equalize assessed values. (Ord. 3598, 1973.)

10.72.090 Publication.

The notice shall be given by one (1) publication in a newspaper published in the City. (Ord. 3598, 1973.)

10.72.100 Hearing, Notice, Mailing, First Roll.

The City Clerk shall cause notice of the hearing on the first roll for any bond issue to be mailed to property owners within the parking assessment district, postage prepaid, as follows:

(1) To all persons owning real property proposed to be assessed, whose names and addresses appear on the assessment roll, at said addresses, or as otherwise known to the Clerk;

(2) In case of doubt as to the name and address of any owner, the Clerk shall cause said notice to be conspicuously posted on the property of such person in the assessment district, at or near the entrance thereto, so that it will be visible to persons on entering, leaving or passing said property. (Ord. 3598, 1973.)

10.72.110 Hearing, Notice, Mailing, Subsequent Rolls.

Notice may but shall not be required to be mailed to any persons as to a hearing on subsequent assessment rolls. (Ord. 3598, 1973.)

10.72.120 Meeting Time.

The time for the meeting shall be not less than ten (10) days nor more than twenty (20) days from the publication and mailing (in the case of first roll) of the notice. (Ord. 3598, 1973.)

10.72.130 Inspection of Roll.

Until the equalization hearing commences the assessment roll shall remain in the Office of the City Treasurer for the inspection of all persons interested. (Ord. 3598, 1973.)

10.72.140 Hearing.

On the day specified in the notice of equalization, the Council shall meet as a Board of Equalization to hear and determine objections to the valuation and assessment coming before it, including questions of zoning and assessment credits. The Council shall make no changes in assessed valuations as equalized by the Board of Supervisors of the County of Santa Barbara, but shall hear and consider all competent evidence regarding and make any changes as may be just in assessed valuation estimated by the Director of Public Works pursuant to Section 10.72.050(c). (Ord. 3598, 1973.)

10.72.150 Hearing, Notice, Form.

The notice shall be substantially as follows:

"NOTICE OF HEARING ON PARKING
ASSESSMENT ROLL PROJECT NO.

"NOTICE IS HEREBY GIVEN that the City Treasurer has caused to be prepared an assessment roll which provides the basis for levying ad valorem assessments on the properties within the parking district created and established for Vehicle Off-Street Parking Project No. ____ , for the fiscal year _____ upon the several parcels of land in the parking assessment district created to pay the principal and interest of the bonds issued in said project, which roll is open to public inspection.

"Said roll will be heard by the Council at its meeting to be held on the __ day of _____ , 19 ___ , at the hour of 2:00 o'clock P.M., Council Chambers, City Hall, Santa Barbara, California, at which time said Council will consider the assessed valuations and hear all persons interested therein.

"The Council will not consider changes in assessed valuations as equalized by the Board of Supervisors of the County of Santa Barbara for tax purposes generally, but will hear and consider any matters relating to assessment credits based on private parking provided. The Council will hear and consider all competent evidence regarding and make any changes it deems to be just in assessed valuations estimated by the Director of Public Works pursuant to Section 10.72.050(c) of the Santa Barbara Municipal Code.

"Any interested person, objecting to the zones, credits, or (within the foregoing limits) the amounts of the assessed value on any parcel of land owned by him, may file with the City Clerk at or before the hour fixed for hearing, a protest in writing signed by him, describing the parcel so that it may be identified, and stating the grounds of his protest, and may appear at said meeting and be heard in regard thereto." (Ord. 3598, 1973.)

10.72.160 Hearing, Affidavits.

Affidavits of publication and mailing notices of hearing shall be made and filed with the Clerk. (Ord. 3598, 1973.)

10.72.170 Hearing, Protests.

The Clerk shall endorse on each protest the date it is filed with her, and shall show whether such protest is filed prior to the hour fixed for hearing. No protest received after said hour shall be legal, but the Council may, at its discretion, consider said protests and hear the signers thereof. (Ord. 3598, 1973.)

10.72.180 Hearing, Council Duties.

At the time and place fixed for said hearing, or at any time to which said hearing is adjourned, the Council shall:
(1) Hear all persons having an interest in any real property within the district;
(2) Hear all objections, protests or other written communications from any persons interested in any real property within the district;
(3) Take and receive oral and documentary evidence pertaining to the matters contained in the roll;
(4) Remedy and correct any error or informality in the roll, and revise and correct any of the acts or determinations of the Director of Finance or of the Director of Public Works as contained in the roll;
(5) Amend, alter, modify, correct and confirm said roll and each of the assessments therein. (Ord. 3598, 1973.)

10.72.190 Duration of Session.

The Council acting as a Board of Equalization shall continue in session from time to time as long as may be necessary but not to exceed ten (10) days exclusive of Sundays. (Ord. 3598, 1973.)

10.72.200 Notation of Changes.

The Clerk shall be present during the equalization proceedings and note all changes in the valuation of the property and the names of the assessees. (Ord. 3598, 1973.)

10.72.210 Hearing, Decision Final.

All decisions and determinations of the Council, on notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal to it, as to all errors, informalities and irregularities which the Council might have avoided, or have remedied during the hearing on the roll. (Ord. 3598, 1973.)

10.72.220 Gross Assessed Valuation.

Within ten (10) days after the close of the equalization session the City Treasurer shall add the total values and determine the total net adjusted assessed valuation of the property after final equalization by the Council. (Ord. 3598, 1973.)

10.72.230 Assessment Rate.

On or before the first Tuesday in October, the Council shall, by resolution, fix the assessment rate for the current fiscal year, which rate shall be sufficient, after adequate allowance for anticipated delinquencies, to raise the full amount determined by the Director of Finance under Section 10.72.030(5). (Ord. 3598, 1973.)

10.72.240 Entry of Sums on Roll.

The City Treasurer shall compute and enter in a separate column of the assessment roll the respective sums in dollars and cents, rejecting fractions of a cent, to be paid on the property listed. (Ord. 3598, 1973.)

10.72.250 Lien; Time of Attachment.

All assessments levied on real property and improvements are a lien upon the same, which lien attaches as of noon on the first Monday of March of the year in which the assessment is levied. (Ord. 3598, 1973.)

10.72.260 Billing.

The City Treasurer and Tax Collector within twenty (20) working days after the tax rate has been set, shall mail assessment bills to the persons to whom notices of the equalization hearing were sent pursuant to Section 10.72.100. Assessment installments due on bonds issued under the Improvement Bond Act of 1915, weed abatement charges, and other charges provided by law may be included in the same billing. The bills shall be substantially in the form attached hereto and filed in the Office of the City Treasurer. (Ord. 3598, 1973.)

10.72.270 Collection Method.

Said special assessment shall be collected upon the last assessment roll as equalized by the Council. It shall be in addition to all other taxes levied for general City purposes, and shall be collected together with, and not separate from any other charges lawfully included in said bill, and enforced, in the case of privately owned property, in the same manner and at the same time, and with the same penalties and interest, as are other taxes and charges for City purposes, and all laws applicable to the levy, collection and enforcement of taxes for City purposes are applicable to said special assessment levy, and the assessed real property, if sold for taxes, shall be subject to redemption within one (1) year from the date of sale in the same manner as such real property is redeemed from the sale for general City taxes and if not redeemed shall in like manner pass to the purchaser.

All duties with regard to the collection and enforcement of said special assessments not otherwise provided in this chapter shall be performed by the City Treasurer and Tax Collector. In the case of enforcement of assessments against public properties, the City has and may exercise all of the remedies provided by Section 5302.5 of the Streets and Highways Code and other general laws, including mandate against the appropriate public board or officer to compel the levy of a tax to pay such assessments. (Ord. 3598, 1973.)

10.72.280 Validation.

All assessment levies, billings, collection and proceedings to enforce collection of parking assessments heretofore taken by any City officer, board or employee are hereby confirmed, validated and declared legally effective. (Ord. 3598, 1973.)

10.72.290 Validity of Bonds and Assessment Rate.

All bonds issued and all assessments levied and collected pursuant to the provisions of Chapter 10.68 and all assessments levied and collected pursuant to this chapter shall by their issuance and levy be conclusive evidence of the regularity, validity and legal sufficiency of all proceedings, acts and determinations in any way pertaining thereto, and after the same are issued no assessment levied or collected for the purpose of paying the principal or interest on said bonds shall be held invalid or illegal, or set aside by reason of any error, informality, irregularity, omission or defect in said proceedings, not amounting to a want of due process of law. (Ord. 3598, 1973.)

10.72.300 Curation.

No assessment or bonds, or any order for their issuance, and no proceedings prior thereto, shall be held invalid by any court for any error, omission, irregularity, informality, or other defect in the same, where the resolution of intention has been published as provided in Chapter 10.68.

No proceeding taken or had under this title shall be held to be invalid on the ground that the real property or a portion thereof, upon which the work or improvement or part thereof, is to be done or was done, has not been lawfully dedicated or acquired, or an action for the acquisition thereof has been filed, or otherwise, at any time before judgment has been entered in any legal action or proceeding involving such issue.

All the decisions and determinations of the Council, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this title, as to all errors, informalities, omissions, irregularities, and other defects, which the Council might have avoided, or might have remedied, during the progress of the proceedings, or which it can at that time remedy. (Ord. 3598, 1973.)

Chapter 10.73

CARSHARE VEHICLE PERMIT PROGRAM

Sections:

10.73.010 Definitions.
10.73.020 Designation of Carshare Parking Spaces.
10.73.030 Issuance of Permits.
10.73.040 Carshare Permit Required.
10.73.050 Posting of Carshare Vehicle Parking Spaces.

10.73.010 Definitions.

The following words or phrases as used in this chapter shall have the following meanings.

(a) Carshare Vehicle. "Carshare vehicle" shall mean a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization which provides hourly or daily car sharing service to its members.

(b) City Carshare Program. "City Carshare Program" shall mean a program under which the City designates on-street parking spaces or portions of streets, or publicly-owned off-street parking facility spaces or portions of such facilities, for the exclusive use of vehicles displaying a Public Works Department-issued Carshare Permit.

(c) Carshare Permit. "Carshare Permit" shall mean a permit issued by the City for a carshare vehicle operated by a Carshare Organization.

(d) Carshare Organization. "Carshare Organization" shall mean a public or private carsharing company or organization that is operating within the City pursuant to the authority granted by a duly authorized written agreement with the City of Santa Barbara. (Ord. 5725, 2015.)

10.73.020 Designation of Carshare Parking Spaces.

The City Traffic Engineer is authorized to designate, via posting of signs and/or curb markings, streets or portions of streets, or publicly-owned off-street parking facilities or portions of the facilities, to be reserved for the exclusive parking of carshare vehicles. (Ord. 5725, 2015.)

10.73.030 Issuance of Permits.

The Public Works Director shall issue carshare permits to qualifying vehicles of a carshare organization. The number of permits issued to a carshare organization shall be made at the sole discretion of the Public Works Director. (Ord. 5725, 2015.)

10.73.040 Carshare Permit Required.

No person shall stop, park or leave standing any vehicle in a place designated for the exclusive parking of carshare vehicles participating in the City carshare program, unless the vehicle has a valid carshare permit displayed as directed by the City. (Ord. 5725, 2015.)

10.73.050 Posting of Carshare Vehicle Parking Spaces.

The City Traffic Engineer shall cause appropriate signs to be erected and/or markings in such street or publicly-owned off-street parking facilities, indicating prominently thereon the parking restrictions and stating that motor vehicles with valid permit or designation shall be exempt from the restrictions. The City Traffic Engineer is further authorized to include notice on any sign installed pursuant to this section that vehicles left standing in violation of such sign may be removed and towed pursuant to California Vehicle Code section 22651. The provisions of this section shall not apply until signs or markings giving adequate notice thereof are in place. (Ord. 5725, 2015.)

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TITLE 14
Water and Sewers

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5653	Unlawful Water Use and Regulations during Water Shortage Conditions	June 19, 2014	Chapter 14.20
5693	Private Well Construction on Properties Served by City's Water Supply System; Emergencies	June 11, 2015	Sections 14.32.040 and 14.32.115

TITLE 14

WATER AND SEWERS

Chapter: 14.04 Water Definitions
Chapter: 14.06 Board of Water Commissioners
Chapter: 14.08 Connections, Rates and Charges
Chapter: 14.12 Private Fire Service
Chapter: 14.16 Billings and Payment for Water
Chapter: 14.20 Water Regulations
Chapter: 14.23 Reclaimed Water
Chapter: 14.25 Fire Hydrants
Chapter: 14.28 Water Main Extensions
Chapter: 14.32 Wells
Chapter: 14.33 Wastewater Fund
Chapter: 14.34 Sewer Definitions
Chapter: 14.36 General Provisions for Sewers
Chapter: 14.40 Sewer Service Charges
Chapter: 14.44 Sewer Connections and Use
Chapter: 14.48 Sewer Permits
Chapter: 14.52 Sewer Extensions
Chapter: 14.56 Natural Watercourses and Storm Drain System
Chapter: 14.60 Gibraltar Reservoir

Chapter 14.04

WATER DEFINITIONS

Sections:

14.04.010 Definitions Generally.
14.04.020 Connection.
14.04.030 Consumer.
14.04.040 Customer.
14.04.050 Department.
14.04.051 Account Holder.
14.04.052 Director.
14.04.055 Flow Restricter.
14.04.060 Meter.
14.04.070 Service, Water Service.
14.04.080 Waste.
14.04.090 Water.
14.04.100 Watercourse.
14.04.110 Water Service.

14.04.010 Definitions Generally.

Unless the context shall require otherwise, as used in this title the words defined in this chapter shall have the meanings respectively set out opposite them. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.020 Connection.

"Connection" means a connection of premises with the City water system. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.030 Consumer.

"Consumer" means a person or entity who uses water. (Ord. 4558, 1989; Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.040 Customer.

"Customer" means a person purchasing or receiving water from the City water supply system. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.050 Department.

"Department" means the City Public Works Department. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.051 Account Holder.

"Account Holder" means the person or entity responsible for payment for water service at a particular property, as shown in the City's water billing records. (Ord. 4558, 1989.)

14.04.052 Director.

"Director" means the Director of the Department of Public Works or his or her designated representative. (Ord. 4558, 1989.)

14.04.055 Flow Restricter.

"Flow Restricter" means a device for reducing the flow of water through a meter. (Ord. 4558, 1989.)

14.04.060 Meter.

"Meter" means a meter furnished by the City and approved for use to measure the amount of City water delivered to a customer. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.070 Service, Water Service.

"Service" and "Water Service" mean the service and materials furnished by the City in supplying water to a customer including meter, lateral, connectors and labor. It shall also mean the diameter of a connection. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.080 Waste.

"Waste" means any excessive, unnecessary or unwarranted use of water, including but not limited to any use which causes unnecessary runoff beyond the boundaries of any property as served by its meter and any failure to repair as soon as reasonably possible any leak or rupture in any water pipes, faucets, valves, plumbing fixtures or other water service appliances. (Ord. 4558, 1989; Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.090 Water.

"Water" means water supplied by the City water supply system. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.100 Watercourse.

"Watercourse" means and includes streams, creeks, arroyos, gulches, washes and the beds thereof, whether dry or containing water. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

14.04.110 Water Service.

See "Service", Section 14.04.070. (Ord. 2931 §2(part), 1963; prior Code §44.1(part).)

Chapter 14.06

BOARD OF WATER COMMISSIONERS

Section:
14.06.010 Board of Water Commissioners - Powers and Duties.

14.06.010 Board of Water Commissioners - Powers and Duties.

The Board of Water Commissioners shall have the same powers and duties regarding the Wastewater Fund as it possesses with respect to the Water Fund pursuant to the provisions of Section 813 of Article VIII of the Charter of the City of Santa Barbara. (Ord. 4533, 1988.)

Chapter 14.08

CONNECTIONS, RATES AND CHARGES

Sections:

14.08.010 New Connections to Mains - Application Required.
14.08.020 New Connections to Mains - Contents of Application.
14.08.030 New Connections to Mains - Fee to Accompany Application.
14.08.040 New Connections to Mains - Determination of Meter and Service Size.
14.08.045 Effective Date of Revised Rates.
14.08.050 New Connections to Mains - Fee Schedule.
14.08.060 New Connections to Mains - Connections Generally.
14.08.070 Fees for Service Relocations.
14.08.080 Service Fees for Meters.
14.08.090 Water Service Meter Rates at Premises - Monthly Rates.
14.08.095 Customer Service Charge.
14.08.130 Meter Test - Replacing Meter.
14.08.140 Placement Generally and General Treatment of Meters.

14.08.010 New Connections to Mains - Application Required.

No new connection for any premises shall be made to City water mains or to City water system unless a written application has been properly filed with the Public Works Department, signed by the owner or his agent, upon forms to be furnished by the Public Works Department. (Ord. 3610 §1, 1973.)

14.08.020 New Connections to Mains - Contents of Application.

The application form referred to by Section 14.08.010 shall be completely filled out and shall state the following information:

(1) The location where such connection shall be made;
(2) That the service pipe is laid to within two feet (2') of the curb line of the street;
(3) That such service pipe is properly equipped with a shutoff approved by the Director of the Public Works Department;
(4) The size of the meter and service requested. (Ord. 3610 §1, 1973.)

14.08.030 New Connections to Mains - Fee to Accompany Application.

The application referred to in Sections 14.08.010 and 14.08.020 shall be accompanied by a fee as provided for in Section 14.08.050. (Ord. 3610 §1, 1973.)

14.08.040 New Connections to Mains - Determination of Meter and Service Size.

The size of any new meter and service and/or reduction in meter size shall be subject to the final determination and approval by the Director of the Public Works Department.

Uniform Plumbing Code requirements will be used as a guide for determining the size where applicable.

Where insufficient information is available to determine the size from the Uniform Plumbing Code, the proper size may be determined on an area basis as follows:

(1)

Usable Land Area:	Service Size:
10,000 square feet or less	5/8 inch by 3/4 inch
10,000 to 20,000 square feet	1 inch
20,000 to 34,000 square feet	1-1/2 inch
35,000 square feet and over	2 inch or larger as required

(2) Existing services and meters: In cases where the consumption history of a consumer's meter is greater than the average consumption of the next larger size meter, the Director may require the consumer to have installed at his expense the next larger size meter and services.
(3) Change in meter size for any property will not be approved without the written consent of the property owner. (Ord. 4250, 1984; Ord. 3610 §1, 1973.)

14.08.045 Effective Date of Revised Rates.

The revised rates and schedules imposed by Sections 14.08.050, 14.08.090 and 14.08.095 of this chapter shall become effective as of the commencement of the first complete billing period following the effective date of the ordinance codified herein. (Ord. 3610 §1, 1973.)

14.08.050 New Connections to Mains - Fee Schedule.

(a) The service fees for original connections to the City water system and service relocations shall be set by resolution of the City Council.

(b) In addition to the service fees provided for in §14.08.050(a), applicants for original connections to the City water system shall also pay a "buy in" charge as established by resolution of the City Council. This subsection shall be applicable only to the existing water service area at the time of the adoption of this ordinance. (Ord. 3829, 1976; Ord. 3750, 1975; Ord. 3696, 1974; Ord. 3610 §1, 1973; Ord. 2735 §1, 1974.)

14.08.060 New Connections to Mains - Connections Generally.

Upon receipt of the application and fee by the Public Works Department, as contemplated by Sections 14.08.010, 14.08.020, 14.08.050 and 14.08.080, premises may be connected to the water mains of the City if found to conform to the provisions of this chapter. (Ord. 3610 §1, 1973.)

14.08.070 Fees for Service Relocations.

Fees for City water service relocations shall be identical with those expressed in Section 14.08.050. (Ord. 3610 §1, 1973.)

14.08.080 Service Fees for Meters.

Service fees for meters shall be set by resolution of the City Council. (Ord. 3829, 1976.)

14.08.090 Water Service Meter Rates at Premises - Monthly Rates.

The monthly rates to be charged and collected shall be set by resolution of the City Council. (Ord. 4250, 1984; Ord. 3829, 1976.)

14.08.095 Customer Service Charge.

In addition to all other charges imposed by this chapter, a customer service charge is hereby imposed and the same shall be collected in connection with all billings for water, without regard to actual water use, if any, at rates determined by resolution of the City Council. (Ord. 4250, 1984; Ord. 3829, 1976.)

14.08.130 Meter Test - Replacing Meter.

Any consumer may have the accuracy of the meter through which water is being furnished to his premises examined and tested by the City by making a written application therefor upon forms provided by the City and accompanying the same with a fee in an amount determined by resolution of the City Council. Upon receipt of such application and fee, the City shall examine and test such meter. If the meter is found to register a quantity of water which varies from the actual quantity of water passing through it by more than two percent (2%), such meter shall be removed and another meter installed in lieu thereof. In any event, the fee shall be retained by the City. (Ord. 4250, 1984; Ord. 3610 §1, 1973.)

14.08.140 Placement Generally and General Treatment of Meters.

All meters of the Public Works Department shall be placed at the curb line of the street, whenever and wherever practicable, and shall be protected and maintained as a part of the operation of the Department. (Ord. 3610 §1, 1973.)

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Chapter 14.12

PRIVATE FIRE SERVICE

Sections:

14.12.010 Private Fire Service - Non-Meter Rates.
14.12.020 Private Fire Service - When Line to be Metered, Etc.
14.12.030 Private Fire Service - Reservation of Right to Disconnect.

14.12.010 Private Fire Service - Non-Meter Rates.

The rate for City water for private fire services when the use of a meter is not required shall be set by resolution of the City Council. (Ord. 3829, 1976.)

14.12.020 Private Fire Service - When Line to be Metered, Etc.

If an existing fire service line is found tapped for domestic use, a meter or detector-check device shall be installed on such service at the expense of the consumer and the regular meter rate shall be charged thereafter in addition to the fire service rate. All fire service lines installed after the effective date of the ordinance codified in this chapter shall have an approved detector-check and by-pass meter installed and such device shall be considered part of the fire service cost. (Ord. 2931 §2(part), 1963; prior Code §44.21.)

14.12.030 Private Fire Service - Reservation of Right to Disconnect.

The right shall be reserved to disconnect fire service lines from the City main by direction of the Council on recommendation of the Director of the Public Works Department. (Ord. 2931 §2(part), 1963; prior Code §44.22.)

Chapter 14.16

BILLINGS AND PAYMENT FOR WATER

Sections:

14.16.010 Due Dates - Shut Off for Delinquency - Service Restoration Fee.
14.16.020 Disconnection for Delinquency.
14.16.070 Water Service Santa Barbara Mission.
14.16.080 Disputed Accounts.

14.16.010 Due Dates - Shut Off for Delinquency - Service Restoration Fee.

All water bills issued by the City shall be due and payable on the mailing date, which date shall be plainly stamped upon each bill. In the event any such bill is not paid within five (5) days after the mailing date of the notice of failure to pay such bill, water service may be disconnected from the premises of the delinquent consumer. Water service shall not be restored for such consumer until all arrearages in water bills of such consumer shall have been paid in full, together with a service restoration fee established by resolution of the City Council. (Ord. 4250, 1984; Ord. 3933 §1, 1977; Ord. 2931, 1963; prior Code §44.23.)

14.16.020 Disconnection for Delinquency.

Water service may be disconnected from the premises occupied by, or may be refused to, any consumer with a bill for water service supplied to the consumer at any other address (including a property formerly occupied by the consumer) which has remained unpaid for more than twenty (20) days. (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.23(part).)

14.16.070 Water Service Santa Barbara Mission.

Water to Santa Barbara Mission shall be furnished and paid for pursuant to the agreement dated November 22, 1966, between the Franciscan Fathers of California and the City, recorded as Instrument No. 40196, in Book 2175 at page 1276, Official Records of the County of Santa Barbara. (Ord. 3204 §1, 1967; Ord. 2931 §2(part), 1963; prior Code §44.28.)

14.16.080 Disputed Accounts.

The Director of Finance shall establish, subject to the approval of the City Council, administrative procedures for the resolution of consumer disputes regarding charges for water and sewer service provided by the City. A summary of these administrative procedures shall be included in each water and sewer delinquency billing. The administrative procedures may provide that the decision of the Finance Director or the City Administrator regarding the proper resolution of any dispute shall be final. (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.29.)

Chapter 14.20

WATER REGULATIONS

Sections:

14.20.005 Use of Water.
14.20.007 Prohibition Against Waste of Water.
14.20.010 Wasting Water - Repairs - Required.
14.20.040 City's Relation to Seepage, Etc. - Damage on Private Property.
14.20.050 Who May Turn on Water.
14.20.060 Preventing Access to Water System Outlets.
14.20.070 Consumer Precautions in Case of Fire.
14.20.080 Right of Access to Water Meters.
14.20.090 Access to Meters Inside Premises.
14.20.100 Shutting Off Water for Repairs, Etc., and Notice.
14.20.105 Shutting Off Irrigation Meters.
14.20.108 Place of Use of Water.
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14.20.120 Check Valves and Anti-Backflow Devices.
14.20.130 Unlawful Use of Water and Meter Removal.
14.20.140 Illegal Consumption Shown by Meter.
14.20.150 Reconnection Generally.
14.20.170 Notice Upon Vacating Premises - Required.
14.20.180 Department to Read Meter on Receipt and Stop Service.
14.20.190 Rules and Regulations to be Established by Health Officer.
14.20.200 Illegal Connections.
14.20.210 Illegal Connection - Denial of Water from Public Water Supply.
14.20.215 Water Use Regulations During Water Shortage Conditions.
14.20.225 Violations.
14.20.226 Penalties and Charges.
14.20.227 Notice of Violation - Hearing.

14.20.005 Use of Water.

The use of all water obtained by or through the distribution facilities of the City shall be governed and controlled by the provisions of this Chapter. (Ord. 4558, 1989.)

14.20.007 Prohibition Against Waste of Water.

It shall be a violation of this Chapter for any consumer or account holder to waste any water obtained from or through the distribution facilities of the City. (Ord. 4558, 1989.)

14.20.010 Wasting Water - Repairs - Required.

Each and every consumer shall maintain in good order all his water pipes, faucets, valves, plumbing fixtures or any other appliances, at all times, to prevent waste of water. (Ord. 2931 §2(part), 1963; prior Code §44.30.)

14.20.040 City's Relation to Seepage, Etc. - Damage on Private Property.

The City shall in no way whatsoever be responsible for any damage to person or property because of any leakage, breakage or seepage from or accident or damage to any meter or pipe situated within any private premises. The City shall not be responsible for any leakage, breakage or seepage from or accident or damage to any meter or pipe situated within any private premises. The City shall not be responsible for any leakage, breakage or seepage from any pipe situated between any meter properly installed at the curb and the private premises served thereby. The City shall not be responsible for or on account of any damage, injury or loss occasioned directly or indirectly by the existence of any meter or pipe situated upon private property. (Ord. 2931 §2(part), 1963; prior Code §44.33.)

14.20.050 Who May Turn on Water.

No person other than an official or employee of the Public Works Department shall turn on water from the City mains without a written permit from the Director of such department. (Ord. 2931 §2(part), 1963; prior Code §44.34.)

14.20.060 Preventing Access to Water System Outlets.

No person shall place upon or about a fire hydrant, curbcock, water meter or water gate connected with the water system of the City, any object, material, debris or structure of any kind that shall prevent free access to the same at all times. (Ord. 2931 §2(part), 1963; prior Code §44.42.)

14.20.070 Consumer Precautions in Case of Fire.

In case of fire, consumers shall be required to shut off all irrigation or any steady flow of water being used when the fighting of any fire reasonably necessitates the same. (Ord. 2931 §2(part), 1963; prior Code §44.43.)

14.20.080 Right of Access to Water Meters.

Any duly authorized representative of the City shall at all times have the right of ingress to and egress from any water meter located upon a consumer's premises by way of such easement, license or right-of-way, if any, as the City may own and for such purposes as are permitted by the easement, license or right-of-way. (Ord.4558, 1989; Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.44.)

14.20.090 Access to Meters Inside Premises.

Where a water meter is placed inside the premises of a consumer, provision shall be made for convenient meter reading and repairing by representatives of the City, for shutting off or turning on water service, and for installation or removal of flow restricters. (Ord. 4558, 1989; Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.45.)

14.20.100 Shutting Off Water for Repairs, Etc., and Notice.

The City reserves the right to shut off the water from any premises, or from any part of the distribution system, as long as necessary, without notice to the consumer, at any time when the exigencies of the occasion may require it; but in all cases of extension or connections the Department shall notify consumers of the necessity of shutting off water and the probable length of time the water shall be shut off before taking such action. (Ord. 2931 §2(part), 1963; prior Code §44.46.)

14.20.105 Shutting Off Irrigation Meters.

The City shall have the right to shut off water service to meters restricted to irrigation uses temporarily and as necessary to determine that the use of such meters is limited to irrigation. Any person applying for service through a meter restricted to irrigation uses shall be informed of such conditions of use at the time he or she applies for such a meter. (Ord. 4558, 1989.)

14.20.108 Place of Use of Water.

Except as otherwise provided in this Title or as specifically authorized by the Director, water received from or through a meter may be used only on and for the property served by that meter. (Ord. 4558, 1989.)

14.20.110 Tanks Required for Steam Boilers.

No stationary steam boiler shall be connected directly with the water distribution system of the City but in each and every case, a suitable tank of storage capacity, sufficient for twelve (12) hours supply for such boiler, shall be provided and the service pipe supplying such tank shall discharge directly into the top of such tank. (Ord. 2931 §2(part), 1963; prior Code §44.47.)

14.20.120 Check Valves and Anti-Backflow Devices.

Whenever the Director shall consider it necessary for the safety of the water system to have an approved check valve or anti-backflow device placed on the property side of any consumer's service, such device shall thereupon be immediately installed at the expense of such consumer. If such device is not installed within ten (10) days after the Director shall order such installation, it shall be installed by the Public Works Department at such consumer's expense on the basis of cost, plus overhead. (Ord. 2931 §2(part), 1963; prior Code §44.48.)

14.20.130 Unlawful Use of Water and Meter Removal.

(a) for a person or entity that is not an Account Holder to use water through a Meter, unless such person or entity is authorized by agreement with the Account Holder to use such water through such Meter;
(b) for a person or entity to use water from a fire hydrant, except as authorized by a permit issued by the Public Works Director;
(c) for a person or entity to use water from a dedicated fireline except in response to a fire or in the minimum amount needed to perform maintenance of such fireline, or as authorized by the Public Works Director;
(d) for a person or entity to use water from a Connection that does not have a Meter, except as expressly authorized by the Public Works Director;
(e) for a person or entity to use water from a Meter for which there is no active Account Holder; and

(f) for any person or entity to remove a Meter from a Water Service, except as authorized by the Public Works Director. (Ord. 5653, 2014.)

14.20.140 Illegal Consumption Shown by Meter.

When a meter shows a consumption of water after service has been officially discontinued, the owner of the property served shall be held responsible for such consumption, in addition to which he shall pay to the City a service restoration fee and the water shall not again be turned on for either owner or tenant until such illegal consumption has been fully paid for. (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.50.)

14.20.150 Reconnection Generally.

After water has been shut off from any premises, it shall not again be connected until the City has received written application therefor; such application shall be on blanks furnished by the City, and shall be signed by the prospective consumer. (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.51.)

14.20.170 Notice Upon Vacating Premises - Required.

Prior to vacating any premises connected to the City water supply system, the consumer shall request that the City terminate service and prepare a final billing. (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.53.)

14.20.180 Department to Read Meter on Receipt and Stop Service.

Within two (2) working days of receipt of the notice required by Section 14.20.170, the City shall read the water meter and shut off the water to the premises. (Ord. 4250, 1984; Ord. 2931 §2(part), 1963; prior Code §44.54.)

14.20.190 Rules and Regulations to be Established by Health Officer.

The Health Officer of the County is hereby authorized to establish written rules and regulations, including procedures for administration, of said rules and regulations, for the protection of public water supplies.

A copy of all regulations adopted hereunder shall be filed with the City Clerk and shall be subject to rejection by the City Council within thirty (30) days of filing. Regulations rejected by the City Council shall be null and void in the City.

For the purposes of this section and Sections 14.20.200 and 14.20.210, the following definitions shall apply:

(a) "Public Water Supply" means water which is piped to the general public for human consumption by a public water system.

(b) "Cross-connection" means the unprotected joining of or connection between any part of a public water supply system and any material or substance that is not safe, wholesome or potable for human consumption.

(c) "Auxiliary water supply" means any water supply other than a public water supply.

(d) "Health Officer" means the Health Officer designated in Title 7 of the Santa Barbara Municipal Code. (Ord. 3936, §1, 1978; Ord. 2931 §2(part), 1963; prior Code §44.55.)

14.20.200 Illegal Connections.

It shall be unlawful:

(a) to cause, establish or maintain a cross-connection within the City; or

(b) to cause, establish or maintain an auxiliary water supply on any premises or property which obtains water from a public water supply unless the public water supply is protected by a method approved by the Health Officer of the County; or

(c) to cause, establish or maintain a connection to the public water supply on any premise or property on which any material dangerous to health or toxic substance is handled under pressure, unless the public water supply is protected by an air-gap separation or other method approved by the Health Officer of the County; or

(d) to cause, maintain or establish any use of a public water supply in violation of regulations established by the Health Officer of the County pursuant to Section 14.20.190. (Ord. 3936 §1, 1978; Ord. 2931 §2(part), 1963; prior Code §44.56.)

14.20.210 Illegal Connection - Denial of Water from Public Water Supply.

Water service from the public water supply shall be discontinued by the Public Works Department upon any premises upon which there is any use or connection prohibited by Section 14.20.200 and such service shall not be restored until such violation is abated. The Health Officer of the County shall notify the Director of Public Works of the prohibited use or connection. (Ord. 3936 §1, 1978; Ord. 2931 §2(part), 1963; prior Code §44.57.)

14.20.215 Water Use Regulations During Water Shortage Conditions.

A. WATER SHORTAGE CONDITIONS. A Stage One Water Shortage Condition, a Stage Two Water Shortage Condition and a Stage Three Water Shortage Condition are defined as short-term conditions declared by resolution of the City Council upon being advised by staff that projected water supply conditions warrant response measures consistent with those associated with corresponding stages in the City's adopted Water Shortage Contingency Plan. The Council resolution may identify and refer to such short-term conditions in terms or titles specific to the current water shortage.

B. REGULATIONS DURING WATER SHORTAGE CONDITIONS. Upon adoption by the City Council of a resolution declaring a Stage One Water Shortage Condition, a Stage Two Water Shortage Condition or a Stage Three Water Shortage Condition, or such other titles as may be selected by Council pursuant to subsection A, the City Council may adopt a resolution containing such rules and regulations as necessary to restrict and regulate use of water from the City's water supply system in order to protect the public health and safety. Failure of any person or entity to comply with such rules and regulations as adopted by resolution of the City Council is a violation of this Code subject to the remedies and penalties provided herein and as provided by Chapter 1.28 and as otherwise provided by law.

C. EXEMPTIONS. Exemptions to the water use regulations set forth by City Council resolution during a declared Stage One, Stage Two or Stage Three Water Shortage Condition may be granted by the Public Works Director for specific uses of water on the basis of factually demonstrated need or undue hardship and in accordance with guidelines for exemptions as may be determined by the Public Works Director. If the Public Works Director denies a request for an exemption for a specific water use, a written request for reconsideration may be made to the Board of Water Commissioners. The decision of the Water Commission shall be final.

D. Upon the declaration of and during a Water Shortage Condition, the failure of a mobilehome park owner to introduce water into a swimming pool or spa located in a mobilehome park, in accordance with the City Council resolution, shall not be considered an increase in "rent" for purposes of Municipal Code Section 26.08.030.N. (Ord. 5653, 2014; Ord. 4558, 1989.)

14.20.225 Violations.

A. Any failure to comply with a provision of this Chapter shall constitute a violation of this Code, regardless of whether the failure to comply is caused by an Account Holder, a Consumer or any other person or entity.

B. Where the failure to comply with this Chapter is continuing and reasonably preventable by the person or entity failing to comply, each successive hour of such failure to comply shall be a separate and distinct violation. (Ord. 5653, 2014; Ord. 4558, 1989.)

14.20.226 Penalties and Charges.

A. In addition to the penalties and other methods of enforcement provided in Santa Barbara Municipal Code Chapter 1.28, the following penalties may also be applied to any violation of any provision of this Chapter:

1. For the first violation within the preceding twelve (12) calendar months, the Director shall issue a written notice of the fact of such violation.

2. For a second violation within the preceding twelve (12) calendar months, the Director shall impose a penalty on the bill of the Account Holder for the property where the violation occurred or is occurring, in an amount not to exceed two-hundred and fifty dollars ($250.00).

3. For a third violation within the preceding twelve (12) calendar months, the Director:

a. Shall impose a penalty on the bill of the Account Holder for the property where the violation occurred or is occurring, in an amount not to exceed two-hundred and fifty dollars ($250.00); and

b. May install a flow restricter on the service where the violation occurred or is occurring, for a period to be determined by the Director.

4. For a fourth and any subsequent violation within the preceding twelve (12) calendar months, the Director:

a. Shall impose a penalty on the bill of the Account Holder for the property where the violation occurred or is occurring, in an amount not to exceed two-hundred and fifty dollars ($250.00); and

b. May install a flow restricter on or shut off water service to the property where the violation occurred or is occurring, for a period to be determined by the Director.

B. If a flow restricter is installed or water service shut off pursuant to subsection A of this section, prior to restoration of normal water service the Account Holder whose service is affected shall be required to reimburse the City for all costs it has incurred and will incur in installing and removing a flow restricter and in shutting off and turning on water service.

C. Any penalty imposed pursuant to this Section shall be added to the account of the Account Holder for the property where the violation occurred or is occurring and shall be due and payable on the same terms and subject to the same conditions as any other charge for regular water service. (Ord. 5653, 2014; Ord. 4558, 1989.)

14.20.227 Notice of Violation - Hearing.

A. For each violation of this Chapter, the Director shall give notice as follows:

1. By sending written notice through the U.S. mail to the Account Holder for the property where the violation occurred or is occurring, at the current billing address shown in the City's water billing records; and

2. By personally giving written notice thereof to the person who committed the violation or by leaving written notice with some person of suitable age and discretion at the property where the violation occurred or is occurring; or

3. If neither the person who committed the violation nor a person of suitable age and discretion can be found, then by affixing written notice in a conspicuous place on the property where the violation occurred or is occurring.

B. Any written notice given under this Section shall contain a statement of:

1. The time, place and nature of the violation;

2. The person(s) committing the violation, if known;

3. The provision(s) of this Chapter violated;

4. The possible penalties for each violation;

5. The Account Holder's right to request a hearing on the violation and the time within which such a request must be made; and

6. The Account Holder's loss of the right to a hearing in the event the Account Holder fails to request a hearing within the time required.

C. Any Account Holder provided a notice of violation in accordance with the provisions of this Chapter shall have the right to request a hearing. The request must be made in writing and must be received by the Director within ten (10) calendar days of the date of the notice of violation. The Director shall conduct the hearing, at which both written and oral evidence may be presented, and shall decide whether a violation occurred and the appropriate penalty. In determining the appropriate penalty, the Director shall consider whether the Account Holder knew of the violation at the time it occurred and whether he or she took reasonable action to correct the violation upon notification of it. In addition, the Director shall exercise his or her discretion in accordance with such guidelines as the City Council may adopt by resolution.

1. For a first, second or third violation within a twelve (12) month period, the decision of the Director shall be final.

2. For a fourth or subsequent violation within a twelve (12) month period, the Account Holder shall have the right to appeal the decision of the Director by requesting a hearing before the Board of Water Commissioners ("Board"). The request for hearing before the Board shall be in writing and shall be delivered to the Director not later than seven (7) calendar days after the date of the decision of the Director. At the hearing, the Board may receive and hear both written and oral evidence and shall have the authority to affirm, reverse, or modify the decision of the Director. The decision of the Board shall be final.

D. If an Account Holder fails to request a hearing before the Director or the Board within the period(s) provided in this Section, the action of the Director shall be deemed final.

E. Water service shall not be shut off until a notice of violation has become final or there is a final decision of the Director or the Board ordering the shut-off of water service. (Ord. 5653, 2014; Ord. 4558, 1989.)

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Chapter 14.23

WATER EFFICIENT LANDSCAPE AND RECLAIMED WATER USE REGULATIONS

Sections:

14.23.008 Water Efficient Landscapes, Purpose.
14.23.009 Regulation of New or Altered Landscapes.
14.23.010 Policy - Reclaimed Water.
14.23.020 Requirement to Use Reclaimed Water.
14.23.030 Determination, Time Schedule for Compliance, Review.

14.23.008 Water Efficient Landscapes, Purpose.

The California State Legislature has found that the limited supply of state waters are subject to ever increasing demands; that California's economic prosperity depends on adequate supplies of water; that state policy promotes conservation and efficient use of water; that landscapes provide recreation areas, clean the air and water, prevent erosion, offer fire protection, and replace ecosystems displaced by development; and that landscape design, installation, and maintenance can and should be water efficient.

Consistent with the legislative findings, the purpose of this ordinance is to promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible; to establish a structure for designing, installing, and maintaining water efficient landscapes in new projects; and to establish provisions for water management practices and water waste prevention for established landscapes. (Ord. 4787, 1992.)

14.23.009 Regulation of New or Altered Landscapes.

Each development proposal that proposes new landscaping or alterations to existing landscaping and that is subject to review by the Architectural Board of Review, the Historic Landmarks Commission, or the Single Family Design Board shall be required to comply with the City's Landscape Design Standards for Water Conservation as adopted by resolution of the City Council. (Ord. 5460, 2008;Ord. 4787, 1992.)

14.23.010 Policy - Reclaimed Water.

It is the policy of the City of Santa Barbara that reclaimed water be used wherever it is available in conformance with California Water Code Sections 13550 and 13551.
(Ord. 4485, 1987)

14.23.020 Requirement to Use Reclaimed Water.

A person or public agency, as used in California Water Code Section 13551, shall not use water from any source of quality suitable for potable domestic use for the irrigation of greenbelt areas when suitable reclaimed water is available as provided in Section 13550. (Ord. 4485, 1987)

14.23.030 Determination, Time Schedule for Compliance, Review.

The Public Works Director shall review the facts and make a preliminary determination pursuant to California Water Code Section 13550 if a parcel or parcels of land are required to comply with Section 14.23.020 and establish a time schedule for compliance. A notice of that preliminary determination and a time schedule for compliance shall be sent to the owner of the parcel(s) using for this purpose, the last known name and address of such owners as shown upon the last Assessment Roll of the County of Santa Barbara. Any notice by the Public Works Director under this Section shall be deemed given when properly addressed and deposited into the United States mail with postage fully pre-paid or personally delivered to the owner. The owner may file a notice of objection which must be in writing, must specify the reasons for the objections and must be filed with the Public Works Director within twenty (20) days after it is given or mailed to the owner. The preliminary determination and time schedule for compliance shall be final if the owner does not file a timely objection. The Public Works Director or his designee shall meet with the owner to attempt to resolve the objections. If the objections cannot be re-solved to the mutual satisfaction of the City and owner, the Public Works Director shall give the owner a final determination and make a request that the Regional Water Quality Control Board and any other appropriate agencies conduct a hearing to determine if the parcel or parcels must use reclaimed water pursuant to Water Code Sections 13550 and 13551. (Ord. 4485, 1987)

Chapter 14.25

FIRE HYDRANTS

Sections:

14.25.010 Generally.
14.25.020 Purpose - Who May Use.
14.25.030 Use Permit - Required.
14.25.040 Meters, Hydrant Wrenches and Valves.
14.25.050 Revocation of Permits.
14.25.060 Fees and Deposits.

14.25.010 Generally.

Public fire hydrants connected to the City water system shall be placed, maintained and repaired by the Public Works Department. Any damage thereto by persons or agencies, other than representatives of the Fire or Public Works Department, shall be a claim against the person or agency committing such damage, and the Director shall take such action as may be necessary to collect the same. (Ord. 3922 §2, 1977; Ord. 2931, 1963; prior Code §44.35.)

14.25.020 Purpose - Who May Use.

Public fire hydrants shall be provided for the sole purpose of extinguishing fires, and shall be used otherwise only as provided for in this chapter, and shall be opened and used only by the Public Works and Fire Departments or such persons as may be authorized to do so by the Director of the Public Works Department as provided in this chapter. (Ord. 3922 §2, 1977; Ord. 2931, 1963; prior Code. §44.36.)

14.25.030 Use Permit - Required.

No person shall take water other than for the purpose of extinguishing fires from a fire or other hydrant owned or controlled by the City including hydrants installed pursuant to Section 14.25.070 without first obtaining a permit from the Director of the Public Works Department. No such permit holder shall take or use water contrary to this chapter or the terms of a permit issued under this chapter. No permit shall be issued to a person who has violated any of the provisions of this chapter or whose indebtedness to the City for water used, or damage to hydrants or equipment is delinquent.

The Director of Public Works may issue permits authorizing use through fire or other hydrants. Each permit:

(a) shall be valid for a period of time as set by the Director of Public Works and not exceeding ninety (90) days;

(b) shall be renewable by the Director of Public Works for additional periods not exceeding ninety (90) days;

(c) shall set forth the hydrant(s) within the City's water service area which may be used pursuant to said permit; and

(d) shall designate the location for which the water shall be used. Locations outside the City's water service area, except City owned property, shall not be designated except in emergencies. (Ord. 3922 §2, 1977.)

14.25.040 Meters, Hydrant Wrenches and Valves.

All water taken from a hydrant shall be metered using a meter provided, attached, secured and removed, by the Public Works Department. A valve connection device and a hydrant wrench provided by the Public Works Department shall be used in taking water from the hydrant. Permittee shall be responsible for loss or damage of the meter or other device and shall pay to City any charges necessary to repair and/or replace the meter and attachments if damaged or lost. Violation of this section shall be punishable as an infraction with a penalty of not less than $250 nor more than $500 in addition to restitution to the City for any water removed. (Ord. 4250, 1984; Ord. 3922 §2, 1977.)

14.25.050 Revocation of Permits.

Permits used in violation of this chapter shall be revoked by the Director of Public Works Department. (Ord. 3922 §2, 1977.)

14.25.060 Fees and Deposits.

Permittee shall pay permit fees, rental fees, water use fees and deposits established by resolution of the City Council. Deposits required for meters and/or other equipment provided to permittee shall be refunded in the event the equipment is returned in good order and condition and final settlement of account. (Ord. 4250, 1984; Ord. 3922 §2, 1977.)

Chapter 14.28

WATER MAIN EXTENSIONS

Sections:

14.28.010 Water Main Extension - Standard Size.
14.28.020 Application for Extension - Report and Recommendation - Approval.
14.28.030 To be Within Certain Boundaries.
14.28.040 Authorization of Construction.
14.28.050 Cost Distribution.
14.28.060 Statement of Final Cost - Basic Deposit Refund Procedure - Cost Contributions.
14.28.070 City Contribution for Oversize Mains.
14.28.080 Filing of Final Cost Sheet - Disposition of Deposit.
14.28.090 Connections for Non-Contributors to Cost Prohibited.
14.28.100 Contributors to Cost by Owners of Existing Private Lines.
14.28.110 Extension Charges Governed by Previous Ordinances.
14.28.120 Extension Charges to be Levied for Connection to Existing Water Mains.
14.28.130 Water Main Extension Recovery Trust Account.
14.28.140 Refunds Generally.
14.28.150 Limitations on Refund Claims.

14.28.010 Water Main Extension - Standard Size.

Water mains extended pursuant to this chapter shall be a standard pipe size of not less than eight inches (8") in diameter when further future extension of such mains is practical and feasible. (Ord. 3933 §2, 1977; Ord. 2931, 1963; prior Code §44.61.)

14.28.020 Application for Extension - Report and Recommendation - Approval.

Owners of real property within and without the City desiring to have the City water system extended in accordance with the provisions of this chapter shall make written application therefor to the Director stating the location and limits of the requested water main extension together with a description of their property. The Director shall investigate each application and report to the City Administrator: (1) The feasibility and the practicality of the requested extension, (2) The estimated cost thereof including easement acquisition, fire hydrants and all other incidental expense, and (3) The proposed City contribution to the extension cost, if any; in determining the City's contribution, factors which may be taken into consideration are: zoning, land use, nature of terrain, nature of business and development of abutting property. The estimated extension cost shall be based upon the average cost of extending and laying water mains of the same size and type in the three (3) fiscal years immediately preceding the request as determined from cost records maintained by the City for said fiscal years. The petitioners may within ten (10) days from the date of receipt of the estimate from the Director, petition the City Council for reconsideration of the cost distribution. The City Council shall determine if the distribution of costs was made in accordance with the facts; shall review any additional facts presented by the petitioner; and shall, by appropriate motion confirm or reject the cost distribution. (Ord. 2931 §2(part), 1963; prior Code §44.62.)

14.28.030 To be Within Certain Boundaries.

All water main extensions as are mentioned in Section 14.28.020 shall be within the boundary lines of a public street or a recorded easement to the City. (Ord. 2931 §2(part), 1963; prior Code §44.63.)

14.28.040 Authorization of Construction.

After the application of the property owner requesting a water main extension together with the report from the Director as set forth in Section 14.28.020 has been received, the City Administrator may authorize the construction of the water main extension by public contract, by City forces or by private contract by the applicant subject to the approval of the applicant's plans and specifications and inspection by the Santa Barbara Public Works Department or subject to a deposit of the applicant's cost if constructed by public contract or City forces. Provided, however, the City Administrator shall not authorize the construction of any water main extension when the City's contribution to the project cost shall exceed twenty-five percent (25%) of the total project cost, unless such cost in excess of twenty-five percent (25%) is directly attributable to system improvement over and above that necessary to serve the abutting property directly benefited by the water main extension. Should the City's contribution exceed twenty-five percent (25%) of the project cost for which there is no system betterment other than that to the property directly benefited, approval for construction shall be authorized by the City Council. (Ord. 2931 §2(part), 1963; prior Code §44.64.)

14.28.050 Cost Distribution.

After the Department has received the deposit from the applicant for the main extension cost the Director shall prepare construction plans and specifications for main extension approved pursuant to Section 14.28.040, and cause the main extension to be constructed by force account, public contract, or, upon payment of engineering, inspection and incidental costs by applicant, authorize applicant to construct the approved main extension by private contract in lieu of deposit provisions of this section. (Ord. 2931 §2(part), 1963; prior Code §44.65.)

14.28.060 Statement of Final Cost - Basic Deposit Refund Procedure - Cost Contributions.

Upon completion and acceptance of the work by the City, performed pursuant to the provisions of this chapter, the Director shall prepare a statement of: (1) the final cost of the water main extension, and (2) the pro-rated distribution of such cost to the benefited properties. The cost distribution shall be made on either an area, building site, or frontage basis or a combination thereof as may be determined to be the most equitable basis by the Director. For purposes of contributions, cost distribution and refunds for mains extended by City forces, the Director shall use the average cost as defined in Section 14.28.020. (Ord. 2931 §2(part), 1963; prior Code §44.66.)

14.28.070 City Contribution for Oversize Mains.

A water main installed pursuant to an application under this chapter may be of larger size than the required standard pipe size of eight inches (8") in diameter when directed or approved by the Director of Public Works. The City shall pay the additional cost for the installation of the approved water mains of a larger size than the required standard pipe size of eight inches (8") in diameter. (Ord. 3933 §2, 1977; Ord. 2931, 1963; prior Code §44.67.)

14.28.080 Filing of Final Cost Sheet - Disposition of Deposit.

Upon compliance with the provisions of Section 14.28.060, the Director shall file the final cost sheet with the office manager-accountant and a copy forwarded to the applicant. (Ord. 2931 §2(part), 1963; prior Code §44.68.)

14.28.090 Connections for Non-Contributors to Cost Prohibited.

The owners of benefited property or their predecessors in interest, as shown on the final cost sheet filed by the Director, who have not theretofore contributed their proportionate share of the water main extension, as recorded on the final cost sheet, shall not be permitted to connect to such water main extension unless and until the amount recorded on the final cost sheet has been paid to the City. (Ord. 2931 §2(part), 1963; prior Code §44.69.)

14.28.100 Contributors to Cost by Owners of Existing Private Lines.

No property owner in a water main extension area formed pursuant to this chapter who has, previous to such water main extension, constructed a private water line to or for his property, at his own expense, shall be required to contribute to the cost of such water main extension, except where the private water line is abandoned and connection to the main extension is requested. Such property owner, or his successor in interest, shall pay the amount so determined before connecting his property to the water main extension. (Ord. 2931 §2(part), 1963; prior Code §44.70.)

14.28.110 Extension Charges Governed by Previous Ordinances.

Applicants requesting connection to a water main installed under the provisions of this title shall pay the water main extension charge set forth in the current ordinance as a condition precedent to the granting of a connection permit. (Ord. 2931 §2(part), 1963; prior Code §44.71.)

14.28.120 Extension Charges to be Levied for Connection to Existing Water Mains.

Applicants requesting connection to an existing water main installed subsequent to August 25, 1946, and financed in whole or in part from City funds, and where such applicant or his predecessor in interest of the land to be served has not paid a water main extension charge with respect to such water main, shall pay an extension charge to the City before the application may be approved. Replacement of any City water main existing on August 25, 1946, shall be deemed to constitute a main installed prior to such date. The extension charge shall be computed by the Director as provided in this chapter for a new main extension. The charge under this section is in addition to any permit, meter or connection fees and other regular charges made under this title or other ordinances. The charges collected pursuant to this section shall be credited to the proper revenue account in accordance with standard accounting practice. (Ord. 2931 §2(part), 1963; prior Code §44.72.)

14.28.130 Water Main Extension Recovery Trust Account.

Collection, pursuant to Sections 14.28.090 - 14.28.110 shall be credited to a Water Main Extension Recovery Trust Account on the general books of the City. Charges against this account shall be made only pursuant to the provisions of Sections 14.28.140 and 14.28.150. (Ord. 2931 §2(part), 1963; prior Code §44.73.)

14.28.140 Refunds Generally.

Periodically, but not less than twice a year the Department shall pay and refund to the persons originally paying for the water main, their proportionate share of the money paid by subsequent property owners who did not participate in the original cost and who were given permits to connect to the extended water main and who paid as provided in the Director's final cost sheet. Payments made hereunder shall be charged to the Water Main Extension Recovery Trust Account.

Payments under this section shall be made to the person originally paying for such water main at his address appearing in the records of the Public Works Department and shall constitute a discharge of its duty under this section to pay as to all sums so paid unless the City shall have received and consented to an assignment of such right to another giving the assignee's name and payment address. (Ord. 2931 §2(part), 1963; prior Code §44.74.)

14.28.150 Limitations on Refund Claims.

Any claim by a contributing property owner for a refund which is payable out of the Water Main Extension Recovery Trust Account shall be made within a period of fifteen (15) years from the date of the original contribution. All moneys remaining in the trust account after such fifteen (15) years shall have elapsed from the time of its deposit, shall forthwith be transferred to the proper water fund revenue account. (Ord. 2931 §2(part), 1963; prior Code §44.75.)

Chapter 14.32

WELLS

Sections:

14.32.010 Title.
14.32.020 Legislative Intent.
14.32.030 Definitions.
14.32.040 Acts Prohibited, Permit Required.
14.32.050 Meter Required.
14.32.055 Reporting Water Use.
14.32.060 Permits.
14.32.070 Rules and Regulations.
14.32.080 Cash Deposit or Security Bond.
14.32.090 Suspension or Revocation of Permit.
14.32.100 Appeal.
14.32.110 Public Nuisance.
14.32.120 Meters.
14.32.130 Inspection.

14.32.010 Title.

This chapter shall be known and referred to as the Well Ordinance of the City of Santa Barbara. (Ord. 3746 §1, 1975.)

14.32.020 Legislative Intent.

It is the purpose of this ordinance to regulate the construction, modification or repair, abandonment or destruction of wells in such a manner that the groundwater of this City will not be contaminated or polluted, and that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the people of this City, and to monitor the amount of water pumped from wells. (Ord. 3746 §1, 1975.)

14.32.030 Definitions.

(a) "Person." Person shall mean any individual, firm, partnership, general corporation, association or governmental entity.

(b) "Well." Well shall mean any artificial excavation for the purpose of extracting water from or injecting water into the ground, or for providing cathodic protection, or for making tests or observations of underground conditions, or for any other similar purpose. This definition shall not include: (a) oil and gas wells, or geothermal wells; or (b) wells used for the purpose of (1) dewatering excavation during construction or (2) stabilizing hillsides or earth embankments.

(c) "Contamination." Contamination shall mean the impairment of the quality of water to a degree which creates or may create a hazard to the public health through poisoning or through spread of disease.

(d) "Pollution." Pollution shall mean the alteration of the quality of water to a degree which affects or may affect such water for beneficial uses. Pollution may include contamination.

(e) "Public Works Director." Public Works Director shall mean the Public Works Director of the City of Santa Barbara or his duly authorized representatives.

(f) "Public Nuisance." Public nuisance when applied to a well shall mean any action or omission which threatens to or which contaminates or pollutes the groundwater or otherwise jeopardizes the health, safety and welfare of the public.

(g) "Abandon or Abandonment." Abandon or abandonment when applied to a well shall mean to cease maintenance or use of the well for a period of one (1) year.

(h) "Destroy or Destruction." Destroy or destruction when applied to a well shall mean any action which causes the well no longer to produce or act as a conduit for the interchange of water.

(i) "Emergency." Emergency shall mean a circumstance which is either (1) an imminent threat of or is actually contaminating or polluting the groundwater of this City, or (2) jeopardizes the health or safety of the people of this City or (3) will cause a substantial and immediate loss of property. (Ord. 3746 §1, 1975.)

14.32.040 Acts Prohibited, Permit Required.

(a) It shall be unlawful for any person to construct, modify or repair, abandon or destroy any well unless such person has a valid permit issued by the Public Works Director for the specific action to be taken.

(b) It shall be unlawful for any person to construct, modify or repair, abandon or destroy any well unless such construction, modification or repair, abandonment or destruction is in conformance with the terms and conditions contained in the permit issued by the Public Works Director.

(c) It shall be unlawful for any person to construct any well, and no permit shall be issued for construction of a well, if the property to be served is connected to the City's water supply system or the property is within 500 feet of a feasible connection point to the City's water supply system. The Public Works Director may grant conditional exemptions when a connection to the City's water supply system is infeasible. (Ord. 5693, 2015; Ord. 3746 §1, 1975.) (Ord. 5693, 2015; Ord. 3746 §1, 1975.)

14.32.050 Meter Required.

(a) New Wells. Prior to removing any water from a newly constructed well, the permittee shall furnish and install, at its own expense, a water meter which shall measure the amount of water taken from said well. Said meter shall be the property of the owner of said well.

(b) Existing Wells. After the effective date of this ordinance, the Public Works Director will cause a water meter to be installed on each existing well at no cost to the owner. Upon abandonment of such wells, said water meters shall be returned to the Public Works Director. (Ord. 3746 §1, 1975.)

14.32.055 Reporting Water Use.

The owner of each well within the City of Santa Barbara on which a water meter has been installed shall read said meter annually on or about May 14 and not later than thirty (30) days thereafter report to the Public Works Director the amount of water pumped since the last reading of said meter. (Ord. 3746 §1, 1975.)

14.32.060 Permits.

(a) The application for the permit required by this ordinance shall be:

(1) Made in writing to the Public Works Director on such forms as he may prescribe setting forth such information as he may require to secure the purposes of this ordinance.

(2) Signed by the applicant.

(b) The application shall be accompanied by the filing fee established by the City Council by resolution. No part of this fee shall be refundable.

(c) Permits issued pursuant to this ordinance by the Public Works Director may contain and be subject to such terms and conditions as the Public Works Director determines are necessary to carry out the purposes of this ordinance. The Public Works Director shall deny any application for a permit if, in his determination, its issuance would tend to jeopardize the purposes of this ordinance.

(d) Every permit issued pursuant to this ordinance shall expire and become null and void upon completion of the work authorized thereby; however, in any event such permit shall expire and be null and void on the date set forth in the permit by the Public Works Director but in no event longer than one (1) year from the date of issue. (Ord. 3746 §1, 1975.)

14.32.070 Rules and Regulations.

The Public Works Director may adopt rules and regulations to implement and administer this ordinance. Said rules and regulations shall be approved by the City Council. (Ord. 3746 §1, 1975.)

14.32.080 Cash Deposit or Security Bond.

Prior to the issuance of a permit the applicant shall post with the Public Works Director a cash deposit or security bond to guarantee compliance with any terms and conditions of the permit and the proper performance of the work. Such cash and security bond shall be in the amount determined necessary by the Public Works Director to insure such compliance with the purposes of this ordinance but in no event will such cash deposit or security bond be for an amount in excess of the total estimated cost of the work to be performed. The deposit or bond will be returned to the permittee when the work has been satisfactorily completed. (Ord. 3746 §1, 1975.)

14.32.090 Suspension or Revocation of Permit.

(a) The Public Works Director may suspend or revoke a water well permit issued under this ordinance whenever the Public Works Director determines that any work performed under such a permit constitutes a nuisance or when the applicant, his agents or employees or the licensed well drilling contractor performing the work (1) violates any provision of this ordinance or any terms and conditions of the permit or (2) misrepresents any material facts in the application for a permit.

(b) Before the Public Works Director suspends or revokes a water well permit, the Public Works Director shall make reasonable effort to notify the landowner where the well is located or the licensed well drilling contractor performing work on the well. (Ord. 3746 §1, 1975.)

14.32.100 Appeal.

Any person whose application for a permit has been denied, granted conditionally or any person whose permit has been suspended or revoked may appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3746 §1, 1975.)

14.32.110 Public Nuisance.

Upon finding by the Public Works Director that a well may cause contamination or pollution to the groundwater or is a threat to the public health, safety or welfare, such well shall constitute a public nuisance. The Public Works Director may take any action necessary to abate such public nuisance. The property owner where the well is located and or the permittee for such well shall be liable for any and all costs incurred by or at the request of the Public Works Director for the abatement of such public nuisance. (Ord. 3746 §1, 1975.)

14.32.120 Meters.

In the event that a meter is not installed on a newly constructed water well the Public Works Director will cause a meter to be installed and recover the costs of such installation from the owner. In the event any water well meter is not properly maintained by the owner, the Public Works Director may perform the necessary maintenance on the meter and recover the costs from the owner. In the event the meter is not read and the amount pumped reported to the Public Works Director, he may cause the meter to be read. (Ord. 3746 §1, 1975.)

14.32.130 Inspection.

The Public Works Director may, at any and all reasonable times, enter any and all places, property, enclosures and structures for the purpose of making examinations and investigations regarding the construction, modification or repair, abandonment or destruction of wells. (Ord. 3746 §1, 1975.)

Chapter 14.33

WASTEWATER FUND

Sections:

14.33.010 Definitions.
14.33.020 Creation of the Wastewater Fund.

14.33.010 Definitions.

Unless the context otherwise requires, the terms used in this Chapter shall have the following meanings:

A. **MAINTENANCE AND OPERATION COSTS OF THE WASTEWATER SYSTEM**. The reasonable and necessary costs spent or incurred by the City for maintaining and operating the Wastewater System, including, but not limited to, the reasonable expenses of maintenance and repair and other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including administrative costs of the City attributable to the Wastewater System, salaries and wages of employees, payments to employees' retirement systems (to the extent paid from System Revenues), overhead, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms of any Obligations, but excluding in all cases costs of capital additions, replacements, betterments, extensions or improvements to the Wastewater System which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation, and charges for the payment of principal and interest on any general obligation bond heretofore or hereafter issued for Wastewater System purposes.

B. **OBLIGATIONS**. Either: (a) obligations of the City for money borrowed (such as bonds, notes or other evidences of indebtedness), or as installment purchase payments under any contract, or as lease payments under any financing lease (determined to be such in accordance with generally accepted accounting principles), the principal and interest on which are payable from System Revenues; (b) obligations to replenish any debt service reserve funds with respect to such obligations of the City; (c) obligations secured by or payable from any of such obligations of the City; and (d) obligations of the City payable from System Revenues under (1) any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, (2) any contract to exchange cash flows or a series of payments, or (3) any contract to hedge payment, currency, rate spread or similar exposure, including, but not limited to, interest rate swap agreements and interest rate cap agreements.

C. **QUALIFIED TAKE OR PAY OBLIGATION**. The obligation of the City to make use of any facility, property or services, or some portion of the capacity thereof, or to pay therefor from System Revenues, or both, whether or not such facilities, properties or services are ever made available to the City for use.

D. **SYSTEM REVENUES**. All income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the Wastewater System, including, without limiting the generality of the foregoing:

1. all income, rents, rates, fees, charges, or other moneys derived by the City from the wastewater services or facilities, and commodities or byproducts, sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Wastewater System, and including, without limitation, investment earnings on the operating reserves to the extent that the use of such earnings is limited to the Wastewater System by or pursuant to law, and earnings on any amounts on deposit in the Wastewater Fund and in any funds established within the Wastewater Fund from time to time, or any funds established in connection with the incurrence by the City of any Obligations;
2. standby charges and capacity charges derived from the services and facilities, sold, furnished or supplied through the Wastewater System;
3. the proceeds derived by the City directly or indirectly from the lease of a part of the Wastewater System;
4. any amount received from the levy or collection of taxes which are solely available and are earmarked for the support of the operation of the Wastewater System;
5. amounts received under contracts or agreements with governmental or private entities and designated for capital costs for the Wastewater System; and
6. grants for maintenance and operations with respect to the Wastewater System, received from the United States of America or from the State of California.

E. **WASTEWATER SYSTEM**. The properties, improvements and works at any time owned, controlled or operated by the City as part of the system of the Wastewater Fund of the City for the collection, storage, treatment, distribution, administration, disposal or discharge of sewage waste and its other commodities or byproducts, whether located within or without the City for public and private use and any related or incidental operations designated by the City as part of the Wastewater System, but excluding any operations exclusively related to reclaimed and re-purified water. (Ord. 5320, 2004.)

14.33.020 Creation of the Wastewater Fund.

A. **WASTEWATER FUND**. There is hereby created a City "Wastewater Fund." All System Revenues shall be paid over to and deposited in the Wastewater Fund.

B. **USE OF FUND PROCEEDS**. All amounts on deposit in the Wastewater Fund from time to time shall be used only for the following purposes:

1. Payment of Maintenance and Operation Costs of the Wastewater System; and
2. Payment of any Qualified Take or Pay Obligation; and
3. Payment of costs of capital additions, replacements, betterments, extensions or improvements to the Wastewater System, including the purchase or condemnation of lands and other property for Wastewater System purposes; and
4. For the promotion of any of the products or services of the Wastewater System; and
5. Payment of principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon prepayment thereof, of any Obligations, and any other financing costs related thereto (including the fees and expenses of auditors, accountants, attorneys or engineers incurred in connection with the issuance thereof, and the premium and other expenses of any bond insurance policy and debt service surety bond securing payment thereof); and
6. For establishing and maintaining a reserve fund to insure the payment at maturity of the principal and interest on all Obligations.
7. Such transfers to the City General Fund (or other City special fund) as shall be approved from time to time by the City. (Ord. 5320, 2004.)

Chapter 14.34

SEWER DEFINITIONS

Sections:

14.34.010 Generally.
14.34.020 Available Public Sewer.
14.34.030 Cesspool.
14.34.040 House Connection Sewer.
14.34.050 Industrial Liquid Waste.
14.34.060 Licensed Contractor.
14.34.070 Lot.
14.34.080 Public Sewer.
14.34.090 Public Works Director.
14.34.100 Septic Tank.
14.34.110 Domestic Sewage.
14.34.120 Industrial Waste.
14.34.130 Premises.

14.34.010 Generally.

As used in this title, the following words and terms shall for the purposes of this title, have the meanings respectively ascribed to them by this chapter, unless it shall be apparent from the context that a different meaning is intended. (Prior Code §37.8(part).)

14.34.020 Available Public Sewer.

"Available public sewer" means when a public sewer to a connection could be constructed for a total cost as estimated by the Chief of Building and Zoning based on standard prevailing unit prices of not more than seven hundred fifty dollars ($750.00) or for a total cost of not more than one thousand dollars ($1,000.00) when not less than two hundred fifty dollars ($250.00) is reimbursable under Section 14.52.010. (Prior Code §37.8(part).)

14.34.030 Cesspool.

"Cesspool" means an excavation in the ground which receives discharge from any sanitary plumbing facilities. (Prior Code §37.8(part).)

14.34.040 House Connection Sewer.

"House connection sewer" means that portion of the horizontal piping which extends from the public sewer to the street property line or right-of-way. (Prior Code §37.8(part).)

14.34.050 Industrial Liquid Waste.

"Industrial liquid waste" means any waterborne waste, except domestic sewage. (Prior Code §37.8(part).)

14.34.060 Licensed Contractor.

"Licensed contractor" means a sewer contractor having a valid license issued pursuant to the Business and Professional Code of the State which license includes the activities listed on the permit applied for. (Prior Code §37.8(part).)

14.34.070 Lot.

"Lot" means any piece or parcel of land bounded and defined or shown upon a plot or deed recorded in the Office of the Recorder of the County, as a separate or individual parcel, except that in the event any building or structure covers more than a lot, the word "lot" shall include all such pieces or parcels of land upon which such building or structure is wholly or partly located. (Prior Code §37.8(part).)

14.34.080 Public Sewer.

"Public sewer" means any main line sewer constructed in any street, highway, alley, place or right-of-way dedicated for public use. Such term shall not include house connection sewers. (Prior Code §37.8(part).)

14.34.090 Public Works Director.

"Public Works Director" means any official agent, branch or function of the City responsible for the design, construction, maintenance and operation of sanitary sewers in the City. It shall include all officers, agents and employees engaged in sewer services. (Prior Code §37.8(part).)

14.34.100 Septic Tank.

"Septic tank" means a structure for private treatment for sewage before disposal into a cesspool, seepage hole or leaching system. (Prior Code §37.8(part).)

14.34.110 Domestic Sewage.

"Domestic sewage" means any and all waste substance, liquid or solid, associated with human habitation. (Ord. 3154 §1(a), 1966.)

14.34.120 Industrial Waste.

"Industrial waste" means any and all liquid or solid waste substance, not domestic sewage, from any producing, manufacturing or processing operation of whatever nature. (Ord. 3154 §1(b), 1966.)

14.34.130 Premises.

"Premises" means any lot, parcel of land, building or establishment. (Ord. 3154 §1(c), 1966.)

Chapter 14.36

GENERAL PROVISIONS FOR SEWERS

Sections:

14.36.010 Delegations of Power.
14.36.020 Restrictions on Allowance of Variances from Title.
14.36.030 Conformance of Facilities to Title - New Facilities.
14.36.040 Conformance - Remodeling.
14.36.050 Records.
14.36.060 Who May Do Work Under Title - Work to be Subject to Inspection and Approval.
14.36.070 Notice to Remedy House Connection Sewer Deficiency.
14.36.080 Standards for Plans - Approval.

14.36.010 Delegations of Power.

Whenever a power is granted to or imposed upon the Public Works Director under this title, such power may be exercised or the duty may be performed by a deputy or an authorized person unless this title expressly provides otherwise. (Prior Code §37.9.)

14.36.020 Restrictions on Allowance of Variances from Title.

Whenever the Public Works Director is permitted by this title to grant an exception to any of the requirements of this title, such exceptions shall be granted by him, only if he finds that literal compliance is impossible or impractical because of peculiar conditions, in no way, the fault of the person requesting such exceptions, and that the purpose of this title may be accomplished and public health and safety secured by alternative construction or procedure, in which case the Public Works Director may permit such alternative construction or procedure. (Prior Code §37.10.)

14.36.030 Conformance of Facilities to Title - New Facilities.

All new public sewers, house connection sewers, sewage pumping plants and industrial liquid wastes pre-treatment plants shall conform to the requirements of this title unless specifically excepted. (Prior Code §37.11.)

14.36.040 Conformance - Remodeling.

All remodeling of existing public sewers, house connection sewers, sewage pumping plants, and industrial liquid wastes pre-treatment plants shall conform to the requirements of this title, unless specifically excepted. (Prior Code §37.12.)

14.36.050 Records.

The Public Works Director shall keep a permanent record of all permits issued and all plans requiring approval under the provisions of this title. The Public Works Director shall establish and maintain accurate records indicating all sewers constructed under the so-called 1911 Act or other assessment district proceedings and the properties assessed therefor and accurate record of all sewers constructed hereafter with public funds and accurate records of all main line sewers constructed hereafter with private funds, and the person or properties originally benefiting from and responsible for the financing of such sewers. (Prior Code §37.13.)

14.36.060 Who May Do Work Under Title - Work to be Subject to Inspection and Approval.

All work permitted under the provisions of this title shall be constructed by a licensed contractor and shall be subject to inspection by and shall meet the approval of the Public Works Director. (Prior Code §37.14.)

14.36.070 Notice to Remedy House Connection Sewer Deficiency.

In the event that a house connection sewer fails to pass inspection and is placed in use, the permittee shall be given notice in writing of such failure to pass inspection and shall within ten (10) days from the date of such notice make the construction conform to the requirement of this title. (Prior Code §37.15.)

14.36.080 Standards for Plans - Approval.

All plans required under provisions of this title for the construction of public sewers, industrial liquid waste pre-treatment plants and when required by the Public Works Department, house connection sewers shall conform to standards of design set forth by the Public Works Director and shall be approved by the Public Works Director before a construction permit is issued. All work done under the provisions of this title shall meet all of the requirements of this Code and shall meet all applicable requirements of all other ordinances of the City pertaining hereto and shall meet all of the requirements of the general specifications for street improvement work and all such work shall be approved by the Public Works Director before being placed in service. (Prior Code §37.16.)

Chapter 14.40

SEWER SERVICE CHARGES

Sections:

14.40.010 Schedule of Charges.
14.40.020 Billing.
14.40.030 Collection.
14.40.035 Termination of Water Service for Delinquency in Paying Sewer Service Charges.
14.40.040 Administration.
14.40.060 Water Meters.
14.40.070 Uses Not Classified.

14.40.010 Schedule of Charges.

There is hereby levied and imposed upon the owner or occupant of any premises within the City, having a sewer connection with the sewerage system of the City, or otherwise discharging domestic sewage or industrial waste which ultimately passes through the City sewerage system, a sewer service charge as established by resolution of the City Council. (Ord. 3810, 1975.)

14.40.020 Billing.

The charges for sewer service shall be added to and collected with the charges for water service furnished by the City to the premises. The charges shall be billed upon the same bill as submitted for the charges for water services and shall be due and payable at the same time and in the same manner that such charges for water service are due and payable; providing however, separate bills are to be prepared for premises connected to the sanitary sewer system of the City which are not provided water service by the City. (Ord. 4250, 1984; Ord. 3154 §3, 1966.)

14.40.030 Collection.

Any amount due for sewer service under this chapter shall be deemed a debt to the City, and any owner or occupant neglecting or refusing to pay the indebtedness shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount. (Ord. 3154 §4, 1966.)

14.40.035 Termination of Water Service for Delinquency in Paying Sewer Service Charges.

If any bill for sewer service charges is not paid within twenty (20) days after its mailing date, water service to the consumer may be terminated in the same manner as provided in §14.16.010 and §14.16.020. (Ord. 4250, 1984; Ord. 3625 §1, 1974.)

14.40.040 Administration.

It shall be the duty and the responsibility of the Finance Director to administer the provisions of this chapter. (Ord. 3154 §5, 1966.)

14.40.060 Water Meters.

The City may require the owner or occupant of any premises using a private water supply or a combination of City water and private water supply to install a meter to determine the total quantity of water used in the event the owner or occupant is to be billed on the basis of water consumption. (Ord. 4250, 1984; Ord. 3154 §7, 1966.)

14.40.070 Uses Not Classified.

For premises having a sewer connection for which a specific classification for sewer service charges has not been set forth in Section 14.40.010, the Finance Director shall charge such rates as he deems applicable for the type of use being made of the premises in relation to the uses made of classified premises and the rates fixed for the classified premises. (Ord. 3154 §8, 1966.)

Chapter 14.44

SEWER CONNECTIONS AND USE

Sections:

14.44.010 Connection to Public Sewer - Required When Sewer Available.
14.44.020 When Sewer Not Available.
14.44.030 When Connection to Approved Private Sewage Disposal System Required.
14.44.035 Connection to Private System - Written Agreement Required.
14.44.060 Connections Letting Roof, Etc., Water Into Sewers.
14.44.140 Entering, Etc., Sewers, Etc.
14.44.150 Maintenance Generally Not to Obstruct Public Sewer Flow.
14.44.160 Maintenance of Private Systems, Etc.
14.44.180 Septic Tank, Etc., to be Abandoned When Main Line Connection Obtained.
14.44.190 Procedure to Effect Abandonment of Septic Tank, Etc.

14.44.010 Connection to Public Sewer - Required When Sewer Available.

All plumbing which receives the waste discharge from any building, structure or place of business, shall be connected to a public sewer.

All plumbing receiving waste discharge which is connected to a private disposal system shall be connected to a public sewer within one (1) year after a public sewer becomes available. (Prior Code §37.17.)

14.44.020 When Sewer Not Available.

The connection to a public sewer required by Section 14.44.010 may be dispensed with when no public sewer is available and when, in the opinion of the Health Officer of the County, a private sewage disposal system would be adequate and safe and would not constitute a menace to public health. (Prior Code §37.18.)

14.44.030 When Connection to Approved Private Sewage Disposal System Required.

All plumbing receiving waste discharge which is not connected to a public sewer shall be connected to a private sewage disposal system approved by the Chief of Building and Zoning and Health Officer of the County. (Prior Code §37.19.)

14.44.035 Connection to Private System - Written Agreement Required.

As a condition to the approval of the connection of property situated outside the corporate limits of the City to the City sanitary sewer system, the owner of such property, or his authorized agent, shall be required to enter into a written agreement with the City of Santa Barbara which includes at least the following provisions:

(1) A provision that the connection shall be at the sole expense of the applicant;

(2) A provision that the property owner or his successors in interest shall pay the monthly fee or charge applicable;

(3) Provisions for the default and termination of the agreement;

(4) A provision that the agreement shall be recorded and that it shall run with the land and be binding on all successors in interest of the contracting owner;

(5) A provision that in the event the property being served by such sanitary sewer connection be proposed for annexation to the City under proceedings initiated by property owner petition or otherwise, the contracting party expressly waives any right of protest to such annexation, except that such party shall have the right to be heard in any hearing in which zoning of the subject property is being considered; and

(6) A provision that upon annexation of the property, the contracting owner or his successor in interest shall pay the annexation fees provided by Chapter 4.04 regardless of whether the annexation is initiated by property owner petition or by motion of the City Council. (Ord. 3721 §1, 1975.)

14.44.060 Connections Letting Roof, Etc., Water Into Sewers.

No person shall make or maintain any connection by pipes or otherwise with any public sewer by which roof or surface water may run into any such sewer. (Prior Code §37.22.)

14.44.140 Entering, Etc., Sewers, Etc.

No person shall, without authorization from the Public Works Director, open, enter, disturb or clean any public sewer, structure or appurtenance thereto. (Prior Code §37.2.)

14.44.150 Maintenance Generally Not to Obstruct Public Sewer Flow.

No person shall do, or cause to be done, any maintenance which would damage or obstruct the flow of any public sewer. (Prior Code §37.3.)

14.44.160 Maintenance of Private Systems, Etc.

It shall be the responsibility of each property owner whose property is connected to the City sewer system to maintain continuously and satisfactorily in operation at his own expense, any house connection sewer, private sewage disposal system or industrial liquid waste pre-treatment facility.

Failure to maintain such industrial liquid waste pre-treatment facilities shall be sufficient for immediate revocation of the industrial liquid waste permit of the person so failing and disconnection of his premises from the public sewer.

Users of private sewer disposal systems shall keep all cleanout caps and other access ports in place and properly sealed. (Ord. 5340, 2004; Prior Code §37.4.)

14.44.180 Septic Tank, Etc., to be Abandoned When Main Line Connection Obtained.

When a house connection sewer is constructed connecting to a main line sewer, a house sewer which previously drained to a septic tank or cesspool, the septic tank or cesspool shall be abandoned and no portion of the house sewer shall then pass through or connect to such septic tank or cesspool. (Prior Code §37.6.)

14.44.190 Procedure to Effect Abandonment of Septic Tank, Etc.

When any septic tank or cesspool is abandoned, the top of such septic tank or cesspool shall be removed and the tank or cesspool shall be drained and filled with fine earth or sand and compacted and any pipes connecting to such tank or cesspool shall be cut directly outside of the tank or cesspool and shall be plugged with concrete. The abandonment of the septic tank or cesspool shall be complete before the house connection constructed shall be considered to have completely passed inspection. (Prior Code §37.7.)

Chapter 14.46

BUILDING SEWER INSPECTIONS

Sections:

14.46.010 Definitions.
14.46.020 Maintenance of Private Building Sewer Laterals.
14.46.030 Building Sewer Inspections – Access to Premises.
14.46.040 Mandatory Building Sewer Inspections.
14.46.050 Requirements for a Proper Building Sewer Lateral Inspection Report.
14.46.060 Required Building Sewer Lateral Repairs.
14.46.070 Common Interest Developments.
14.46.080 Administrative Guidelines for Inspections.

14.46.010 Definitions.

Unless the context indicates otherwise, the following definitions apply to the use of the following terms for the purposes of this Chapter 14.46:

A. BUILDING SEWER LATERAL. That part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer, private sewer, individual sewage disposal system, or other point of disposal. For the purposes of this Chapter, a Building Sewer Lateral shall also include a Septic Tank if one exists upon the Property and it is in use.

B. BUILDING SEWER INSPECTION. An inspection of a Building Sewer Lateral that consists of the retention of a licensed plumber (as certified under Section 14.46.050) by the Owner in order to visually examine and inspect a Building Sewer Lateral in the manner deemed appropriate by the City Public Works Director. Such an inspection shall, at a minimum, include the use of a closed-circuit television inspection device for the purposes of determining whether the Building Sewer Lateral complies with the requirements of this Chapter, the Regulation adopted under Section 14.46.080, and any applicable state laws.

C. COMMERCIAL PROPERTY. Any real property not used for residential purposes and not a Common Interest Development.

D. COMMON INTEREST DEVELOPMENT. A development characterized by individual ownership of a condominium housing unit or a residential parcel coupled with the shared ownership of (or right to use) common areas and facilities, including, but not limited to, condominium projects, community apartment projects, stock cooperatives and planned unit developments, which contains three (3) or more dwelling units and which has a Building Sewer Lateral shared by three (3) more dwelling units.

E. NOTICE TO REPAIR. The notice issued by the City Public Works Director to the Owner advising that the Owner appears to be in violation of the Santa Barbara Municipal Code with respect to the Owner's Building Sewer Lateral, or in violation of the Code in the manner of the Building Sewer Lateral's connection to the City sewer system, which order directs the abatement of the identified apparent violation in a timely manner.

F. OWNER. Any person, partnership, association, corporation or fiduciary having legal title (or any partial interest) in any real property situated within the City.

G. SEPTIC TANK. As the term is defined in Santa Barbara Municipal Code Section 14.34.100. (Ord. 5396, 2006.)

14.46.020 Maintenance of Private Building Sewer Laterals.

A. MAINTENANCE OF BUILDING SEWER LATERALS. Each Owner shall maintain his or her Building Sewer Lateral(s) free of displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow, or infiltration of extraneous water, root intrusion, grease and sediment deposits, or any other similar conditions, defects, or obstructions likely to cause or increase the chance for blockage of the Building Sewer Lateral.

B. MAINTENANCE OF SEPTIC TANK. Each Owner shall maintain his or her Septic Tank free of deterioration, corrosion, damage, disposal failure or any other similar deficiencies or defects likely to increase failure of the Septic Tank.

C. GENERAL MAINTENANCE REQUIREMENTS. The maintenance obligation imposed by this Section shall be in addition to and supplemental of the general private sewer system maintenance obligations imposed by Section 14.44.160 of this Code. (Ord. 5396, 2006.)

14.46.030 Building Sewer Inspections – Access to Premises.

The Public Works Director or the City Health Officer (or any designated representative thereof) is hereby authorized to inspect any Building Sewer Lateral in use within the City and connected to the City sewer system for the following purposes:

1. To determine the size, depth, and location of any sewer connection.
2. To determine the end outlet of any sewer connection by depositing harmless testing materials in any plumbing fixture attached thereto and flushing the same, if necessary.
3. To determine, by measurements and samples, the quantity and nature of the sewage or waste water being discharged into any sewer.
4. To determine the location of the roof, swimming pool, floor and surface drains, and whether or not they physically connect to a sewer.

Nothing herein shall be deemed to provide the Public Works Director (or the Director's designee) with any right or authority to enter a building or other apparently private or interior area of a real property, except to the extent such entry is expressly authorized by state law. (Ord. 5396, 2006.)

14.46.040 Mandatory Building Sewer Inspections.

A. HEALTH AND SAFETY BASIS FOR REQUIRING A BUILDING SEWER LATERAL INSPECTION. An Owner shall have the Building Sewer Lateral of his or her real property inspected in accordance with the requirements of this Chapter (as directed and within the time period indicated by the Public Works Director) upon the occurrence of any of the following events:

1. Overflow or Malfunction. Whenever the Public Works Director has sufficient evidence (as determined by the Director) that the Building Sewer Lateral has recently overflowed or has recently malfunctioned;

2. Lateral Failure or Lack of Maintenance. Whenever, based on sewer system testing conducted by the City (of either the Building Sewer Lateral or the City's public sewer system), the Public Works Director finds that there is sufficient evidence to conclude that the Building Sewer Lateral has failed, is likely to fail, or has not been properly maintained.

3. Public Health Threat. Upon any other reasonable cause to believe that there is a threat to the public health, safety, or welfare due to the condition of a Building Sewer Lateral.

B. EVENTS REQUIRING A BUILDING SEWER LATERAL INSPECTION – RESIDENTIAL PROPERTIES. An Owner shall have the Building Sewer Lateral of his or her residential Property inspected in accordance with the requirements of this Chapter upon the occurrence of any of the following events:

1. Home Additions. Prior to the issuance of a City building permit for a residential building addition or new improvements on the real property in excess of four (400) hundred square feet of habitable space as that phrase is defined in the California Building Code as adopted and amended by the City;

2. New Plumbing Fixtures. Prior to the issuance of a City building permit for two or more new plumbing fixtures attached to the Building Sewer Lateral upon the residential Property.[For the purposes of this section, the phrase "new plumbing fixtures" shall refer only to an increase in the number of plumbing fixtures in use on the real property prior to the application for a building permit for the "new" plumbing fixtures.]

C. SCHEDULE FOR LATERAL INSPECTIONS - NON-RESIDENTIAL AND COMMON INTEREST DEVELOPMENT REAL PROPERTIES.

1. Non-Residential Properties. An Owner or Owners of a non-residential property within the City shall have that Property's Building Sewer Lateral(s) inspected in accordance with the requirements of this Chapter once every ten (10) years beginning January 1st of the year following the adoption of the Ordinance first enacting this Chapter. Within each ten (10) year period of time, such lateral inspections shall occur in accordance with and not later than the Citywide area map and schedule attached to this Chapter as Exhibit 1 and dated as of September 26, 2006, in the order and by district as established on Exhibit 1. [For the purposes of this section, a property which has a mixture of allowed residential and non-residential uses shall be considered a non-residential property with respect to its compliance with the sewer lateral inspection requirements of this section.]

2. Common Interest Developments. The Owner or Owners of a Common Interest Development shall have that Property's Building Sewer Lateral(s) inspected in accordance with the requirement of this Chapter once every ten (10) years beginning January 1st of the second year following the enactment of the Ordinance first enacting this Chapter. Within each ten (10) year period of time, such lateral inspections shall occur in accordance with and not later than the Citywide area map and schedule attached to this Chapter as Exhibit 1 and dated as of September 26, 2006, in the order and by district as established on Exhibit 1, an official full size color copy of which shall remain on file in the City Clerk's office.

D. EXCEPTION TO INSPECTION FOR RECENT PRIOR INSPECTIONS AND REPAIRS. The following are exceptions to the Inspection requirements of subparagraphs (B) and (C) above:

1. Prior Replacement of Sewer Lateral. An Owner otherwise required to perform a Building Sewer Lateral inspection under Section 14.46.040(B) or (C) hereof shall not be required to perform such an inspection if the Owner (or the Owner's predecessor-in-interest) has originally installed or has replaced his or her Property's Building Sewer Lateral within the twenty (20) years prior to the date of the application for a building permit.

2. Prior Inspection or Repair of a Building Sewer Lateral. An Owner otherwise required to perform an inspection under Section 14.46.040(B) or (C) shall not be required to perform such an inspection if the Owner has either completed a remedial inspection (conducted in accordance with the Inspection requirements of this Chapter) or completed a permitted repair of the Building Sewer Lateral within the three (3) years prior to the date the inspection would otherwise be required. (Ord. 5451, Section 5, 2008; Ord. 5396, 2006.)

14.46.050 Requirements for a Proper Building Sewer Lateral Inspection Report.

A. INSPECTION REPORT STANDARDS. The Building Sewer Inspection Reports required by this Chapter shall be prepared in accordance with the following requirements and specifications:

1. The Inspection Report shall be prepared by a licensed plumber;
2. The Inspection Report shall identify all of the following:
   a. Any of the following conditions: displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow or infiltration of extraneous water, root intrusion, grease and sediment deposits or other conditions likely to increase the chance for blockage of the Building Sewer.
   b. Whether any connection, by pipes or otherwise, allows rainwater or groundwater to enter the Building Sewer or public sewer.
   c. Whether the Building Sewer has an installed backwater device where any outlet or trap of the Building Sewer is below the level of the nearest manhole. If a backwater device is already installed, the report shall indicate whether the backwater device is functioning properly.
   d. Where the Building Sewer includes a Septic Tank, the report shall identify the extent to which the Septic Tank is deteriorated, corroded, damaged, whether the disposal field has failed or any other relevant deficiency.
3. The Inspection Report shall contain an express certification from the certified inspector that the property has been inspected for any outdoor drain connection to the City sewer system and that no such unpermitted connection is present. It shall also contain either a videotape or DVD of the video inspection of the Building Sewer Lateral in a format acceptable to the City, as established by the City regulations.

B. COMPLIANCE WITH REGULATIONS. The Inspection Report shall, in all other aspects, comply with the requirements and specifications described in the Public Works Director's specifications for a Building Sewer Lateral Inspection Report as established by the regulations authorized under Section 14.46.080 hereof. (Ord. 5396, 2006.)

14.46.060 Required Building Sewer Lateral Repairs.

A. NOTICE TO REPAIR. Upon receipt of the Building Sewer Inspection Report pursuant to this Chapter, the Public Works Director (or his or her designee) will determine whether it indicates any deficiencies in the operation of the Building Sewer Lateral and, thereafter, shall provide the Owner(s) with a Notice to Repair or Replace as may be deemed appropriate by the Director. The Notice to Repair/Replace shall specifically identify the deficiencies to be corrected and shall establish a deadline within which the Owner(s) shall complete the required corrective actions. The corrective action may include a requirement that the lateral be replaced altogether and also may include the installation of cleanouts and backwater valves if those devices are otherwise required by this Code or any uniform code adopted by the City.

B. OBLIGATIONS OF THE OWNER. The Owner shall repair his or her Building Sewer Lateral to the satisfaction of the Public Works Director, and, if a building permit is required for the repairs, the Owner shall obtain a final permit inspection and approval of the City Building Official.

C. REPAIRS UPON OTHER PROPERTIES NOT REQUIRED. If a Building Sewer Lateral traverses private property other than the Owner's Property, the Owner shall only be responsible for the repairs to that portion of the Building Sewer Lateral that are upon the Owner's Property and also to that portion of the Building Sewer within a public right-of-way. (Ord. 5396, 2006.)

14.46.070 Common Interest Developments.

The homeowners association of a Common Interest Development shall, along with the Owner, be jointly and severally liable for the duties and obligations imposed by this Chapter 14.46 in relation to any Building Sewer Lateral located within a common area of the Development. If no homeowners association exists, then the individual unit owners, both jointly and individually, shall be liable for the duties and obligations with respect to Building Sewer Laterals established by this Chapter. (Ord. 5396, 2006.)

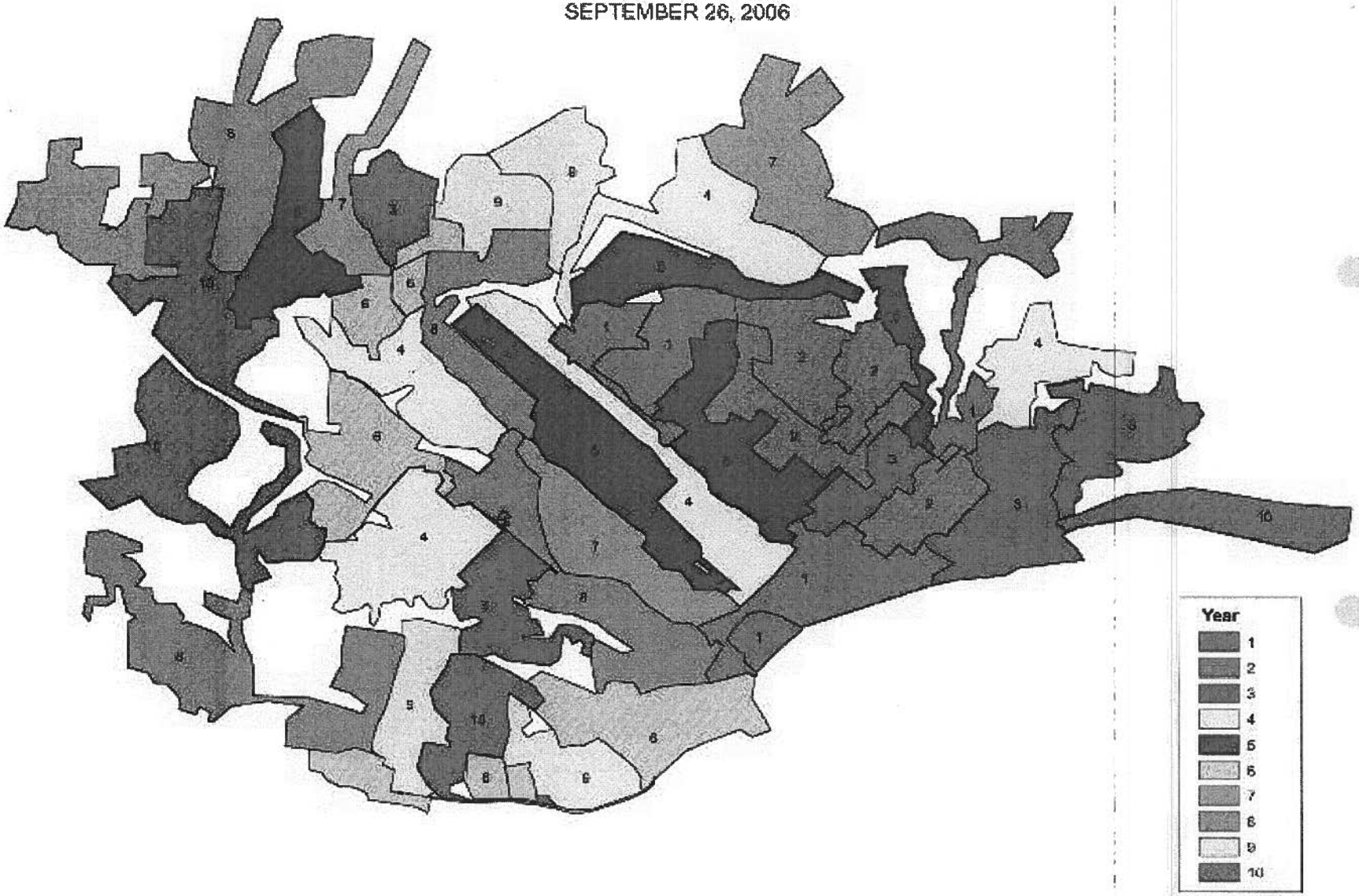
14.46.080 Administrative Guidelines for Inspections.

Within ninety (90) days of the adoption of the ordinance enacting this Chapter, the Public Works Director shall prepare and promulgate the public administrative guidelines which shall, among other things, establish the following:

1. A certification program for licensed plumbers who will be accepted by the City to perform Inspections and the basis for obtaining and maintaining such a certification or for a decertification;
2. Develop a standard Inspection report form and specifications for Building Sewer Inspection reports; and

3. Establish a Notice format and standard enforcement timelines for the Notice to Repair and for repair and inspection service of that Notice in a manner consistent with the requirements of due process. Such administrative guidelines shall be approved by a resolution of the City Council. (Ord. 5396, 2006.)

EXHIBIT 1
SEPTEMBER 26, 2006



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Chapter 14.48

SEWER PERMITS

Sections:

14.48.010 Required Generally.
14.48.020 Connection Permit - Application.
14.48.070 Fees and Deposits - Permit for House Connections for Non-Participating Properties Generally.
14.48.080 Permit for House Connections for Non-Participating Properties to Sewers Constructed Pursuant to Chapter.
14.48.090 When Fee Amount Doubled.
14.48.100 Bonds in Lieu of Cash Deposits.
14.48.110 Reimbursing City for Plan Checking, Etc., Refund, Etc.
14.48.120 When No Fees Payable.
14.48.130 Connections Permit - Issuance.
14.48.140 Contents - When Work Must be Started - How Work to be Done.
14.48.150 Permit - When Not Required.
14.48.160 Permit - Revocation, Etc., in Case of Industrial Waste Connection.
14.48.170 Permit - Approval of Pre-Treatment Facility Plans, Etc.
14.48.180 Permit - Required.
14.48.190 Permit - Application.
14.48.200 Permit - Soil Test - Health Department Approval of System.
14.48.210 Private Disposal - Issuance.
14.48.220 Permit - When to be Denied.

14.48.010 Required Generally.

It shall be unlawful for any person, other than persons specifically permitted, excepted by this chapter, to do or cause to be done, or construct or cause to be constructed, or use or cause to be used, or alter or cause to be altered, any public sewer, house connection sewer or industrial liquid waste pre-treatment plant system, or other similar appurtenances without first obtaining from the Public Works Director a written permit to construct or use such facilities, and paying all fees and deposits as required by resolution. (Prior Code §37.30.)

14.48.020 Connection Permit - Application.

The Public Works Director before issuing such permits as are required by Section 14.48.010 shall require a written application to be made and filed. In such application shall be set forth the name and residence or business address of the person making such application and, in detail, the location, description, work to be done or facilities to be used, the legal owner of the property to be served and any other information deemed necessary by the Public Works Director to determine that the proposed work or use complies with the provisions of this chapter. (Prior Code §37.31.)

14.48.070 Fees and Deposits - Permit for House Connections for Non-Participating Properties Generally.

Before issuing any house connection sewer permit to connect to a public sewer from a property benefited by such sewer which has not participated in paying the cost of constructing such sewer, the Public Works Director shall collect a connection charge for each connection to any sewer which has been constructed and financed by one (1) of the following methods:

(1) A 1911 Act or other special assessment district, with charges and assessments against properties other than the property to be connected, where such 1911 Act or other special assessment sewer district is formed after the effective date of this chapter.

(2) A publicly financed sewer, constructed after the effective date of this chapter.

(3) A privately financed sewer paid for by person or properties other than the person or properties desiring connection, and constructed after the effective date of this chapter under a plan submitted to and approved by the City.

The connection charge to be collected under this section shall be equal to the cost to a similar individual property based on the actual cost of constructing the public sewer as estimated by the Public Works Director or as recorded on the assessment roll if the relative sewer was constructed under the so-called 1911 Assessment Act proceedings, but shall in no case be less than three hundred fifty dollars ($350.00), except that if, connection to any one (1) of the three (3) types of systems described in Subsections (1), (2) or (3) of this section, is made by means of a main line extension of fifty feet (50') or more in length the Public Works Director may waive a portion or all of the special three hundred fifty dollar ($350.00) connection fee and charge only a portion of that fee, or the standard ten dollar ($10.00) connection fee. (Prior Code §37.36.)

14.48.080 Permit for House Connections for Non-participating Properties to Sewers Constructed Pursuant to Chapter.

Before issuing any house connection sewer permit to connect to a public sewer constructed under a sewer extension agreement provided for in Section 14.48.010 by a property which did not participate in the cost of constructing such public sewer the Public Works Director shall collect the charges set forth in the sewer extension agreement, which fee shall be in addition to and not excuse the permittee from any of the requirements of Section 14.48.060. (Prior Code §37.37.)

14.48.090 When Fee Amount Doubled.

If a connection is made to a public sewer prior to securing of the permit required by Section 14.48.010, all applicable fees under Sections 14.48.030 - 14.18.120 shall be in an amount that is twice the amount otherwise required by Section 14.48.010. (Prior Code §37.38.)

14.48.100 Bonds in Lieu of Cash Deposits.

In lieu of any cash deposit required by this chapter a good and sufficient corporate surety bond may be given by the permittee under this chapter in the amount of one thousand five hundred dollars ($1,500.00) or more; provided, that the amount of such bond is not less than the total amount of the required deposit. Such bond shall be conditioned upon the payment of all charges required by this chapter and the faithful and proper performance of the work. (Prior Code §37.39.)

14.48.110 Reimbursing City for Plan Checking, Etc. - Refund, Etc.

Before acceptance of any work for which a bond or deposit is required to cover the actual cost of plan checking, processing, inspection and replacement, the actual cost to the City for such plan checking, processing, inspection and replacement shall be computed. If such actual cost exceeds the amount of the deposit or bond, the applicant shall pay any additional amount to cover the actual cost.

If such actual costs as computed are less than the amount of any deposit required herein, any excess shall be refunded to the applicant. The actual cost to the City for plan checking, processing and inspection shall be as fixed by resolution. The actual cost to the City for replacement shall mean the cost of replacing any existing improvements damaged and not repaired or replaced by the applicant for a permit under this chapter and shall mean the cost of completing any work left incomplete by the applicant at the expiration of the permit. (Prior Code §37.42.)

14.48.120 When No Fees Payable.

This chapter shall not be construed to require payment of fees where collection of any such fee is prohibited by Section 6103 of the Government Code or by any other statute of the State.

This chapter shall not be construed to require payment of fees set forth in Section 14.48.060 for any connection which is made to a public sewer which was constructed under a 1911 Act Assessment District; provided, that such connection is made to a property included in the assessment district and is completed within one (1) year of the date of acceptance of such sewer by the City. (Prior Code §37.41.)

14.48.130 Connections Permit - Issuance.

Upon receiving a written application, as provided for in Section 14.48.020, and the fee and bond or deposit required by Sections 14.48.030 - 14.48.120, the Public Works Director shall issue a written permit to construct or use the relative sewer or treatment facilities. (Prior Code §37.42.)

14.48.140 Contents - When Work Must be Started - How Work to be Done.

A permit issued pursuant to Section 14.48.130 shall state whether the work to be done is covered by deposit or bond, the amount of such deposit or bond, the amount of each fee required by Sections 14.48.030 - 14.48.120 and such permit shall be a receipt therefor. The permit shall also state the name and address of the permittee, the owner of the property to be served, and the location and extent of the work or connection to be done. Every such permit for construction or connection shall be void unless construction pursuant to such permit is commenced within sixty (60) days of the date of such permit for house connection or within one (1) year of the date of such permit for public sewers and the work diligently prosecuted strictly pursuant to City specifications. (Prior Code §37.43.)

14.48.150 Permit - When Not Required.

The provisions of this chapter requiring permits for construction of sewers and appurtenances shall not apply to contractors constructing public sewers and appurtenances under contracts awarded and entered into under the proceedings had or taken pursuant to any special procedure statute of the State providing for the construction of sewers and assessing the expenses thereof against the properties benefited thereby, or under contracts between a contractor and the City. (Prior Code §37.44.)

14.48.160 Permit - Revocation, Etc., in Case of Industrial Waste Connection.

The Public Works Director may revoke the permit issued under this chapter for and may disconnect from the public sewer any industrial liquid waste connection which is constructed or connected without the proper permit, or which is used in violation of the provisions of this title governing industrial liquid wastes. (Prior Code §37.45.)

14.48.170 Permit - Approval of Pre-Treatment Facility Plans, Etc.

Plans and specifications of all industrial waste pre-treatment facilities shall be approved by the Public Works Director before any permit is issued for construction of such facilities. (Prior Code §37.46.)

14.48.180 Permit - Required.

It shall be unlawful for any person to construct, alter, put into use or cause to be used any private sewage disposal system, septic tank or cesspool without first obtaining from the Chief of Building and Zoning a written permit to construct or use such disposal facilities, paying the required fees to cover the cost of inspection and incidental expenses in connection therewith. (Prior Code §37.47.)

14.48.190 Permit - Application.

The Chief of Building and Zoning before issuing a permit required by Section 14.48.180 shall require a written application to be made and filed, in which application is set forth the name and address of the person making such application and which states in detail the location and description of the work to be done and the facilities to be used and any other information deemed necessary by the Chief of Building and Zoning to determine whether the proposed work or use complies with the provisions of this Code and other ordinances of the City providing for construction of sewage disposal systems on private property. (Prior Code §37.48.)

14.48.200 Permit - Soil Test - Health Department Approval of System.

Before issuing any permit under this chapter the Chief of Building and Zoning may require the applicant to furnish a report prepared by a registered, practicing civil engineer which may include soil tests, percolation tests, geological data and design of a disposal system based on such data which indicates that adequate capacity and percolation or leaching system is provided, and when deemed necessary by the Chief of Building and Zoning may require that such disposal system design be approved by the Health Department. (Prior Code §37.49.)

14.48.210 Private Disposal - Issuance.

Upon receipt of a written application, payment of all the required fees and approval of such application as provided for in Sections 14.48.180 - 14.48.200, the Chief of Building and Zoning shall issue a written permit to construct or put into use such private disposal facilities. (Prior Code §37.50.)

14.48.220 Permit - When to be Denied.

No permit shall be issued for installation, repair or alteration of any private sewage disposal system when a public sewer is available, except as provided in Section 14.44.020. (Prior Code §37.51.)

Chapter 14.52

SEWER EXTENSIONS

Sections:

14.52.010 Purpose of Chapter.
14.52.020 Trust Fund Created.
14.52.030 Submission of Application and Supporting Data - Deposit.
14.52.040 Determination of Application, Etc.
14.52.050 Final Settlement of Installation, Etc. - Costs - Generally.
14.52.070 Recording Cost Data on Map.
14.52.080 Collecting Costs from Benefited Property Owners.
14.52.090 Allocation of Cost to Owners of Private Sewers.
14.52.100 Refunds - Generally.
14.52.110 Refund - Limitations.
14.52.120 Temporary Contribution by City.

14.52.010 Purpose of Chapter.

The purpose of this section is to provide expedient means of financing sewer construction in cases where the property owner does not desire to proceed under the 1911 Improvement Act or other special assessment proceedings or where the property owner does not desire other financing, and yet provide equitable pro-ration of cost within a reasonable period of time among the parcels of real property benefited. Proceedings under this section for the original contributors are purely voluntary, but are compulsory when sewer connections are made by the properties benefited for which there was no initial contribution. (Prior Code §37.52.)

14.52.020 Trust Fund Created.

There is hereby established and created a special trust fund in the Office of the City Treasurer which shall be known and designated as "Public Sewer Extension and Connection Trust Fund". (Prior Code §37.53.)

14.52.030 Submission of Application and Supporting Data - Deposit.

Owners of real property within the City desiring to have the City sewer system extended in accordance with the provisions of this chapter shall make written application therefor to the Public Works Department, which application shall be accompanied by the following:

(1) Completed plans and specifications and proposal agreement for the construction of such sewer prepared by a registered civil engineer.

(2) A map showing the sewer extension and all properties directly benefited by the sewer extension. Those properties which can connect thereto with a side sewer not exceeding two hundred twenty-five feet (225') in length, and which cannot be more readily served with other existing sewers, shall be considered as benefiting properties within the meaning of this chapter.

(3) A deposit equal to the total cost of the sewer extension as estimated by the Public Works Director plus the estimated cost of plan checking, processing and inspection.

(4) A letter of participation, signed by the applicant and any other contributors to the project, which shall give a description of all properties benefited by the sewer extension that are contributing to the cost of constructing the sewer. (Prior Code §37.54.)

14.52.040 Determination of Application, Etc.

The Public Works Department after receiving the application, plans, specifications, proposal agreement and map, deposit and letter of participation required by Section 14.52.030 and after approving such plans, specifications, proposal agreement and application, shall submit a written report to the City Administrator concerning the feasibility and practicality of the proposed sewer extension, and the estimated cost of the project including all incidental expenses. Upon receipt of the report from the Public Works Director, the City Administrator shall make his recommendations to the City Council for its consideration. The City Council shall fix a date upon which it shall hold a hearing to determine whether or not the application submitted pursuant to Section 14.52.030 shall be granted. The Public Works Director, prior to such hearing, shall notify each owner of property which would be benefited by the sewer extension that application has been filed to extend the sewer under the provisions of this chapter and shall notify each, of the date and time of such hearing. If the City Council approves such sewer extension application, an appropriate resolution shall be adopted authorizing the construction of such extension, to be financed from the money deposited by the applicant pursuant to Section 14.52.030. If the City Council does not approve the sewer extension application, the total deposit made by the applicant shall be returned to the applicant. The City Council shall authorize the City Administrator to advertise for sealed proposals to be opened before the City Council for extension work authorized pursuant to Section 14.52.030. The contract for the construction of the sewer extension shall be left to the lowest responsible bidder subject to the approval of the City Council. (Prior Code §37.55.)

14.52.050 Final Settlement of Installation, Etc. - Costs - Generally.

Upon completion and acceptance of a sewer extension applied for under this chapter by the City Council, the Public Works Department shall prepare a cost distribution determination which shall include the final costs of such sewer construction and the pro-rated distribution of that cost to the various parcels of property benefited by the same. Such distribution of costs shall be made either on the basis of area or building sites or both, as may be determined by the Public Works Director to be the most equitable method. Upon completion of the cost distribution schedule, the Public Works Director shall submit a report to the City Administrator for his approval and recommendation to the City Council. If the City Council approves the proposed cost distribution, the Public Works Director shall prepare a written statement to be sent to the applicant for a sewer extension under this chapter which shall include the amount of the original deposit, the final costs of the sewer construction, the cost of plan checking, processing and inspection, the cost distribution, and any excess or deficiency in the original deposit, and shall deliver such statement together with any excess money or with a demand for payment of any deficiency to such applicant. (Prior Code §37.56.)

14.52.070 Recording Cost Data on Map.

Upon approval of the cost distribution schedule required by Section 14.52.050 by the City Council, the Public Works Department shall record upon the map required by Section 14.52.050 showing the properties benefiting from the sewer extension, all properties which participated in the cost of the relative sewer extension, and the pro-rated cost distribution to each property benefited thereby and shall file with the City Clerk, City Treasurer and the Public Works Director a copy of such map together with a written statement which shall include the final cost distribution schedule described in Section 14.52.030. (Prior Code §37.58.)

14.52.080 Collecting Costs from Benefited Property Owners.

Whenever the sewer system of the City has been extended in accordance with the provisions of this chapter, any owner of property benefited as shown on the map described in Section 14.52.030, or his successor in interest, who has not previously contributed his proportionate share of the cost of the sewer extension to the amount set forth in the approved cost distribution schedule mentioned in Section 14.52.050 shall not be permitted to connect with such sewer until he shall have paid into the Public Sewer Extension Trust Fund the amount in cash due by him as recorded on such map. All such payments shall be in addition to all permit fees required by this title and all other effective City ordinances. (Prior Code §37.59.)

14.52.090 Allocation of Cost to Owners of Private Sewers.

Any property owner in any public sewer extension district created under this chapter who has, previous to installation of the relative sewer extension, constructed a private sewer line to or for his property, at his own expense, shall not be required to contribute to the cost of such public sewer extension, except where such property derives increased benefits therefrom as shall be determined by the Public Works Director and as approved by the Council in the resolution granting the sewer extension application. Such property owner shall pay the amount so determined before connecting his property to the public sewer extension. (Prior Code §37.60.)

14.52.100 Refunds - Generally.

Periodically, but not more than twice a year, the City Treasurer shall pay and refund out of the Public Sewer Extension and Connection Trust Fund to the person originally paying for the sewer, or his heirs or assigns, his proportionate share of the money paid into such Trust Fund by subsequent property owners who did not participate in the original cost and who were given permits to connect to the extended sewer and who paid as provided in the approved cost distribution schedule referred to in Section 14.52.050. Payments under this section by the City shall be made to the person originally paying for such sewer at his address appearing in the records of the Public Works Department, and shall constitute a discharge of its duty hereunder to pay as to all sums so paid unless the City shall have received and consented to an assignment of such right to another which shall set forth the assignee's name and payment address. (Prior Code §37.61.)

14.52.110 Refund - Limitations.

Any claim by a property owner contributing under this chapter or his assignee for a refund which is payable out of the Public Sewer Extension and Connection Trust Fund shall be made within a period of twenty (20) years from the date of the original contribution. All moneys remaining in the Fund after such twenty (20) years shall have elapsed from the time of its deposit shall forthwith be deposited into the General Fund of the City. (Prior Code §37.62.)

14.52.120 Temporary Contribution by City.

Whenever due to economic impossibility, unique hardship, or special or insurmountable circumstances shall operate to prevent an otherwise feasible and approved sewer extension project, City may temporarily advance funds toward any project provided that the amount of such temporary contributions shall not exceed twenty percent (20%) of the engineer's estimate for the project, and further provided that the City shall participate first in proceeds received by the City from persons connecting benefiting lots who have not contributed their proportionate share according to the approved cost distribution.

If a temporary contribution has been advanced by the City hereunder, all sums received from later connections by benefited property owners who have not heretofore paid shall be paid into the General Fund of the City until the City's contribution has been repaid in full, and thereafter such sums shall be paid into the Sewer Extension Trust Fund as provided in Section 14.52.080 and shall be disbursed in accordance with Section 14.52.100. (Ord. 2606 §1, 1957; prior Code §24.1, 1956.)

Chapter 14.56

NATURAL WATERCOURSES AND STORM DRAIN SYSTEM

Sections:

14.56.010 Definitions.
14.56.020 Watercourses - Obstructions, Etc., by Matter Unlawful.
14.56.030 Allowing Rubbish, Garbage, Debris, Etc. to Obstruct.
14.56.040 Fill Material.
14.56.050 Obstruction, Etc., by Buildings, Etc.
14.56.060 Duties of Street Superintendent.
14.56.070 Connecting with City Drain System - Permit Required.
14.56.080 Connection Permit - Plan Required - Exception to Plan Requirement.
14.56.090 Connection Permit - Issuance Generally.
14.56.100 Issuance of Permit Not an Assumption of Liability, Etc., by City.
14.56.120 Installing Pipe, Etc., in Intermediate Watercourses - Permit Required.
14.56.130 Installation Permit - Plan, Etc., Required.
14.56.140 Inspection - Approval Generally.
14.56.150 Approval Not a Guarantee.
14.56.180 Design, Etc., Standards.
14.56.190 Enforcement of Chapter.

14.56.010 Definitions.

As used in this chapter the following terms shall have the meanings respectively ascribed to them by this section:

(1) "City storm drain system" means all pipes, structures and street appurtenances located within public right-of-way or easements and designed for the purposes of carrying storm waters.

(2) "Watercourse" means a creek, arroyo, gulch, wash and the bed thereof whether containing water or dry. It shall also mean a natural swale or depression which contains and conveys surface water during or after rain storms. (Prior Code §37.63.)

14.56.020 Watercourses - Obstructions, Etc., by Matter Unlawful.

It shall be unlawful for any person to dump or place, or to permit to be dumped or placed, deposited, maintained or accumulated in any watercourse, on public or private property, within the corporate limits of the City, or in the City's storm drain system, any debris, garbage, rubbish, trash, brush, timber, waste products or any combustible or incombustible material or commodity whatsoever, which obstructs, prevents, diverts or tends to obstruct, prevent or divert, the normal, natural or ordinary flow of water in such watercourse or storm drain system or which at any time may be in such watercourse or storm drain system. (Ord. 2931 §2(part), 1963; prior Code §§37.64, 44.58(part).)

14.56.030 Allowing Rubbish, Garbage, Debris, Etc. to Obstruct.

It shall be unlawful for any person owning or having control or possession of all, or any part of any watercourse on private property within the corporate limits of the City, to permit, maintain, retain or allow to remain in any such watercourse, or any part thereof, any debris, garbage, rubbish, trash, brush, timber, waste products, or any combustible or incombustible material or commodities whatsoever, which obstructs, prevents, diverts or tends to obstruct, prevent or divert the normal, natural or ordinary flow of water in such watercourse, or which at any time may be in such watercourse whether or not the same has been previously dumped, placed, deposited, maintained or accumulated therein by reason of any act or omission of such person, or by anyone else with or without the knowledge, consent or permission of such person, and regardless of the cause or reason for the existence of the same in such watercourse. (Ord. 2931 §2(part), 1963; prior Code §§37.64, 44.58(part).)

14.56.040 Fill Material.

The placement of any fill material in any natural watercourse without provision for drainage conduit of adequate size and strength to replace the existing natural watercourse capacity, so as to provide sufficient capacity for storm waters of the contributing drainage area and so as to withstand the fill and building loads which may be placed thereon, shall be considered an unlawful obstruction of a natural watercourse. (Prior Code §37.65.)

14.56.050 Obstruction, Etc., by Buildings, Etc.

It shall be unlawful for any person to construct or maintain, or to permit to be constructed or maintained, in any watercourse, on public or private property, within the corporate limits of the City, any building or structure which obstructs, prevents or diverts, or tends to obstruct, prevent or divert the normal, natural or ordinary flow of water in such watercourse, or which at any time may be therein, in such manner as to endanger, or tending to endanger public property, including bridges, roads, buildings, structures or facilities, or the land crops, buildings or structures of other persons. (Ord. 2931 §2(part), 1963; prior Code §§37.66, 44.59.)

14.56.060 Duties of Street Superintendent.

It is the duty of the Street Superintendent to enforce all of the provisions of this chapter. (Ord. 2931 §2(part), 1963; prior Code §44.60.)

14.56.070 Connecting with City Drain System - Permit Required.

It shall be illegal for any person to connect any drainage pipe to the City storm drain system, without obtaining a permit therefor from the Public Works Director. (Prior Code §37.67.)

14.56.080 Connection Permit - Plan Required - Exception to Plan Requirement.

Such permit as required by Section 14.56.070 shall be issued only after submission of a plan prepared and signed by a licensed civil engineer showing the size, type, length and location of the drainage structures to be connected to the City's storm drain system, the type and height of fill, if any, to be placed thereon, the type of connection to be made to the City's storm drain system, including provision for access thereto, if any, which plan shall be accompanied and supported by necessary drainage area data and calculations. The Public Works Director is hereby authorized to waive the provisions of this section where installations are of such minor nature as not to require strict enforcement hereof. In no case shall the requirement for a permit be waived. (Prior Code §37.68.)

14.56.090 Connection Permit - Issuance Generally.

The permit issued for connection to the City's storm drain system shall be based upon the data submitted, and inspection of the site, and shall be reviewed by the Public Works Department and issued only with respect to the adequacy of the proposed installation in not causing damage to the City's storm drain system and in not causing blockage of a natural watercourse. (Prior Code §37.69.)

14.56.100 Issuance of Permit Not an Assumption of Liability, Etc., by City.

The City in issuing the permit under Section 14.56.090 shall in no way assume responsibility or liability for the plan, installation or performance of any drainage facility installed by the permittee. (Prior Code §37.70.)

14.56.120 Installing Pipe, Etc., in Intermediate Watercourses - Permit Required.

No pipe or other drainage structures shall be installed in such natural watercourses as carry drainage between portions of the City's storm drain system, or immediately upstream or downstream from portions of the City's storm drain system, or which constitute a part of the City's projected storm drainage system as delineated on the map adopted by resolution of the City Council and on file in the Public Works Department without first obtaining a permit from the Public Works Director to make such pipe or drainage structure installation. (Prior Code §37.72.)

14.56.130 Installation Permit - Plan, Etc., Required.

The Public Works Director, prior to issuing any permit for the installation of pipe or drainage structures in the subject natural watercourses, shall require submission of a plan to the Public Works Department by a licensed civil engineer indicating the size, type, length, and location of the proposed installation, amount of fill, if any, to be placed thereon, the relationship of the proposed structures to existing structures in the subject watercourse or to the City's storm drain system, and any necessary data or calculations based upon the drainage area contributing to storm water flow in the subject watercourse at the location of the proposed installation. (Prior Code §37.73.)

14.56.140 Inspection - Approval Generally.

Approval of structure installation in such natural watercourses shall be based upon checking and inspection considerations in order that the installation will not block a natural watercourse and will tend not to cause damage to adjacent or planned portions of the City's storm drain system. (Prior Code §37.74.)

14.56.150 Approval Not a Guarantee.

Approval given under Section 14.56.140 shall not in any way guarantee the construction in as far as benefits or hazards which may result therefrom by the property owner or by adjacent property owners. (Prior Code §37.75.)

14.56.180 Design, Etc., Standards.

All installations to be approved and constructed pursuant to permits issued hereunder shall be designed and constructed equal to or in accord with standard specifications and materials criteria on file in the Public Works Department of the City and approved by the City Council. (Prior Code §37.78.)

14.56.190 Enforcement of Chapter.

The Public Works Department of the City is hereby empowered to enforce all of the provisions of this chapter. (Prior Code §37.79.)

Chapter 14.60

GIBRALTAR RESERVOIR

Sections:

14.60.010	**Trespassing on Gibraltar Reservoir and Adjacent Lands - Permit.**	**14.60.060**	**Hunting and Shooting Prohibited.**
14.60.020	**Permits to be Secured from Water Superintendent.**	**14.60.070**	**Loosing Animals.**
14.60.030	**Permit to be Carried on Person.**	**14.60.080**	**Use of Sanitary Facilities.**
14.60.040	**Angler's License Number to be Shown on Permits.**	**14.60.090**	**Bathing Prohibited.**
14.60.050	**Restricted Zones and Areas.**	**14.60.100**	**Rubbish Disposal.**
		14.60.110	**Guards and Patrols.**
		14.60.120	**Permit Fees.**
		14.60.130	**Penalties for Violations.**

14.60.010 Trespassing on Gibraltar Reservoir and Adjacent Lands - Permit.

It is hereby declared to be unlawful and a violation of this chapter for any person to trespass upon or in the Gibraltar Reservoir of the City of Santa Barbara, California, the reservoir being situate in the generally northerly direction from the City and being in and across the Santa Ynez River in the County, and/or to trespass upon any of the lands of the City adjoining the reservoir and being situate in the County, except that the City may from time to time issue a permit to any person not afflicted with any contagious or communicable disease and paying to the City the sum which the City Council may by resolution approve as the permit fee, which permit shall as against the City privilege such permittee to go upon the properties of such City and to make use of the sanitary facilities provided by the City and to fish in the waters of the reservoir, if licensed to so fish by the State insofar as not otherwise forbidden. Provided, however, that if in the opinion of the City Council of the City the absolute revocation on temporary suspension of the permit issued shall be necessary, the same may be absolutely revoked or temporarily suspended without any refund of the moneys paid. No person in the active military service of the United States shall pay for any such permit, which permit shall be issued to him upon his request and the display of appropriate credentials testifying that such person is, in fact, in the active military service of the United States. No person under the age of eighteen (18) years shall have a permit issued to him or her under this chapter, but any such person when accompanied by a permittee duly licensed hereunder may go upon the lands and reservoir of the City. (Ord. 2600 §1, 1957.)

14.60.020 Permits to be Secured from Water Superintendent.

The permits referred to in Section 14.60.010 shall be secured from the Water Superintendent of the City who may authorize persons conducting sporting goods stores in the County, and elsewhere to issue such permits for the City. It is hereby further provided that the permits may be secured from the Water Superintendent by such sporting goods dealers upon their request therefor and upon their agreeing in writing with the City to pay over all moneys collected for the permits as provided by resolution of the City Council to the City for each and every permit issued by them and to make such payment upon their issuing the same and upon their further agreeing to pay such sum as shall be provided by resolution of the City Council for such permit for each and every unissued permit not returned to the City upon demand made by the City, provided, further, that permits may be issued by the person or persons in personal charge of the Gibraltar Reservoir and adjoining lands of the City, as may be authorized by the Water Superintendent. No permits issued under the provisions of this chapter shall be transferable. (Ord. 2600 §2, 1957.)

14.60.030 Permit to be Carried on Person.

Every person upon entering the properties of the City above referred to and at all times while remaining thereon must have his permit above mentioned in his possession and at any time upon request of any officer or employee of the City or any person charged with the enforcement of this chapter or with the duty of acting as guard of said properties must exhibit such permit to such officer, employee or person for inspection and identification. (Ord. 2600 §3, 1957.)

14.60.040 Angler's License Number to be Shown on Permits.

The State angling license number of each permittee shall be marked upon the permit issued hereunder as a means of identification; and every permit issued hereunder shall have the name of the person or firm issuing the same for the City marked thereon. (Ord. 2600 §4, 1957.)

14.60.050 Restricted Zones and Areas.

All persons, whether permittees under this chapter or not, are prohibited from going upon the above mentioned adjoining lands of the City and/or going upon and/or fishing in the waters of the Gibraltar Reservoir of the City between the Gibraltar Dam of the Reservoir and Gidney Creek above the dam and/or between points where notices forbidding the same and giving notice be posted by order of the City Council of the City. If at any time the United States Forestry Service shall limit and/or restrict and/or prohibit entry to and/or within the Los Padres National Forest such order limiting and/or restricting and/prohibiting such entry shall have the force and effect of an order by the City Council of the City. (Ord. 2600 §6, 1957.)

14.60.060 Hunting and Shooting Prohibited.

Hunting and shooting are hereby declared to be unlawful and all persons are hereby forbidden to hunt and/or shoot upon the Reservoir and the adjoining lands of the City. (Ord. 2600 §6, 1957.)

14.60.070 Loosing Animals.

It is hereby declared to be unlawful and a violation of this chapter for any person to cause, suffer or permit any animal not under his control to go or be upon or in the Reservoir and the adjoining lands of the City. (Ord. 2600 §7, 1957.)

14.60.080 Use of Sanitary Facilities.

All persons while upon the Reservoir and the adjoining lands of the Reservoir above referred to, must, whenever occasions arise, make use of such sanitary facilities as the City may have provided. (Ord. 2600 §8, 1957.)

14.60.090 Bathing Prohibited.

All persons are hereby prohibited from bathing, wading or permitting animals under their control to enter in the waters of the Gibraltar Reservoir upon the lands of the City, or from boating thereon, except that officers and employees of the City may use boats thereon when necessity requires. (Ord. 2600 §9, 1957.)

14.60.100 Rubbish Disposal.

All persons are prohibited from throwing rubbish or waste matter of any kind into or onto the waters of Gibraltar Reservoir upon the lands of the City; and every person must remove from the properties of the City mentioned in this chapter all rubbish and refuse and waste matter getting thereon by his or her act or omission, except such rubbish, refuse or waste matter as may be left by such person in receptacles and facilities provided by the City. (Ord. 2600 §10, 1957.)

14.60.110 Guards and Patrols.

The City Council may from time to time by resolution empower the C. A. O. to employ such guards for the Reservoir and the adjoining lands of the City as may be required to comply with such orders and directives as the Department of Public Health of the State shall issue with respect to guarding and patrolling domestic reservoirs upon which recreational activity is permitted. Such guards shall be vested with police powers for the purpose of enforcing this chapter. (Ord. 2600 §11, 1957.)

14.60.120 Permit Fees.

The Water Superintendent shall prepare a report to the C. A. O. on or before the first day of March of each year showing the number of permits issued and the revenue derived therefrom and the sums expended from the funds of the Water Department for the purpose of enforcing this chapter, which sums shall include the cost of guards required by the Department of Public Health of the State, the cost of printing and the permits prescribed by this chapter, the cost of cleaning and sanitizing the area prescribed for sanitary facilities and the cost of maintaining Gibraltar Road. (Ord. 2600 §12, 1957.)

14.60.130 Penalties for Violations.

Any person, firm, company or corporation violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00) or by imprisonment for not more than thirty (30) days or by both such fine and imprisonment, and each such person, firm, company or corporation is guilty of a separate offense for each day or fraction thereof during which the violation, failure, neglect or refusal to comply with the provisions of this chapter is committed or continued, and any permits issued hereunder to any person convicted of a violation of this chapter shall upon conviction automatically be revoked and terminated. (Ord. 2600 §13, 1957.)

TITLE 15
Recreation, Beaches and Parks

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5695	Deletion of Temporary Recreational Vehicles from Prohibition on Sleeping, Human Habitation or Camping in Recreational Vehicles in Certain Areas	July 2, 2015	Sections 15.16.060, 15.16.080

TITLE 15

RECREATION, BEACHES AND PARKS

Chapter: 15.05 Management of Recreation, Beaches and Parks
Chapter: 15.08 Santa Barbara Arts and Crafts Show
Chapter: 15.16 Public Beaches and Parks
Chapter: 15.20 Tree Planting and Maintenance
Chapter: 15.24 Preservation of Trees

Chapter 15.05

MANAGEMENT OF RECREATION, BEACHES AND PARKS

Sections:

15.05.010 Regulation of Public Parks or Beach Properties.
15.05.020 Policy Pertaining to the Use of Parks, Beaches and Recreation Facilities.
15.05.030 Fees and Charges.

15.05.010 Regulation of Public Parks or Beach Properties.

For purposes of this Chapter, all park or beach facilities owned by the City of Santa Barbara shall be considered to be regulated by Title 15, whether they are operated/maintained by the City or by other legal entities. (Ord. 4189, 1982.)

15.05.020 Policy Pertaining to the Use of Parks, Beaches and Recreation Facilities.

The Parks and Recreation Directors shall manage parks, beaches and recreation facilities according to the General Policy Pertaining to Use of Parks, Recreation Facilities and Equipment, which states the permit procedure and the use policy, as approved by the City Council and as specified in Chapters 15.08 and 15.16 of this Code. (Ord. 4189, 1982.)

15.05.030 Fees and Charges.

Fees and charges for recreation programs, services, park reservations and facility rentals shall be submitted annually by the Recreation Director and recommended by the City Administrator during the budget process for review by the Park and Recreation Commission and adoption by the City Council. (Ord. 4189, 1982.)

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Chapter 15.08

SANTA BARBARA ARTS AND CRAFTS SHOW

Sections:

15.08.010 Arts and Crafts Show Ordinance.
15.08.020 Declaration of Policy.
15.08.030 Show Established.
15.08.040 Time, Dates and Location.
15.08.050 Administration.
15.08.060 Advisory Committee.
15.08.070 Rules and Regulations.
15.08.080 Permitted Exhibits.
15.08.090 Free Admission of Public.
15.08.100 Residence of Exhibitors.
15.08.110 Maximum Number of Exhibitors.
15.08.120 Application to Exhibit.
15.08.130 Requirement and Payment of Fees.
15.08.140 State Board of Equalization Permits.
15.08.150 Revocation of Permit.
15.08.160 Exemption from Business Tax.
15.08.170 Administration by the Advisory Committee.
15.08.180 Penalty for Violations.

15.08.010 Arts and Crafts Show Ordinance.

This chapter shall be known as the Arts and Crafts Show Ordinance. (Ord. 3626 §1, 1974.)

15.08.020 Declaration of Policy.

The Council of the City of Santa Barbara finds and declares that the public welfare and interest will be served by the establishment of a public arts and crafts show at an area in a beachfront park in the City to provide, among other things, recreational and cultural encouragement to artists and craftsmen, recreational and cultural advantages to the public at large, and the encouragement of tourist interest and trade to the economic benefit of the community at large. (Ord. 3626 §1, 1974.)

15.08.030 Show Established.

A public arts and crafts show is hereby established and entitled the "Santa Barbara Arts and Crafts Show". (Ord. 4401, 1986; 3626 §1, 1974.)

15.08.040 Time, Dates and Location.

The Arts and Crafts Show shall only take place from 10:00 A.M. to dusk on the following days:

A. Sunday of each week;
B. Saturday during Fiesta week;
C. The third Saturday in May, to commemorate the anniversary of the show;
D. Saturday following Thanksgiving Day (but not Friday following Thanksgiving Day);
E. Saturday before each of the dates identified for City recognized observation of the following legal holidays: Martin Luther King Jr. Day, Presidents Day, Memorial Day, Labor Day and Christmas Day;
F. Saturday before any July 4 falling on a Sunday, Monday, Tuesday or Wednesday; and the Saturday after any July 4 falling on a Thursday or Friday; and July 4 if July 4 falls on a Saturday, to commemorate Independence Day; and
G. The specific days identified for City recognized observation of New Year's Day.

The Arts and Crafts Show shall only take place at the specific location designated by the City Council. (Ord. 4933, 1995; Ord. 4189, 1982; Ord. 4108, 1981; Ord. 4023, 1979; Ord. 3776 §1, 1975; Ord. 3626 §1, 1974.)

15.08.050 Administration.

The Recreation Director shall administer the Arts and Crafts Show, subject to the provisions of this chapter. (Ord. 4189, 1982; Ord. 3626 §1, 1974.)

15.08.060 Advisory Committee.

An Arts and Crafts Show Advisory Committee shall be established to advise the Recreation Director concerning the administration of the Arts and Crafts Show. To provide for overlapping terms of office, the Recreation Commission may establish terms varying in length from six (6) months to eighteen (18) months. The Advisory Committee shall consist of six (6) members and six (6) alternate members, as follows:

One (1) member at large; two (2) permitted artists; two (2) permitted craftsmen; three permitted artists and three permitted craftsmen as alternates who shall serve in the absence of any member; and the Cultural Recreation Supervisor of the Recreation Department who shall be an ex-officio, non-voting member. The permitted artists and craftsmen who are appointed to the Committee shall be elected by the permitted artists and craftsmen respectively. All members shall be residents of the City or County of Santa Barbara.

The Advisory Committee members shall serve a term of one (1) year unless appointed for a shorter or longer term as provided above. Members shall not serve more than two (2) consecutive terms. Four (4) of the six (6) members of the Committee shall constitute a quorum for the purposes of transacting all business. The Advisory Committee shall meet, subject to quorum requirements, to transact business at least once a month. Officers shall be elected annually. (Ord. 4239, 1984; Ord. 3918 §1, 1977; Ord. 3776, 1975; Ord. 3762, 1975.)

15.08.070 Rules and Regulations.

The Recreation Superintendent shall promulgate rules and regulations for the administration of the Arts and Crafts Show in addition to the provisions of this chapter, not inconsistent therewith, as are reasonably necessary to implement its objectives. In promulgating these rules and regulations, the Recreation Superintendent shall consider any advice or suggestions made by the Advisory Committee, but shall not be bound by them. (Ord. 3626 §1, 1974.)

15.08.080 Permitted Exhibits.

All works exhibited at the Arts and Crafts Show shall be individually hand produced by the exhibitors and shall meet the requirements set forth in the "Standards and Guidelines for Permit Applications" promulgated by the Recreation Superintendent. (Ord. 3626 §1, 1974.)

15.08.090 Free Admission of Public.

Admission of non-exhibiting members of the public to the Arts and Crafts Show shall be free. (Ord. 3626 §1, 1974.)

15.08.100 Residence of Exhibitors.

All exhibitors shall be residents of the County of Santa Barbara. (Ord. 3626 §1, 1974.)

15.08.110 Maximum Number of Exhibitors.

The City Council shall set the maximum number of exhibitors based on recommendations from the Recreation Superintendent consistent with adequate display of works exhibited and the safety and convenience of pedestrian traffic within the area designated for the Arts and Crafts Show. (Ord. 3626 §1, 1974.)

15.08.120 Application to Exhibit.

Any person desiring to exhibit any arts and crafts at the Arts and Crafts Show shall first submit an application to the Recreation Superintendent. The Recreation Superintendent shall approve all applications if the applicant shows to his satisfaction that the applicant's arts or crafts meet the requirements set forth in Section 15.08.080. In the event that the Recreation Superintendent denies an application, applicant can appeal said denial to the Recreation Commission. The decision of the Recreation Commission shall be final. (Ord. 3626 §1, 1974.)

15.08.130 Requirement and Payment of Fees.

Upon approval of the application as provided in Section 15.08.120, the applicant shall apply to the City Tax and Permit Inspector, in the manner prescribed by the Recreation Director, for a permit to exhibit, and shall furnish a photograph of applicant, of passport size, to affix to said permit. In the event that permits for the maximum number of exhibitors as provided in Section 15.08.110 have already been issued and remain in effect, no permit shall be issued and the applicant shall be placed on a waiting list. If a permit is issued, it shall be displayed by exhibitor in a manner prescribed by the Recreation Director.

The applicant shall pay the fees required by this Chapter as established by resolution of the City Council.

Permits issued pursuant to this chapter may be renewed, at expiration, for additional one year periods, upon repayment of the fee provided in this section. (Ord. 4401, 1986; Ord. 4239, 1984; Ord. 4146, 1982; Ord. 3982, 1979; Ord. 3914 §1, 1977; Ord. 3851, 1976; Ord. 3776, 1975; Ord. 3626 §1, 1974.)

15.08.140 State Board of Equalization Permits.

Prior to exhibiting any art or craft at the Arts and Crafts Show, all exhibitors shall first obtain a "Sellers Permit" from the California State Board of Equalization. Said permit shall be displayed by exhibitor in a manner prescribed by the Recreation Superintendent. (Ord. 3626 §1, 1974.)

15.08.150 Revocation of Permit.

Any violation of the provisions of this chapter or of the rules and regulations promulgated pursuant to this chapter shall be grounds for the suspension or revocation by the Recreation Director of the permit issued to the exhibitor without refund of the permit fee. Such action may be appealed to by filing written notice with the Recreation Commission within 10 days of the decision. The Commission shall either affirm, modify or rescind the decision of the Recreation Director and may elect to hold an informal hearing on the appeal. The decision of the Recreation Commission may be appealed to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4239, 1984; Ord. 3626 §1, 1974.)

15.08.160 Exemption from Business Tax.

Exhibitors having valid and current permits pursuant to this chapter shall be exempt from the provisions of Chapter 5.04 of this Code, Business Tax, with respect to activities conducted at the Santa Barbara Arts and Crafts Show. (Ord. 3626 §1, 1974.)

15.08.170 Administration by the Advisory Committee.

The Recreation Superintendent, with the approval of the City Administrator, may delegate to the Advisory Committee, any of the administrative functions given him in this chapter. Any such delegation may be terminated by the Recreation Superintendent at any time. Upon such termination, the Recreation Superintendent shall again perform these administrative functions. (Ord. 3626 §1, 1974.)

15.08.180 Penalty for Violations.

A violation of any provision of Chapter 15.08 shall constitute an infraction. (Ord. 4067, 1980; Ord. 3776, 1975; Ord. 3626 §2, 1974.)

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Chapter 15.16

PUBLIC BEACHES AND PARKS

Sections:

15.16.010 Selling or Soliciting.
15.16.020 Signs and Advertising.
15.16.060 Recreational Vehicles and Camping in Public Areas - Definitions.
15.16.070 Unlawful Areas to Camp.
15.16.080 Recreational Vehicles - Unlawful Areas to Use.
15.16.085 Unlawful Areas to Sleep.
15.16.090 Posted Areas - Lawful to Camp.
15.16.110 Construction of Structures and Parking Areas on City-Owned Beach Property.
15.16.120 Findings.
15.16.130 Public Nudity, Offense When.
15.16.150 Damaging Park Property - Prohibited.
15.16.160 Guns and Dangerous Instruments Prohibited.
15.16.170 Powered Models Prohibited.
15.16.175 Skateboard Facilities: Regulations.
15.16.180 Skateboard Facilities: Helmets, Elbow and Knee Pads Required.
15.16.200 Water Pollution Prohibited.
15.16.220 Prohibition of Certain Things.
15.16.240 Disturbing the Peace - Removal From the Park.
15.16.250 Closing.
15.16.260 Closing Times.

15.16.010 Selling or Soliciting.

It shall be unlawful for any person to practice, carry on, conduct, or solicit for any occupation, business or profession in any City park, or on any City beach, or sell or offer for sale therein any service, merchandise, article, or anything whatsoever. This section shall not apply to any person acting pursuant to a contract with the City of Santa Barbara or except as otherwise provided in this Code. (Ord. 4189, 1982; prior Code §32.39.)

15.16.020 Signs and Advertising.

A. PROHIBITION. It is unlawful for any person upon any public beach or in any park within the City to construct, maintain, display or alter or cause to be constructed, maintained, displayed or altered a sign (as defined in Section 22.70.010 of the code) except in conformance with this Section.

B. RECREATION DIRECTOR AUTHORIZATION. The Recreation Director is authorized to issue a permit for a sign which pertains to an event which will take place on a public beach or a public park which will not exceed five days in duration and which conforms to sign standards approved by resolution of the City Council.

C. EXCEPTIONS. A permit for a sign pertaining to an event which does not conform to the sign standards adopted by resolution of the City Council may only be issued if an exception from the standards is approved by the Sign Committee upon finding that all of the grounds set forth in Section 22.70.070 exist. The decision of the Sign Committee regarding an exception request shall be final.

D. DEFINITIONS. "Sign" shall have the meaning set forth in Chapter 22.70 of the Santa Barbara Municipal Code. "Event" shall have the meaning set forth in Chapter 9.12 of the Santa Barbara Municipal Code. (Ord. 4382, 1986.)

15.16.060 Recreational Vehicles and Camping in Public Areas - Definitions.

For the purpose of Sections 15.16.060 through 15.16.100 inclusive, the following words and terms are defined as follows:

A. BOAT TRAILER. A vehicle used to convey a boat.

B. CAMP. The use of camping facilities such as tents, tarpaulins or temporary shelters, the use of non-City designated cooking facilities and similar equipment, or the use of cots, beds or hammocks. "Camping" shall not include merely sleeping outside or the use of a sleeping bag, bedroll, or mat, and no more personal possessions than can reasonably be carried by an individual.

C. PUBLIC STREET. Includes streets, roads, highways, alleys, sidewalks, parkways, bridges, culverts, drains and all other facilities and areas necessary for the construction, improvement and maintenance of streets and roads.

D. RECREATIONAL VEHICLE. Shall have the definition set forth in Section 28.04.555 of this Code.
(Ord. 5695, 2015; Ord. 5459, Section 3, 2008; Ord. 4651, 1990; Ord. 4416, 1986; Ord. 4269, 1984; Ord. 4007 §2, 1979; Ord. 3389 §1, 1969; Ord. 3165 §1 (part), 1966; Ord. 3003 §1 (part), 1964; Ord. 2730 §1 (part), 1959.)

15.16.070 Unlawful Areas to Camp.

It shall be unlawful for any person to camp in the following areas except as otherwise provided for:
(1) Any public park;
(2) Any public street;
(3) Any public parking lot or public area, improved or unimproved;
(4) Any public beach between a point representing the prolongation of the easterly City limits as they existed prior to May 31, 1957, and a point representing the prolongation of La Marina Drive. (Ord. 4189, 1982; Ord. 3165 §1 (part), 1966; Ord. 3003 §1 (part), 1964; Ord. 2730 §1 (part), 1959.)

15.16.080 Recreational Vehicles - Unlawful Areas to Use.

It is unlawful for any person to use any recreational vehicle for sleeping, human habitation or camping purposes in any of the following areas except as otherwise provided for:
A. Any public park.
B. Any public street.
C. Any public parking lot or public area, improved or unimproved.
D. Any public beach. (Ord. 5695, 2015; Ord. 4269, 1984; Ord. 4189, 1982; Ord. 3389 §2, 1969; Ord. 3165 §1 (part), 1966; Ord. 3003 §1 (part), 1964.)

15.16.085 Unlawful Areas to Sleep.

It shall be unlawful for any person to sleep:
1. In any public beach during the period of time from one-half hour after sunset to 6:00 A.M.
2. In or on any public street or sidewalk or in or on City walkways, paseos, boardwalks, or other public ways intended for pedestrian or vehicular use and owned or maintained by the City:
3. On the grounds of City owned or maintained buildings, facilities or other improved City property. (Ord. 4652, 1990; Ord. 4421, 1986; Ord. 4416, 1986; Ord. 4189, 1982; Ord. 4007, §3, 1979.)

15.16.090 Posted Areas - Lawful to Camp.

Notwithstanding Sections 15.16.060 - 15.16.100, whenever any or all of any public park or place has been so designated by the Park Commission or the Harbor Commission, within their respective jurisdictions, as a place to do that which is otherwise made unlawful by this Chapter, and signs are posted giving notice of such fact, it shall be lawful to camp or sleep in the place so designated and posted, or, as the case may be, to use any recreational vehicle or temporary recreational vehicle for human habitation or camping purposes in the place so designated and posted. (Ord. 4269, 1984; Ord. 4045, §1, 1980; Ord. 3165 §1(part), 1966; Ord. 3003 §1(part), 1964.)

15.16.110 Construction of Structures and Parking Areas on City-Owned Beach Property.

(a) Except as hereinafter provided, no structure or parking area shall be constructed hereafter on the following described property owned by the City of Santa Barbara:

That property being bound by the southerly right-of-way line of Shoreline Drive and Cabrillo Boulevard on the north, the City limits line now existing at the west line of Santa Barbara Cemetery on the east, the present or future shoreline of the Pacific Ocean on the south and the southerly prolongation of La Marina Drive on the west.

(b) This section shall not prohibit the alteration or repair of any existing structure or parking area nor shall it prohibit the construction of public restroom facilities.

(c) This section shall not prohibit the construction of structures or parking areas on Stearns Wharf or in the area commonly known as the Breakwater which has as its westerly boundary the most westerly portion of an existing boat yard described as Parcel 1 in a lease between the City of Santa Barbara and Kenneth Elmes and Samuel Dabney, Jr., dated January 24, 1961, and as its easterly boundary the most easterly portion of a groin situated immediately to the east of the southerly prolongation of Bath Street. (Ord. 3228 §§1-3, 1967.)

15.16.120 Findings.

The City Council for the City of Santa Barbara hereby declares and finds that, due to the geographical boundaries of the City and its urban characteristics, no beach within the boundaries of the City is an isolated beach, and every beach is used and frequented extensively by its inhabitants. Further, the exposure of the areolas of a female's breasts and male or female genitalia is offensive, and causes discomfort and affront to a substantial number of persons using and frequenting said City beaches regardless of the sexual motives of the offenders. (Ord. 3558 §1, 1972.)

15.16.130 Public Nudity, Offense When.

It is hereby declared a public nuisance and an infraction, as to any person, other than an infant as defined in Webster's Unabridged Dictionary, for any female to expose the areolas of her breasts or for any male or female to expose their genitalia on public beaches or other public streets, parks or other municipal property within the City, to the offense, discomfort or affront of another person, whether or not complaint thereof shall be made by such other person.

The violation of any provision of this section shall constitute an infraction punishable by 1) a fine not exceeding fifty dollars ($50.00) for a first violation; 2) a fine not exceeding one hundred dollars ($100.00) for a second violation of the same ordinance within one (1) year; 3) a fine not exceeding two hundred fifty dollars ($250.00) for each additional violation of the same ordinance within one (1) year. (Ord. 3997, 1979; Ord. 3558 §1, 1972.)

15.16.150 Damaging Park Property - Prohibited.

It shall be unlawful for any person to intentionally, willfully or maliciously injure, destroy, damage or deface any real or personal property owned and/or maintained by the City of Santa Barbara. (Ord. 5159, 2000; Ord. 4189, 1982.)

15.16.160 Guns and Dangerous Instruments Prohibited.

Unless authorized by the Parks Director, no person except an authorized City employee or peace officer shall bring into a City park or possess therein any of the following articles or instruments:

Any firearm or ammunition, any explosive, or incendiary device, any fireworks, air gun, pellet gun, spring gun, slingshot, crossbow, bow and arrow (except as otherwise provided in this section), any weapon or instrument by means of which any missile can be propelled, any instrument which can be loaded with blank cartridges, or any kind of trapping device.

No person shall shoot any of the above-described weapons or instruments into the park limits from outside the limits of a park.

Nothing herein shall prohibit the use of bows and arrows for archery conducted in areas and at times designated for such use by the Director of Parks or Recreation. (Ord. 4189, 1982.)

15.16.170 Powered Models Prohibited.

No person shall operate in any park, any model airplane, boat, car or other similar device that is powered by an internal combustion engine or other similar or electric power source, except in an area and at such times as designated for such use by the Director of Parks or Recreation. (Ord. 4189, 1982.)

15.16.175 Skateboard Facilities: Regulations.

It shall be unlawful for any person to:

(1) Use any publicly owned or publicly operated skateboard facility for any activity other than skateboarding, in-line skating or roller skating unless otherwise authorized by a permit issued by the Parks and Recreation Director;

(2) Use or be upon any publicly owned or publicly operated skateboard facility while under the influence of any alcoholic beverage or drug or under the combined influence of any alcoholic beverage or drug;

(3) Skate, run, or stand on, jump from, or otherwise employ any exterior wall or fence surface while using any publicly owned or publicly operated skateboard facility;

(4) Use or be upon any publicly owned or publicly operated skateboard facility while wearing any audio headset;

(5) Introduce, employ or use any unauthorized equipment, obstacle or apparatus within any publicly owned or publicly operated skateboard facility;

(6) Enter or remain in any publicly owned or publicly operated skateboard facility with any food or beverage; or

(7) Play amplified music in any publicly owned or publicly operated skateboard facility. (Ord. 5159, 2000.)

15.16.180 Skateboard Facilities: Helmets, Elbow and Knee Pads Required.

It shall be unlawful for any person to enter, remain in or use any skateboard facility owned or operated by the City of Santa Barbara unless that person is wearing a helmet, elbow pads, and knee pads. Violation of this provision is an infraction punishable by (1) a fine not exceeding fifty dollars ($50.00) for the first violation, (2) a fine not exceeding one hundred dollars ($100.00) for a second violation of the same ordinance within one (1) year; (3) a fine not exceeding one hundred seventy-five dollars ($175.00) for each additional violation of the same ordinance within one (1) year. (Ord. 5159, 2000; Ord. 5028, 1997).

15.16.200 Water Pollution Prohibited.

No person shall throw, discharge or otherwise deposit or cause or permit to be placed into the waters of any body of water in or adjacent to any City park or any tributary stream, storm sewer, sanitary sewer or drain flowing into such water, any substance, matter or thing, liquid, solid, or gas, which materially impairs the esthetics or usefulness of such water for persons or habitability and/or potability of such water for any animal. (Ord. 4189, 1982.)

15.16.220 Prohibition of Certain Things.

1. The Director of Parks and Recreation may prohibit, remove or require to be removed from any City park or beach any animal, vehicle, equipment, activity, thing or material, the use or presence of which therein is likely to:
   a. Cause an unreasonable risk of harm or danger to any person or damage to any real or personal property.
   b. Cause any unreasonable burden of maintenance or cleanup.
   c. Cause any unreasonable annoyance to any person.
2. No person shall violate any rules or regulations made or lawful directions given by the Director of Parks and Recreation in the exercise of the above authority.
3. No person shall, nor shall any person permit a minor under his or her supervision to:
   a. Play any percussion instrument in any City park without a permit issued by the Director of Parks and Recreation, which shall not be unreasonably withheld.
   b. Swim, wade, dive, wash, play, jump or remain in any Parks and Recreation pond, fountain, percolation pond, reservoir or lake unless such location and area are designated for such uses.
   c. Play baseball, softball, soccer, football rugby, golf, or any other activity in any area other than a baseball, softball, soccer, or football field, or golf course or driving range when such activity unreasonably interrupts the normal use of that facility or creates any unreasonable risk of harm or danger to any person, or will likely cause damage to any personal or public property on or in any City park or beach.
   d. Pitch metal horseshoes in any areas of any park except in a horseshoe pit designated by the Parks Department.
   e. Throw, toss or pitch lawn darts in any City parks.
   f. Throw any rock, can, bottle, or other missile in any City park when said activity causes an unreasonable burden of maintenance, or causes any unreasonable risk of harm or danger to any person, or damage to any personal or public property.
   g. Interfere with any scheduled athletic event by running or walking onto, or remaining on any field when not a member of any participating team.
   h. Launch or land any aircraft, hang glider or parachute, as those terms are defined in Title 18 of this Code, in any developed City park or upon any City beach, except a person may launch and/or land a hang glider on the Douglas Family Preserve within the area posted by the Parks and Recreation Director, and a person may land a hang glider on East Beach in the area between a straight line drawn southerly from and parallel to the western end of the Cabrillo Pavilion parking lot and a straight line drawn southerly from and parallel to the eastern wall of the restroom in Chase Palm Park.
   i. Have in his or her possession on any City beach a glass beverage bottle. (Ord. 5323, 2004; Ord. 5309, 2004; Ord. 5265, 2003; Ord. 4943, 1996; Ord. 4189, 1982.)

15.16.240 Disturbing the Peace - Removal From the Park.

Any person who willfully delays or obstructs any City employee in the performance of his duties in a City park, or who by his conduct, or by threatening or profane language, unreasonably annoys, willfully molests or unreasonably interferes with the use of a City park by any other person, or who has committed a public offense in a City park, shall leave the park upon request made by the Director of Parks or Recreation, any recreation leader, ranger, park attendant, guard or special officer authorized by City or the Director of Parks or Recreation, peace officer or reserve police officer, after a warning has not resulted in cessation of the conduct hereinabove prohibited. (Ord. 4189, 1982.)

15.16.250 Closing.

1. Entering or remaining after closing time. No person shall enter or remain in any City park or portion thereof at any time when the same is closed to the public unless such person is authorized to do so by the City Council, the Director of Parks or Recreation, or the authorized deputy of any of the above.

   The Director of Parks shall, by appropriate signs or other means, give notice of closing times, and he may designate certain areas which will be closed to the public at a regular closing time, regardless of whether or not any outdoor or indoor activity is being or is scheduled to be conducted elsewhere in the park.

2. Activities after closing time. Any portion of a City park or any enclosed building in a City park in which an activity is being conducted or is scheduled to be conducted, with the written permission of the Director of Parks or Recreation, shall not be considered closed after the regular closing time to members of the public who are authorized participants, observers and attendees in said activity, and who are within the permitted portion of the park, the enclosed building, any paths leading thereto from any street, or any other facility, outdoor area, or off-street parking area intended for use in connection therewith, until thirty (30) minutes after the conclusion of the permitted activity. As to other members of the public who are not participants, observers or attendees in an activity being conducted or scheduled to be conducted in any portion of a City park or in any enclosed building therein, the park and all buildings therein shall be considered closed at the regular closing time.

3. Emergency closing. The City Council, Director of Parks, Fire Chief, Chief of Police or an authorized representative may direct any park or designated portion thereof to be closed to protect public property or natural resources within said City park, or any private or public property or natural resources in the vicinity of the park, from imminent damage or destruction or where there is a clear and present danger of a breach of the public peace or safety in said park or portion of a park or in the vicinity thereof. When a City park or portion thereof is closed to the public by the City Council, Director of Parks, Fire Chief or Chief of Police or an authorized representative, pursuant to the above authority or any other proper authority, no person shall enter said park or closed portion thereof after notice of such closing, or fail or refuse to promptly leave same when requested to do so by any guard, watchman, custodian, special officer, police officer or other person authorized by the City Council, Director of Parks, Fire Chief, Chief of Police. (Ord. 4189, 1982.)

15.16.260 Closing Times.

A. Except as otherwise specified in this Chapter, all City park properties shall be closed to public use at 10:00 p.m. and shall remain closed until sunrise the following day.

B. The following facilities shall be closed to the public at designated times:

1. Softball fields, soccer fields, golf courses, and tennis courts - closed one half hour after sunset to sunrise the following day except when such facilities are operating under permit issued by the Recreation Department.

2. Skateboard facilities - closed one half hour after sunset until 8:00 a.m. the following day except when such facilities are operating under permit issued by the Parks and Recreation Director.

3. Skofield Park - closed one half hour after sunset to sunrise the following day.

4. Franceschi Park - closed one half hour after sunset to sunrise the following day.

5. Hilda Ray Park - closed one half hour after sunset to sunrise the following day.

6. Moreton Bay Fig Tree Park - closed one half hour after sunset to sunrise the following day.

7. Hidden Valley Park - closed one half hour after sunset to sunrise the following day.

8. Honda Valley Park - closed one half hour after sunset to sunrise the following day.

9. Mission Historical Park, excluding that portion known as the Rose Garden - closed one half hour after sunset to sunrise the following day. Mission Historical Park includes park on both sides of Alameda Padre Serra, including the Indian ruins and former reservoir, and surrounding areas.

10. Parque de Los Niños - closed one half hour after sunset to sunrise the following day.

11. Douglas Family Preserve – closed one half hour after sunset to sunrise the following day. (Ord. 5323, 2004; Ord. 5159, 2000; Ord. 4930, 1995; Ord. 4669, 1991; Ord. 4421, 1986; Ord. 4416, 1986; Ord. 4365, 1985; Ord. 4323, 1985; Ord. 4189, 1982.)

Chapter 15.20

TREE PLANTING AND MAINTENANCE

Sections:

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15.20.160 Appeals to Parks and Recreation Commission.
15.20.170 Appeals to City Council.
15.20.180 Designation of "Specimen" and "Historic" Trees.

15.20.010 Title.

Recognizing that the urban forest is a valuable asset to the City of Santa Barbara, this chapter shall be known as and may be cited and referred to as the "Street Tree Ordinance of the City of Santa Barbara." (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4245, 1983; Ord. 3000 §1, 1964.)

15.20.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined as follows:

A. DIRECTOR. The person having control and management of the Parks and Recreation Department of the City or the Director's designated representative.

B. GROUND COVER. Includes grass, turf or perennial plants that normally grow in a prostrate manner so as to conceal, or with the purpose of concealing, the ground surface, and that do not exceed eight inches in height, and that will tolerate light pedestrian traffic.

C. HISTORIC TREE. A tree which has been found by the Parks and Recreation Commission, the Historic Landmarks Commission, or the City Council to be a tree of notable historic interest and has been designated by resolution of the City Council as an "historic tree". For purposes of this definition, trees designated by the City Council as an "historic tree" or an "historic landmark tree" shall be treated as 'historic trees".

D. MAINTENANCE or MAINTAIN. For purposes of this Chapter 15.20, maintenance or maintain shall mean the following: pruning, spraying, bracing, root pruning, staking, fertilizing, watering, treating for disease or injury, and other work performed to promote the health, beauty, or adaptability of trees and shrubs, but shall not include the watering of such trees in residential zones.

E. OFFICIAL TREE. A tree so designated by the Director because of its desirable characteristics of growth and beauty with reference to its crown, root structure, and adaptability to local climatic, soil and street conditions. The Director shall keep a list of official trees.

F. PARKWAY STRIP. Either (i) the area between the curb and sidewalk within a fully improved street right-of-way, or (ii) that area extending six feet from the curb towards the nearest right-of-way line in an area with no sidewalk, or (iii) any area within a street right-of-way in which an official or parkway tree is located.

G. PARKWAY TREE. A tree planted or caused to be planted by the City within a street right-of-way.

H. PUBLIC AREA. Parks, playgrounds, areas around public buildings and all other areas under the supervision and maintenance of the City not including any street right-of-way.

I. SHRUB. Woody vegetation or a woody plant having multiple stems and bearing foliage from the ground level up.

J. SPECIMEN TREE. A tree which has been found by the Parks and Recreation Commission to be of high value because of its type and/or age and which has been designated by resolution of the City Council as a "specimen tree".

K. STREET. Shall have the meaning set forth in section 28.04.665 of this Code.

L. TREE. A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, a single trunk rather than several stems.

M. TREE WELL. A planting area found in an otherwise paved street right-of-way. (Ord. 5505, 2009; Ord. 5459, Section 3, 2008; Ord. 5312, 2004; Ord. 4327, 1985; Ord. 4245, 1983.)

15.20.030 Master Street Tree Plan.

All trees within a parkway strip shall be planted and maintained according to the Master Street Tree Plan adopted by the City Council. The Director shall administer the Master Street Tree Plan and, with the approval of the Parks and Recreation Commission, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make such amendment or addition advisable. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4327, 1985; Ord. 4245, 1983.)

15.20.040 Other Plantings or Improvements in Parkway Strips.

It is unlawful to install or plant in a Parkway Strip any of the following without a written permit from the Director: (i) any tree not designated an official tree in the Master Street Tree Plan; (ii) any other plant whose ultimate growing height is over eight inches; or (iii) any other non-living ground cover. The Parks and Recreation Department shall maintain a list of plant materials which comply with the height requirements of this Title. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.050 Director Authority and Responsibility.

The Director is hereby made responsible for inspection, maintenance, removal and replacement of all trees planted in public areas, parkway strips, and tree wells.

The Director shall have authority to remove or replace any tree or other planted improvements within a parkway strip which does not conform to the "Master Street Tree Plan" or this Title.

The Director shall comply with the pruning standards published by the American National Standards Institute [ANSI A300] and the companion best management practices published by the International Society of Arboriculture in the inspection, maintenance, removal, and replacement of all trees planted in public areas, parkway strips, and tree wells with the following exceptions: (1) the Director has the discretion to determine whether or not to prepare written objectives or specifications for pruning activities; and (2) the Director has the discretion to determine the appropriate amount of pruning based on a tree's species, age, health, site, or other factors. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4327, 1985; Ord. 4245, 1983.)

15.20.060 Development Activity - Tree Plans.

The applicant for any activity for which approval by the Architectural Board of Review, the Historic Landmarks Commission, the Single Family Design Board, or the Planning Commission is required by City law shall, concurrently with processing of such application, submit to the Director and the appropriate review body plans for the planting of official trees within any parkway strip on or adjacent to the lot, parcel or building site. The Director may designate the species, kind, number, spacing, and method of planting of such trees and may require the inclusion of root inhibiting barriers. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.070 New Subdivisions - Conformity with Master Street Tree Plan.

No subdivision shall be approved unless it is found to include planting of official trees within the parkway strips in conformity with the "Master Street Tree Plan" and under the Director's supervision. Any such approval shall assure that the costs of planting and first two years maintenance, including irrigation, for all official trees are borne by the subdivider. The Director may require the posting of a performance bond to secure faithful performance of the planting, maintenance, and irrigation obligations in a manner consistent with the security provisions of the Subdivision Map Act (Government Code section 66499 et seq.). (Ord. 5505, 2009; Ord. 4245, 1983.)

15.20.080 Street Improvements - Integration of Plans.

Any proposed change in the direction or width of a public street right-of-way or any proposed street improvement shall, where feasible, incorporate plans for installation of parkway strips. Plans and specifications for planting such areas shall be integrated into the general plan of improvements and it shall be the duty of the City Engineer to coordinate the design of such improvements with the Parks and Recreation Department prior to completion of final overall plans.

In order to provide for coordinating the multiple use of all street improvements, plans and specifications for street planting proposed by the Parks and Recreation Department shall be submitted to the City Engineer, Traffic Engineer and City Planner for their recommendations. (Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.090 Maintenance Responsibility of Property Owner.

An owner of property adjoining a street right-of-way is responsible for maintaining all trees and other vegetation planted between the edge of the pavement nearest said property and the right of way line separating the property from the street, except those trees to be maintained by the Director pursuant to section 15.20.050. This maintenance obligation shall include keeping such area free from weeds or any obstructions inimical to public safety and or contrary to the Master Street Tree Plan. The placing of tar paper, plastic or other material over the ground, or the use of materials or chemicals intended to permanently sterilize the soil in these areas, is prohibited.

Nothing in this chapter shall be deemed to relieve the owner of any property from the duty to keep the property, including any adjacent sidewalks and parkway strip in front thereof, in a safe condition and so as not to be hazardous to public travel. For purposes hereof, "owner" shall include any occupant of property. (Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.100 Abatement of Dangerous Conditions - Authority of Director.

The Director may remove a limb from any tree, regardless of the location of such tree, if in the Director's opinion such removal is necessary to maintain the safety of the public right of way. In the event such tree is on private property, the Director shall notify the property owner of the intent to remove a limb by written notice at least ten (10) days prior to such removal and, where possible, obtain the owner's consent for entry upon the property, except in the case of manifest public danger and immediate necessity. (Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.110 Permit Required for Planting, Maintaining, or Removing any Tree Growing Within a Street Right-of-Way or Public Area.

A. PERMIT REQUIRED. Except for persons acting at the direction of the Director, a written permit shall be required for any person to plant, prune, trim, perform maintenance on, or remove any tree planted in a parkway strip, tree well, public area or street right-of-way.

B. APPLICATION. Whenever a person desires to plant, prune, trim, perform maintenance on, or remove any tree planted in a parkway strip, tree well, public area or street right-of-way, an application shall be filed with the Parks and Recreation Department on forms provided for such purpose. The application shall show clearly, by diagram or plot plan and photograph(s), the location and identity of the tree or trees sought to be planted, maintained or removed; the name and address of the applicant; and such other information as indicated on the form provided.

C. PLANTING. When an application proposes the planting of a tree in a parkway strip, tree well, public area or street right-of-way, the Director shall consider whether the proposed planting conforms to the Master Street Tree Plan. The Director may designate the species, kind, number, spacing, and method of planting of such trees and may require the inclusion of root inhibiting barriers as necessary to conform to the Master Street Tree Plan. The Director may approve, conditionally approve, or deny the application. If the application does not conform to the Master Street Tree Plan, or the applicant does not agree to the Director's conditions of approval, the Director shall deny the application.

D. MAINTENANCE. When an application is submitted for maintenance of a tree planted in a parkway strip, tree well, public area or street right-of-way, the Director shall consider whether the proposed maintenance will benefit the state of the urban forest and may approve, conditionally approve, or deny the application on the basis of that consideration in the sole discretion of the Director. The Director may require written specifications for the work proposed as part of the permit application.

E. REMOVAL. When an application is submitted for the removal of a tree planted in a parkway strip, tree well, public area or street right-of-way, the application shall be processed in accordance with the following procedures:

1. Notice. Any tree for which a removal permit has been requested must be posted with notice of the permit request by the Parks and Recreation Department for at least ten (10) days prior to issuing a permit for removal.

2. Administrative Review. The application shall first be reviewed by the Director to consider whether the removal would benefit the state of the urban forest considering the factors specified in paragraphs 3 and 4 below. If the Director finds that the removal is either: (i) beneficial to the state of the urban forest, or (ii) necessary for public safety, the Director may issue the permit. If the Director finds that the removal will not benefit the state of the urban forest and is not necessary for safety, the Director may deny the application. The Director may also refer the application to the Street Tree Advisory Committee for further review consistent with this Section. Except in cases where the Director finds removal is necessary for public safety, the applicant or any interested person may request review of the application by the Street Tree Advisory Committee and the Parks and Recreation Commission as provided in this Section.

3. Street Tree Advisory Committee. If the application is referred to the Street Tree Advisory Committee by the Director or at the request of the applicant or any interested person, the application shall be presented to the Street Tree Advisory Committee at the next available meeting of the Committee. The Street Tree Advisory Committee shall consider the application and make a recommendation to the Parks and Recreation Commission to approve, conditionally approve, or deny the application. When making its recommendation, the Street Tree Advisory Committee shall consider the following factors:

a. Whether such tree is designated as an historic or specimen tree;

b. Whether the tree species and placement conform to the "Master Street Tree Plan;"

c. The condition and structure of the tree and the potential for proper tree growth and development of the tree canopy;

d. The number and location of adjacent trees on City property and the possibility of maintaining desirable tree density in the area through additional planting on City property; and

e. Any beneficial effects upon adjacent trees to be expected from the proposed removal.

4. Parks and Recreation Commission. Once the Street Tree Advisory Committee has made its recommendation, the application and the Street Tree Advisory Committee's recommendation shall be presented to the Parks and Recreation Commission at the next available meeting of the Commission. After receiving the recommendation of the Street Tree Advisory Committee and a recommendation from the Director, the Parks and Recreation Commission shall approve, conditionally approve, or deny the application. When making its decision, the Parks and Recreation Commission shall consider the following factors:

a. Whether such tree is designated as an historic or specimen tree;

b. Whether the tree species and placement conform to the "Master Street Tree Plan;"

c. The condition and structure of the tree and the potential for proper tree growth and development of the tree canopy;

d. The number and location of adjacent trees on City property and the possibility of maintaining desirable tree density in the area through additional planting on City property; and

e. Any beneficial effects upon adjacent trees to be expected from the proposed removal. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4327, 1985; Ord. 4245, 1983.)

15.20.115 Work Without a Permit – Unlawful Acts.

It is unlawful for any person, except a person acting at the direction of the Director, to plant, prune, trim, perform maintenance on, or remove any tree planted in a parkway strip, tree well, public area or street right-of-way without the permit required pursuant to Section 15.20.110 of this Code. (Ord. 5505, 2009.)

15.20.120 Permit for Maintenance or Removal - Time Limit.

Any work authorized by a permit shall be done under the general supervision of the Director and in accordance with rules established by the Director. All costs incurred in maintaining or removing a tree as permitted pursuant to this Chapter 15.20 shall be borne by the permittee. When a tree is removed under permit, the Director or Parks and Recreation Commission may require a replacement tree to be planted, and all costs related to the replacement tree shall be borne by the permittee. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.130 Conditions of Approval for Maintenance or Removal.

Any person, business, or corporation who receives a permit to maintain or remove an official or parkway tree shall comply with all of the following conditions:

A. Carry public liability and property damage insurance in an amount to be determined by the City Council, and maintain a current certificate of such insurance on file with the City Clerk.

B. Conduct all maintenance activities in compliance with the current pruning standards published by the American National Standards Institute [ANSI A300] and the companion best management practices published by the International Society of Arboriculture. The Director or the Parks and Recreation Commission may require written specifications for the work proposed as a condition of the permit.

C. Post a performance bond in the amount equal to the cost of a proposed job, if required by the Director. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4327, 1985; Ord. 4245, 1983.)

15.20.140 Interference with Work Prohibited.

No person shall interfere, or cause any person to interfere with, any work being done under provisions of this chapter by any employee of the City or any person or firm doing work for the City on bid, hire or assignment. (Ord. 4245, 1983.)

15.20.150 Injuring Trees - Unlawful Acts.

It is unlawful for any person to injure or destroy any tree growing within a City street right-of-way or in public areas by any means, including, but not limited to the following:

A. Constructing a concrete, asphalt, brick or gravel sidewalk or otherwise filling up the ground area around any tree so as to substantially shut off air, light or water from its roots;

B. Piling building equipment, material or any other substance around any tree so as to cause injury;

C. Pouring any deleterious matter on or around any tree or on the surrounding ground, lawn or sidewalk;

D. Posting any sign, poster, notice or otherwise on any tree, tree stake or guard, or fastening any guy wire, cable, rope, nails, screws or other device to any tree, tree stake or guard without having first obtained a permit from the Director;

E. Causing any wire charged with electricity to come in contact with any tree without having first obtained a permit from the Director;

F. Causing any fire or burning near or around any tree. (Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.160 Appeals to Parks and Recreation Commission.

Any applicant or interested person may appeal a decision of the Director regarding a permit required for planting or maintaining a tree in a street right-of-way or public area by filing a written notice thereof with the Parks and Recreation Department within ten days after such decision is made. Implementation of the decision shall be stayed during the pendency of the appeal. The notice shall clearly specify the reasons for the appeal. The appeal shall be placed on the agenda of the Parks and Recreation Commission at its next available meeting. The Parks and Recreation Commission shall make a ruling based on the evidence presented, and may sustain, modify or reverse the decision of the Director. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4245, 1983.)

15.20.170 Appeals to City Council.

Any action of the Parks and Recreation Commission made pursuant to this Chapter 15.20 may be appealed to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 5136, 1999; Ord. 4245, 1983.)

15.20.180 Designation of "Specimen" and "Historic" Trees.

Any recommendation by the Parks and Recreation Commission or the Historic Landmarks Commission to City Council for the designation of a "Specimen" or "Historic" tree shall be preceded by two public hearings, which shall be at least 30 days apart. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4245, 1983.)

Chapter 15.24

PRESERVATION OF TREES

Sections:

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15.24.001 Title.

Recognizing that trees on private property can make valuable contributions to the urban forest of the City of Santa Barbara, this chapter shall be known as and may be cited and referred to as the "Tree Preservation Ordinance of the City of Santa Barbara." (Ord. 5505, 2009.)

15.24.002 Use of American National Standards Institute Pruning Standards.

The City follows the pruning standards published by the American National Standards Institute [ANSI A300] and the companion best management practices published by the International Society of Arboriculture in the care and maintenance of City trees. The City encourages residents to utilize and follow the current standards and best management practices in the care and maintenance of their trees. (Ord. 5505, 2009.)

15.24.010 Definitions.

For the purpose of this Chapter, certain terms and words are hereby defined as follows:

A. TREE. A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, a single trunk rather than several stems;

B. PALM TREE. Any tree from the Palmae plant family;

C. SPECIMEN TREE. Any tree which has been found by the Parks and Recreation Commission to be of high value because of its type and/or age and which has been designated by resolution of the City Council as a "specimen tree";

D. HISTORIC TREE. A tree which has been found by the Parks and Recreation Commission, the Historic Landmarks Commission or the City Council to be a tree of notable historic interest and has been designated by resolution of the City Council as an "historic tree". For purposes of this definition, trees designated by the City Council as an “historic tree” or an “historic landmark tree” shall be treated as ‘historic trees”;

E. DIRECTOR. The Director of the City’s Parks and Recreation Department or the Director’s designated representative.

F. REMOVE A TREE. To cut a tree down or to otherwise remove a tree from its location by any means.

G. SETBACK TREE. A tree located in the front setback of any lot as the term front setback is defined and specified in Title 28 of this Code, the Zoning Ordinance. A tree is a setback tree if more than 50% of the tree trunk, measured at the highest natural grade adjacent to the trunk, is within the front setback.

H. PARKING LOT TREE. A tree situated in a planter required pursuant to Section 28.90.050 of this Code.

I. SIGNIFICANTLY ALTER A TREE. To prune a tree in such a way that either (i) its natural character is significantly altered, or (ii) the height and/or spread of the tree crown is reduced by more than one-quarter within any twelve-month period.

J. TREE CROWN. The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree.

K. TREE ON AN APPROVED PLAN. A tree shown on an approved plan on record with the City for a lot developed with a commercial, multiple-family residential, or industrial use. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4619, 1990; Ord. 4154, 1982; Ord. 3863, 1976; Ord 3360, 1969.)

15.24.020 Prohibition.

Except as provided in Sections 15.24.030 and 15.24.035, it is unlawful for any person to remove or significantly alter or to authorize or allow the removal or significant alteration of any of the following trees without a permit:

A. A setback tree,

B. A parking lot tree,

C. A tree on an approved plan, or

D. A tree designated as an historic or specimen tree by the City Council. (Ord. 5505, 2009; Ord. 5459, 2008; Ord. 5312, 2004; Ord. 4154, 1982; Ord. 3863, 1976; Ord. 3360, 1969.)

15.24.030 Lawful Removal of Trees Without a Permit.

Notwithstanding the prohibition specified in Section 15.24.020, a tree that is subject to the prohibition specified in Section 15.24.020 may be lawfully removed without a permit if the tree satisfies any one of the following definitions:

A. The main trunk of the tree is less than four inches (4") in diameter at a point four feet six inches (4’6”) above the highest natural grade adjacent to the trunk;

B. The tree is diseased, and the tree's condition is a source of present danger to healthy trees in the immediate vicinity; provided, a certificate attesting such condition has been filed with the Parks and Recreation Director by a member of the American Society of Consulting Arborists, an arborist certified by the International Society of Arboriculture, or by an authorized employee of the City Parks and Recreation Department at least forty-eight (48) hours prior to the removal of the tree;

C. The tree is so weakened by age, disease, storm, fire, or any injury so as to cause imminent danger to persons or property; provided, prior written notice of such condition has been given to the Parks and Recreation Director at least forty-eight (48) hours prior to the removal of the tree, or shorter period if approved by the Parks and Recreation Director;

D. The tree is dead; provided, prior written notice of such condition has been given to the Parks and Recreation Director at least forty-eight (48) hours prior to the removal of the tree, or shorter period if approved by the Parks and Recreation Director; or

E. The Fire Department has ordered the tree removed in order to maintain required defensible space on the lot or to comply with the City’s Wildland Fire Plan.

If the tree to be removed pursuant to this Section is located on a lot within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District, and the removal of the tree will significantly affect the exterior visual qualities of the lot, the Parks and Recreation Director or the Community Development Director may require the replacement of the tree with a tree approved by the Historic Landmarks Commission. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 4154, 1982; Ord. 3863, 1976; Ord. 3360, 1969.)

15.24.035 Lawful Significant Alteration of Trees Without a Permit.

Notwithstanding the prohibition specified in Section 15.24.020, a tree that is subject to the prohibition specified in Section 15.24.020 may be significantly altered without a permit if the tree satisfies either of the following definitions:

A. The tree poses a potential danger to persons or property due to age, disease, storm, fire, or other injury; provided:

1. A written report prepared by a member of the American Society of Consulting Arborists or an arborist certified by the International Society of Arboriculture specifying the reason(s) for the reduction and the extent of the proposed work is filed with the Parks and Recreation Director; and

2. An authorized employee of the City Parks and Recreation Department assesses the condition of the tree and approves the proposed work as comporting with sound arboricultural practices as specified in the American National Standards Institute tree pruning standards [ANSI A300].

B. The City Fire Department has ordered the pruning of the tree in order to maintain required defensible space or to comply with the City’s Wildland Fire Plan; provided, the scope of the pruning allowed pursuant to this section is limited to the extent of the pruning specified in the Fire Department order that is filed with the Parks and Recreation Director. (Ord. 5505, 2009; Ord. 5312, 2004.)

15.24.040 Application to Remove a Setback Tree.

When a permit is required for the removal of a setback tree pursuant to this Chapter 15.24, the application for such permit shall be processed as follows (excluding trees on lots within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District, which are processed pursuant to Section 15.24.055):

A. APPLICATION. An application shall be filed with the Parks and Recreation Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. STREET TREE ADVISORY COMMITTEE RECOMMENDATION. The application shall be presented to the Street Tree Advisory Committee at the first available meeting of the Committee following receipt of the application. The Street Tree Advisory Committee may receive a report from the Parks and Recreation Director regarding the application, and the Committee shall make a recommendation to the Parks and Recreation Commission to approve, conditionally approve, or deny the application based on the considerations specified in Section 15.24.080.

C. DECISION ON APPLICATION. The application shall be presented to the Parks and Recreation Commission at the first available meeting of the Commission after the Street Tree Advisory Committee has made its recommendation. After receiving the recommendation of the Street Tree Advisory Committee and a report from the Parks and Recreation Director, the Parks and Recreation Commission shall approve, conditionally approve, or deny the application. When making its decision, the Parks and Recreation Commission shall consider the factors listed in Section 15.24.080 and make one or more of the findings specified in Section 15.24.090. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 3863, 1976; Ord. 3360, 1969.)

15.24.050 Application to Remove a Parking Lot Tree or a Tree on an Approved Plan.

When a permit is required for the removal of a parking lot tree or a tree on an approved plan pursuant to this Chapter 15.24, the application for such permit shall be processed as follows (excluding trees on lots within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District, which are processed pursuant to Section 15.24.055):

A. APPLICATION. An application shall be filed with the Community Development Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. DECISION ON APPLICATION. The application shall be presented to the Architectural Board of Review at the first available meeting of the Board. After receiving a report from the Community Development Director, the Architectural Board of Review shall approve, conditionally approve, or deny the application. When making its decision, the Architectural Board of Review shall consider the factors listed in Section 15.24.080 and make one or more of the findings specified in Section 15.24.090. (Ord. 5505, 2009.)

15.24.055 Application to Remove a Tree Located in El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District.

When a permit is required for the removal of a tree pursuant to this Chapter 15.24, and the tree is located on a lot within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District (except historic or specimen trees, which are processed pursuant to Section 15.24.060), the application for such permit shall be processed as follows:

A. APPLICATION. An application shall be filed with the Community Development Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. DECISION ON APPLICATION. The application shall be presented to the Historic Landmarks Commission at the first available meeting of the Commission. After receiving a report from the Community Development Director, the Historic Landmarks Commission shall approve, conditionally approve, or deny the application. When making its decision, the Historic Landmarks Commission shall consider the factors listed in Section 15.24.080 and make one or more of the findings specified in Section 15.24.090. (Ord. 5505, 2009.)

15.24.060 Application to Remove an Historic or Specimen Tree.

When a permit is required for the removal of an historic or specimen tree pursuant to this Chapter 15.24, the application for such permit shall be processed as follows:

A. APPLICATION. An application shall be filed with the Parks and Recreation Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. STREET TREE ADVISORY COMMITTEE RECOMMENDATION. The application shall be presented to the Street Tree Advisory Committee at the first available meeting of the Committee following receipt of the application. The Street Tree Advisory Committee may receive a report from the Parks and Recreation Director regarding the application, and the Committee shall make a recommendation to the Parks and Recreation Commission to approve, conditionally approve, or deny the application based on the considerations specified in Section 15.24.080.

C. DECISION ON APPLICATION. The application shall be presented to the Parks and Recreation Commission at the first available meeting of the Commission after the Street Tree Advisory Committee has made its recommendation. After receiving the recommendation of the Street Tree Advisory Committee and a report from the Parks and Recreation Director, the Parks and Recreation Commission shall approve, conditionally approve, or deny the application. When making its decision, the Parks and Recreation Commission shall consider the factors listed in Section 15.24.080 and make one or more of the findings specified in Section 15.24.090. (Ord. 5505, 2009.)

15.24.070 Action on Permit Application.

As provided in Sections 15.24.040 through 15.24.060 above, the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review (as applicable) shall vote upon the application within sixty (60) days after it is filed. A majority vote of the members present shall be required to approve a tree removal. A failure to vote to approve, conditionally approve, or deny the application within sixty (60) days shall be deemed an approval of the application without condition. When a decision is made by the appropriate Board or Commission, the City Department processing the application shall notify the applicant in writing of the decision. (Ord. 5505, 2009.)

15.24.080 Considerations for Removal.

The following considerations shall be taken into account by the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review, as applicable, in acting upon a tree removal request made pursuant to this chapter:

A. Whether such tree is designated as an historic or specimen tree;

B. The potential size of the tree in relation to the size of the lot or building site and the size of the proposed or existing improvements;

C. The number and size of other trees which would remain upon the building site after the requested removal;

D. The number and location of adjacent trees on City property and the possibility of maintaining desirable tree density in the area through additional planting on City property;

E. Any beneficial effects upon adjacent trees to be expected from the proposed removal;

F. Whether the tree sought to be removed was planted by or with the permission of the applicant or the applicant's co-tenant at the time such tree was planted.

G. The condition and structure of the tree and the potential for proper tree growth and development of the tree canopy. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 3863, 1976; Ord. 3360, 1969.)

15.24.090 Findings for Removal.

Before approving or conditionally approving an application for the removal of a tree pursuant to this Chapter 15.24, the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review, as applicable, shall make one (1) or more of the following findings:

A. That principles of good forest management will best be served by the proposed removal;

B. That a reasonable and practical development of the property on which the tree is located requires removal of the tree or trees whose removal is sought;

C. That the character of the immediate neighborhood with respect to forestation will not be materially affected by the proposed removal;

D. That topography of the building site renders removal desirable;

E. That regard for the safety of persons or property dictates the removal. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 3863, 1976; Ord. 3360, 1969.)

15.24.100 Appeals to City Council.

Any action of the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review made pursuant to this Chapter 15.24 may be appealed to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5505, 2009; Ord. 5312, 2004; Ord. 5136, 1999; Ord. 3863, 1976.)

15.24.110 Other City Regulations Related to Trees and Landscaping.

For purposes of reference, the following provisions of this Code also concern the maintenance of trees and plants within the City of Santa Barbara:

A. Section 8.04.020.G.5 & 6: Fire Code Vegetation Management and Defensible Space Requirements

B. Chapter 8.20: "Vegetation Obstructing Public Places"

C. Chapter 15.20: "Tree Planting and Maintenance"

D. Chapter 22.10: "Vegetation Removal"

E. Chapter 22.11: "Maintenance of Approved Landscape Plans"

F. Section 22.22.130: "Approval for Construction, Demolition, Moving or Exterior Alteration" (El Pueblo Viejo Landmark District and Brinkerhoff Avenue Landmark District)

G. Chapter 22.68: "Architectural Board of Review" (Landscape Plans)

H. Chapter 22.69: "Single Family Design Board" (Landscape Plans)

I. Chapter 22.76: "View Dispute Resolution Process"

J. Section 28.87.170: "Fences, Walls, Screens and Hedges"

K. Section 28.87.200: "Landscape or Planting Plan Approvals - Standards"

L. Section 28.90.050: "Landscaping and Lighting" (Parking Lot Design Standards)

(Ord. 5505, 2009.)

TITLE 16
Liquid and Industrial Waste Disposal

This title was most recently updated by the following ordinance:

Ordinance No.	Subject	Effective Date	Code Site
5675	Liquid and Industrial Waste Disposal	December 25, 2014	Title 16

TITLE 16

LIQUID AND INDUSTRIAL WASTE DISPOSAL

Chapter: 16.02 General Provisions
Chapter: 16.04 Regulations
Chapter: 16.08 Administration
Chapter: 16.10 Determinations and Charges
Chapter: 16.12 Enforcement
Chapter: 16.14 Abatement
Chapter: 16.15 Urban Pollution Controls Non-Point Source Discharge Restrictions
Chapter: 16.16 Severability

Chapter 16.02

GENERAL PROVISIONS

Sections:

16.02.010 Purpose.
16.02.020 Scope; Conflict With Other Provisions of Code.
16.02.030 Policy.
16.02.040 Definitions.

16.02.010 Purpose.

The purpose of this Title is to protect the Waters of the State; provide against pollution of streams, creeks and storm drains; control and regulate Discharges to storm drains; and to control and regulate all Discharges of Waste or Wastewater into, either directly or indirectly, the sewerage system and Publicly-Owned Treatment Works (POTW) of the City of Santa Barbara. (Ord. 5675, 2014; Ord. 5087, 1998; Ord. 4589, 1989; Ord. 3883, 1977.)

16.02.020 Scope; Conflict With Other Provisions of Code.

A. GENERAL APPLICABILITY. This Title establishes rules, regulations, and standards for the elimination of Pollutants, and governs the quality and quantity of discharged Wastes, the degree of waste pretreatment required, the issuance of Wastewater Discharge Permits, the assessment of fees and charges and the imposition of penalties for violation of this Title. Subject to the exception of subsection B hereof, the provisions of this Title shall apply to all Discharges, directly or indirectly into the ocean, creeks, lagoons, storm drains and other Waters of the State, and to all Discharges of Wastes and Wastewater directly or indirectly into any Community Sewer or POTW of the City. To the extent that the provisions of this Title are in conflict with any other provisions of this Code, this Title shall prevail. It is not intended, however, that this Title shall operate to repeal any other provisions of this Code or to relieve any responsibility or liability imposed by or incurred under any other provision of this Code.

B. AIRPORT DISCHARGE REGULATIONS. The provisions of this Title that control Discharges into the Community Sewer or POTW of the City shall not apply to Discharges of Wastes and Wastewater into a wastewater treatment system for those areas of the City that are provided sewer service by the Goleta Sanitary District (primarily the City Airport). Rules, regulations and standards governing the quality and quantity of discharged Wastes, the degree of required pretreatment, the issuance of Wastewater Discharge Permits, the assessment of fees and charges for discharge into the Goleta Sanitary District treatment or wastewater system, and the enforcement of applicable ordinances, rules and regulations for the Goleta Sanitary District shall be determined by the Goleta Sanitary District and as described in Ordinances of the Goleta Sanitary District as presently enacted or hereinafter amended.
(Ord. 5675, 2014; Ord. 5087, 1998; Ord. 4773, 1992; Ord. 4589, 1989; Ord. 3883, 1977.)

16.02.030 Policy.

A. PROTECTION OF HEALTH, WELFARE AND SAFETY. The City of Santa Barbara protects the health, welfare and safety of its residents by constructing, operating and maintaining a system of local Sewers, pump stations, trunk sewers and interceptors, and liquid waste treatment and disposal facilities that serve homes, industries, commercial establishments, and institutional facilities throughout the City and surrounding area and in accordance with the requirements of State and Federal law. The following policies apply to all Sewage and liquid and industrial Waste discharged directly or indirectly into the POTW:

1. Sewage and liquid and industrial Waste will be accepted into the City sewer system, provided their acceptance will not: (a) threaten or endanger public health, (b) result in Pass Through, (c) create nuisances such as odors, insects, etc., (d) damage structures, (e) impose excessive or unnecessary collection, treatment or disposal costs on the City, (f) significantly interfere with Wastewater collection or treatment processes, (g) interfere with Wastewater and biosolids reclamation processes, (h) exceed quality limits and quantity requirements set forth in this Title or other Applicable Regulations, or (i) cause the City to violate its NPDES Permit.

2. The highest and best use of the sewerage system is the collection, treatment and reclamation or disposal of Commercial, Domestic and Industrial Wastewater.

3. Industrial Users are encouraged to meet the limitations on discharges of industrial Waste and Wastewater through the development and use of recovery and reuse procedures rather than procedures designed solely to meet Discharge limitations.

4. The City is committed to a policy of Wastewater renovation and reuse designed to provide an additional source of water supply and to reduce overall costs of Wastewater treatment and disposal.

5. Optimum use of City facilities may require scheduling discharge of Wastewater during periods of low flow in the sewerage system as established by the Public Works Director.

6. Provisions are made in this Title to regulate industrial and other waste Discharges, to comply with applicable State and Federal government requirements and policies regarding industrial Discharges of Wastes and Wastewaters to Sewers and POTW, and to meet increasingly higher standards for treatment plant effluent quality and related environmental considerations. This Title establishes quantity and quality limitations on Sewage, liquid waste and industrial waste Discharges where such Discharges may adversely affect the sewerage system or the effluent quality. Methods of cost recovery are also established where industrial waste Discharges impose on the City additional, unnecessary or unreasonable collection, treatment, monitoring or disposal costs. Fees and charges for issuance of permits and fines for violations of the provisions of this Title shall be established by resolution of the City Council. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.02.040 Definitions.

Unless otherwise defined herein, terms shall be as adopted in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Waste constituents and characteristics shall be measured in accordance with the procedures established by the Administrator under Section 304(h) of the Federal Act, and as set forth in detail in methods promulgated or approved pursuant to 40 CFR Part 136, Test Procedures for the Analysis of Pollutants. Methods for sampling and analysis of wastewater may deviate from these regulations only when 40 CFR Part 136 fails to address sampling or analytical techniques for a particular Pollutant or when alternative methods of analysis have been approved by the Administrator as equivalent procedures. Unless the context requires a different meaning, the following words shall have the meaning indicated:

A. ADMINISTRATOR. The EPA Administrator or his or her designee.

B. APPLICABLE REGULATION(S). All City, State, and Federal regulations, rules, laws, ordinances, and codes as they apply to Discharges by Users to, on, or in the POTW and/or any Community Sewer.

C. AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER.

1. If the User is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Wastewater Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the User is a partnership or sole proprietorship:

a. A general partner or proprietor, respectively.

3. If the User is a Federal, State, or local government facility:

a. A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

4. The individuals described in subdivisions 1 through 3 above may designate a duly authorized representative if the authorization is in writing. The authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the facility. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the City prior to or together with any document being submitted.

D. BATCH DUMP or BATCH DISCHARGE. The Discharge of concentrated, Non-Compatible Pollutants of a quality or in a manner or method which does not comply with this Title or other applicable State or Federal laws and regulations.

E. BEST MANAGEMENT PRACTICES or BMPs. The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR Part 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

F. BUILDING SEWER. A Sewer conveying Wastewater from the Premises of a User to a Community Sewer.

G. BENEFICIAL USES. Any and all use of the Waters of the State that are protected against quality degradation, including, but not limited to, domestic, municipal, and agricultural use, use for industrial supply, power generation, recreation, aesthetic enjoyment, or navigation, use for the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other beneficial uses, tangible and intangible, as specified by Federal or State law or other Applicable Regulations.

H. BIOCHEMICAL OXYGEN DEMAND or BOD. The quantity of oxygen required for the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g., mg/L).

I. BYPASS. The intentional diversion of waste streams from any portion of a User's treatment facility.

J. CALIFORNIA CODE OF REGULATIONS or CCR. The publication of the State of California government containing finalized State regulations.

K. CATEGORICAL INDUSTRIAL USER. Any User subject to a Categorical Pretreatment Standard or Categorical Standard.

L. CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARDS. Any regulation containing Pollutant Discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Federal Act (33 U.S.C. 1317) that apply to specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

M. CODE OF FEDERAL REGULATIONS or CFR. The publication of the United States government that contains finalized Federal regulations.

N. CITY. City of Santa Barbara.

O. COMMERCIAL USER. Any source of Wastewater Discharge originating from a commercial business.

P. COMMERCIAL WASTEWATER. Liquid wastes originating from a commercial business, excluding Domestic Wastewater and Industrial Wastewater.

Q. COMMUNITY SEWER or SEWER. A sewer owned and operated by the City or other public agency and tributary to the POTW operated by the City.

R. COMPATIBLE POLLUTANT. Pollutants that include Biochemical Oxygen Demand, suspended solids, pH and fecal coliform bacteria. Compatible Pollutants are non-compatible when discharged in quantities that have an adverse effect on the City's collection system, treatment plant or NPDES Permit.

S. CONTAMINATION. An impairment of the quality of the Waters of the State by Waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease, aquatic life, or beneficial uses. Contamination shall include any equivalent effect resulting from the disposal of Wastewater, whether or not Waters of the State are affected.

T. DISCHARGE (including Discharged, Discharging, Discharges). Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, escaping, leaching, dumping, disposing or releasing of any Waste or Wastewater to, on or in the POTW or any Community Sewer.

U. DOMESTIC WASTEWATER. Liquid Wastes (a) from the non-commercial preparation, cooking, and handling of food; or (b) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions and as are distinct from Industrial Wastewater.

V. ENVIRONMENTAL PROTECTION AGENCY or EPA. The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

W. EXISTING SOURCE. Any source of Discharge that is not a “New Source”.

X. FEDERAL ACT. The Federal Water Pollution Control Act, PL 92-500, also known as the Clean Water Act, codified as amended at 33 USC Section 1251 et seq., and any amendments thereto; as well as any guidelines, limitations and standards promulgated by EPA pursuant to the Federal Act.

Y. FOOD ESTABLISHMENT. Any restaurant, kitchen or other similar facility, whether or not operated commercially or for profit, which is required by the County of Santa Barbara to have a permit for the preparation or provision of food for human consumption.

Z. GRAB SAMPLE. A sample that is taken from the wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

AA. HOLDING TANK WASTE. Any waste discharged from a holding tank, including, but not limited to, vessels, chemical toilets, recreational vehicles, septic tanks, and vacuum pump tank trucks.

BB. INCOMPATIBLE POLLUTANT or NON-COMPATIBLE POLLUTANT. Any Pollutant which is not a Compatible Pollutant as defined in Section 16.02.040 of this Title. Incompatible Pollutants shall be regulated by applicable Pretreatment Standards, as set forth in this Title.

CC. INDUSTRIAL USER. Any source of Industrial Wastewater Discharge.

DD. INDUSTRIAL WASTEWATER. All water-carried Wastes, excluding Domestic Wastewater and Commercial Wastewater, resulting from the processing or manufacture of goods or products.

EE. INTERFERENCE. A Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW's treatment processes or operations or the processing, use or disposal of sludge by the POTW; or which causes a violation of the City's NPDES Permit or prevents lawful sludge disposal or use in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Federal Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

FF. LOCAL LIMIT. Specific Discharge limits developed and enforced by the City upon a permitted User to implement general and specific Discharge prohibitions listed in 40 CFR Part 403.5(a)(1) and (b).

GG. LOWER EXPLOSIVE LIMIT or LEL. The minimum concentration of a combustible gas or vapor (usually expressed in percent by volume at sea level) which will ignite if an ignition source (sufficient ignition energy) is present. These concentrations can be found in the National Institute of Occupational Safety and Health Pocket Guide to Chemical Hazards.

HH. MASS EMISSION RATE. The weight of material discharged to the Community Sewer during a given time interval. Unless otherwise specified, the Mass Emission Rate shall mean pounds per day of a particular constituent or combination of constituents.

II. MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

JJ. NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD or STANDARD. Any regulation containing Pollutant Discharge limits promulgated by the EPA in accordance with Sections 307 (b) and (c) of the Federal Act, which applies to Industrial Users. This term includes prohibitive Discharge limits.

KK. NEW SOURCE.

1. Any building, structure, facility or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Federal Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, *provided that*:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or

c. The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered.

2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 16.02.040(KK)(1)(b) or (c) of this Title, but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contract under this paragraph.

LL. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT or NPDES PERMIT. The permit issued to control Discharges from the POTW to Waters of the United States.

MM. NUISANCE. Anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property, or which affects at the same time an entire community or neighborhood or any considerable number of Persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

NN. PASS THROUGH. A Discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the City's NPDES Permit, including an increase in the magnitude or duration of a Discharge.

OO. PATTERN OF NON-COMPLIANCE.

1. Six or more Discharges during a twelve-month period, at least thirty-three percent (33%) of which contain the same Non-Compatible Pollutant in a concentration which exceeds the amount allowed by any applicable regulation; or

2. The failure of a User on three (3) or more occasions within a twelve-month period to file timely any report or other document required to be filed by the User pursuant to any applicable regulation.

PP. PERSON. Any individual, partnership, co-partnership, firm, company, association, corporation, joint stock company, trust, estate, government entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local government entities.

QQ. POLLUTANT. Dredged spoil, solid waste, incinerator residue, filter backwash, sanitary sewage, garbage, sewage sludge, munitions, Medical Waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, and industrial waste, and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

RR. POLLUTION. An alteration of the quality of the Waters of the State by waste to a degree which unreasonably affects or impairs such waters for Beneficial Use or facilities which serve such Beneficial Uses. Pollution may include Contamination.

SS. PREMISES. Any land, including any improvements or structures thereon, which is owned, used, occupied, leased or operated by a User and from or on which Discharges occur or Wastewater is created.

TT. PRETREATMENT. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the Pollutants, unless allowed by an Applicable Pretreatment Standard.

UU. PRETREATMENT FACILITY. Any wastewater treatment system consisting of one or more treatment devices designed to remove sufficient Pollutants from waste streams to allow a User to comply with effluent limits.

VV. PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on a User.

WW. PRETREATMENT STANDARD or STANDARDS. Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

XX. PROCESS WASTEWATER. Any water, which during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product from any industrial, commercial, institutional, or agricultural source.

YY. PROHIBITED DISCHARGE STANDARDS. Absolute prohibitions against Discharge of certain substances, as specified in this Title.

ZZ. PUBLICLY-OWNED TREATMENT WORKS or POTW. A treatment works, as defined by Section 212 of the Federal Act (33 USC Section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastewater and any conveyances which convey Wastewater to a treatment plant.

AAA. PUBLIC WORKS DIRECTOR. The Director of Public Works for the City of Santa Barbara or his or her designated representative.

BBB. SEWAGE. Human excrement and gray water (household showers, dishwashing operations, etc.).

CCC. STANDARD INDUSTRIAL CLASSIFICATION or SIC. The system of classifying industries as identified in the SIC Manual, 1972, Office of Management and Budget, and as may be amended.

DDD. SIGNIFICANT INDUSTRIAL USER or SIU.

1 Any User who has Waste Discharge subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, subchapter N; or

2. Any User who:

a. Discharges an average of 10,000 gallons per day or more of Process Wastewater to the POTW, excluding sanitary, non-contact cooling, and boiler blowdown wastewater; or

b. Contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or

c. Is designated by the City on the basis that the User:

(1) Has a reasonable potential, either individually or in combination with other contributing industries, for adversely affecting the POTW operation or the quality of effluent from the POTW; or

(2) May cause or threaten to cause the City to violate its NPDES Permit; or

(3) Has a reasonable potential to violate any Pretreatment Standard; or

(4) Has in its Waste Discharge an Incompatible Pollutant.

3. The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical Wastewater, excluding sanitary, non-contact cooling and boiler blowdown Wastewater, unless specifically included in the Pretreatment Standard, and the following conditions are met:

a. The Industrial User, prior to the City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

b. The Industrial User annually submits the certification statement required in this Title, together with any additional information necessary to support the certification statement; and

c. The Industrial User never discharges untreated concentrated Wastewater.

EEE. SIGNIFICANT NONCOMPLIANCE or SNC. Any action or conduct by a User which constitutes a violation of any applicable regulation and which consists of one or more of the following:

1. Chronic violations of Wastewater Discharge limits, defined here as those in which 66 percent (66%) or more of all of the measurements taken for the same Pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR Part 403.3(l);

2. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent (33%) or more of all of the measurements taken for the same Pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other Pollutants except pH);

3. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the City determines has caused, alone or in combination with other Discharges, Interference, or Pass Through (including endangering the health and safety of City personnel or the general public);

4. Any Discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a Discharge;

5. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance; or

8. Any other violation or group of violations, which may include a violation of BMPs, which the City determines will adversely affect the operation or implementation of its Pretreatment Program.

FFF. SLUG LOAD or SLUG DISCHARGE. Any Discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards in Chapter 16.04 of this Title. A Slug Discharge is any Discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary Batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the City's regulations, Local Limits or Wastewater Discharge Permit conditions.

GGG. STATE. The State of California, including any department or agency thereof.

HHH. STORM WATER. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

III. TOTAL TOXIC ORGANICS. The sum of all quantifiable values greater than 0.01 mg/L for the toxic organics listed below:

Acenaphthene	4-Chlorophenyl phenyl ether	Benzo(ghi) perylene
Acrolein	4-Bromophenyl phenyl ether	Fluorene
Acrylonitrile	Bis(2-chloroisopropyl) ether	Phenanthrene
Benzene	Bis(2-chloroethoxy) ether	Dibenzo(a,h) anthracene
Benzidine	Methylene chloride	Indeno(1,2,3-cd) pyrene
Carbon tetrachloride	Methyl chloride	Pyrene
Chlorobenzene	Methyl bromide	Tetrachloroethylene
1,2,4-Trichlorobenzene	Bromoform	Toluene
Hexachlorobenzene	Dichlorobromomethane	Trichloroethylene
1,2-Dichloroethane	Chlorodibromomethane	Vinyl chloride
1,1,1-Trichloroethane	Hexachlorobutadiene	Aldrin
Hexachloroethane	Hexachlorocyclopentadiene	Dieldrin
1,1-Dichloroethane	Isophorone	4,4'-DDT
1,1,2-Trichloroethane	Naphthalene	4,4'-DDE
1,1,2,2-Tetrachloroethane	Nitrobenzene	4,4'-DDD
Chloroethane	2-Nitrophenol	alpha-Endosulfan
Bis(2-chloroethyl) ether	4-Nitrophenol	beta-Endosulfan
2-Chloroethyl vinyl ether	2,4-Dinitrophenol	Endosulfan sulfate
2-Chloronaphthalene	4,6-Dinitro-o-cresol	Endrin
p-Chloro-m-cresol	N-nitrosodimethylamine	Endrin aldehyde
Chloroform	N-nitrosodiphenylamine	Heptachlor
2-Chlorophenol	N-nitrosodi-n-propylamine	Heptachlor epoxide
1,2-Dichlorobenzene	Pentachlorophenol	alpha-BHC
1,3-Dichlorobenzene	Phenol	beta-BHC
1,4-Dichlorobenzene	Bis(2-ethylhexyl) phthalate	gamma-BHC
3,3'-Dichlorobenzidine	Butyl benzyl phthalate	delta-BHC

1,1-Dichloroethylene	Di-n-butyl phthalate	Arochlor 1242
1,2-trans-Dichloroethylene	Di-n-octyl phthalate	Arochlor 1254
2,4-Dichlorophenol	Diethyl phthalate	Arochlor 1221
1,2-Dichloropropane	Dimethyl phthalate	Arochlor 1232
1,3-Dichloropropylene	Benzo(a)anthracene	Arochlor 1248
2,4-Dimethylphenol	Benzo(a)pyrene	Arochlor 1260
2,4-Dinitrotoluene	Benzo(b)fluoranthene	Arochlor 1016
2,6-Dinitrotoluene	Benzo(k)fluoranthene	Toxaphene
1,2-Diphenylhydrazine	Chrysene	Fluoranthene
Ethylbenzene	Acenaphthylene	Anthracene
Chlordane (tech and metabolites)		

JJJ. TOTAL SUSPENDED SOLIDS or SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and that is removable by laboratory filtering.

KKK. UNPOLLUTED WATER. Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the City having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

LLL. USER. Any Person who discharges from any Premises used, in whole or in part, and whether intermittently or continuously, for any commercial, industrial, manufacturing, or institutional purpose.

MMM. WASTE. Sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such Waste placed within containers of whatever nature prior to, and for purposes of, disposal.

NNN. WASTEWATER. Liquid and water-carried industrial Wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which contribute to the POTW.

OOO. WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters, that serve to define, classify or measure the contents, quality, quantity and strength of Wastewater.

PPP. WASTEWATER DISCHARGE PERMIT. A permit issued to a User that allows it to discharge Wastewater to the Community Sewer and POTW.

QQQ. WATERS OF THE STATE. Any water, surface or underground, including saline waters within the boundaries of the State as defined in 40 CFR Part 230.3(s). (Ord. 5675, 2014; Ord. 5340, 2004; Ord. 4589, 1989; Ord. 4269, 1984; Ord. 3883 §1, 1977.)

Chapter 16.04

REGULATIONS

Sections:

16.04.010 General Prohibitions on Discharges.
16.04.040 Prohibition on Unpolluted Water.
16.04.050 Slug Discharges.
16.04.070 Limitations on the Use of Commercial Garbage Grinders.
16.04.080 Requirement for Interceptors.
16.04.090 Requirement for Installation of Sampling Box.
16.04.100 Limitations on Point of Discharge.
16.04.110 Holding Tank Waste.
16.04.120 Local Limitations on Wastewater Strength.
16.04.140 Fire Precautions.
16.04.150 Right to Revision.

16.04.010 General Prohibitions on Discharges.

No Person shall introduce or cause to be introduced into a Community Sewer or the POTW any Waste or Wastewater which causes Pass Through or Interference. Additionally, no User shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or Wastewater:

A. That create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees centigrade) using the test methods specified in 40 CFR Part 261.21. Closed-cup flashpoint values may be found in the National Institute of Occupational Safety and Health (NIOSH) *Pocket Guide to Chemical Hazards*;

B. That have a pH lower than 6.0 or greater than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;

C. That contain solids or viscous substances in amounts which will cause obstruction of flow in the POTW resulting in Interference or damage;

D. That include oxygen-demanding substances (BOD, etc.) which are released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

E. That cause the temperature at the POTW to be greater than 104 degrees Fahrenheit (40 degrees centrigrade), impairment or inhibition of biological treatment processes or temperatures of greater than 140 degrees Fahrenheit (60 degrees centigrade) at the point of Discharge;

F. That include petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

G. That result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

H. From any trucked or hauled Pollutants, except at Discharge points designated by the City;

I. That are noxious or malodorous liquids, gases, solids, or other Wastewater which, either singly or by interaction with other Wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the Community Sewer for maintenance and repair;

J. That causes the City's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process;

K. That causes a detrimental environmental impact or a nuisance in the Waters of the State or a condition unacceptable to any public agency having regulatory jurisdiction over the City;

L. That create conditions at or near the City's POTW which violate any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body, or which cause the City to violate its NPDES Permit;

M. Quantities or rates of flow which overload the City's collection or treatment facilities, cause excessive City collection or treatment costs, or use a disproportionate share of the City facilities;

N. That causes an LEL reading of greater than ten percent (10%) as hexane at any point within the POTW. LEL values may be found in the *NIOSH Pocket Guide to Chemical Hazards*;

O. That causes obstruction or increased treatment costs due to the presence of any sand, grit, straw, metal, glass, rags, feathers, tar, plastic, wood, manure, dead animals, offal or any other solid viscous substance which in any way interferes with the proper operation of the POTW; or

P. That causes toxicity at the treatment plant or in the collection system due to the presence of toxic or poisonous substances in sufficient quantities to constitute a hazard to humans or animals, or to create a hazard at the treatment plant, or to injure or interfere with any sewage treatment processes.

Q. Medical Wastes, except as specifically authorized by the Public Works Director in a Wastewater Discharge Permit.

R. Hazardous Waste, which meets the definition under CCR Title 22, Article 11, except as specifically authorized by the Public Works Director in a Wastewater Discharge Permit.

S. Radioactive waste.

T. Containing gasoline, naphtha, petroleum oils or any volatile, flammable or explosive gas, liquid or solid, in sufficient quantities or combinations to constitute a hazard to humans or animals, to create a hazard in the POTW, or to injure or interfere with any sewage treatment process.

Pollutants, substances, or Wastewater prohibited by this Section shall not be processed or stored in such a manner that it could be discharged to the POTW. (Ord. 5675, 2014; Ord. 5078, 1998; Ord. 4589, 1989; Ord. 3883 §1, 1977.)

16.04.040 Prohibition on Unpolluted Water.

A. PROHIBITED DISCHARGE INTO COMMUNITY SEWER. No Person shall discharge or cause to be discharged any Storm Water, surface water, ground water, subsurface drainage, or any uncontaminated, unseptic, or non-septic cooling water, boiler exhaust, blow-off water, non-septic wash-rack drainage, or uncontaminated and non-septic industrial process water, directly or indirectly, to, on or into a Community Sewer unless a permit has previously been issued thereof by the City. The City may approve the Discharge of such water only when no reasonable alternative method of disposal is available.

If a permit is granted for the Discharge of such water into a Community Sewer, the Person shall pay the applicable user charges and fees and meet such other conditions as required by the City. (Ord. 5675, 2014; Ord. 5087, 1998; Ord. 4589, 1989; Ord. 3883, 1977.)

16.04.050 Slug Discharges.

No User shall discharge or cause to be discharged any Slug Load of materials, chemicals, products, or Waste into the POTW. (Ord. 5675, 2014.)

16.04.070 Limitations on the Use of Commercial Garbage Grinders.

Waste from commercial garbage grinders shall not be discharged into a Community Sewer. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.04.080 Requirement for Interceptors.

A. Sand and Oil Interceptors. Sand and oil interceptors shall be provided when, in the opinion of the Public Works Director, they are necessary for the removal of sand or oil. All interceptor units shall be of a type and capacity approved by the Public Works Director and shall be located to be easily accessible for cleaning and inspection. Such interceptors shall be installed, utilized and properly maintained in continuous and efficient operation at all times and at the expense of the User.

B. Food Establishments. Grease and oil interceptors shall be provided at all Food Establishments, or when the Health Officer of the County or the Public Works Director determines that they are necessary for the proper handling of liquid waste containing excessive amounts of grease or oil. No such interceptor shall be required for private dwellings. Grease and oil interceptors shall be installed, utilized and properly maintained in continuous and efficient operation at all times and at the expense of the User. All interceptors shall be of a type, capacity and construction approved in writing by the Public Works Director. Interceptors shall be located so as to be readily and easily accessible for cleaning and inspection and shall be accessible at all times to personnel from the City and the Health Officer of the County for inspection and sampling. Food Establishments which do not have a dishwashing machine or garbage grinder and which show that the Discharge does not contribute grease or oil in excess of the limitations of this Title may apply for a variance from the requirement to install an interceptor. (Ord. 5675, 2014; Ord. 4589, 1989.)

16.04.090 Requirement for Installation of Sampling Box.

When directed by the Public Works Director, Food Establishments shall install a sampling box of a size and type to be specified by the Public Works Director. (Ord. 5675, 2014; Ord. 4589, 1989.)

16.04.100 Limitations on Point of Discharge.

No Person shall discharge any substances directly into a manhole or other opening in a Community Sewer other than through a City-approved Building Sewer. The User must submit a written application and payment of the applicable User charges and fees to the City. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.04.110 Holding Tank Waste.

A User proposing to discharge Holding Tank Waste into a Community Sewer must obtain a City permit. Unless allowed by the City under the terms and conditions of the permit, a separate permit must be obtained for each separate Discharge. This permit will state the specific location of Discharge, the time of day the Discharge is to occur, the volume of the Discharge and the Wastewater Constituents and Characteristics. If a permit is granted for Discharge of such waste into a Community Sewer, the User shall pay the applicable User charges and fees and shall meet such other conditions as required by the City. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.04.120 Local Limitations on Wastewater Strength.

A. LIMITS ON WASTEWATER STRENGTH. No Person shall discharge Wastewater containing an excess of (as a daily maximum):

0.27 milligrams per liter (mg/L) arsenic
0.09 mg/L cadmium
1.1 mg/L copper
0.97 mg/L cyanide
2.0 mg/L lead
0.032 mg/L mercury
1.86 mg/L nickel
0.59 mg/L silver
2.64 mg/L total chromium
7.11 mg/L zinc
9.37 mg/L selenium
0.189 mg/L chlorinated phenolics
42.47 mg/L phenolics
100 mg/L oil or grease of animal or vegetable origin
100 mg/L oil or grease of mineral or petroleum origin
1.3 micrograms per liter (µg/L) endosulfan
0.6 µg/L endrin
0.7 µg/L HCH, or
0.222 mg/L PCBs.

The above limits apply at the point where the Wastewater is discharged to the Community Sewer. All concentrations for metallic substances are for total metal, unless indicated otherwise. The City may impose mass limitation in addition to the concentration-based limitations above.

B. DILUTION PROHIBITED. No User shall ever increase the use of process waste, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limitation, unless expressly authorized by an applicable Pretreatment Standard or Requirement. The City may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in cases when the imposition of mass limitation is appropriate.

C. NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Users must comply with the categorical Pretreatment Standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471.

D. BMPs. The Public Works Director may develop BMPs, by ordinance or in Wastewater Discharge Permits, to implement Local Limits and the requirements of Chapter 16.04. (Ord. 5675, 2014; Ord. 5078, 1998; Ord. 4775, 1992; Ord. 4589, 1989; Ord. 3883, 1977.)

16.04.140 Fire Precautions.

Smoking, open fires, the striking of matches, open flame lamps or lanterns, and electrical equipment and appliances that will generate or produce sparks or fire shall not be permitted in any tunnel, storm drain, Sewer or portion thereof where there is or may be an accumulation of flammable gas in explosive quantities. (Ord. 5675, 2014; Ord. 4589, 1989.)

16.04.150 Right to Revision.

The City reserves the right to establish, by ordinance or in Wastewater Discharge Permits, more stringent Standards or Requirements on Discharges to the POTW consistent with the purpose of this Title. (Ord. 5675, 2014.)

Chapter 16.08

ADMINISTRATION

Sections:

16.08.010	**Baseline Monitoring Report.**	**16.08.100**	**Notification of Potential Problems.**
16.08.020	**Compliance Schedule Progress Report.**	**16.08.120**	**Wastewater Discharge Permits.**
16.08.030	**Reports on Compliance With Categorical Pretreatment Standard Deadline.**	**16.08.130**	**Monitoring Facilities and Sampling Procedures.**
16.08.040	**Compliance Reports.**	**16.08.140**	**Recordkeeping.**
16.08.050	**Hauled Waste Reporting/ Requirements.**	**16.08.150**	**Inspection and Sampling.**
16.08.060	**Certification Requirement.**	**16.08.160**	**Pretreatment.**
16.08.070	**Notification of Changed Discharge.**	**16.08.170**	**Protection From Accidental Discharge.**
16.08.090	**Notification of Violation.**	**16.08.180**	**Confidential Information.**
		16.08.190	**Users Outside City.**
		16.08.200	**Special Agreements**.

16.08.010 Baseline Monitoring Report.

A. REQUIRED REPORTING. Within 180 days after the effective date of a Categorical Pretreatment Standard or 180 days after the final administrative decision made upon a category determination submission under 40 CFR Part 403.6(a)(4), whichever is later, Existing Sources subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the City a report which contains the information listed in Sections 16.08.010.B.1-8 of this Title. At least ninety (90) days prior to commencement of Discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the City a report which contains the information listed in Sections 16.08.010.B.1-5 of this Title. New Sources shall report the method of pretreatment they intend to use to meet applicable Categorical Standards. New Sources shall give estimates of the information requested in Sections 16.08.010.B.4 and .5 of this Title:

B. REQUIRED REPORTING INFORMATION. Users, including Existing Users and New Sources, shall submit to the City within the time limits set forth above, the information provided below:

1. Identifying Information. The User shall submit the name and address of the facility, including the name of the operator and owners:

2. Permits. The User shall submit a list of any environmental control permits held by or for the facility.

3. Description of Operation. The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.

4. Flow Measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the City from each of the following:

a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR Part 403.6(e). (See paragraph B.5.f of this section.)

5. Measurement of Pollutants.

a. The User shall identify the Categorical Pretreatment Standards applicable to each regulated process and any new categorically-regulated processes for Existing Sources.

b. The User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the City) of regulated Pollutants in the Discharge from each regulated process.

c. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported.

d. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard.

e. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

f. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated Wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR Part 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Part 403.6(e), this adjusted limit along with supporting data shall be submitted to the City.

g. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the Administrator determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures approved by the Administrator, including procedures suggested by the City or other parties.

h. The City may allow the submission of a baseline report which utilizes only historical data as long as the data provides information sufficient to determine the need for industrial Pretreatment measures.

i. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the POTW.

6. Compliance Certification. A statement, reviewed by an Authorized Representative of the User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the User to meet the Pretreatment Standards and Requirements.

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

8. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 16.08.060 of this Title and signed by an Authorized Representative of the User. (Ord. 5675, 2014.)

16.08.020 Compliance Schedule Progress Report.

The following conditions shall apply to the schedule required by Section 16.08.010.B.7 of this Title:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the City no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for delay, and if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the City. (Ord. 5675, 2014.)

16.08.030 Reports on Compliance With Categorical Pretreatment Standard Deadline.

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of Wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit to the City a report containing the information described in Section 16.08.010.B.4 and .5 of this Title. For Users subject to equivalent mass or concentration limits established by the City in accordance with the procedures in 40 CFR Part 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 16.08.060 of this Title. (Ord. 5675, 2014.)

16.08.040 Compliance Reports.

A. INDUSTRIAL USER REPORTS. All Significant Industrial Users (Tier I Users in Section 16.08.120.B.1) shall submit reports to the City in accordance with 40 CFR Part 403.12(e) and (h). These reports shall be submitted twice each year for the periods July 1 through December 31 and January 1 through June 30, and shall be due on January 30 and July 30 of each year, respectively. If a User monitors any regulated Pollutant at the appropriate sampling location more frequently than required, using the procedures specified in Section 16.08.130 of this Title, the results of this monitoring shall be included in these reports.

B. PERMITTED USER REPORTS. All other permitted Users (Tier II and Tier III as defined in Section 16.08.120.B.2 and .3) shall submit reports to the City in accordance with its Wastewater Discharge Permit requirements.

C. REQUIRED CERTIFICATION OF REPORTS. All periodic compliance reports must be signed and certified in accordance with Section 16.08.060 of this Title. (Ord. 5675, 2014.)

16.08.050 Hauled Waste Reporting/Requirements.

Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. 5675, 2014.)

16.08.060 Certification Requirement.

A. Certification of Permit Applications and User Reports. All reports shall include the following certification:

"I certify under penalty of perjury that this document and all attachments to it were prepared under my direction or supervision and in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the Person or Persons who manage the system or those Persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations." Reports shall be signed by a responsible corporate officer, general partner, or a duly authorized individual as defined in 40 CFR Part 403.12(l).

B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the City pursuant to Sections 16.02.040.DDD and 16.08.120.D.9 of this Title must annually submit the following certification statement signed in accordance with the signatory requirements in Section 16.02.040.C. This certification must accompany an alternative report required by the City:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ___, I certify, to the best of my knowledge and belief, that during the period from ____ to _____ [month, days, year]:

(1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 16.02.040.DDD of this Title;

(2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information."

(Ord. 5675, 2014; Ord. 4589, 1989.)

16.08.070 Notification of Changed Discharge.

All Users shall promptly notify the City in advance of any substantial change in the volume or character of Pollutants in their Discharge, or of any planned significant changes to the User's operations or system which might alter the nature, quality or volume of the Discharge. The City may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under Section 16.08.120 of this Title, if necessary. (Ord. 5675, 2014.)

16.08.090 Notification of Violation.

If sampling performed by a User indicates a violation, the User must notify the City within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User's facility between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if City has performed the sampling and analysis in lieu of the User.

If the City performed the sampling and analysis in lieu of the User, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. (Ord. 5675, 2014.)

16.08.100 Notification of Potential Problems.

A. REQUIRED NOTICE OF DISCHARGE. In case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a noncustomary Batch Discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Public Works Director of the incident. This notification shall include the location of the Discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the User.

B. REPORT ON DISCHARGE. Within five (5) days following such Discharge, the User shall, unless waived by the Public Works Director, submit a detailed written report describing the cause(s) of the Discharge and measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability that might be incurred as the result of damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant this Title.

C. NOTIFICATION PROTOCOL. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in Section 16.08.100(A). Employers shall ensure that all employees who cause such a Discharge to occur are advised of the emergency notification procedure.

D. NOTICE OF SLUG DISCHARGE. A User is required to notify the Public Works Director immediately of any changes at its facility affecting the potential for a Slug Discharge. (Ord. 5675, 2014.)

16.08.120 Wastewater Discharge Permits.

A. PERMIT ADMINISTRATION. All permits under this Title shall be administered by Public Works Director or designee.

B. MANDATORY PERMITS. Users proposing to connect or to discharge into a Community Sewer must obtain a Wastewater Discharge Permit prior to discharge:

1. Tier I Significant Industrial User - Any User who meets any of the following conditions:
   a. Has a Waste Discharge subject to Categorical Pretreatment Standards;
   b. Has an average Discharge flow of 10,000 gallons per day or more of Process Wastewater to the POTW, excluding sanitary, non-contact cooling water, and boiler blowdown wastewater;
   c. Contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or
   d. Is designated by the City on the basis that the User:
      (1) Has a reasonable potential, either individually or in combination with other contributing industries, for adversely affecting the POTW operation or upon the quality of effluent from the POTW;
      (2) May cause or threaten to cause the City to violate its NPDES permit;
      (3) Has reasonable potential to violate any Pretreatment Standard; or
      (4) Has in its Waste Discharge a toxic Pollutant.
2. Tier II Non-Significant Industrial User - any User who meets any of the following criteria:
   a. Is not required to obtain a Tier I Permit;
   b. Is a Non-Significant Categorical Industrial User;
   c. Has Discharge characteristics greater than typical Domestic Wastewater;
   d. Discharges industrial or commercial wastewater which may have potential effects on the City's POTW; or
   e. Has a reasonable potential to violate any Local Limit, Pretreatment Standard, or Pretreatment Requirement.
3. Tier III Groundwater Dischargers - any User who discharges groundwater to the POTW.

C. OPTIONAL PERMITS. The Public Works Director may issue a Wastewater Discharge Permit upon application and in accordance with the terms of this Title, for any of the following kinds of Users:

1. A User who has elected that user charges and fees be based on an estimation of Wastewater flow;
2. A User who has installed or been required to install equipment designed or intended to reduce Wastewater strength; or
3. A User for whom the Public Works Director has determined that monitoring is required to ensure that Discharges comply with all Applicable Regulations.

D. PERMIT APPLICATION. Prospective or existing Users seeking a Wastewater Discharge Permit shall complete and file with the City an application in the form prescribed by the Public Works Director, accompanied by the applicable fees. The applicant shall be required to submit, in units and terms appropriate for evaluation, the following information:

1. Identifying Information.
   a. The name and address of the facility, including the name of the operator and owner.
   b. Contact information, description of activities, facilities, and plant production processes on the Premises.
2. Environmental Permits. A list of any environmental control permits held by or for the facility.

3. Description of Operations, including all of the information listed below:

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and SIC number(s) of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates the points of Discharge to the POTW from regulated processes.

b. Types of wastes generated and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

c. Number and type of employees, hours of operation, and proposed or actual hours of operation.

d. Type and amount of raw materials processed (average and maximum per day).

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all Sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge.

4. Time and duration of Discharges.

5. The location of monitoring all Wastes covered by the Wastewater Discharge Permit.

6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula (40 CFR Part 403.6(e)). Flow rates should also include the 30-minute peak wastewater flow rate and monthly and seasonal variations if they exist.

7. Measurement of Pollutants.

a. The User shall identify the Categorical Pretreatment Standards applicable to each regulated process and any new categorically-regulated processes for Existing Sources.

b. The User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the City) of regulated Pollutants in the Discharge from each regulated process.

c. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported.

d. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard.

8. Any other information deemed by the Public Works Director to be necessary to evaluate the permit application.

9. Application Signatories and Certifications. All Wastewater Discharge Permit applications must be certified in accordance with Section 16.08.060 of this Title and signed by an Authorized Representative of the User. A facility determined to be a Non-Significant Categorical Industrial User by the Public Works Director pursuant to Section 16.02.040.DDD must annually submit the signed certification statement in Section 16.08.060.B.

E. PUBLIC WORKS DIRECTOR PERMIT REVIEW AND DETERMINATION. The Public Works Director will evaluate the data furnished by the User. After evaluation and acceptance of the data furnished, the Public Works Director may issue a Wastewater Discharge Permit subject to terms and conditions provided herein. The Public Works Director may deny issuance of a permit where the Discharge alone, or in combination with other Discharges, has the potential to cause:

1. Interference;
2. Pass Through;
3. Insufficient capacity; or
4. Risk to health and safety.

F. PERMIT CONDITIONS. Wastewater Discharge Permits shall be subject to all Applicable Regulations, User charges and fees established by the City. The conditions of Wastewater Discharge Permits shall be enforced by the Public Works Director in accordance with all Applicable Regulations.

Wastewater Discharge Permits must contain the following:

1. A statement that indicates the Wastewater Discharge Permit issuance date, expiration date, and effective date.

2. A statement that the Wastewater Discharge Permit is nontransferable.

3. Effluent limits, including BMPs, based on applicable Pretreatment Standards.

4. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of Pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

5. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

6. Requirements to control Slug Discharge, if determined by the Public Works Director to be necessary.

7. Compliance with the Wastewater Discharge Permit does not relieve the User of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge Permit.

8. Wastewater Discharge Permits may include any of the following:

a. Limits on rate and time of discharge and/or requirements for flow regulations and equalization;

b. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of Pollutants into the POTW;

c. Requirements for the development and implementation of spill control plans or other special conditions, including BMPs necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;

d. Development and implementation of waste minimization plans to reduce the amount of Pollutants discharged to the POTW;

e. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

f. Statements of applicable administrative, civil, and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that requirement by applicable Federal, State, or local law; and

g. Other conditions as deemed appropriate by the Public Works Director to ensure compliance with this Title, and State and Federal laws, rules, and regulations.

G. DURATION OF PERMITS. Permits shall be issued for a specified time period, not to exceed five (5) consecutive years from the effective date of the permit. If the User wants to continue discharge after the expiration of the Wastewater Discharge Permit, a Wastewater Discharge Permit application must be submitted a minimum of forty-five (45) days prior to the expiration date of the Wastewater Discharge Permit. If the User submits a completed Wastewater Discharge Permit application and, through no fault of the User, a new Wastewater Discharge Permit is not issued prior to the expiration of the existing Wastewater Discharge Permit, the existing Wastewater Discharge Permit will remain in effect until the City reissues or denies, as the case may be, a new Wastewater Discharge Permit. All Wastewater Discharge Permits issued to a User are void upon issuance of a new Wastewater Discharge Permit to that User.

H. PERMIT FEES. Wastewater Discharge Permit fees shall be set by a resolution of the City Council and shall reflect all costs associated with administering the permit.

I. PERMIT MODIFICATIONS. The terms and conditions of the Wastewater Discharge Permit are subject to modification and change by the Public Works Director prior to the expiration of the permit. The Public Works Director shall attempt to inform the User of modifications to a Wastewater Discharge Permit at least thirty (30) days prior to the modification effective date. Unless the circumstances require otherwise as determined by the Public Works Director, modifications or new conditions to a Wastewater Discharge Permit shall be issued in writing and shall include a reasonable time schedule for compliance. A Wastewater Discharge Permit may be modified for any of the following reasons:

1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements.
2. To address significant alterations or additions to the User's operations, processes, or wastewater volume or character since the time of permit issuance.
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of an authorized Discharge.
4. Information indicating that the permitted User poses a threat to the City's POTW, personnel, or receiving waters.
5. Violation of any terms or conditions of the permit.
6. Misrepresentation or failure to fully disclose all relevant facts in the permit application or in any required reporting.
7. Revision of, or a grant of variance from, any Categorical Pretreatment Standard.
8. To correct typographical or other errors in the permit.

J. NO PERMIT TRANSFER. Wastewater Discharge Permits are issued to a specific User for a specific operation. A Wastewater Discharge Permit shall not be reassigned, transferred or sold to a new or different owner, User, or Premises, or to a new or changed operation at or on any permitted or previously permitted Premises. Wastewater Discharge Permits shall be void upon cessation of operations or transfer to a different User.

K. PERMIT REVOCATION. Any User who violates any of the following conditions of the Wastewater Discharge Permit or of this Title, or applicable State and Federal regulations, is subject to having its permit revoked:

1. Failure to provide prior notification to the Public Works Director of changed conditions pursuant to Section 16.08.070 of this Title;
2. Misrepresentation or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application;
3. Falsifying self-monitoring reports and certification statements;
4. Tampering with monitoring equipment;
5. Refusing to allow the Public Works Director timely access to the facility Premises and/or records;
6. Failure to meet effluent limitations;
7. Failure to pay fines;
8. Failure to pay sewer charges;
9. Failure to meet compliance schedules;
10. Information indicating that the permitted User poses a threat to the City's POTW, personnel, or receiving waters; or

11. Violation of any Pretreatment Standard or Requirement, or any terms of the Wastewater Discharge Permit or this Title. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.08.130 Monitoring Facilities and Sampling Procedures.

A. INSTALLATION OF MONITORING FACILITIES. The Public Works Director shall require the User to construct, at its own expense, monitoring facilities adequate to allow inspection and sampling of the Sewer or internal drainage systems at, upon, or in the User's Premises. The Public Works Director may also require the construction of flow measurement facilities and sampling or metering equipment, and may specify which facilities and equipment shall be provided, installed, and operated at the User's expense. The monitoring facility should normally be situated on the User's Premises, but the Public Works Director may, when such a location would be impractical or would cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles; provided, however, that the User shall be required to comply with all applicable encroachment and other land use requirements.

B. ACCESS TO MONITORING FACILITIES. If the monitoring facility is inside or on the User's Premises, User shall allow ready access for City personnel. Any change to the accessibility of the User's Premises, such as a new lock or combination, must be provided to the Public Works Director within twenty-four (24) hours following the change.

C. OBSTRUCTION TO ACCESS. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the request of the Public Works Director and shall not be replaced. The costs of clearing such access shall be paid by the User. All costs of removing temporary or permanent obstructions shall be paid by the User.

D. CONSTRUCTION OF MONITORING FACILITIES. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City unless a time extension is otherwise granted by the City.

E. SAMPLING PROCEDURES.

1. Except as provided in Subsection 16.08.130.E.2 and .3 of this Chapter, the User must collect Wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Public Works Director. Where time-proportional composite sampling or grab sampling is authorized by the Public Works Director, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, Grab Samples may be required to show compliance with instantaneous limits.

2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Actual sample type requirements shall be included in the Wastewater Discharge Permit.

3. For sampling required in support of the reports required in Sections 16.08.010 and 16.08.030 of this Chapter, a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds, for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Public Works Director may authorize fewer grab samples.

4. For reports required by Section 16.08.040 of this Title, the User is required to collect the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.08.140 Recordkeeping.

Users subject to the reporting requirements of this Title shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Title, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 16.04.120.E of this Title. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Public Works Director. (Ord. 5675, 2014.)

16.08.150 Inspection and Sampling.

The Public Works Director shall have the right to enter the Premises of any User to determine whether the User is complying with all requirements of this Title and any Wastewater Discharge Permit or order issued hereunder. Users shall allow the Public Works Director access to all parts of the Premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. USER SECURITY. Where a User has security measures in force which require proper identification and clearance before entry into its Premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Public Works Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. INSPECTION INSTALLATIONS. The Public Works Director shall have the right to install devices on the User's property, or require installation of devices, as are necessary to conduct sampling and/or metering of the User's operation.

C. DELAY IN ACCESS. Unreasonable delays in allowing the Public Works Director access to the User's Premises shall be a violation of this Title.

D. PUBLIC WORKS DIRECTOR SEARCH WARRANT. If the Public Works Director has been refused access to a building, structure, or property, or any part thereof, and holds a reasonable suspicion that there may be a violation of this Title, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Title or any permit or order issued hereunder, or to protect overall public health, safety, and welfare of the City, the Public Works Director may seek issuance of a search warrant from the City Attorney. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.08.160 Pretreatment.

Users shall meet limitations established herein before Discharging to any Community Sewer. Any facilities required to pretreat Wastewater shall be provided and maintained and continuously operated at the User's expense. Prior to construction of any facility subject to regulation under the provisions of this Title, detailed plans showing pretreatment facilities and operating procedures shall be submitted to the Public Works Director for review, and shall be approved by the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the User of responsibility for modifying the facility as necessary to produce a wastewater that meets the provisions of this Title. Any subsequent changes in the pretreatment facilities or operation thereof shall be reported to and approved by the Public Works Director prior to implementation. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.08.170 Protection From Accidental Discharge.

A. ACCIDENTAL DISCHARGE. Each User shall provide facilities to prevent the accidental Discharge of prohibited materials or other Wastes regulated by this Title. Such facilities shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility.

B. USER RESPONSIBILITY. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying the facility as needed to provide the protection necessary to meet the requirements of this Title. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.08.180 Confidential Information.

Information and data regarding a User obtained from reports, surveys, Wastewater Discharge Permit applications, Wastewater Discharge Permits, monitoring programs, and from the Public Works Director's inspection and sampling activities shall be made available to the public without restriction unless the User specifically requests in writing, and is able to demonstrate to the satisfaction of the Public Works Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be made at the time of submission of the information or data. When sufficiently demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or Pretreatment program and in enforcement proceedings involving the person furnishing the report. Notwithstanding the above, Wastewater Constituents and Characteristics and other effluent data as defined in 40 CFR Part 2.302 shall not be recognized as confidential information and shall be made available to the public without restriction. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.08.190 Users Outside City.

The provisions of this Title shall apply to all Users who discharge Wastewater to, on or into any Community Sewer or the POTW from Premises located inside or outside the City limits. (Ord. 5675, 2014; Ord. 4589, 1989.)

16.08.200 Special Agreements.

Special agreements and arrangements between the City and any Person may be established when, in the opinion of the Public Works Director, unusual or extraordinary circumstances compel special terms and conditions. However, in no instance shall special agreements relieve a Person from compliance with Categorical Pretreatment Limits or the National Pretreatment Regulations found in 40 CFR Part 403. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

Chapter 16.10

DETERMINATIONS AND CHARGES

Sections:

16.10.010 Determination of Components.
16.10.020 Tests, Etc., of Sewage Waste Characteristics.

16.10.010 Determination of Components.

In order to ensure compliance with the local limitations on Wastewater strength in Section 16.04.120 of this Title, a determination of components contained in Sewage, liquid waste, and industrial waste Discharges will be conducted by the Public Works Director. Monitoring will be performed by means of a sampling device approved by the Public Works Director. Sampling, resampling, and laboratory work performed by the City for monitoring will be performed at the expense of the User. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 4286, 1984; Ord. 3883, 1977.)

16.10.020 Tests, Etc., of Sewage Waste Characteristics.

All analyses shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Federal Act and contained in 40 CFR Part 136 and amendments thereto, or with any other test procedures approved by the Administrator. (See 40 CFR Parts 136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR Part 136 does not include sampling or analytical techniques for the Pollutants in question, or where the Administrator determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling procedures approved by the Administrator, including procedures suggested by the City or other parties. (Ord. 5675, 2014; Ord. 4589, 1989.)

Chapter 16.12

ENFORCEMENT

Sections:

16.12.010 Enforcement Response Plan.
16.12.020 Non-Complying Discharges.
16.12.030 Notice of Violation.
16.12.040 Cease and Desist Orders.
16.12.050 Submission of Time Schedule.
16.12.060 Appeals.
16.12.070 Affirmative Defenses to Discharge Violations.

16.12.010 Enforcement Response Plan.

The Public Works Director shall investigate instances of noncompliance with any provision of this Title, or with any Pretreatment Standards and Requirements, as indicated in the reports and notices required under 40 CFR Part 403.12, or indicated by analysis, inspection, and surveillance activities performed by the Public Works Director. The City shall conduct enforcement proceedings in accordance with its Enforcement Response Plan. The Enforcement Response Plan, adopted by resolution of the City Council, is incorporated herein by reference and may be amended from time to time to ensure consistent application of the provisions of this Title and Federal and State regulations. (Ord. 5675, 2014.)

16.12.020 Non-Complying Discharges.

A. NOTIFICATION OF DISCHARGE. Any User who causes or permits a Discharge which violates any applicable law, regulation, or the Wastewater Discharge Permit shall immediately notify the Public Works Director. Notification by the User as required in this Section shall not, however, relieve the User of liability for any expense, loss or damage to any Community Sewer or the POTW which occurs, directly or indirectly, as a result of the Discharge, nor shall notification by the User relieve the User of liability for any expense, fee or fine incurred by the City as a result of the Discharge. No later than fourteen (14) days after the Discharge, the User shall deliver to the Public Works Director a detailed written statement describing the cause(s) of the Discharge and the measures taken and/or to be taken to prevent similar Discharges.

B. NOTICES TO EMPLOYEES. Each User shall make available to its employees, if any, current copies of this Title and all other information or notices sent to the User by the City that describe or discuss effective water pollution control.

C. PREVENTIVE MEASURES. Each User shall eliminate any direct or indirect connection or entry point in the plumbing and/or drainage system on the User's Premises if the connection or entry point can or does allow any Incompatible Pollutant to enter a Community Sewer. Where it would be impracticable or unreasonable to eliminate this kind of connection or entry point, the User shall label these connections and entry points in a manner designed to prevent Persons from causing Incompatible Pollutants to enter the Community Sewer. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.12.030 Notice of Violation.

When the Public Works Director finds that any User has violated, or continues to violate, a provision of this Title, a Wastewater Discharge Permit, an order issued hereunder, a Pretreatment Standard or Requirement, or any applicable local, State or Federal law, the Public Works Director may serve upon such User a written Notice of Violation. Within fourteen (14) calendar days of the date of the Notice of Violation, User shall submit to the City a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions to be taken. Submission of this plan in no way relieves the User of liability for any violations occurring before or after the date of the notice of violation. Nothing in this Section limits the authority of the City to take emergency action, or any other enforcement action, without issuing a Notice of Violation. (Ord. 5675, 2014.)

16.12.040 Cease and Desist Orders.

When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, a Wastewater Discharge Permit, an order issued hereunder, or any other Pretreatment Standards or Requirement, or that the User’s past violations are likely to reoccur, the City may issue an order to the User directing it to cease and desist all violations and directing the User to immediately comply with all requirements of this Title and applicable local, State and Federal law. Nothing in this Section limits the authority of the City to take emergency action, or any other enforcement action, without issuing a Cease and Desist Order. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.12.050 Submission of Time Schedule.

When the Public Works Director finds that a Discharge of Wastewater has been taking place in violation of prohibitions or limitations prescribed in this Title, Wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a Wastewater Discharge Permit, the City may require the User to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the User shall take in order to prevent or correct a violation of any of these requirements.

If the Public Works Director determines that a Discharge has occurred or is occurring, and that the Discharge violates any applicable regulation or Wastewater Discharge Permit, the Public Works Director may require the Person who caused or permitted the Discharge to submit to the City a detailed time schedule of specific actions which the Person shall take in order to prevent or correct any violation of any applicable regulation or Wastewater Discharge Permit. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.12.060 Appeals.

A. REQUEST FOR RECONSIDERATION. Any User, permit applicant, permit holder, or Person affected by any decision, action or determination, including the assessment of fines and civil penalties, Cease and Desist Orders, revocation of a permit, and other administrative remedies, made by the Public Works Director, interpreting or implementing the provisions of this Title or in any permit issued herein, may file with the Public Works Director a written request for reconsideration within fifteen (15) calendar days of such decision, action, or determination, setting forth in detail the facts supporting the User's or Person's request for reconsideration.

B. PUBLIC WORKS DIRECTOR DECISION REMAINS IN EFFECT PENDING APPEAL. The decision, action or determination of the Public Works Director shall remain in effect during such period of reconsideration and during the period of any appeal or judicial review under the provisions of this Code.

C. APPEAL TO CITY COUNCIL. A decision, action or determination of the Public Works Director, after reconsideration is granted or denied, may be appealed to the City Council under the provisions of Chapter 1.30 of this Code, except that, as to decisions to assess administrative penalties in accordance with Chapter 16.12 herein, the time limit for judicial review that is to be found in California Code of Regulations Section 54740.6, as may be amended from time to time, shall control to the extent allowed by law. (Ord. 5675, 2014; Ord. 5078, 1998; Ord. 4589, 1989; Ord. 3883, 1977.)

16.12.070 Affirmative Defenses to Discharge Violations.

A. UPSET.

1. For the purposes of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with applicable Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable Pretreatment Standards if the requirements of Section 16.12.070.A.3 of this Title are met.

3. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed and contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and the User can identify the cause(s) of the upset;

b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

c. The User has submitted the following information to the City within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(1) A description of the indirect Discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

5. Users may seek a judicial determination of a claim of upset only in an enforcement action brought for noncompliance with applicable Pretreatment Standards.

6. Users shall control production of all Discharges to the extent necessary to maintain compliance with applicable Pretreatment Standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. PROHIBITED DISCHARGE STANDARDS.

1. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Chapter 16.04 of this Title if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference, and that either:

a. A Local Limit exists for each Pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

b. No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

C. BYPASS.

1. A User may allow a Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is essential for maintenance to assure efficient operation. A Bypass meeting this limitation is not subject to the provisions of Sections 16.12.070.C.2 or .3 of this Title.

2. Bypass Notifications.

a. If a User knows in advance of the need for a Bypass, it shall submit prior notice to the Public Works Director at least ten (10) days before the date of the Bypass, if possible.

b. A User shall submit oral notice to the Public Works Director of an unanticipated Bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the Bypass. A written submission shall also be provided within five (5) calendar days of the time that the User becomes aware of the Bypass. The written submission shall contain: a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. The Public Works Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

3. Prohibited Bypass.

a. Bypass is prohibited and the Public Works Director may take an enforcement action against a User for a Bypass, unless all of the following are met:

(1) Bypass is unavoidable to prevent loss of life, personal injury or Severe Property Damage, which means substantial physical damage to property, damage to the treatment facilities which causes them to be inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe Property Damage does not mean economic loss caused by delays in production;

(2) There was no feasible alternative to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The User submitted notices as required by Section 16.12.070.C.2 of this Title.

b. The Public Works Director may approve an anticipated Bypass after considering its adverse effects if the Public Works Director determines that the Bypass will meet the three conditions listed in Section 16.12.070.C.3.a of this Title. (Ord. 5675, 2014.)

Chapter 16.14

ABATEMENT

Sections:

16.14.010 Public Nuisance.
16.14.020 Injunction.
16.14.030 Damage to Facilities.
16.14.040 Published Notices of Significant Violators.
16.14.050 Administrative Civil Penalties.
16.14.060 Judicial Civil Penalties.
16.14.070 Criminal Penalties.
16.14.080 Falsifying of Information.
16.14.090 Emergency Suspension.
16.14.100 Termination of Discharge.

16.14.010 Public Nuisance.

Discharges of Wastewater which in any way violate this Title or any permit or order issued by the Public Works Director pursuant to this Title are a public nuisance and shall be corrected or abated as directed by the Public Works Director. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.14.020 Injunction.

When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, a Wastewater Discharge Permit, an order issued hereunder, or any other Pretreatment Standard or Requirement, the Public Works Director may petition the Superior Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge Permit, order, or other requirement imposed by this order on activities of the User. The Public Works Director may also seek such other action as appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.14.030 Damage to Facilities.

When a User causes a Discharge of Waste which obstructs, damages or impairs the POTW or a Community Sewer, the City may assess a charge against the User for the work required to clean or repair the facility and add such charge to the User's sewer service charges. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.14.040 Published Notices of Significant Violators.

The City will publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the City, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance, as defined in Section 16.02.040.EEE of this Title, shall be applicable to all Tier I Users. This term also shall apply to any other Users that violate Sections 16.02.040.EEE.3 and .4, or .8 of this Title, and those Users will also be included in this list. (Ord. 5675, 2014; Ord. 4589, 1989.)

16.14.050 Administrative Civil Penalties.

Any provision of this Title may be enforced by the Public Works Director acting through use of administrative procedures and imposing administrative civil penalties for violations, as follows:

A. The Public Works Director may determine violations of this Title by administrative hearing and, based upon the results of that hearing, order administrative civil penalty(ies) to be assessed against the party responsible for the violation in accord with the provisions of this Title and California Code of Regulations Section 54740.5, as may be amended from time to time.

B. In addition to general enforcement through administrative civil penalties as authorized herein, the Public Works Director is designated to be the hearing officer for administrative enforcement authorized pursuant to California Code of Regulations Sections 54740.5 and 54740.6.

C. Hearing, waiver of hearing, orders, reconsideration, appeal to the City Council, judicial review, delinquencies, lien, and confirmation regarding administrative remedies shall be as provided in accordance with California Code of Regulations Sections 54740.5 and 54740.6, as may be amended from time to time, and as provided in this Title.

D. In determining the amount of civil liability, the hearing officer or board may take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, any economic benefit gained through the User’s violation, the length of time over which the violation occurs and corrective actions taken by the User.

E. Civil penalties may be imposed by the City as follows:

1. In an amount which shall not exceed two thousand dollars ($2,000) for each day for failing or refusing to furnish technical or monitoring reports.

2. In an amount which shall not exceed three thousand dollars ($3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the City.

3. In an amount which shall not exceed five thousand dollars ($5,000) per violation for each day for Discharges in violation of any waste Discharge limitation, permit condition, or requirement issued, reissued, or adopted by the local agency.

4. In an amount which does not exceed ten dollars ($10) per gallon for Discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by a City.

5. The amount of any civil penalties imposed under this section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the Discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for 10 years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of law.

6. All moneys collected under this section shall be deposited in a special account of the City and shall be made available for the monitoring, treatment, and control of Discharges into the City's Community Sewer or POTW or for other mitigation measures.

7. Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.

8. The City may, at its option, elect to petition the Superior Court to confirm any order establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of law.

F. Except as provided in this Section, remedies under this Section are in addition to, and do not supersede or limit the use of, any and all other remedies, civil or criminal, available under this Title and under the statutes and regulations of the State of California and the United States of America. No penalties shall be recoverable under this Section 16.14.050 for any violation for which civil liability is recovered under Section 16.14.060 or California Code of Regulations Section 54740.

G. Administrative remedies, fines and other civil penalties imposed pursuant to the provisions of this Title may, at the sole discretion of the Public Works Director, be added to and collected with the applicable User's sewer service charges.

H. Except as provided in this Section, issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the User. (Ord. 5675, 2014; Ord. 5078, 1998; Ord. 4775, 1992; Ord. 4589, 1989.)

16.14.060 Judicial Civil Penalties.

A. CIVIL PENALTIES. Any User who violated, or continues to violate, any provision of this Title, a Wastewater Discharge Permit, an order issued hereunder, or any other Pretreatment Standard or Requirement, shall be liable to the City for a maximum civil penalty of $25,000 a day for each violation. In the case of an exceedance of a monthly or other long-term average Discharge limit, penalties shall accrue for each day during the period of the violation. The City Attorney, upon order of the City Council, shall petition the Superior Court to impose, assess and recover such sums.

B. ATTORNEY'S FEES. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

C. FACTORS RELEVANT TO LIABILITY. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions taken by the User, the compliance history of the User, and any other factor as justice requires.

D. REMEDIES NOT EXCLUSIVE. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User; provided, however, no liability shall be recoverable under this Section for any violation for which liability is recovered under Section 16.14.050 herein, or California Code of Regulations Section 54740. (Ord. 5675, 2014; Ord. 4775, 1992; Ord. 4589, 1989; Ord. 3883, 1977.)

16.14.070 Criminal Penalties.

Any Person who intentionally or negligently violates any provision of this Title, a Wastewater Discharge Permit, an order issued hereunder, or any other Pretreatment Standard or Requirement, upon conviction shall be liable for a sum not less than $1,000 per violation per day, or for imprisonment for not more than six (6) months in the County jail, or both. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.14.080 Falsifying of Information.

It is unlawful for any Person to make or file, or cause to be made or filed, any statement, representation, record, report, plan or other document which is false and which is required to be made or filed pursuant to any applicable regulation or Wastewater Discharge Permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device, sampling or method required under this Title and shall be subject to any and all enforcement provisions provided in this Title. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

16.14.090 Emergency Suspension.

The Public Works Director may immediately suspend a User's Discharge after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened Discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Public Works Director may also immediately suspend a User's Discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the Community Sewer or POTW, or which presents, or may present, an endangerment to the environment. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Title.

A. NOTIFICATION OF SUSPENSION. Any User notified of a suspension of its Discharge shall immediately stop or eliminate its Discharge. In the event of a User's failure to immediately voluntarily comply with the suspension order, the Public Works Director may take such steps as deemed necessary, including immediate severance of the Sewer connection or turning off water supply, to prevent or minimize damage to the Community Sewer or POTW, its receiving stream, danger to any individuals, or to prevent continued violation of this Title or Wastewater Discharge Permit. The Public Works Director may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Public Works Director that the violation has passed, unless termination proceedings in accordance with Section 16.14.100 of this Title are initiated against the User.

B. USER RESPONSIBILITY. A User responsible, in whole or in part, for any Discharge presenting imminent danger shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Public Works Director prior to the date of any termination hearing under Section 16.14.100 of this Title.

C. COST TO SUSPEND OR MITIGATE. The User is responsible for any costs incurred to suspend or mitigate the impact of the Discharge. Such costs may be added to the User's sewer service charges. (Ord. 5675, 2014.)

16.14.100 Termination of Discharge.

Any User who violates any of the following conditions is subject to Discharge termination:

A. Violation of Wastewater Discharge Permit conditions.

B. Failure to accurately report Wastewater Constituents and Characteristics of its Discharge.

C. Failure to report significant changes in operations or Wastewater Constituents, and Characteristics prior to discharge.

D. Refusal of reasonable access to the User's Premises for the purpose of inspection, monitoring, or sampling.

E. Violation of the Pretreatment Standards in Chapter 16.04 of this Title.

Such User shall be notified of the proposed termination of its Discharge and be offered an opportunity to show why the proposed action should not be taken. Termination of the User's Discharge by the Public Works Director shall not be a bar, or a prerequisite for, taking any other action against the User. (Ord. 5675, 2014; Ord. 4589, 1989; Ord. 3883, 1977.)

Chapter 16.15

Urban Pollution Controls Non-Point Source Discharge Restrictions

Sections:

16.15.010 Water Pollution Prohibited.
16.15.020 Discharges Exempt From Prohibition.
16.15.030 Discharge of Hazardous Substances Prohibited.

16.15.010 Water Pollution Prohibited.

No Person who does not possess a current and valid permit or agreement for the discharge, shall throw, discharge or otherwise deposit or place, or cause or permit to be placed, into the Waters of the State or into any drain, drop inlet, conduit, or natural or artificial watercourse flowing into any storm drain, creek, lagoon or other Waters of the State, any Waste, Medical Waste, Contamination or Pollution or other substance which impairs the quality of the drainage, including, without limitation:

A. Any Pollution or Contamination or any substance, matter, or thing, liquid, solid or gas, which materially impairs the aesthetics or usefulness of such water, except as may be provided for in this Chapter;

B. Any commercial or industrial waste, including, without limitation, any fuel, solvent, detergent, plastic pieces or other pellets, hazardous substances, fertilizers, pesticides, slag, ash, or sludge;

C. Any measurable quantity of heavy metals, including, without limitation, any cadmium, lead, zinc, copper, silver, nickel, mercury or chromium, or the elements of phosphorous, arsenic, or nitrogen;

D. Any animal feces, any animal waste, or animal discharge from confinement facilities for animals, kennel, coup, pen, stable, or recreational or show facilities;

E. Any human feces, diseased matter, or matter containing significant concentrations of fecal coliform, fecal streptococcus, or enterococcus;

F. Any substance having a pH of less than 6 or greater than 9;

G. Any quantity of petroleum hydrocarbons, including, without limitation, any crude oil or any fraction thereof, hydrocarbon fuel, solvent, lubricants, surfactants, waste oil, coolant, or grease;

H. Any water or other solvent or substance used for: commercial or industrial processing; for commercial washing of automobiles or parts of automobiles; for cleaning industrial or commercial operations or Premises; for cleaning debris, Waste or residue collectors; for cleaning carpets, pads, flooring or walkways; or for cleaning construction, pavement, concrete, paint or plaster;

I. Any residue or collection from portable toilets or water softeners;

J. Any water or other solvent or substance collected after the use of the substance to clean, cleanse, flush, rinse or otherwise treat any commercial or industrial premises, process or equipment, or food production;

K. Any water for swimming pools, spas or Jacuzzis; or

L. Any economic poison, toxic or hazardous material.

Any permit for such discharge must be approved by the Public Works Director or a California State official or U.S. Government official having jurisdiction over such discharge. (Ord. 5675, 2014; Ord. 5087, 1998.)

16.15.020 Discharges Exempt From Prohibition.

The following discharges are exempt from the prohibitions of Section 16.15.010 of this Title:

A. Uncontaminated discharges from landscape irrigation;

B. Uncontaminated discharges from water line flushing;

C. Uncontaminated discharges from potable water sources;

D. Uncontaminated discharges from foundation drains;

E. Uncontaminated discharges from footing drains;

F. Uncontaminated discharges from air conditioning condensate;

G. Uncontaminated discharges from irrigation water;

H. Uncontaminated discharges from lawn watering;

I. Uncontaminated discharges from crawl space pumps;

J. Uncontaminated discharges from individual residential automobile washing; and

K. Uncontaminated discharges from street washing, including sidewalk washing. (Ord. 5675, 2014; Ord. 5087, 1998.)

16.15.030 Discharge of Hazardous Substances Prohibited.

No Person shall throw, discharge or otherwise deposit, or cause or permit to be placed, into the Waters of the State or into any drain, drop inlet, conduit, or natural or artificial watercourse flowing into any storm drain, creek, lagoon or other Waters of the State, any quantity of hazardous substance as included or defined in CCR Section 25316, without a permit or agreement approved by the Public Works Director, a California State official or U.S. Government official having jurisdiction over the Discharge. (Ord. 5675, 2014; Ord. 5087, 1998.)

Chapter 16.16

SEVERABILITY

Section:
16.16.010 Severability.

16.16.010 Severability.

If any provision of this Title is invalidated by any court of competent jurisdiction, the remaining provisions of this Title shall not be affected and shall continue in full force and effect. (Ord. 5675, 2014; Ord. 3883, 1977.)

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TITLE 17
Harbor

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5696	Mooring Area in Waterfront	July 2, 2015	Section 17.20.255
5712	Designation of Fishing Areas on Stearns Wharf	September 3, 2015	Section 17.13.060
5728	Definition of “Vessel”	January 14, 2016	Sections 17.04.010, 17.12.050

TITLE 17

HARBOR

Chapter: 17.04 Definitions
Chapter: 17.06 Board of Harbor Commissioners
Chapter: 17.08 Waterfront Director
Chapter: 17.12 Regulations for Use of Harbor
Chapter: 17.13 Stearns Wharf
Chapter: 17.16 Sanitation and Contamination of Harbor Waters
Chapter: 17.18 Live-Aboards
Chapter: 17.20 Slip and Mooring Regulations and Charges
Chapter: 17.24 Wharfage and Dockage Rates
Chapter: 17.28 Business Activity and Advertising in Harbor
Chapter: 17.32 Petroleum Products in Harbor District
Chapter: 17.36 Waterfront Parking
Chapter: 17.40 Reserve for Harbor Preservation

Chapter 17.04

DEFINITIONS

Sections:
17.04.010 Definitions.

17.04.010 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. ANCHOR. A heavy metal device, fastened to chain or line, designed to help hold a vessel in position. (Ord. 5386, 2006.)

B. ANCHORING EQUIPMENT. An Anchor, line or chain and associated gear that is retrievable, stowable, non-permanent ground tackle designed to engage the seafloor and through its resistance to drag maintain a vessel within a given radius. (Ord. 5386, 2006.)

C. BERTH. A water surface area, delineated by either floating or fixed dock structures, intended for the purposes of embarking, disembarking and the wet storage of boats. A Berth is also known as a “Slip.” (Ord. 5386, 2006.)

D. CITY-APPROVED MOORING INSPECTOR. An individual who, by satisfactorily demonstrating appropriate qualifications, has been included on a City-approved list of inspectors eligible to install, inspect and repair ground tackle for Mooring Permittees in the Santa Barbara Mooring Area. (Ord. 5386, 2006.)

E. CITY PIER. The City Pier is located adjacent to the Breakwater at the Southeastern end of Harbor Way in the Santa Barbara Harbor formerly known as the "Navy Pier." (Ord. 5386, 2006; Ord. 4757, 1992.)

F. DINGHY. A small boat used as a tender to a larger vessel. A Dinghy is also known as a “Skiff.” (Ord. 5386, 2006.)

G. DISCHARGE. To spill, leak, pump, pour, emit, empty, dump, deposit, or throw. (Ord. 5386, 2006; Ord. 5282, 2003.)

H. DOCK. A platform, either floating or fixed, provided in a marina for the wet storage of a boat and pedestrian access to and from the boat. (Ord. 5386, 2006.)

I. DOCKAGE. The daily rate assessed a vessel which ties up to any wharf or pier in the Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

J. FLOAT. A wharf, pier, quay or landing. (Ord. 5386, 2006; Prior Code §24.1.)

K. GROUND TACKLE. All equipment used for Mooring or anchoring a vessel securely to the seafloor. (Ord. 5386, 2006.)

L. HARBOR. The area depicted on Exhibit “A” attached to Chapter 17.20 generally bounded by and including Stearns Wharf on the east, the Breakwater on the south, the seawall abutting Harbor Way and the Harbor commercial area on the west, the concrete walkway and seawall along currently-designated Marinas 2, 3 and 4 and including the area commonly known as West Beach on the north. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.1.)

M. HARBOR DISTRICT. The entire Waterfront of the City, including all navigable waters and all tidelands and submerged lands, whether filled or unfilled, situated below the line of mean high tide, bounded by the limits of the City as now fixed or hereafter may be extended. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.1.)

N. HARBORMASTER. The person designated by the Waterfront Director as the division manager of the Operations Division of the Waterfront Department. (Ord. 5386, 2006; Ord. 4757, 1992.)

O. HARBOR PATROL SUPERVISOR. The person designated by the Waterfront Director as the supervisor of the Harbor Patrol Officers in the Operations Division of the Waterfront Department. (Ord. 5386, 2006; Ord. 4757, 1992.)

P. LIVE-ABOARD. The use or occupancy of a vessel for habitation on any four (4) nights during a seven (7) day period. The term does not include the vacation use of a vessel, as defined in Section 17.18.090, by its registered owner and the owner's guests. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 4387, 1986.)

Q. MARINA. A connected system of slips in the Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

R. MARINE SANITATION DEVICE. Equipment on board a vessel that is designed to receive, retain, treat, process, or discharge sewage. (Ord. 5386, 2006; Ord. 5282, 2003.)

S. MINIMUM GROUND TACKLE SPECIFICATIONS. The specifications for Ground Tackle used to moor a vessel, attached as Attachment "A" to the Resolution of the Council of the City of Santa Barbara Establishing Minimum Ground Tackle Specifications and Procedures for Installing, Inspecting and Repairing Moorings in the Santa Barbara Mooring Area, as may be amended from time to time by the Harbor Commission, with which all vessels intending to moor in the City of Santa Barbara Mooring Area must comply. (Ord. 5386, 2006.)

T. MOORING. An Anchor, chain, buoy, pendant, snubber, chafing gear and associated equipment, not typically stowed or carried aboard a vessel when underway, used to engage the seafloor and through its resistance to drag maintain a vessel within a given radius. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.1.)

U. MOORING INSPECTION REPORT. A City form on which a City-Approved Mooring Inspector provides the results and recommendations of a Mooring Inspection. (Ord. 5386, 2006.)

V. MOORING PERMIT. An annual non-transferable Mooring Site rental agreement issued by the Waterfront Director to a Mooring Permittee to place a Mooring and vessel in a Mooring Site in the Santa Barbara Mooring Area. (Ord. 5386, 2006.)

W. MOORING SITE. A designated location within the Santa Barbara Mooring Area assigned by the Waterfront Director through a Mooring Permit to a Mooring Permittee for purposes of Mooring a vessel. (Ord. 5386, 2006.)

X. OPERABLE. A vessel's ability to maneuver safely under its own power from any place in the Harbor District to the open waters of the Pacific Ocean and back to its point of origin. (Ord. 5386, 2006.)

Y. RODE. All gear, collectively, that lies between a boat and its Anchor. (Ord. 5386, 2006.)

Z. SANTA BARBARA MOORING AREA. The area located in the City of Santa Barbara tidal waters east of Stearns Wharf as depicted on the reference map attached as Exhibit "A" to Chapter 17.20. (Ord. 5386, 2006.)

AA. SEASONAL ANCHORAGE. The area depicted on the reference map attached as Exhibit "A" to Chapter 17.20. (Ord. 5386, 2006.)

BB. SEWAGE. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste. (Ord. 5386, 2006; Ord. 5282, 2003.)

CC. SLIP. A docking space for a vessel within the Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

DD. SLIP FEE. The monthly license fee paid by a slip permittee for berthing privileges in the Harbor, including the monthly fees paid for live-aboard privileges if applicable. (Ord. 5420, 2007.)

EE. SLIP PERMIT. A slip rental agreement issued by the Waterfront Director to a Slip Permittee to berth a vessel in a slip in the Santa Barbara Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

FF. SPECIAL ACTIVITY MOORING PERMIT. A Mooring Permit issued by the Waterfront Director to individuals, organizations and governmental entities found to be operating research, scientific, clean-up or other functions necessary to the long-term health and operation of the Harbor District and marine environment, or critical to the safety, welfare and protection of persons and assets within the Harbor District. (Ord. 5386, 2006.)

GG. STEARNS WHARF. The wharf structure and all of its improvements located at the foot of State Street. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 4272, 1984.)

HH. TRANSFER FEE. The fee charged to transfer a Slip Permit. (Ord. 5420, 2007; Ord. 5386, 2006; Ord. 4757, 1992.)

II. VESSEL. A craft whose physical characteristics indicate that it was designed and constructed for the purpose of carrying people or goods over water. (Ord. 5728, 2015.)

JJ. WATERFRONT. The Harbor, Stearns Wharf, West Beach and all City-owned or -operated parking lots and related structures and facilities along Cabrillo Boulevard or Shoreline Drive within the City of Santa Barbara. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 4272, 1984.)

KK. WHARFAGE. The hourly rate assessed any vessel which uses or is tied up to any structure in the Harbor for the loading or unloading of merchandise, excluding the products of commercial fishing. (Ord. 5386, 2006; Ord. 4757, 1992.)

LL. YEAR-ROUND ANCHORAGE. The area depicted on the reference map attached as Exhibit "A" to Chapter 17.20. (Ord. 5728, 2015; Ord. 5386, 2006.)

Chapter 17.06

BOARD OF HARBOR COMMISSIONERS

Sections:

17.06.010 Harbor Commission - Powers and Duties.

17.06.010 Harbor Commission - Powers and Duties.

The Board of Harbor Commissioners shall have the same powers and duties regarding the Waterfront as it possesses with respect to the Harbor pursuant to the provisions of Section 811 of Article VIII of the Charter of the City of Santa Barbara. (Ord. 4272, 1984.)

Chapter 17.08

WATERFRONT DIRECTOR

Sections:

17.08.010 Powers and Duties - Harbor.
17.08.020 Performance by Deputy or Assistant.
17.08.030 Additional Powers and Duties.
17.08.040 Carrying of Firearms.

17.08.010 Powers and Duties - Harbor.

The Waterfront Director, acting under the orders and jurisdiction of the City Administrator, shall have full authority in the enforcement of all provisions of this Code, and all the ordinances and regulations affecting the Waterfront, Stearns Wharf and the Harbor District. The powers and duties of the Waterfront Director shall expressly include, but not be limited to, the following:

A. DESIGNATION OF MOORING AREAS. To designate and mark, by buoys or otherwise, the areas within which vessels of different sizes and classes shall be moored.

B. ASSIGNMENT OF SLIPS. To assign vessels to slips within designated areas in the Harbor. To approve, issue and collect fees for Slip Permits.

C. TERMINATION OF SLIP PERMITS. To terminate Slip Permits pursuant to Section 17.20.005.J herein.

D. ASSIGNMENT OF MOORINGS. To assign moorings to vessels within designated areas in the Harbor District.

E. ORDER VESSEL MOVEMENT. To order the owner of any vessel within the Harbor District to move the vessel to any other position the Waterfront Director may designate in the interest of safety, space limitations, traffic and reduction of risk due to fire, sinking, breakaway or collision. To move the vessel, and to collect moving costs from the vessel's owner, in the event the vessel is not moved by its owner.

F. MOVING VESSELS. To move the vessel, and to collect moving costs from the vessel's owner, in the event the vessel is not moved by its owner.

G. POLICE POWERS. The Waterfront Director and his appointed deputies and assistants are peace officers who make arrests for public offenses.

H. CLOSURE OF STEARNS WHARF. To order the closure of Stearns Wharf to the general public when necessary to protect the public health, safety, or welfare or to maintain Stearns Wharf.

I. COMMERCIAL AND INDUSTRIAL USE OF STEARNS WHARF. To restrict and control the commercial and industrial use made of Stearns Wharf, including the authority to impose fees, in amounts determined by the City Council, for specified activities, to insure that such use is consistent with the recreational nature of Stearns Wharf.

J. REGULATIONS FOR THE USE OF STEARNS WHARF. To adopt and enforce reasonable regulations for the proper use and enjoyment of Stearns Wharf by the public.

K. COLLECTION OF PARKING FEES ON STEARNS WHARF. To collect fees and charges established by Resolution of the City Council for vehicles entering or parking on Stearns Wharf.

L. PARKING REGULATIONS. To establish regulations, including, but not limited to, parking time limitations and procedures for the validation of parking by Stearns Wharf merchants, and by Waterfront Merchants, as necessary for the orderly control of traffic and parking on Stearns Wharf, the Waterfront, and the Harbor District in general.

M. PARKING POLICY. To promulgate parking policy with respect to Stearns Wharf tenants, Waterfront tenants, and their employees in conformance with existing leases and in order to maximize the availability of public parking.

N. GENERAL. The primary duty of the Waterfront Director and his or her deputies and assistants shall be the enforcement of the law in or about the Santa Barbara Harbor, Harbor District, and Waterfront area, or when performing necessary duties with respect to patrons, employees, and properties of the Santa Barbara Harbor, Harbor District, and Waterfront area. (Ord. 5420, 2007; Ord. 5201, 2001; Ord. 4757, 1992; Ord. 4282, 1984; Ord. 4272, 1984; Ord. 4133, 1982; Ord. 4074, 1980; Prior Code Section 24.2.)

17.08.020 Performance by Deputy or Assistant.

Whenever a power is granted to, or duty is imposed upon, the Waterfront Director, the power may be exercised or the duty may be performed by a deputy, or assistant of the Waterfront Director, or by a person authorized, pursuant to law, by the City Administrator, unless this title expressly provides otherwise. (Ord. 4272, 1984; Ord. 4074, 1980; Prior Code Section 24.3.)

17.08.030 Additional Powers and Duties.

The Waterfront Department shall be under the direction of the Waterfront Director. The Waterfront Director shall be subject to the control and general supervision of the City Administrator. All references in the City Charter, this Code or in any ordinance which refer to the position of Harbor Manager, Harbormaster or Harbor Director as the Department Head of the Waterfront Department, shall be deemed to refer to the Waterfront Director, provided that nothing herein shall be construed to change the salary of the Waterfront Director. (Ord. 4757, 1992; Ord. 4272, 1984; Ord. 4074, 1980; Ord. 3919 Section 7, 1977; Ord. 3336 Section 1, 1968.)

17.08.040 Carrying of Firearms.

Subject to the approval of the Waterfront Director, the Harbormaster, the Harbor Patrol Supervisor, and Harbor Patrol Officers may carry firearms while engaged in the performance of their official duties. Prior to carrying firearms, the Harbormaster, Harbor Patrol Supervisor and Harbor Patrol Officers must satisfactorily complete a training course in the carrying and use of firearms which meets the minimum standards prescribed by the Commission on Peace Officers Standards and Training. Once every ninety (90) days, Harbor Patrol Officers shall demonstrate their competency in handling firearms in a manner satisfactory to the Chief of Police. Upon being determined to be competent, said Officers shall be so certified by the Chief of Police for the succeeding ninety (90) day period. The purpose and intent of the authorization to carry firearms in this section is to provide a means of self-defense only. The use and handling of such weapons shall comply in all respects with all applicable rules and regulations of the Fire and Police Commission. (Ord. 5377, 2005; Ord. 4757, 1992; Ord. 4282, 1984; Ord. 4272, 1984; Ord. 4133, 1982; Ord. 4074, 1980; Ord. 3674 Section 2, 1974.)

Chapter 17.12

REGULATIONS FOR USE OF HARBOR

Sections:

17.12.010 Disposition, Etc., of Sunken Vessels, Derelicts, Flotsam, Etc.
17.12.020 Notice of Departure from Harbor.
17.12.030 Launching and Removing Vessels - Procedure.
17.12.040 Public Launching Ramp Fees.
17.12.050 Vessels Berthed, Moored or Anchored in the Harbor District.
17.12.060 Damage to Harbor Equipment.
17.12.070 Information to be Furnished Waterfront Director.
17.12.090 Assumption of Risk by Vessel Owner.
17.12.100 Permission to Leave Vessel by Wharf, Pier, Etc.
17.12.120 Obstructing Access to and Use of Landings, Piers, Fairways, Etc.
17.12.130 Certain Craft Requiring Permit to Cross Main Channel.
17.12.135 Sailboarding Restricted.
17.12.150 Operation of Vessels in Harbor.
17.12.170 Power Driven Vessels and Sail Vessels in Swim Areas.
17.12.180 Places Where Swimming Prohibited.

17.12.010 Disposition, Etc., of Sunken Vessels, Derelicts, Flotsam, Etc.

The Waterfront Director shall take custody of all property found within the Harbor district not in the lawful possession or control of any person. The lawful owners may claim such property by showing proof of ownership and paying all expenses incurred by the Waterfront Director in connection therewith, including charges for raising, keeping and storing the same. If any property is not claimed, and all charges are not paid, within sixty (60) days after the Waterfront Director has taken custody of it, the Waterfront Director is authorized to sell the same as abandoned property in accordance with the terms of existing law. (Ord. 4757, 1992; Prior Code §24.4.)

17.12.020 Notice of Departure from Harbor.

Prior to departure from the Harbor, all boat owners or operators shall report to the Waterfront Director if a slip is to be released, vacated or unoccupied for five (5) or more days. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.6.)

17.12.030 Launching and Removing Vessels - Procedure.

Vessel launching or removal from the Harbor is unlawful, except at public or commercial locations designated for such purpose, without first obtaining permission from the Waterfront Director. (Ord. 4757, 1992; Ord. 4200, 1983; Ord. 2973 §1, 1964; Ord. 2915 §1, 1963; Ord. 2882 §1, 1962; prior Code §24.7.)

17.12.040 Public Launching Ramp Fees.

Fees for the privilege to enter and use the public launching ramp for launching a boat shall be established by City Council resolution. (Ord. 4757, 1992; Ord. 3932 §1, 1977; Ord. 3333, 1968; Ord. 2973, 1964; prior Code §24.7(a).)

17.12.050 Vessels Berthed, Moored or Anchored in the Harbor District.

After December 1, 2015, only Vessels as defined in Section 17.04.010.II. shall be berthed, moored or anchored in the Harbor District. Man-made floating objects that are existing and berthed, moored or anchored in the Harbor District as of December 1, 2015, and do not meet the definition of "Vessel," as set forth in Section 17.04.010.II, shall be allowed to continue to berth, moor or anchor in the Harbor District and shall not be required to meet the definition of Vessel. All other requirements of Title 17 of the Santa Barbara Municipal Code shall apply to these man-made floating objects, with the following exceptions:

1. Waiver of operability requirements described in Section 17.20.005.K.1.
2. No length or beam variations after December 1, 2015. (Ord. 5728, 2015.)

17.12.060 Damaging, Etc., Harbor Property.

It is unlawful for any person to wilfully or carelessly destroy, damage, disturb, deface or interfere with any buoy, float, life preserver, sign, notice or any other municipal or public property within the Harbor district under the jurisdiction of the City, and such person shall make full restitution for any resulting damages to the City. (Ord. 4757, 1992; Prior Code §24.8.)

17.12.070 Information to be Furnished Waterfront Director.

The master and pursers of all vessels using the Harbor or wharves shall furnish the Waterfront Director with information regarding the size and kind of vessel; the amount, kind and value of waterborne freight handled, and the number of passengers carried and submit their papers, including their manifests for inspection, upon demand. (Ord. 4757, 1992; Prior Code §24.9.)

17.12.090 Assumption of Risk by Vessel Owner.

The owner of any vessel shall assume all risk of damage or loss of any kind to his property while it is within the limits of the Harbor district. The City assumes no risk on account of fire, theft, act of God, conditions of the sea, or damages of any kind to vessels. (Ord. 4757, 1992; Prior Code §24.11.)

17.12.100 Permission to Leave Vessel by Wharf, Pier, Etc.

It is unlawful for any person to leave any vessel unattended or unoccupied at, or alongside any public wharf, pier, float, quay or landing without obtaining permission of the Waterfront Director to do so. (Ord. 4757, 1992; Prior Code §24.12.)

17.12.120 Obstructing Access to and Use of Landings, Piers, Fairways, Walkways and Docks.

It shall be unlawful for any person to obstruct access to or use of any public area including landings, piers, fairways, walkways and docks or to berth any vessel where the length of the vessel exceeds the maximum permissible length for the slip as established by resolution of the City Council. (Ord. 5152, 2000; Ord. 4757, 1992; Prior Code §24.14.)

17.12.130 Certain Craft Requiring Permit to Cross Main Channel.

No person shall operate any surfboard, sailboard, paddleboard, raft, or similar craft or device, in or across the main channel, or in area of launching ramps, marinas, and turning basins; without first having obtained permission from the Waterfront Director. (Ord. 4757, 1992; Ord. 4308, 1984; Ord. 2749 §1, 1959; prior Code §24.141.)

17.12.135 Sailboarding Restricted.

No person shall use or operate any sailboard, windsurfer or similar device in the waters bounded by West Beach, Stearns Wharf, the rock groin at the Harbor entrance and an imaginary line connecting the Santa Barbara Harbor Light 4 (located at the end of Stearns Wharf) to Santa Barbara Harbor Breakwater Light (located at the most southeasterly point of the breakwater) between the hours of 12:00 noon to 6:00 p.m. on Sundays during the months of April, May, June and July. (Ord. 4308, 1984.)

17.12.150 Operation of Vessels in Harbor.

It is unlawful for any person to operate a vessel within the Harbor:

1. at a speed greater than five (5) nautical miles per hour;
2. in a manner that creates a wake that causes docks, floating structures or vessels secured to docks or floating structures to move in a way that threatens safety, or damages floating structures or vessels; or
3. in a manner that fails to account for visibility, weather conditions, other vessels, property or for the safety of all persons.

This section shall not apply to public officers in the performance of their official duties or persons issued a special permit by the Waterfront Director. (Ord. 5602, 2012; Ord. 5124, 1999; Ord. 4757, 1992; Ord. 2666 §1, 1958; prior Code §24.16.)

17.12.170 Power Driven Vessels and Sail Vessels in Swim Areas.

It shall be unlawful to operate a power driven vessel, or a sail vessel, within any designated swim area in the Harbor District unless authorized by the Waterfront Director. Swim areas shall be designated by the placement of regulatory buoys. (Ord. 5458, 2008; Ord. 4757, 1992; Ord. 2666 §2, 1958; prior Code §24.17(a).)

17.12.180 Places Where Swimming Prohibited.

No person shall enter the Harbor waters except slip permittees, lessees, licensees and those persons with valid Business Activity Permits, who, in the course of doing boat maintenance are required to be in the water. Swimming is permitted from that portion of West Beach bordered by Stearns Wharf, the rock groin and the navigation channel, and the seaward portion of the sandspit. (Ord. 4757, 1992; Ord. 2749 §2, 1959; prior Code §24.18.)

Chapter 17.13

STEARNS WHARF

Sections:

17.13.010 Vessels Tied Up to Stearns Wharf.
17.13.030 Commercial Photography.
17.13.040 Diving From Stearns Wharf.
17.13.050 Closure of Stearns Wharf.
17.13.060 Stearns Wharf Designated Fishing Areas.

17.13.010 Vessels Tied Up to Stearns Wharf.

A. It is unlawful for any person to leave or permit any vessel to be unattended or unoccupied at, or alongside of, Stearns Wharf without first obtaining the permission of the Waterfront Director.

B. The Waterfront Director may order any vessel to leave Stearns Wharf or to change its location alongside Stearns Wharf, if necessary for the health, safety or welfare of persons on or near the Wharf or for the operational efficiency of Stearns Wharf.

C. Fees, charges, and regulations may be established by City Council Resolution for tie up of vessels at the passenger loading ramp on Stearns Wharf for the primary purpose of embarking or debarking commercial passengers. (Ord. 4757, 1992; Ord. 4272, 1984.)

17.13.030 Commercial Photography.

Commercial, still, motion or sound photography is permitted on Stearns Wharf after doing the following:

A. Obtaining permission of the Waterfront Director; and,

B. Obtaining the appropriate permits from the City of Santa Barbara; and,

C. Paying appropriate fees as established by City Council resolution. (Ord. 4757, 1992.)

17.13.040 Diving From Stearns Wharf.

It is unlawful to dive or jump from Stearns Wharf without the express permission of the Waterfront Director. (Ord. 4757, 1992.)

17.13.050 Closure of Stearns Wharf.

The Waterfront Director may order the closure of Stearns Wharf to the general public when necessary to protect the public health, safety, or welfare or to maintain Stearns Wharf. When closure of Stearns Wharf is directed on a regular basis or at certain prescribed times during the day, notice of said closure shall be posted in a prominent manner at both the pedestrian and vehicle access entrances to Stearns Wharf. (Ord. 5420, 2007.)

17.13.060 Stearns Wharf Designated Fishing Areas.

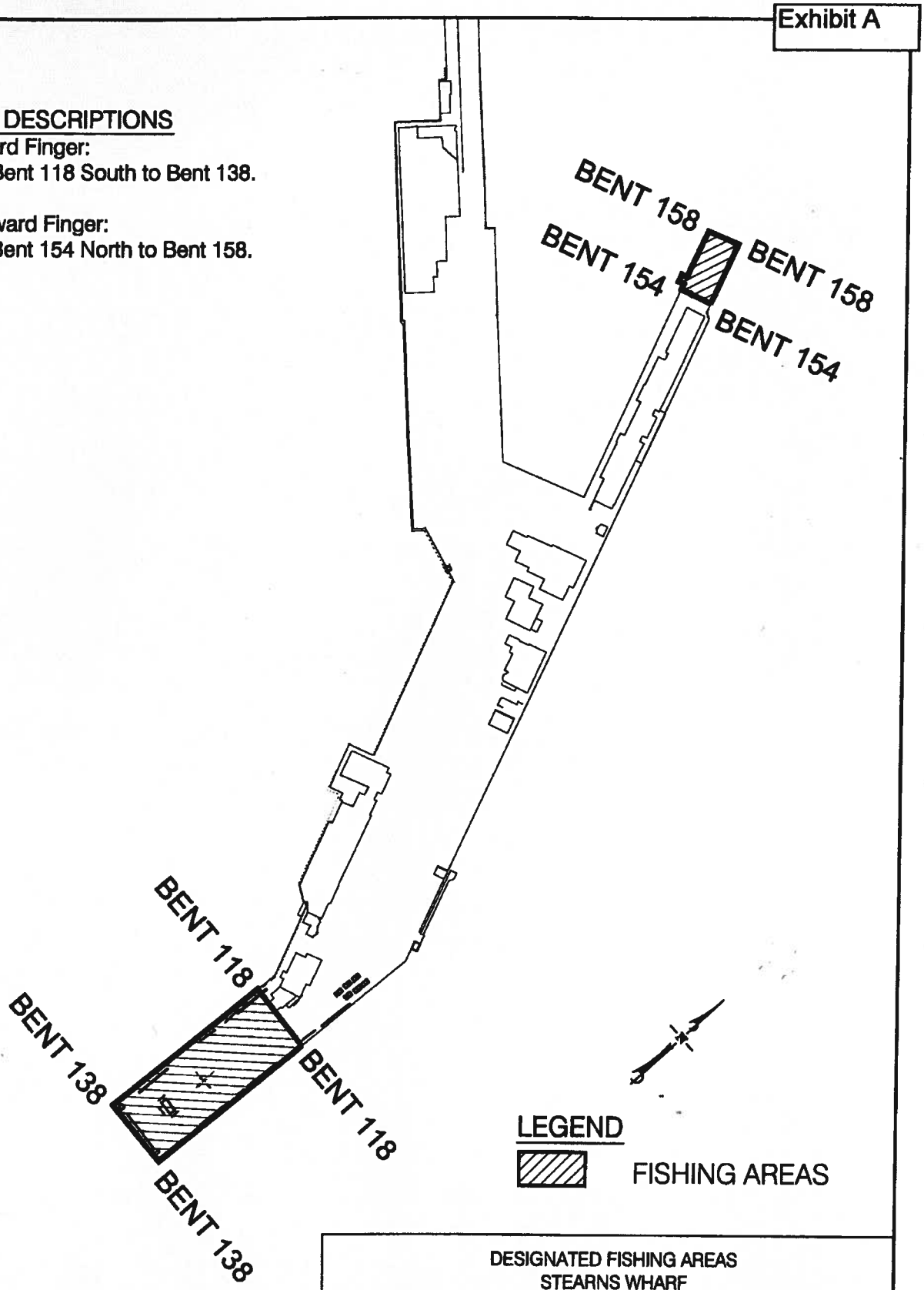
It shall be unlawful to fish from Stearns Wharf except in the areas depicted as “Designated Fishing Areas” on the map attached as Exhibit “A” to Chapter 17.13. The Waterfront Director, or his or her designee, may make temporary changes to the boundaries of the “Designated Fishing Areas” as shown on Exhibit “A” to accommodate special events. Exhibit “A” attached to Chapter 17.13 shall not be revised to reflect such temporary changes, but notice of such temporary changes will be posted at visible locations on Stearns Wharf. (Ord. 5712, 2015.)

Exhibit A

AREA DESCRIPTIONS

Seaward Finger:
From Bent 118 South to Bent 138.

Shoreward Finger:
From Bent 154 North to Bent 158.



DESIGNATED FISHING AREAS STEARNS WHARF				
REVISIONS	DATE: 3/11/2015	SCALE: NONE	APPROVED BY: M.KRONMAN	DRAWN BY: T. LAWLER
	ADDRESS:			SHEET NO. 1 OF 1
	City of Santa Barbara Waterfront Department			DRAWING NAME: 2000-107

rev. 9/30/15

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Chapter 17.16

SANITATION AND CONTAMINATION OF HARBOR WATERS

Sections:

17.16.010 Discharge of Contaminants into Harbor District Waters Unlawful.
17.16.020 Allowing Contaminants to be Washed into Harbor Water Unlawful.
17.16.030 Violation of Section 17.16.010.
17.16.040 Exception to Section 17.16.010.
17.16.050 Throwing or Casting Adrift Navigation Hazards.
17.16.060 Leaving Garbage or Refuse on Shore.
17.16.070 Violation - Penalty.

17.16.010 Discharge of Contaminants into Harbor District Waters Unlawful.

It is unlawful for any person to discharge, either directly or indirectly, any pollutant or contaminating substance or material, including rubbish, trash, litter, sewage, or refuse of any kind into the waters of the Santa Barbara Harbor District. The terms "pollutant" or "contaminating substance" also include ballast water, bilge water or waste water containing or contaminated with any paint, varnish or other insoluble products in a liquid state. The terms "pollutant" or "contaminating substance" shall not include "wash down water", engine discharge or exhaust gas or substances normally contained in such discharges or exhausts, or galley sink, shower or hand basin water. (Ord. 5458, 2008; Ord. 5282, 2003; Ord. 4757, 1992; Ord. 3482 §1, 1971; prior Code §24.20.)

17.16.020 Allowing Contaminants to be Washed into Harbor Water Unlawful.

It is unlawful for any person to deposit, leave or discharge any pollutants or contaminating substances or materials mentioned in Section 17.16.010 of this Chapter upon any street, walkway, breakwater, beach, parking lot or other place, where the same may be washed into the waters of Santa Barbara Harbor, either by tides, storm floods or other drainage. (Ord. 4757, 1992; Ord. 3482 §2, 1971.)

17.16.030 Violation of Section 17.16.010.

Within ten (10) days of a final judicial determination that Section 17.16.010 has been violated by the registered owner or operator of a vessel, the Waterfront Director shall advise the appropriate regional water quality control board, the State Water Quality Control Board, and any other appropriate governmental regulatory body of the facts and circumstances surrounding that finding. (Ord. 5282, 2003; Ord. 4757, 1992; Ord. 3482 §4, 1971.)

17.16.040 Exception to Section 17.16.010.

In an emergency which jeopardizes the safety of any vessel or its occupants, the provisions of Section 17.16.010 are inapplicable if the discharge of any pollutant or contaminating substance mentioned in Section 17.16.010 into the waters of the Harbor district is reasonably necessary to an attempt to avert the emergency. (Ord. 4757, 1992; Ord. 3482 §5, 1971.)

17.16.050 Throwing or Casting Adrift Navigation Hazards.

It is unlawful to dump, throw or set adrift material of any sort into the waters of the Harbor district that is, or might become, obstructive or dangerous to navigation. (Ord. 4757, 1992; Prior Code §24.21.)

17.16.060 Leaving Garbage or Refuse on Shore.

It is unlawful for any person to leave, or allow to remain, garbage of any description upon the shores, lands, floats, slips, or other structures in the Waterfront area. The Waterfront Director may remove the same with or without notice. Any person violating this provision shall be responsible for paying the costs of removal and shall be subject to the penalty provided for violations of this Code. (Ord. 4757, 1992; Prior Code §24.23.)

17.16.070 Violation - Penalty.

In addition to any other remedy or penalty provided by law, the City may, upon repetition of a violation of any of the provisions of this chapter, revoke the right to use or moor, any vessel owned, operated, or used by the violator in the Harbor District.(Ord. 4757, 1992; Ord. 3471 §5, 1971.)

CHAPTER 17.18

LIVE-ABOARDS

Sections:

17.18.010 Permit Required.
17.18.020 Standards for Permit Issuance.
17.18.030 Regulations.
17.18.040 Live-Aboard Permit Expiration, Renewal, and Transfer.
17.18.050 Termination of Live-Aboard Permit.
17.18.060 Fees.
17.18.070 Limitation on Number of Permits.
17.18.080 Penalty for Violation.
17.18.090 Vacation Use Exception.

17.18.010 Permit Required.

It is unlawful for any person to live-aboard in the Santa Barbara Harbor without having been issued a valid live-aboard permit by the Waterfront Director. (Ord. 4757, 1992; Ord. 4387, 1986)

17.18.020 Standards for Permit Issuance.

A. REQUIREMENTS FOR ISSUANCE OF LIVE-ABOARD PERMITS. A live-aboard permit may be issued only if all of the following standards are met:

1. Principal Residence. All applicant(s) for live-aboard permits shall be the registered owner of the vessel to be occupied, and the vessel shall be that person's principal residence, as well as the principal residence, as that term is defined in the U.S. Internal Revenue Code, of any named "Other Occupants" on the applicant's permit.

2. Sanitation. The vessel shall be equipped with a fully operational type I, II, or III Coast Guard-approved marine sanitation device suitable in the opinion of the Waterfront Director to prevent direct discharge of human waste into the Harbor.

3. Slip Permit. The vessel shall occupy a Slip pursuant to a valid Slip Permit but not a yacht brokerage slip as defined in section 17.20.005.F.

4. Live-Aboard Slip Permittee. All applicants for live-aboard permits shall be current slip permittees for the Slip in which the live-aboard vessel is berthed.

5. Number of Applicants. No more than one (1) person may apply for a single live-aboard permit, provided he/she meets the requirements of this Chapter.

B. OTHER OCCUPANTS. For the purpose of this Chapter, “Other Occupants” are defined as persons, other than the live-aboard permittee, living aboard a vessel for which a valid live-aboard permit has been issued and who are listed on that live-aboard permit.

C. MAXIMUM NUMBER OF OTHER OCCUPANTS. No more than four (4) Other Occupants may be added to a live-aboard permit, unless authorized in writing by the Waterfront Director. (Ord. 5420, 2007; Ord. 5273, 2003; Ord. 5023, 1997; Ord. 4757, 1992; Ord. 4387, 1986.)

17.18.030 Regulations.

A. REGISTRATION. All persons living aboard a vessel pursuant to a permit must be registered as a live-aboard with the Waterfront Director and shall be listed as a live-aboard or "Other Occupant" on the live-aboard permit for that vessel.

B. RULES AND REGULATIONS. All persons living aboard a vessel pursuant to a permit shall comply with all regulations, laws, and rules of the Harbor.

C. MONTHLY FEE. The live-aboard permittee shall pay a monthly live-aboard fee in an amount established by resolution of the City Council. The monthly live-aboard fee shall be due and payable to the Waterfront Department as part of and in addition to the monthly Slip Fee.

D. GUESTS. The live-aboard permittee shall notify the Waterfront Department regarding live-aboard guests if their anticipated stay is 7 days or longer. The permittee is limited to 60 live-aboard guest days per year, unless authorized in writing by the Waterfront Director. (Ord. 5420, 2007; Ord. 5273, 2003; Ord. 4757, 1992; Ord. 4387, 1986.)

17.18.040 Live-Aboard Permit Expiration, Renewal, and Transfer.

Unless suspended, revoked or terminated pursuant to this Chapter, a live-aboard permit may be renewed annually effective May 1 upon application and compliance with all terms of this Chapter. A live-aboard permit may not be transferred to another person but may be transferred by the live-aboard permittee to a new vessel or to a new Slip Permit of the original live-aboard permittee with prior written approval of the Waterfront Director. (Ord. 5420, 2007;

Ord. 5273, 2003; Ord. 4757, 1992; Ord. 4387, 1986.)

17.18.050 Termination of Live-Aboard Permit.

A. TERMINATION. A live-aboard permittee may terminate his or her Live-Aboard permit upon thirty (30) days prior written notice of termination to the Waterfront Department.

B. TERMINATION BY WATERFRONT DIRECTOR. The Waterfront Director may terminate a Live-Aboard permit upon thirty (30) days prior written notice of termination to the Live-Aboard permittee for any of the following reasons:

1. Failure to Maintain Berthed Vessel in Operable Condition. The failure of a Live-Aboard permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein.

2. Failure of Live-Aboard Permittee to Comply with Waterfront Department Rules and Regulations. The failure of a Live-Aboard permittee or Live-Aboard permittee's "other occupant," guest or visitor to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations.

C. ISSUANCE OF LIVE-ABOARD PERMIT AFTER TERMINATION. A Live-Aboard permittee whose Live-Aboard permit is terminated as provided herein may not apply for another Live-Aboard permit until six months after the date upon which the Live-Aboard permit is terminated. The Waterfront Director shall have the sole discretion to decide whether to issue another Live-Aboard permit or not. The Waterfront Director's decision shall be final.

D. APPEAL. If the Waterfront Director terminates a Live-Aboard permit, the Live-Aboard permittee may request a waiver of the termination from the Waterfront Director. To request a waiver of the termination, the Live-Aboard permittee shall file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the Live-Aboard permit is terminated. If the Waterfront Director denies the waiver, the Live-Aboard permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the Live-Aboard permittee may appeal the Waterfront Director's decision to terminate the Live-Aboard permit to the Harbor Commission. The Live-Aboard permittee shall file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date of the Live-Aboard permit termination. (Ord. 5528, 2010; Ord. 5420, 2007; Ord. 5273, 2003; Ord. 4757, 1992; Ord. 4387, 1986.)

17.18.060 Fees.

Fees for the issuance, renewal, or reinstatement of live-aboard permits shall be in an amount established by resolution of the City Council. (Ord. 5420, 2007; Ord. 4387, 1986.)

17.18.070 Limitation on Number of Permits.

A. GENERAL RULE. No more than one hundred thirteen (113) live-aboard permits shall be outstanding at any time.

B. WAITING LIST.

1. Procedure. A waiting list for live-aboard permits may be maintained and available for public inspection. Live-aboard permits shall be issued according to application date and availability of live-aboard permits. When a live-aboard permit becomes available, it shall be offered to the first person on the waiting list. Notification will be mailed to the most current address on file in the Harbormaster's office. It is the sole responsibility of the applicant to keep the address on file with the Harbormaster current. Acceptance must be made in writing to the Waterfront Department within thirty (30) days of the mailing date of notification. If a live-aboard permit is offered and not accepted within thirty (30) days, the applicant's name will be removed from the list. Fees paid to be included on the live-aboard waiting list are non-refundable.

2. Fees. A live-aboard permit waiting list fee in an amount established by resolution of the City Council shall be paid to the Waterfront Department at the time of the request to be placed on the waiting list. A renewal fee in an amount established by resolution of the City Council shall be paid each year an applicant remains on the live-aboard waiting list. Should the City cancel the live-aboard waiting list before offering the applicant a permit, the City will refund the renewal fee paid by the applicant for the current year. (Ord. 5420, 2007; Ord. 5273, 2003; Ord. 5149, 2000; Ord. 4757, 1992; Ord. 4387, 1986)

17.18.080 Penalty for Violation.

A Slip Permit may be terminated if three or more administrative citations are issued to any Person, as defined in Section 1.25.030.F, illegally living aboard a vessel in an individual Slip during any twelve-month period, in violation of Section 17.18.010. An administrative citation shall be considered "issued" when either of the following occurs: the period in which an administrative citation may be appealed has expired or when the Hearing Administrator upholds an administrative citation pursuant to an appeal hearing. (Ord. 5420, 2007; Ord. 5273, 2003; Ord. 4387, 1986)

17.18.090 Vacation Use Exception.

The vacation use of a vessel by a slip permittee and the slip permittee's guests does not require a live-aboard permit, provided:

1. Such vacation use does not exceed a total of sixty (60) days in any calendar year;
2. A minimum of fifty percent (50%) of vacation use is utilized in increments of seven (7) days or more;
3. The names of the vacation users and the dates of vacation use are registered with the Waterfront Director by the slip permittee; and
4. The vessel is equipped with a fully operational marine sanitation device suitable for preventing direct discharge of human waste into the Harbor. (Ord. 5420, 2007; Ord. 5273, 2003; Ord. 4757, 1992; Ord. 4387, 1986.)

Chapter 17.20

SLIP AND MOORING REGULATIONS AND CHARGES

Sections:

17.20.005 Slip Assignment Policy.
17.20.010 Permission to Moor, Anchor, Berth or Dock Required.
17.20.020 Unseaworthy Vessels Not to be Moored.
17.20.030 Fees to be Paid - Exception.
17.20.040 Specifications for Mooring.
17.20.140 Slip and Mooring Fees.
17.20.150 Payment of Slip and Mooring Fees.
17.20.160 Gate Lock Key Charges.
17.20.165 Unauthorized Entry to Marinas, Restrooms and Related Facilities; Prohibition, Penalty.
17.20.220 Impound and Relocation of Vessels.
17.20.240 Visiting Vessels.
17.20.250 Permits for Vessel Placement on Leadbetter Beach and Vessel and Storage Rack Placement on West Beach.
17.20.255 Santa Barbara Mooring Area.
17.20.260 Anchoring Vessels Within the Santa Barbara Year-Round and Seasonal Anchorages.
17.20.265 Anchoring Vessels Within Waters of Harbor District Not Designated as Seasonal or Year-Round Anchorage.

17.20.005 Slip Assignment Policy.

A. PURPOSE.

1. Generally. The purpose of the Slip Assignment Policy is to provide regulations for the primary purpose of the Harbor, which is to provide in-water storage for commercial and recreational vessels actively used for their intended purpose.

2. Limited Secondary Use. As a limited secondary use, a slip permittee may be permitted to reside aboard a vessel by obtaining a permit from the Waterfront Department pursuant to the Santa Barbara Municipal Code.

B. SLIP RENTAL AGREEMENT.

1. Slip Permit. Before any vessel is allowed in a Slip in the Santa Barbara Harbor, a permit must be issued pursuant to the Santa Barbara Municipal Code for that vessel by the Waterfront Department. Slip Permits, as approved by the Waterfront Director, shall be for month-to-month terms. Slip permittees shall comply with applicable ordinances and resolutions, including fee provisions, adopted by the Santa Barbara City Council. No such Slip Permit shall be transferable after death of the slip permittee or by inheritance. A Slip Permit may, however, be assigned to a deceased slip permittee's surviving spouse or domestic partner registered with the City Clerk in

accordance with Chapter 9.135 of the Santa Barbara Municipal Code pursuant to Section 17.20.005.D.2 b herein.

2. Ownership of Vessel Required. A slip permittee must at all times have an equity ownership interest in the vessel assigned to the Slip Permit.

a. Proof of Ownership Required. An equity ownership interest in a vessel must be demonstrated at the time a Slip Permit is issued to a slip permittee or transferred in accordance with Section 17.20.005.D herein by submitting any of the following documents to the Waterfront Department: (i) State vessel registration listing the prospective slip permittee as an owner, (ii) federal documentation listing the prospective slip permittee as an owner or, (iii) a notarized bill of sale in the name of the prospective slip permittee. If proof of vessel ownership is a notarized bill of sale, a fully completed state registration or federal documentation with all slip permitttees listed as vessel owners must be provided to the Waterfront Department within ninety (90) days of the submittal of the Slip Permit application. The Slip Permit shall be subject to termination if proof of ownership is not provided to the Waterfront Department within ninety (90) days.

b. Permitted Types of Ownership. Corporations, limited liability corporations, partnerships, non-profit organizations, trusts, governmental agencies or individuals may own vessels. If a vessel is owned by an entity other than an individual, non-profit organization or governmental agency, the Slip Permit applicant(s) or slip permittee(s) must submit to the Waterfront Department either a partnership agreement or articles of incorporation which establishes that each slip permittee is either a general partner or an officer of the entity with the authority to legally bind the ownership entity. If the vessel is owned by a governmental agency or non-profit organization, the agency or organization must designate in writing a representative from the agency or organization who will be responsible for all aspects of the Slip Permit. Changing the name of the person so designated shall require payment of a slip transfer fee pursuant to Section 17.20.005.D herein, unless waived by the Waterfront Director.

3. Replacement Vessel. If the vessel assigned to the Slip Permit is sold, donated, stolen, destroyed or otherwise permanently removed from its Slip, its owner must notify the Waterfront Department within 15 days of such event. The slip permittee must place a replacement vessel in the Slip assigned to the slip permittee within 120 days after the occurrence of the event causing the removal of the vessel assigned to the Slip Permit, unless granted a written exemption from the Waterfront Director. Failure of timely reporting of a sold, donated, stolen, destroyed or otherwise permanently removed vessel, or timely assignment of a replacement vessel, shall be grounds for termination of the Slip Permit.

4. Slip Fees. The slip permittee shall pay one month's Slip Fee, in advance, plus applicable fees and deposits when the Slip Permit application is submitted to the Waterfront Department. Slip Fees shall be established by resolution of the City Council.

5. Commercial Fishing and Aquaculture. The City Council may by resolution establish exclusive or preferential uses within all, or within certain areas of, the Harbor for use by vessels employed in commercial fishing and/or aquaculture. For purposes of this Section, a commercial fishing vessel or vessel employed in aquaculture is a vessel in use pursuant to a valid and current commercial fishing or aquaculture permit issued by the California Department of Fish and Game. Such a vessel shall be a continuing source of income pursuant to the appropriate California permits, in accord with regulations adopted from time to time by resolution of the City Council.

C. SLIP WAITING LISTS.

1. Master Waiting List. The waiting list for the assignment of Harbor marina slips, as created by City Council Ordinance, is renamed the "Master Waiting List." The Master Waiting List is divided into categories according to slip length. Applicants on the Master Waiting List have designated a category of slip length from which they seek a slip assignment. Applicants may not change their designated category of slip length and no new applicants shall be added to the Master Waiting List.

a. Procedure for Slip Assignment to Master Waiting List Applicants. When a slip becomes available, it shall be offered for assignment according to whether the slip is a designated commercial fishing slip or whether it can be utilized for either commercial or recreational purposes. For purposes of this Section, commercial fishing slip means a slip that is specially designated by the Waterfront Director as a slip reserved for qualified commercial fishermen ("Commercial Fishing Slip"). If the slip is designated as a Commercial Fishing Slip, it shall be assigned according to Section C.5 herein to a qualified commercial fisherman. If it is not so designated, it shall be offered for assignment to the applicant in the slip-length category of the available slip with the earliest chronological application date on the Master Waiting List. The available slip shall be offered to each applicant in turn on the Master Waiting List within the slip-length category of the available slip until the slip is either accepted by an applicant or declined by all applicants for that slip-length category.

b. Procedure for Accepting or Declining a Slip Assignment Offer.

(1) Acceptance of Slip Assignment Offer. Notification of slip availability shall be mailed by the Waterfront Department to the applicant at the applicant's most recent address on file in the Waterfront Department. Acceptance of the slip assignment offer must be submitted by the applicant in writing to the Waterfront Department within thirty (30) days of the date of mailing the notice of slip availability.

(2) Declined Slip Offer. Failure of an applicant to accept a slip assignment offer within thirty (30) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip offer will result in removal of the applicant's name from the List and in the loss of all fees paid by the applicant.

c. Unassigned Slips from the Master Waiting List. If an available slip is offered and declined by all applicants on the Master Waiting List registered for the slip-length category of the available slip, or if a slip-length category on the Master Waiting List is depleted of applicants, the slip shall be referred for assignment to a Sub-Master Waiting List in accordance with Section C.2 herein.

2. Sub-Master Waiting List. All applicants in all slip-length categories on the Master Waiting List shall also be applicants on the Sub-Master Waiting List. The Sub-Master Waiting List shall be ordered chronologically, according to application date, and not divided into slip-length categories. The applicant on the Master Waiting List with the earliest chronological application date, regardless of designated slip-length category, shall be the first applicant on the Sub-Master List. The applicant on the Master Waiting List with the second earliest chronological application date shall be the second applicant on the Sub-Master List, and so on.

a. Procedure for Slip Assignment to Sub-Master Waiting List Applicants. A slip that becomes available for assignment to the Sub-Master Waiting List shall be offered to the first applicant on the Sub-Master Waiting List. If the slip offer is declined, it shall be offered to the second applicant on the List, and so on, until the slip is either accepted by an applicant or declined by all applicants on the Sub-Master List.

b. Procedure for Accepting or Declining a Slip Assignment Offer.

(1) Acceptance of Slip Assignment Offer. Notification of slip availability shall be mailed by the Waterfront Department to the applicant at the applicant's most recent address on file in the Waterfront Department. Acceptance of the slip assignment offer must be submitted by the applicant in writing to the Waterfront Department within fourteen (14) days of the date of mailing the notice of slip availability.

(2) Declined Slip Offer. Failure of an applicant to accept a slip assignment offer in writing within fourteen (14) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip offer from the Sub-Master List will not result in removal of the applicant's name from the Master or Sub-Master Waiting lists, loss of any fees paid, or change in the applicant's position on either List.

c. Unassigned Slips from the Sub-Master Waiting List. If a slip assignment offer is declined by all applicants on the Sub-Master Waiting List, or if there are no applicants on the Sub-Master Waiting List, the slip shall be referred for assignment to a Lottery List in accordance with Section C.3 herein.

3. Lottery List. Any slip that remains unassigned after being offered for assignment to the Master Waiting List and Sub-Master Waiting List, or if the Sub-Master Waiting List is depleted of applicants, shall be offered for assignment to a Lottery List. The Lottery List shall be comprised of applicants selected by lot by the Harbor Commission Chair at a public meeting. Procedures for formation of the Lottery List shall be established by the Waterfront Department Slip Waiting Lists regulation adopted by resolution of the City Council.

a. Procedure for Placement on the Lottery List.

(1) Qualification for Placement on the Lottery List. To qualify for placement on the Lottery List, all applicants must timely submit a Lottery List Participation Request in accordance with the Slip Waiting Lists regulation containing the applicant's name, telephone number and address. An individual may submit only one Lottery List Participation Request.

(2) Notification of Ranking and Potential Placement on Lottery List. Within five (5) business days after the Harbor Commission Lottery List drawing, the Waterfront Department shall mail notification to each applicant whose Lottery Participation Request was selected by the Harbor Commission of their ranking and potential placement on the Lottery List. Notification shall be provided by certified mail, return receipt requested, to the applicant at the address shown on the Lottery List Participation Request form. A Lottery List Acceptance Form shall accompany the notification. Applicants not selected for ranking in the Lottery List drawing shall be notified in writing that their Lottery List Participation Request was not selected. The Waterfront Department shall discard the Lottery List Participation Requests not selected.

(3) Procedure to Accept Placement on the Lottery List.

(a) Within thirty (30) days of the date of mailing notification of Lottery List rankings, selected applicants ranked numbers one (1) through fifty (50) shall return the completed Lottery List Acceptance Form and the Lottery List Placement Fee in an amount established by resolution of the City Council to the Waterfront Department. Any such applicant failing to return the Acceptance Form and Lottery List Placement Fee to the Waterfront Department within the required thirty (30) day period shall not have a position on the Lottery List, and their Lottery Participation Request shall be discarded by the Waterfront Department.

(b) Should any applicant ranked numbers one (1) through fifty (50) fail timely return of the Lottery List Acceptance Form and the Lottery List Placement Fee, notification will be sent to the next-ranked applicant for potential placement on the Lottery List as provided by resolution of City Council. Any such applicant ranked numbers fifty-one (51) through seventy (70) offered potential placement on the Lottery List shall, within fourteen (14) days of the date of such mailing, return the completed Lottery List Acceptance Form and the Lottery List Placement Fee in an amount established by resolution of the City Council to the Waterfront Department. Any such applicant failing to return the Acceptance Form and Lottery List Placement Fee to the Waterfront Department within the required fourteen (14) day period shall not have a position on the Lottery List, and their Lottery Participation Request shall be discarded by the Waterfront Department.

b. Procedure for Slip Assignment to Lottery List Applicants. A slip that becomes available for assignment to the Lottery List shall be offered for assignment to applicants on the Lottery List according to their rank on the Lottery List. With the exception of assignments for twenty-foot slips, if a slip assignment offer is declined by all applicants on the Lottery List, the slip shall be held in the Waterfront Department's visitor slip inventory for a period of six (6) months. After six (6) months, the slip assignment shall be re-offered individually to applicants on the Lottery List in the same order as the slip assignment was initially offered. If the slip remains unassigned after the re-offer, the procedure shall be repeated every six (6) months until the slip assignment offer is accepted. If all applicants on the Lottery List decline a slip assignment offer for a twenty-foot slip, the slip assignment for the twenty-foot slip shall be offered for assignment through a separate twenty-foot lottery pursuant to City Council Resolution.

c. Procedure for Accepting or Declining a Slip Assignment Offer from the Lottery List.

(1) Acceptance of Slip Assignment Offer.

(a) Notification of slip availability shall be mailed by the Waterfront Department to the applicant at the applicant's most recent address on file in the Waterfront Department. Acceptance of the slip assignment offer must be submitted by the applicant in writing to the Waterfront Department within fourteen (14) days of the date of mailing the notice of slip availability. Acceptance must be submitted to the Waterfront Department in writing along with payment of a non-refundable Lottery List Assignment Fee as provided in Section C.4.b.(3) herein.

(b) An existing marina slip permittee who is offered a Lottery List slip assignment shall relinquish an existing slip permit to the Waterfront Department prior to, and in exchange for, a slip assignment from the Lottery List.

(2) Declined Lottery List Assignment Offer. Failure of an applicant to accept a slip assignment offer in writing within fourteen (14) days of the date of mailing of such offer by the Waterfront Department and payment of the Lottery List Assignment Fee as provided in Section C.4.b.(3) herein shall be considered a declined offer. Declining a slip assignment offer will not result in removal of the applicant's name from the Lottery List, loss of the applicant's Lottery List Placement Fee, Lottery List Renewal Fee, or change in the applicant's position on the Lottery List.

d. Lottery List Eligibility. An applicant whose name is on the Master Slip Waiting List is not eligible for inclusion on the Lottery List.

4. Slip Waiting Lists Fees.

a. Master Waiting List Renewal Fee. An annual non-refundable Master Waiting List renewal fee in an amount established by resolution of the City Council shall be paid by each applicant on the Master Waiting List prior to the first day of November each year. Failure to timely pay the annual renewal fee shall cause removal of the applicant's name from the List.

b. Lottery List Placement Fee, Renewal Fee and Assignment Fee.

(1) Lottery List Placement Fee. Each applicant selected for placement on the Lottery List shall return the Lottery List Acceptance Form along with a non-refundable Lottery List Placement Fee in an amount established by resolution of the City Council. Failure to timely pay the Lottery List Placement Fee shall cause the applicant's name to not be placed on the Lottery List.

(2) Lottery List Renewal Fee. An annual non-refundable Lottery List Renewal Fee in an amount established by resolution of the City Council shall be paid prior to the first day of November each year. Failure to timely pay the annual Lottery List Renewal Fee shall cause removal of the applicant's name from the Lottery List.

(3) Lottery List Assignment Fee. A Lottery List Assignment Fee shall be paid by the applicant at the time a Lottery List slip assignment is made in an amount established by resolution of the City Council. Failure to timely pay the Lottery List Assignment Fee shall be deemed a declined offer.

c. Slip Waiting Lists Transfer Fee.

(1) Slip Waiting Lists Transfer Fee. Any slip permittee assigned a slip from either the Master Waiting List, Sub-Master Waiting List or Lottery List shall pay a Slip Waiting List Transfer Fee in an amount established by resolution of the City Council to transfer the slip within five (5) years of the date of the slip assignment. After five (5) years, a standard Slip Transfer Fee shall be paid in an amount established by resolution of the City Council. A slip transfer shall be accomplished in accordance with Section D herein.

(2) Exemptions from Slip Waiting Lists Transfer Fee. Mooring Licensee Priority Assignment. Payment of the Slip Waiting Lists Transfer Fee shall not be required for the transfer of a slip permit by a slip permittee who obtained a permit to occupy a slip pursuant to a mooring licensee priority assignment as provided in the Marina One and Four Expansion Slip Assignment Policy and Procedures Document. A standard Slip Transfer Fee is required.

(3) Hardship Waiver/Appeal. The Waterfront Department, Waterfront Director, Harbor Commission or City Council shall not accept or consider any slip permittee's appeal or request for a waiver from payment of the Slip Waiting Lists Transfer Fee.

5. Commercial Fishing/Aquaculture Slip Assignment. Commercial Fishing Slips shall be offered for assignment only to qualified commercial fishermen. Prior to assignment of a Commercial Fishing Slip from either the Master Waiting List, Sub-Master Waiting List, or the Commercial Fishing Slip Lottery, a commercial fisherman must demonstrate to the satisfaction of the Waterfront Department that the commercial fisherman possesses the following minimum qualifications: (i) a commercial fishing or aquaculture permit issued by the California Department of Fish and Game; (ii) a Fish and Game permit for the vessel that is to be moored in the Commercial Fishing Slip as a commercial fishing vessel; and (iii) satisfaction of the terms and criteria to qualify as a qualified commercial fisherman, as established by City Council resolution, including the requirement for earnings from commercial fishing in years prior to the pending Commercial Fishing Slip assignment ("Qualified Commercial Fisherman").

a. Master Waiting List. Commercial Fishing Slips that become available for assignment to commercial fishermen on the Master Waiting List shall be offered for assignment to the commercial fisherman registered in the slip-length category of the available slip with the earliest chronological application date. If there are no commercial fishermen registered on the Master Waiting List in the slip-length category available, the slip shall be referred to the Sub-Master List.

(1) Acceptance of Commercial Fishing Slip Assignment Offer. A Commercial Fishing Slip offered for assignment to a commercial fisherman from the Master Waiting List shall be accepted in accordance with the procedures for acceptance of a slip from the Master Waiting List set forth in Section C.1.b.(1). Prior to assignment of the Commercial Fishing Slip, the commercial fisherman must demonstrate to the satisfaction of the Waterfront Department that he or she is a Qualified Commercial Fisherman.

(2) Declined Slip Offers. Failure of an applicant to accept a slip assignment offer in writing within thirty (30) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a Commercial Fishing Slip offer shall result in removal of the commercial fisherman's name from the Master Waiting List and loss of all fees paid by the commercial fisherman.

b. Sub-Master Waiting List. Commercial fishermen registered for commercial slips on the Master Waiting List shall also be applicants on the Sub-Master Waiting List. The commercial fisherman registered for a commercial slip on the Master Waiting List with the earliest chronological application date shall be the first-ranked commercial fisherman on the Sub-Master List. If a commercial slip offer is declined by all commercial fishermen registered for commercial slips on the Sub-Master List, it shall be referred to the Commercial Fishing Slip Lottery process for assignment.

(1) Acceptance of Commercial Fishing Slip. A Commercial Fishing Slip offered for assignment to the Sub-Master Waiting List shall be accepted according to the procedures for acceptance of a slip from the Sub-Master Waiting List set forth in Section C.2.b(1). Prior to assignment of the Commercial Fishing Slip, the commercial fisherman must demonstrate to the satisfaction of the Waterfront Department that he or she is a Qualified Commercial Fisherman.

(2) Declined Commercial Fishing Slip Offers. Failure of the applicant to accept the slip in writing within fourteen (14) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip offer will not result in the commercial fisherman's name being removed from the List, loss of the applicant's fees, or change in the applicant's position on the List.

c. Commercial Fishing Slip Lottery. A Commercial Fishing Slip that remains unaccepted after being offered to all commercial fishermen registered for commercial slips on the Sub-Master List shall be offered for assignment according to a single lottery process called the Commercial Fishing Slip Lottery. Procedures for formation of the Commercial Fishing Slip Lottery shall be established by the Waterfront Department Slip Waiting Lists regulation adopted by resolution of the City Council. To qualify for participation in the Commercial Fishing Slip Lottery, all applicants must timely submit a Lottery Participation Request in accordance with the Slip Waiting Lists regulation containing the applicant's name, telephone number and address. An individual may submit only one Commercial Fishing Lottery List Participation Request.

(1) Procedure for Assignment from Commercial Fishing Slip Lottery.

(a) Offer of Commercial Fishing Slip Assignment. A Commercial Fishing Slip that becomes available for assignment in accordance with the Slip Waiting Lists regulation shall be offered for assignment to an applicant according to his or her rank in the Commercial Fishing Slip Lottery. The applicant ranked in the first position shall be offered the available Commercial Fishing Slip. If the first-ranked applicant declines the offer or fails to meet the requirements for a Qualified Commercial Fisherman, the second-ranked applicant shall be offered the Commercial Fishing Slip assignment, and so on.

(b) Acceptance of Commercial Fishing Slip. Acceptance of the slip assignment offer must be made in writing and submitted to the Waterfront Department within thirty (30) days of the date of mailing notice of slip availability. The acceptance form shall include the necessary information to verify qualification for a Commercial Fishing Slip. Any applicant failing to submit the required information to verify eligibility, or any applicant failing to meet the eligibility requirements set forth in Section C. 5 for a Qualified Commercial Fisherman, shall be removed from consideration for slip assignment during that Lottery.

(c) Declined Commercial Fishing Slip Offer. Failure of an applicant to accept the Commercial Fishing Slip assignment offer in writing within thirty (30) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip offer, or failing to meet the requirements for a Qualified Commercial Fisherman shall result in removal of the applicant's name for slip assignment in that Lottery.

(d) An existing marina slip permittee who is offered a Commercial Fishing Slip assignment shall relinquish an existing slip permit to the Waterfront Department prior to, and in exchange for, a Commercial Fishing Slip assignment from the Commercial Fishing Slip Lottery.

(2) Unassigned Commercial Fishing Slips. If a Commercial Fishing Slip assignment offer is declined by all applicants selected in the Commercial Fishing Slip Lottery, or if no selected applicants meet the requirements of a Qualified Commercial Fisherman, the Commercial Fishing Slip shall be held in the Waterfront Department's visitor-slip inventory for a period of six (6) months. After six (6) months, the Commercial Fishing Slip assignment shall be offered to applicants in a new Commercial Fishing Slip Lottery. If the Commercial Fishing Slip remains unassigned, this procedure shall be repeated every six (6) months until the Commercial Fishing Slip is assigned.

D. TRANSFER OF SLIP PERMITS.

1. Procedure. The permittee of a Slip may transfer the Slip Permit to a new or changed vessel owner upon the sale or transfer of an equity ownership interest in a vessel if all the following conditions are met:

a. A written application for the transfer of a Slip Permit is filed within fifteen (15) days after the sale or transfer of the equity ownership interest in the vessel.

b. The slip permittee shall notify the Waterfront Department in writing within fifteen days of the sale or transfer of an equity ownership interest, whether in whole or in part, of a vessel to an individual, entity, non-profit or governmental agency and specify if the Slip Permit is to be transferred or retained by the permittee.

c. Every permittee must supply proof of ownership of a permitted vessel pursuant to the requirements of Section 17.20.005.B.2 within fifteen (15) days of any change, in whole or in part, in the equity ownership of the vessel.

d. The Transfer Fee or waiting list Transfer Fee and all other fees and deposits are paid in full within fifteen (15) days after the sale or transfer of interest, in whole or in part, of the vessel.

e. The owner must bring an Operable vessel to the Administration Dock for verification of length. If the vessel is not operable, the Waterfront Director may waive these requirements for not more than ninety (90) days for the purpose of repair.

f. A slip permittee must be in good standing with the Waterfront Department at the time that the Slip Permit transfer application is submitted to the Waterfront Department. A slip permittee is in good standing with the Waterfront Department if, at the time of submittal of the Slip Permit transfer application, both of the following are true and correct: (i) all fees or charges owed to the Waterfront Department by the slip permittee have been paid in full and, (ii) the Waterfront Department has not issued a written notice to terminate the Slip Permit, whether such notice of termination has been received by the slip permittee or not.

2. Death of Slip Permittee.

a. Death of Sole Slip Permittee.

(1) No Transfer of Slip Permit After Death. No Slip Permit may be transferred after the death of a sole slip permittee.

(2) Notification of Death. Not later than thirty (30) days after the date established on the death certificate as the date of death of the slip permittee, the administrator or executor of the estate of the slip permittee shall notify the Waterfront Department in writing of the death. If such notification is not received by the Waterfront Department within thirty (30) days of the date shown on the death certificate as the date of death, the Slip Permit shall be deemed to be terminated sixty (60) days after such date. Upon termination of the Slip Permit, permission to berth shall be denied by the Waterfront Director, and the administrator or executor of the estate of the deceased slip permittee shall remove the vessel from the Harbor District immediately. Failure to immediately remove the vessel from the Harbor may, at the option of the Waterfront Director, result in the assessment of visitor fees at the visitor fee rate then in effect.

(3) Removal of Vessel. If notification of death as required in Section 17.20.005.D.2 herein is received by the Waterfront Department, the estate of the deceased slip permittee may have a period of time not exceeding one hundred and twenty (120) days after the date established on the death certificate as the date of death of the slip permittee to remove the vessel from the Slip. All regular Slip Fees are due and payable by the estate during this period.

b. Death of Slip Permittee with Spouse or Registered Domestic Partner at Time of Death.

(1) Assignment of Slip Permit After Death. Subject to compliance with the requirements below, a Slip Permit may be assigned to the surviving spouse or domestic partner (registered with the City Clerk in accordance with Chapter 9.135 of the Santa Barbara Municipal Code) of a slip permittee after the death of the slip permittee.

(2) Notification of Death. Not later than thirty (30) days after the date established on the death certificate as the date of death of the slip permittee, the administrator or executor of the estate of the slip permittee or the slip permittee's surviving spouse or registered domestic partner shall notify the Waterfront Department in writing of the death of the slip permittee. The notification to the Waterfront Department shall also state whether the spouse or legally registered domestic partner seeks assignment of the Slip Permit. Assignment of the Slip Permit to the surviving spouse or registered domestic partner will be approved by the Waterfront Director only if (i) the surviving spouse or registered domestic partner can satisfactorily demonstrate an equity ownership interest in the vessel as provided in Section 17.20.005.B herein, and (ii) either proof of marriage to the slip permittee at the time of the slip permittee's death is provided to the Waterfront Department or proof of registration on the domestic partnership list as the slip permittee's domestic partner at the time of the slip permittee's death is provided to the Waterfront Department. If notification is not received by the Waterfront Department within thirty (30) days after the date established on the death certificate as the date of death of the slip permittee, or the surviving spouse or legally registered domestic partner does not qualify for assignment of the Slip Permit, the Slip Permit shall be deemed to be terminated sixty (60) days after the date established on the death certificate as the date of death of the slip permittee. Upon termination of the Slip Permit, permission to berth shall be denied by the Waterfront Director and the surviving spouse, registered domestic partner or estate of the deceased slip permittee shall remove the vessel from the Harbor District immediately. Failure to immediately remove the vessel from the Harbor may, at the option of the Waterfront Director, result in the assessment of visitor fees at the visitor fee rate then in effect.

(3) Removal of Vessel. If notification of death as required in Section 17.20.005.D.2 herein is received by the Waterfront Department and the slip permittee's surviving spouse or registered domestic partner does not seek assignment of the Slip Permit, or does not qualify for assignment as provided herein, the estate of the deceased slip permittee, surviving spouse or registered domestic partner shall have a period of time not exceeding one hundred and twenty (120) days after the date established on the death certificate as the date of death of the slip permittee to remove the vessel from the Slip. All regular Slip Fees are due and payable by the surviving spouse, registered domestic partner or estate of the deceased slip permittee during this period.

c. Death of Slip Permittee with Multiple Slip Permit Partners.

(1) Slip Permit Remains Valid. Upon the death of one of the slip permittee partners, subject to compliance with the requirements herein, a Slip Permit held by multiple Slip Permit partners remains valid in the names of the remaining Slip Permit partners.

(2) Notification of Death. Not later than thirty (30) days after the date established on the death certificate as the date of death of the slip permittee, either the administrator or executor of the estate of the deceased slip permittee or the deceased slip permittee's surviving spouse or registered domestic partner or one of the remaining Slip Permit partners shall notify the Waterfront Department in writing of the death of the slip permittee. Such notification shall also state whether the spouse or registered domestic partner seeks assignment of the Slip Permit in the deceased slip permittee's partnership position or not. To become a Slip Permit partner, the surviving spouse or registered domestic partner must satisfy the requirements set forth in Section 17.20.005.D.2 b(2).

E. YACHT BROKERAGES.

1. Definitions. For the purpose of this section, "yacht brokerage" means a business entity that deals in the sale of vessels in compliance with applicable State, Federal and Local laws and regulations, and conducts the brokerage upon real property in the Harbor Area in accordance with a current and valid lease agreement with the City. For the purpose of this section, "yacht brokerage slip" means any slip assigned to a yacht brokerage.

2. Number of Slips. No yacht brokerage may validly hold permits to more than fifteen (15) slips at any given time in the Santa Barbara Harbor. No more than thirty (30) yacht brokerage slips shall be assigned at any time. Any assignments exceeding these limits are void.

3. Slip Assignments. Yacht brokerage slip assignments will be registered with the Waterfront Department and the appropriate fee paid. Yacht brokerage slip assignments shall not extend beyond one (1) year. The Waterfront Director retains the discretion to assign vacated slips, temporarily cancelled slips, visitor slips, end ties and side ties as yacht brokerage slips.

4. No Overnight Stays. Use of any yacht brokerage slip for overnight stays is illegal at all times and under all circumstances, unless expressly authorized during emergencies by the Waterfront Director.

5. Payment. Yacht brokerages will pay full monthly rental rates when due to the City on all slips and will not charge slip rates in excess of that charged by the City in the current Resolution of the City Council Establishing Mooring and Slip Fees in the Santa Barbara Harbor.

F. TEMPORARY CANCELLATION.

1. Temporary Cancellation. A slip permittee may request temporary cancellation of the slip permit. The Waterfront Department may grant the request for temporary cancellation of a slip permit to a slip permittee desiring to take an extended cruise for a period of not less than ninety (90) days. During the period of temporary cancellation, the permittee shall pay a reduced slip fee equivalent to twenty-five percent (25%) of the normal slip fee. In the event the permittee's vessel returns before expiration of the ninety (90) days, the full monthly slip rate will be reinstated and shall be charged for the entire period of time that the permittee's vessel was absent from the Harbor.

2. Ownership of Vessel on Temporary Cancellation. A slip permittee must be and remain at all times an owner of the vessel registered to the slip permit that is issued temporary cancellation status by the Waterfront Department. Relinquishing ownership of the vessel for any reason shall be cause for termination of temporary status and reinstatement of the full monthly slip fees beginning on the date ownership of the vessel is relinquished. In the event that the vessel is destroyed by fire or other natural causes, reinstatement of monthly slip fees shall be determined by the Waterfront Director in his or her sole discretion.

3. Removal of Personal Belongings Prior to Temporary Cancellation. Prior to beginning temporary cancellation status, all skiffs, kayaks, boat lines, fenders, dock steps and all other appurtenances or equipment must be removed from the slip berthing the vessel whose owner requests temporary cancellation and from the dock adjacent to the slip berthing the vessel whose owner requests temporary cancellation.

4. Temporary Cancellation Exceeding One Year. Slip permittees with vessels absent for more than one (1) year on extended cruise shall advise the Waterfront Department if the slip permittee intends to continue on extended cruise status on or before the end of the one-year period and shall provide the Waterfront Director with proof of ownership of the vessel. Lack of annual notification or verification of vessel ownership is grounds for revoking temporary cancellation status.

G. VISITOR SLIP ASSIGNMENTS.

The Waterfront Department retains the right to utilize vacant slips and slips with temporarily canceled slip permits for transient slip assignments. No more than thirty (30) visitor slips, exclusive of temporary cancellations and endties and sideties, shall be maintained for transient vessels.

H. EXCHANGE OF PERMITS.

Slip permittees utilizing comparably sized slips may exchange (trade) slips with one another upon approval of the Waterfront Director. A processing fee or the slip transfer fee shall be charged upon the exchange of permits as provided by City Council resolution. A permittee subject to the Waiting List Transfer Fee (see Section 17.20.005(C)) who exchanges a permit pursuant to this section shall remain subject to the Waiting List Transfer Fee. If the Waiting List Transfer Fee is charged following the exchange, it will be charged according to the fee applicable to the slip originally assigned. For purposes of the Waiting List Transfer Fee, the time the permittee holds the exchanged permit shall be added to the time the original permit was held. No exchanges will be permitted unless all rents, fees and deposits due are paid.

I. WATERFRONT DIRECTOR TERMINATION OF SLIP PERMITS.

The Waterfront Director may terminate a Slip Permit upon thirty days prior written notice of termination (except for the longer notice period provided in subsection 2 herein) to the slip permittee for any of the following reasons:

1. Late Payment of Monthly Slip Fees. Monthly Slip Fees are due and payable on the first day of the month with or without receipt of billing, and monthly Slip Fees are delinquent after the fifteenth day of the month. After the fifteenth day of the month, a late charge, in an amount established by resolution of the City Council, will be assessed and added to the Slip Fees which are delinquent. Failure to pay monthly Slip Fees, together with all accumulated late charges, may result in termination of the Slip Permit. Termination of a Slip Permit due to late payment of Slip Fees may also result in termination of a live-aboard permit that may have been issued to a slip permittee of the terminated Slip Permit.

2. Death of a Sole Slip Permittee. A Slip Permit shall terminate sixty (60) days after the date of death of a slip permittee under circumstances where the slip permittee has no surviving spouse, registered domestic partner or Slip Permit partners at the time of death.

3. Failure to Meet Requirements for Commercial Fishing Earnings. Failure of a person with a specially designated Commercial Fishing Slip Permit issued in accordance with Section 17.20.005.B herein to meet the requirements for commercial fishing earnings, as such earnings requirement is established by resolution of the City Council, may result in termination of the Commercial Fishing Slip Permit.

4. Failure to Maintain Berthed Vessel in Operable Condition. Failure of a slip permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein may result in termination of the Slip Permit.

5. Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations. A slip permittee's or slip permittee's guest, visitor or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit.

J. APPEAL.

If the Waterfront Director terminates a Slip Permit, the slip permittee may request a waiver of the termination from the Waterfront Director. To request a waiver, the slip permittee must file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the Slip Permit is terminated. If the Waterfront Director denies the waiver, the slip permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the slip permittee may appeal the Waterfront Director's decision to terminate the Slip Permit to the Harbor Commission. The slip permittee must file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date that the Slip Permit is terminated. The Harbor Commission's decision on the appeal shall be final.

K. VESSELS IN THE HARBOR MUST BE OPERABLE.

1. Vessels Assigned to a Slip Permit Must be Maintained as Operable Vessels. Vessels assigned to a Slip Permit must be continuously maintained in an Operable condition. If, at any time, based upon the appearance of the vessel, inspection by the Waterfront Director, or other facts, the Waterfront Director determines that a vessel is not Operable, the Waterfront Director shall give notice to the slip permittee requiring the slip permittee to demonstrate that the vessel is Operable within fifteen (15) days of the date of the notice. If the slip permittee does not demonstrate Operability of the vessel within the fifteen (15) day period, the Slip Permit may be terminated and the vessel shall be removed from the Harbor.

a. Exception - Vessels Not Operable. Vessels that had assigned slips in the Santa Barbara Harbor on September 9, 1980, and which, on that date, were not Operable, shall be exempt from the operation of this section until transfer of the Slip Permit, after which time the Operability is required.

2. Vessels in the Harbor Must be Operable. Vessels in the Harbor must be continuously maintained as Operable Vessels. It shall be unlawful to berth a vessel in the Harbor that is not Operable.

L. ISSUANCE OF SLIP PERMIT AFTER TERMINATION. A slip permittee whose Slip Permit is terminated as provided herein may not apply for another Slip Permit until one year after the date upon which the Slip Permit is terminated. The Waterfront Director shall have the sole discretion to decide whether to issue another Slip Permit or not. The Waterfront Director's decision shall be final. (Ord. 5528, 2010; Ord. 5500, 2009; Ord. 5458, 2008; Ord. 5453, 2008; Ord. 5420, 2007; Ord. 5386, 2006; Ord. 5377, 2005; Ord. 5347, 2005; Ord. 5273, 2003; Ord. 5206, 2001; Ord. 5140, 2000; Ord. 5109, 1999; Ord. 5023, 1997; Ord. 4757, 1992.)

17.20.010 Permission to Moor, Anchor, Berth or Dock Required.

It is unlawful for any person to Moor, Berth, Dock or Anchor any vessel or to allow a vessel under their command and control to remain Moored, Berthed, Docked or Anchored in any part of the Harbor District, except anchoring in the Seasonal and Year-Round Anchorage areas depicted in Exhibit "A" attached hereto, without first obtaining permission to do so from the Waterfront Director. The Waterfront Director may refuse permission to Moor, Berth, Dock, or Anchor a vessel in the Harbor District when the Waterfront Director determines it is in the interest of public health, safety or the protection of the environment, assets or resources of the City to do so. (Ord. 5602, 2012; Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.24.)

17.20.020 Unseaworthy Vessels Not to be Moored.

The Waterfront Director has the authority to determine if a sunken, submerged, or badly deteriorated vessel, or property of any kind is unseaworthy or is a menace to navigation. Any vessel or property in such condition will be declared to be a public nuisance and shall be considered abandoned property and subject to sale in the manner prescribed in Chapter 9.88. (Ord. 4757, 1992; Prior Code §24.5.)

17.20.030 Fees to be Paid - Exception.

It is unlawful for any person to moor any vessel in any part of the Harbor, without first submitting a written application to the Waterfront Director, paying all fees to the City as required by this Chapter and obtaining a permit from the Waterfront Director. (Ord. 4757, 1992; Prior Code §24.25)

17.20.040 Specifications for Mooring.

The City may grant a license to occupy and use a specific water area in the Santa Barbara Harbor for the mooring of a specifically named vessel. The location of the specific mooring shall be within the sole discretion of the Waterfront Director. Licensee shall be responsible for the provision, installation and maintenance of all mooring equipment. Such equipment shall remain the property of the Licensee. The type, quality, maintenance and location of mooring equipment shall be as specified by the Waterfront Director. The City or Licensee may terminate the license agreement for a mooring after giving reasonable notice as provided in the license agreement. Upon termination of a License to occupy a mooring, Licensee shall remove the mooring equipment within ten days. If not removed within ten days, title to the mooring equipment shall pass to the City and the City may remove and dispose of such equipment as it deems appropriate. (Ord. 4757, 1992; Prior Code §24.26)

17.20.140 Slip and Mooring Fees.

Slip fees and mooring fees shall be established by City Council resolution. (Ord. 4757, 1992; Ord. 3791, 1975; Ord. 3435 §1, 1970; Ord. 3178 §1(part), 1966; Ord. 2942 §1(part), 1963; Ord. 2845 §2(part), 1961; prior Code §24.36(part).)

17.20.150 Payment of Slip and Mooring Fees.

A. DEPOSIT FOR SLIP PERMITS.

1. Amount of Deposit Required. A deposit equal to two (2) months' slip permit fees shall be paid with the first monthly slip permit fee payment.

2. Deposit Increase. At the discretion of the Waterfront Director, Slip Permittees may be required, upon thirty (30) days written notice, to increase the deposit set out above in 17.20.150.A.1, if the slip permit fees have been increased and the existing deposit does not equal two (2) months' slip fees.

B. PAYMENT PROCEDURE FOR SLIP PERMIT FEES.

Slip permit fees in an amount established by resolution of the City Council shall be due and payable monthly, in advance.

C. PAYMENT FOR MOORING PERMITS.

Mooring Permit fees in an amount established by resolution of the City Council shall be due and payable on the date of Mooring Permit issuance and annually thereafter on the date of renewal. (Ord. 5386, 2006; Ord. 5377, 2005; Ord. 4757, 1992; Ord. 3840, 1976; prior Code §24.37.)

17.20.160 Gate Lock Key Charges.

The charges, fees and policies for the issuance of key cards to open gates to the marinas, doors to the restrooms and related facilities shall be established by the Waterfront Director and shall be approved by City Council resolution. (Ord. 4757, 1992; Ord. 4133, 1982; Ord. 3466 §1, 1971; Ord. 3178 §1 (part), 1966; Ord. 2942 §1 (part), 1963; Ord. 2845 §2 (part), 1961; prior Code §24.36 (part).)

17.20.165 Unauthorized Entry to Marinas, Restrooms and Related Facilities; Prohibition, Penalty.

The unauthorized transfer or use of a key card is prohibited. The entry into a locked or controlled marina, restroom or related facility without a key card and without the authorization of the Waterfront Director is prohibited. A violation of this section of the Code is an infraction. (Ord. 4757, 1992; Ord. 4133, 1982.)

17.20.220 Impound and Relocation of Vessels.

A. IMPOUND AND RELOCATION OF VESSELS BERTHED, DOCKED, MOORED OR ANCHORED IN THE HARBOR DISTRICT IN VIOLATION OF THE SANTA BARBARA MUNICIPAL CODE. A vessel berthed, docked, moored or anchored in the Harbor District in violation of the Santa Barbara Municipal Code may be impounded in its location, including a dock, pier, slip, wharf or open ocean of the Harbor District, or may be impounded, relocated and stored in another location designated by the Waterfront Director.

B. IMPOUND AND RELOCATION OF VESSELS FOR DELINQUENT FEES. A vessel whose owner is delinquent on the payment of Slip or other fees to the Waterfront Department may be impounded in its location, including a dock, pier, slip, wharf or open ocean of the Harbor District, or may be impounded, relocated and stored in another location designated by the Waterfront Director.

C. PAYMENT OF IMPOUND FEE. The owner of any vessel impounded under either section A or B of this section, whether relocated and stored or not, shall pay an impound fee established by Resolution of the City Council, in addition to any storage or delinquent fees, to the Waterfront Director prior to release of the vessel.

D. NOTICE OF STORAGE AND HEARING. Whenever the Waterfront Department impounds and stores a vessel as permitted by this Section, the Waterfront Department shall provide the vessel's registered owner(s) of record, with the opportunity for a post-storage hearing to determine the validity of the storage.

1. Notice of Storage. Notice of the storage shall be mailed or personally delivered to the registered owner(s) within 48 hours, excluding weekends and holidays, and shall include the following information:

a. The name, address, and telephone number of the Waterfront Department.

b. The location of the place of storage and description of the vessel.

c. The authority and purpose for the impound and storage of the vessel.

d. A statement that, in order to receive the post-storage hearing, the owner(s) shall request the hearing in person or in writing within ten (10) days of the date appearing on the notice.

2. Post-Storage Hearing. The post-storage hearing shall be conducted within 48 hours of the receipt of the request for the hearing by the Waterfront Department, excluding weekends and holidays. The City may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the storage of the vessel.

3. Failure to Request or Attend Hearing. The failure of the registered owner(s) to request or to attend a scheduled hearing shall satisfy the post-storage hearing requirement.

4. Finality of Hearing and Return of Fees. The Waterfront Department shall return to the registered owner(s) of the vessel all impound and storage fees paid by the owner if it is determined by the hearing officer that reasonable grounds for the storage of the vessel are not established. The decision of the hearing officer after the post-storage hearing shall be final. (Ord. 5500, 2009; Ord. 5458, 2008; Ord. 4757, 1992; Prior Code §24.42.)

17.20.240 Visiting Vessels.

A. Visitors to the Santa Barbara Harbor shall pay, in advance, daily fees per foot of vessel length, to the City, as established by City Council resolution.

B. If any visitor leaves a visitor berth or mooring, unless forced to do so by weather or fire, without first paying accrued visitor fees, both the vessel and the person representing the vessel shall be placed upon a delinquent list, and will not be permitted to use any slip or mooring without first paying double the fees incurred and an additional charge of ten dollars ($10.00), except by the express permission of the Waterfront Director.

C. It is unlawful for any person using a vessel to overstay the "maximum allowable stay," as established by City Council Resolution, without the express permission of the Waterfront Director. Any person violating this subsection shall pay a monetary penalty over and above the required visitor fees as such penalty amounts may be established by resolution of the City Council. The payment of such monetary penalties shall not limit the City's ability to exercise any other remedy, civil or criminal, or other administrative procedures, as may be set forth in this Code, against the person in violation of this subsection. (Ord. 5315, 2004; Ord. 4757, 1992.)

17.20.250 Permits for Vessel Placement on Leadbetter Beach and Vessel and Storage Rack Placement on West Beach.

A. An annual non-transferable permit fee as established by City Council Resolution will be charged for the seasonal placement of vessels on a portion of Leadbetter Beach, also designated and referred to as Catamaran Beach, and year-round placement of vessels and storage racks on West Beach in locations and upon terms and conditions designated by the Waterfront Director.

B. It is unlawful to place or store a vessel on Leadbetter Beach or a vessel or storage rack on West Beach without a permit issued by the City for such purposes, unless expressly allowed to do so by the Waterfront Director in writing.

C. It is unlawful to place or store containers, boxes, or any other vessel equipment or appurtenances on Leadbetter Beach or West Beach unless expressly allowed to do so by the Waterfront Director in writing.

D. In addition to prosecution under this Code, when any person places or stores a vessel or storage rack without a permit, or one of the items described in subsection C above, on Leadbetter Beach or West Beach, said vessel or item may be padlocked on the beach and it may be removed from its location and stored in another area inside or outside the Harbor as designated by the Waterfront Director. A storage fee as established by City Council shall be charged for the storage of unpermitted vessels or items as described in subsection C above on Leadbetter Beach or West Beach. (Ord. 5315, 2004; Ord. 4757, 1992.)

17.20.255 Santa Barbara Mooring Area.

A. MOORING OF VESSELS IN THE HARBOR DISTRICT.

1. Unlawful Mooring in Harbor District. It is unlawful to place, erect, construct or maintain a Mooring in any area of the Harbor District without a current and valid Mooring Permit issued by the Waterfront Director or without the express permission of the Waterfront Director.

2. Unlawful Anchoring in Santa Barbara Mooring Area. It is unlawful for any person having charge of a vessel to Anchor a vessel in the Santa Barbara Mooring Area without express permission of the Waterfront Director.

B. MOORED VESSELS MUST BE OPERABLE.

1. Unlawful to Moor Inoperable Vessels. It shall be unlawful to Moor a vessel in the Santa Barbara Mooring Area that is not Operable.

2. Moored Vessels Must be Maintained as Operable Vessels. Vessels assigned to a Mooring Site in the Santa Barbara Mooring Area must be continuously maintained in an Operable condition. If, at any time, based upon the appearance of the vessel, inspection by the Waterfront Director, or other facts, the Waterfront Director determines that a vessel is not Operable, the Waterfront Director shall give notice to the Mooring Permittee requiring the Mooring Permittee to demonstrate that the vessel is Operable within fifteen (15) days of the date of the notice. If the Mooring Permittee does not demonstrate Operability of the vessel within the fifteen (15) day period, the Mooring Permit shall be terminated and the Mooring and vessel shall be removed from the Santa Barbara Mooring Area as required in the Mooring Permit Rules and Regulations. Vessels issued Special Activity Mooring Permits may be exempt from this provision, based on a determination of exemption by the Waterfront Director.

C. SANTA BARBARA MOORING AREA USE AND REGULATIONS.

1. Use of Mooring Sites. The Santa Barbara Mooring Area is divided into separate designated Mooring Sites. Mooring Sites shall be used only for the Mooring of Operable vessels and Dinghies by vessel owners who have been issued a Mooring Permit by the Waterfront Director. Mooring Sites shall not be used for commercial purposes without the express permission of the Waterfront Director. Mooring Permittees shall at all times use the Mooring Site in compliance with the Mooring Permit, Minimum Ground Tackle Specifications, this Chapter, and all local, state and federal rules. Failure to comply with all rules and regulations shall be cause for termination of a Mooring Permit.

2. Mooring Permit Administration.

a. Mooring Permits may be issued by the Waterfront Director in accordance with the Mooring Permit Rules and Regulations adopted by Resolution of the City Council of the City of Santa Barbara.

b. Special Activity Mooring Permits may be issued by the Waterfront Director.

c. Mooring Permit, Term. A Mooring Permit shall be issued for a period of one year and may be renewed annually thereafter by the Waterfront Director.

d. A Mooring Permittee shall hold no more than one permit. No person shall at any time be issued or hold more than one Mooring Permit.

e. Slip Permittees Not Eligible for Mooring Permits. Slip Permittees in Santa Barbara Harbor are not eligible for assignment of Mooring Permits in the Santa Barbara Mooring Area, and Mooring Permittees in Santa Barbara Mooring Area are not eligible for Slip Permits in Santa Barbara Harbor either through assignment or transfer, unless one of the permits is relinquished prior to issuance of the other permit.

f. Transfer of Permit. Mooring Permits are not transferable or inheritable.

g. Rental of Mooring Sites Prohibited. It shall be unlawful for any person issued a Mooring Permit to rent or lease (whether or not for compensation paid or other value), sublease or loan a Mooring Site to any other person or entity.

3. Termination of Mooring Permit. Mooring Permits may be terminated either by the Waterfront Director or the Mooring Permittee as provided in the Mooring Permit Rules and Regulations. Upon termination of the Mooring Permit, the vessel and Mooring shall be removed from the Santa Barbara Mooring Area in accordance with the Mooring Permit Rules and Regulations.

4. Failure to Timely Remove a Vessel or Mooring from the Santa Barbara Mooring Area. If the Mooring is not removed within the time provided for such removal in the Mooring Permit Rules and Regulations, title to the Mooring shall vest in the City. The City may, thereafter, remove and sell or dispose of the Mooring and recover the removal, storage or disposal costs from the Mooring Permittee. If the Mooring Permittee fails to pay such cost, the Waterfront Director may collect such costs in any court of competent jurisdiction or may recover any costs from the proceeds of sale of the Mooring. Vessels not removed from the Mooring Site within the time provided in the Mooring Permit Rules and Regulations shall be impounded by the City and subject to storage fees, disposal or lien sale proceedings as provided by law.

5. Appeal of Mooring Permit Termination. If the Waterfront Director terminates a Mooring Permit, the mooring permittee may request a waiver of the termination from the Waterfront Director. To request a waiver, the mooring permittee must file a written request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date of termination under Section D 1 or D 2 of the Rules and Regulations of Mooring Permits. If the Waterfront Director denies the waiver, the Mooring permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision on the waiver. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the mooring permittee may appeal the termination to the Harbor Commission. The mooring permittee shall file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date of termination under Section D 1 or D 2 of the Rules and Regulations of Mooring Permits.

D. MOORING INSTALLATION REQUIREMENTS AND ANNUAL INSPECTION.

1. Mooring Installation. If offered a Mooring Permit, an individual shall place a Mooring and vessel in the Mooring Site designated in the Mooring Permit within ninety (90) days of acceptance of the Mooring Permit offer. The Mooring placement shall be made in accordance with the Minimum Ground Tackle Specifications by a City-Approved Mooring Inspector. If the Mooring and vessel are not timely placed in the Mooring Site, or if the Mooring is not approved as required by the Mooring Permit Rules and Regulations, no Mooring Permit shall be issued.

2. Mooring Position. Any vessel moored in a Mooring Site within the City of Santa Barbara Mooring Area shall be firmly secured to a Mooring in such a manner as to prevent the vessel from drifting, dragging or otherwise moving off the Mooring Site. If the Waterfront Director determines that the migration of a vessel off the Mooring Site may cause an immediate threat or danger to life, property or the environment, the Waterfront Director may take action deemed necessary to abate such hazard. Any costs incurred by such abatement shall be borne by the Mooring Permittee.

3. Mooring Inspections. Moorings shall be inspected by a City-Approved Mooring Inspector upon installation at the Mooring Site and annually thereafter on each anniversary date of the issuance of the Mooring Permit (or more frequently at the Permittee's option or as deemed necessary by the Waterfront Director) to determine compliance with Minimum Ground Tackle Specifications. The installation and inspection shall be performed in accordance with the Mooring Permit Rules and Regulations by a City-Approved Mooring Inspector at the Mooring Permittee's sole cost and expense. (Ord. 5696, 2015; Ord. 5528, 2010; Ord. 5386, 2006.)

17.20.260 Anchoring Vessels Within the Santa Barbara Year-Round and Seasonal Anchorages.

A. ANCHORING IN YEAR-ROUND ANCHORAGE AREAS. Subject to compliance with the rules and regulations of the Waterfront Department, this Chapter, and all applicable state and Federal laws, vessels may Anchor at any time in the Year-Round Anchorage.

B. ANCHORING IN SEASONAL ANCHORAGE AREAS. Subject to compliance with the rules and regulations of the Waterfront Department, this Chapter, and all applicable state and Federal laws, vessels may Anchor in the Seasonal Anchorage during the months of April through October. It is unlawful to Anchor in the Seasonal Anchorage during the months of November through March.

C. ANCHORED VESSELS MUST BE OPERABLE. Vessels Anchoring in the Year-Round or Seasonal Anchorages must be continuously maintained as Operable vessels. It shall be unlawful to Anchor a vessel in the Year-Round or Seasonal Anchorage that is not Operable.

D. UNLAWFUL MOORING AND ANCHORING. It shall be unlawful to (i) Moor a vessel at any time, (ii) Moor or Anchor a vessel within 100 feet of any swim area designated by the placement of regulatory buoys, or (iii) leave Anchoring Equipment unattended without an attached vessel in the Seasonal or Year-Round Anchorages.

E. CITY REMOVAL OF MOORING OR ANCHORING EQUIPMENT. Any unlawfully placed Mooring or abandoned Anchoring Equipment may be removed by the City and sold or otherwise disposed of by the City as abandoned property. In addition to any fees incurred pursuant to Section 17.20.260.D, the City may recover the costs of removal, storage, or disposal of the Mooring or Anchoring Equipment from the vessel's owner. (Ord. 5458, 2008; Ord. 5420, 2007; Ord. 5386, 2006.)

17.20.265 Anchoring Vessels Within Waters of Harbor District Not Designated as Seasonal or Year-Round Anchorage.

A. UNLAWFUL ANCHORING.

1. Consent of Waterfront Director Required to Anchor Vessels in Harbor. It shall be unlawful to Anchor a vessel in the waters of the Harbor at any time without the consent of the Waterfront Director.

2. No Anchoring in Harbor District Except as Provided Herein. It shall be unlawful to Anchor a vessel in waters of the Harbor District between the sunset and the sunrise, except the Seasonal and Year-Round Anchorages as delineated on the reference map attached as Exhibit "A" to Chapter 17.20, without prior permission of the Waterfront Director.

3. No Anchoring in Harbor District at Any Time. It shall be unlawful to Anchor a vessel in the waters of the Harbor District at any time of the day or night in the area located between the eastern edge of Stearns Wharf and a line connecting Boundary A and Boundary B on the western edge of the Seasonal Anchorage as depicted on the reference map attached as Exhibit "A" to Chapter 17.20 without the prior permission of the Waterfront Director.

B. ANCHORED VESSELS MUST BE OPERABLE. Vessels Anchoring in any area of the Harbor District must be continuously maintained as Operable vessels. It shall be unlawful to Anchor a vessel in any area of the Harbor District that is not Operable.

C. UNLAWFUL MOORING AND ANCHORING. It shall be unlawful to Moor a vessel at any time or to leave Anchoring Equipment unattended without an attached vessel in the waters of the Harbor District not designated as Seasonal, Year-round or the Santa Barbara Mooring Area.

D. CITY REMOVAL OF MOORING OR ANCHORING EQUIPMENT. Any unlawfully placed Mooring or abandoned Anchoring Equipment may be removed by the city and sold or otherwise disposed of by the City as abandoned property. In addition to any fees incurred pursuant to Section 17.20.265 C, the City may recover the costs of removal, storage, or disposal of the Mooring or Anchoring Equipment from the vessel's owner. (Ord. 5500, 2009; Ord. 5420, 2007; Ord. 5386, 2006.)

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CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

EAST BEACH MOORING/ANCHORING PROGRAM

Project Statistics

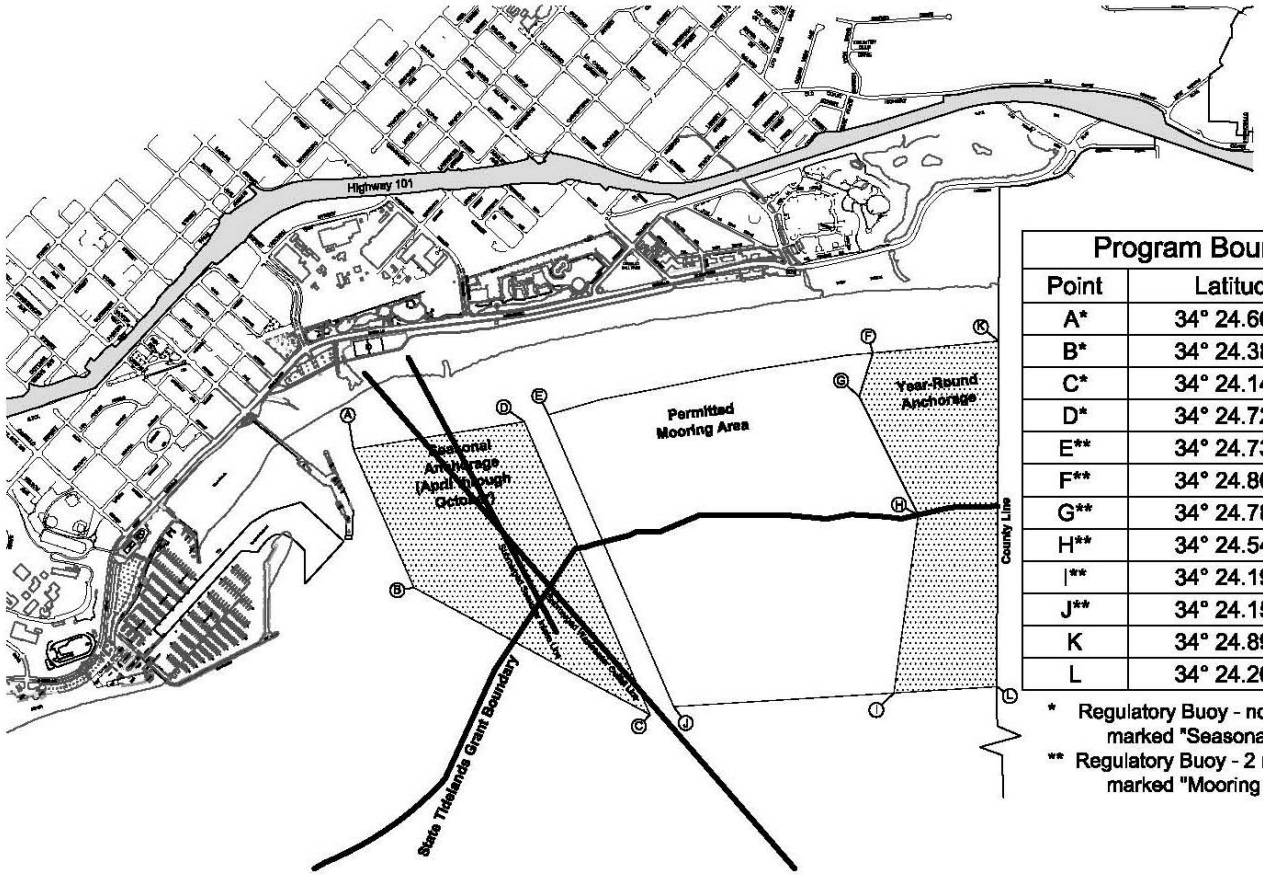
A.P.N.	017-191-0WF
Zone	PR- SD-3
Latitude	34° 24.59
Longitude	119° 40.13

Project Owner

City of Santa Barbara
Waterfront Department
PO Box 1990
Santa Barbara, CA 93102
(805) 564-5531

Project Description

The East Beach Mooring/Anchoring Program is designed to provide 48 mooring spaces for individually permitted vessels, plus seasonal anchoring opportunities for non-permitted vessels. By formalizing the mooring area and enforcing ground-tackle specifications for moored vessels, the Waterfront Department hopes to decrease pollution, vessel groundings on East Beach and financial impacts to the City.



Program Boundaries and Buoys		
Point	Latitude	Longitude
A*	34° 24.6608'	119° 41.0896'
B*	34° 24.3870'	119° 40.9384'
C*	34° 24.1428'	119° 40.3669'
D*	34° 24.7207'	119° 40.6802'
E**	34° 24.7354'	119° 40.6227'
F**	34° 24.8687'	119° 39.8462'
G**	34° 24.7819'	119° 39.8769'
H**	34° 24.5485'	119° 39.7307'
I**	34° 24.1937'	119° 39.7819'
J**	34° 24.1593'	119° 40.3102'
K	34° 24.8968'	119° 39.5443'
L	34° 24.2098'	119° 39.5346'

* Regulatory Buoy - no light marked "Seasonal Anchoring Area"

** Regulatory Buoy - 2 mile Amber Light, 15 FPM marked "Mooring Area - Permit Required"

Vicinity Map
NTS

Project Location
Scale 1" = 700'

DESCRIPTION	DATE	APPROVED
ADD OUTFALL & INTAKE LINES	1/25/06	LA
FINALIZE MOORING/ ANCHORING BOUNDARIES	2/14/06	MK
CREATE SHEET 3 WITH LAT LONG IN DD_MM_SS	5/5/06	MK

REVISIONS

DRAFTER L.Arroyo
DRAFTER J. J.
DESIGNER L.Arroyo
CHECKER
PROJ. MNGR. M.Kronman
DRAWING DATE 7/16/04

East Beach Mooring/Anchoring Program
City of Santa Barbara
Waterfront Department

CITY OF SANTA BARBARA
WATERFRONT DEPARTMENT– FACILITIES DIVISION

SCALE: Noted
FACTOR:
VERT. N/A
HOR. N/A

PROJ.NO.
SHT. 1 OF 2 SHTS.
DWG.NO. 6003-014

rev. 6/30/06

Chapter 17.24

WHARFAGE AND DOCKAGE RATES

Sections:

17.24.030 Vessels Accorded Free Dockage.
17.24.060 Assessment According to Length - Types of Boats - Exceptions.
17.24.070 Credit Dockage List.
17.24.080 Duration of Dockage.
17.24.090 Payment of Bills.
17.24.100 Leaving Slip or Mooring Prior to Payment.
17.24.110 Wharfage Charges.
17.24.200 Right of Inspection by Waterfront Director.
17.24.230 Rates for Delivery of Fresh Water to Vessels.
17.24.240 Unlawful to Attach Water Outlet or Hydrant Without Permission - Exception.
17.24.270 City Pier Designated.

17.24.030 Vessels Accorded Free Dockage.

Free dockage will be accorded vessels:

A. When, in the discretion of Waterfront Director conditions warrant the temporary suspension of regular dockage charges against vessels of the United States Government or any other nation, or otherwise in the interest of public welfare;

B. While actively engaged as a tug boat when made fast to another vessel which is being charged dockage. (Ord. 4757, 1992; Ord. 2832 §4(part), 1961; prior Code §24.45(b).)

17.24.060 Assessment According to Length - Types of Boats - Exceptions.

A. USE OF CITY PIER. Dockage shall be assessed based upon the overall length of the vessel. No dockage shall be charged for any fishing boat permitted under the provisions of this chapter to unload or load fish or fishing supplies at the City Pier, unless the owner or operator of the fishing boat fails or neglects to begin unloading within thirty (30) minutes following the docking of the boat, or unless the boat remains docked at the City Pier for more than fifteen (15) minutes after loading or unloading is completed.

B. DOCKAGE RATES. Dockage shall be computed, assessed and paid on a per tie-up basis for each twenty-four (24) hours, at a rate established by City Council resolution.

1. EXCEPTION 1: Tie-ups not to exceed thirty (30) minutes shall be permitted without charge at the discretion of the Waterfront Director, as follows:

a. For transacting official business with the Harbormaster; or

b. For the convenience and safety of the Harbor.

2. EXCEPTION 2: There shall be no charge for tie-ups at the launching ramp service float for trailered boats launched at the City-owned launching ramp provided the tie-up time is not in excess of thirty (30) minutes.

3. EXCEPTION 3: There shall be no charge for tying up at the Accommodations Dock for up to fifteen (15) minutes. Permission for the tie-up may be denied at the discretion of the Waterfront Director if an emergency exists or if a dangerous congestion or threat to navigation would result from the tie-up. (Ord. 4757, 1992; Ord. 3460 §1, 1970; Ord. 3435 §4, 1970; Ord. 3320 §2, 1968; Ord. 2832 §4(part), 1961; prior Code §24.45(e).)

17.24.070 Credit Dockage List.

The Waterfront Director may, at his discretion, approve payment of dockage charges by the week or month or other regular intervals and may require a deposit to be made in advance equal to one (1) month's dockage charges for the privilege of being on the credit dockage list. (Ord. 4757, 1992; Ord. 2832 §4(part), 1961; prior Code §24.45(f).)

17.24.080 Duration of Dockage.

Dockage shall commence when a vessel enters the Harbor for the purpose of tying-up to any wharf or pier in the Harbor and ends when the vessel vacates the wharf or pier. No deduction shall be made for Saturdays, Sundays or holidays. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 2832 §4(part), 1961; prior Code §24.45(g).)

17.24.090 Payment of Bills.

All bills for dockage must be paid when due. If dockage is not paid when due, the vessel will be placed on the delinquent list and will be subject to the penalties provided by law. (Ord. 4757, 1992; Ord. 2832 §4(part), 1961; prior Code §24.45(h).)

17.24.100 Leaving Slip Prior to Payment.

If any person leaves a slip, unless forced to do so by weather or fire, without first paying all fees due (unless such vessel is upon the credit dockage list), such vessel shall be placed upon the delinquent list, in which case it will not be permitted to use any slip without first paying all fees and late charges as established by resolution of City Council, except by permission of the Waterfront Director. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 2832 §4(part), 1961; prior Code §24.45(i).)

17.24.110 Wharfage Charges.

The rates for wharfage shall be established by the City Council by resolution, except as otherwise specifically provided in this chapter. (Ord. 4757, 1992; Ord. 3940 §1, 1978; Ord. 3846, 1976; Ord. 3320, 1968; Ord. 3131, 1966; Ord. 2832, 1961; prior Code §24.46(a) & (c).)

17.24.200 Right of Inspection by Waterfront Director.

The Waterfront Director is hereby authorized to enter upon and inspect any vessel which is loading or unloading merchandise to ascertain the kind and quantity of merchandise thereon, and it shall be unlawful to refuse permission to or prevent the Waterfront Director, his representatives, or such other persons, from entering upon any vessel for the purpose specified in this rule. (Ord. 4757, 1992; Ord. 3131 §1(part), 1966; Ord. 2832 §5(part), 1961; prior Code §24.46(j).)

17.24.230 Rates for Delivery of Fresh Water to Vessels.

Rates for fresh water delivered to vessels in the Harbor shall be as established by resolution of City Council. (Ord. 4757, 1992; Ord. 2727 §1(part), 1959; prior Code §24.47(part).)

17.24.240 Unlawful to Attach Water Outlet or Hydrant Without Permission - Exception.

A. It is unlawful for any person to attach a hose to any water outlet or hydrant, or to use any water hose or meter, or to take or attempt to take any water, without permission of the Waterfront Director.

B. Nothing herein contained shall prevent any person from attaching a hose, or otherwise using the water from any outlet, for the prevention of fire only. (Ord. 4757, 1992; Ord. 2727 §1(part), 1959; prior Code §24.47(part).)

17.24.270 City Pier Designated.

The Waterfront Director, subject to the approval of the Harbor Commission, shall designate a portion of the wharf in Santa Barbara Harbor, commonly and herein referred to as "City Pier", for the unloading of fresh fish, mollusks, crustaceans and sea water mammals. The portion of the City Pier so designated shall be clearly sign-posted by the Waterfront Director, in a manner visible from the surface of the City Pier and from its seaward approaches. (Ord. 4757, 1992; Ord. 2911 §1(part), 1964; Ord. 2832 §1(part), 1961; prior Code §24.49(a).)

Chapter 17.28

BUSINESS ACTIVITY AND ADVERTISING IN HARBOR

Sections:

17.28.010 Permit Required - Business Activity.
17.28.020 Permission Required - Advertising.
17.28.030 Permit Fee and Duration.
17.28.040 Regulation.
17.28.050 Revocation of Permit.
17.28.060 Permits Non-Transferable.
17.28.070 Appeal.
17.28.090 Business Tax Not Permit.
17.28.100 Commercial Photography in Harbor.

17.28.010 Permit Required - Business Activity.

Except as expressly authorized in writing by the Waterfront Director or his or her designee, no person shall engage in any business or commercial activity of any kind whatsoever in the Harbor District without first having applied for and obtained the appropriate license, lease or permit. (Ord. 5528, 2010; Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.020 Permission Required - Advertising.

It shall be unlawful to erect, repair, alter, relocate or maintain any post, distribute or display signs, commercial advertisements or circulars within the Harbor District, or to direct or authorize another person to do so, except pursuant to a sign permit obtained in accordance with Chapter 22.70 of the Santa Barbara Municipal Code, unless the sign is specifically exempted from the permit requirements as provided in Chapter 22.70. The requirements of this Chapter shall not apply to a "For Sale" sign displayed on a vessel occupying a slip by the owner of the vessel, or a sign, an announcement, or a flyer posted on a bulletin board provided on a Marina gate. (Ord. 5528, 2010; Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.030 Permit Fee and Duration.

A fee, established by resolution of City Council, shall be charged by the Waterfront Director for each Business Activity Permit issued pursuant to this chapter. The permit extends for a period of one (1) year, beginning on August 1 of each year and expiring on July 31 of each year. (Ord. 5458, 2008; Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.040 Regulation.

Activities permitted shall be subject to such further regulation, in the public interest, as determined by the Harbor Commission at a regularly noticed meeting. (Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.050 Revocation of Permit.

The following activities by the permittee shall be grounds for revocation of the Business Activity Permit by the Waterfront Director without refund of fee:

A. Any of the following activities or any other activities which violate Waterfront policy, City ordinances or any State or Federal Law,:

1. Any activity which causes a risk of injury or property damage to any person.
2. Any activity which poses a navigation hazard with the Harbor.
3. Any activity which impedes the free circulation of vessels, vehicles or persons within the Harbor District, or adversely affects traffic.
4. Any activity which pollutes the Harbor waters or litters the marinas, walkways or land areas of the Harbor District.

B. Any misrepresentation in the application for a Business Activity Permit. (Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.060 Permits Non-Transferable.

Business Activity Permits are not transferable. (Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.070 Appeal.

If the Waterfront Director denies or revokes a Business Activity Permit, the permittee may request a waiver of the denial or revocation from the Waterfront Director. To request a waiver, the permittee must file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the permit is denied or revoked. If the Waterfront Director denies the waiver, the permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the permittee may appeal the Waterfront Director's decision to deny or revoke the permit to the Harbor Commission. The permittee shall file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date that the permit is denied or revoked. The Harbor Commission's decision on the appeal shall be final. (Ord. 5528, 2010; Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.090 Business Tax Not Permit.

The payment of a business tax, or a building or sign permit fee by the City does not constitute a permit under this chapter, nor shall the granting of a permit under this chapter excuse the payment of a business tax or the obtaining of any other permit, or non-compliance with any applicable law. (Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.100 Commercial Photography in Harbor.

Still, motion or sound photography is permitted in the Harbor after doing the following:

A. Obtaining permission of the Waterfront Director; and,
B. Obtaining the appropriate permits from the City of Santa Barbara; and,
C. Paying appropriate fees as established by City Council resolution. (Ord. 4757, 1992.)

Chapter 17.32

PETROLEUM PRODUCTS IN HARBOR DISTRICT

Sections:

17.32.020 Sale or Delivery of Petroleum Products in Harbor District Limited to Franchise Holders.

17.32.020 Sale or Delivery of Petroleum Products in Harbor District Limited to Franchise Holders.

No oil, gasoline, petroleum or other hydrocarbon substance or product shall be sold, exchanged, delivered to or accepted by any person whatsoever in any commercial deal or transaction from, upon or off of any barge, boat, float, wharf, tank, tanker within the Harbor district except by agents of the fuel dock tenant of the City. (Ord. 4757, 1992; Prior Code §33.23(part).)

Chapter 17.36

WATERFRONT PARKING

Sections:

17.36.010 Parking in Waterfront Parking Lots.
17.36.020 Parking for Certain Purposes Prohibited.
17.36.030 Trailer Parking in Harbor Parking Lot.
17.36.040 72-Hour Vehicle Parking Limit in Parking Lots.
17.36.050 Penalties for Vehicle Parking Over 72 Hours in Parking Lots.
17.36.060 Oversized Vehicles in Harbor Parking Lot.
17.36.070 Oversized Vehicles in Waterfront Parking Lots.
17.36.080 Oversized Vehicles in Designated Waterfront Parking Lots.
17.36.090 No Personal Property in Parking Stalls.

17.36.010 Parking in Waterfront Parking Lots.

A. WATERFRONT PARKING LOTS. Waterfront Parking Lots shall mean all parking lots managed and maintained by the Waterfront Department, including Leadbetter Parking Lot, Harbor West Parking Lot, Harbor Parking Lot, Garden Street Parking Lot, Palm Park Parking Lot, Cabrillo West Parking Lot, Cabrillo East Parking Lot and Stearns Wharf.

B. HARBOR PARKING LOT. The Harbor Parking Lot shall mean the Waterfront Parking Lot bounded on the east by West Beach, on the West by Harbor Way, on the north by Shoreline Drive and Cabrillo Boulevard and on the south by Marinas 2, 3, 4 and the small-boat launch ramp.

C. PARKING FEES AND PERMITS. No person shall park a vehicle in the Waterfront Parking Lots without having paid or paying the required parking fee. Parking fees and the permit system for Waterfront Parking Lots shall be established by resolution of the City Council.

D. PAY AND DISPLAY PARKING MANAGEMENT SYSTEMS. When entering Waterfront Parking Lots operated by a Pay and Display Parking Management System, the owner or operator of a vehicle entering the lot must purchase a receipt from a Pay and Display Parking Management System machine in accordance with instructions and requirements posted on the machine. Such receipt shall be prominently displayed on the driver's side dashboard in such a manner that the date and expiration time of the receipt are readily visible from the exterior of the vehicle. Any owner or operator of a vehicle who fails to purchase or properly display a valid receipt purchased from a Pay and Display Parking Management System machine shall pay a fee as described by City Council Resolution.
(Ord. 5649, 2014; Ord. 4757, 1992.)

17.36.020 Parking for Certain Purposes Prohibited.

A. IMPROPER USE OF WATERFRONT LOT. No person shall park a vehicle in any Waterfront parking lot for the principal purpose of displaying such vehicle for sale, repairing such vehicle (except repairs necessitated by an emergency), or washing such vehicle.

B. INOPERABLE VEHICLES. No person shall park or permit to remain, any motor vehicle which is wrecked or inoperable for a period longer than two (2) hours in any Waterfront parking lot.

C. NO VEHICLES TO REMAIN IN PARKING LOT PAST TIME OF PARKING LOT CLOSING. No person shall leave a vehicle in a Waterfront parking lot past the posted closing time. (Ord. 5564, 2011; Ord. 4757, 1992.)

17.36.030 Trailer Parking in Harbor Parking Lot.

A. BOAT TRAILER PARKING PERMITTED. Persons who own or have possession of boat trailers shall be allowed to park boat trailers in the Harbor parking lot in designated boat-trailer parking stalls located adjacent to the small-vessel launch ramp for a period of time not to exceed three (3) consecutive nights. For the purpose of this section, one night's parking is defined as parking a boat trailer in a designated trailer parking stall any time between the hours of midnight to 4:00 a.m. No trailer, other than a boat trailer, shall be allowed to park in a parking stall in the Harbor lot without the prior written permission of the Waterfront Director or his or her designee.

B. BOAT TRAILER PARKING PROHIBITED. No person who owns or has possession of a boat trailer shall park such trailer in any area of the Harbor parking lot other than as provided in Section 17.36.030A herein without the prior written permission of the Waterfront Director or his or her designee.

C. BOAT TRAILER PARKING IN VIOLATION OF THIS SECTION; REMOVAL OF TRAILER AND PENALTIES. Any boat trailer parked in violation of this section may be removed by the City of Santa Barbara Police Department in accordance with the requirements of the California Vehicle Code and the owner or person in possession of the boat trailer parked in violation of this Section may be prosecuted in accordance with Santa Barbara

Municipal Code Chapter 1.28. (Ord. 5564, 2011.)

17.36.040 72-Hour Vehicle Parking Limit in Parking Lots.

A. 72-HOUR VEHICLE PARKING LIMIT IN WATERFRONT PARKING LOTS. Except as provided in Subsection B, no person who owns, or has possession, custody or control of any vehicle shall park, stop or leave the vehicle in the same parking space in any of the Waterfront Parking Lots in excess of a period of seventy-two (72) consecutive hours.

B. 72-HOUR VEHICLE PARKING LIMIT IN HARBOR PARKING LOT. No person who owns, or has possession, custody or control of any vehicle shall park, stop or leave the vehicle in the Harbor Parking Lot in excess of a period of seventy-two (72) consecutive hours, except persons with valid permits or prepaid permits as established by City Council Resolution, under the following circumstances:

1. Vehicles owned by harbor slip holders who have also been issued a valid Waterfront slip-holder's parking permit will be allowed unlimited parking in the Harbor Parking Lot, providing that such vehicles are currently registered with the California Department of Motor Vehicles and are fully operational.
2. Any person wishing to park a vehicle in the Harbor Parking Lot over the seventy-two (72) hour limit may be allowed to do so if the vehicle owner registers with the Waterfront parking office prior to leaving the vehicle in the Harbor Parking Lot. (Ord. 5649, 2014; Ord. 4757, 1992.)

17.36.050 Penalties for Vehicle Parking Over 72 Hours in Parking Lots.

A. PENALTIES FOR VEHICLE PARKING OVER 72 HOURS IN WATERFRONT PARKING LOTS. In the event a vehicle is parked, stopped or left standing in any of the Waterfront Parking Lots, except the Harbor Parking Lot pursuant to the provisions of Section 17.36.040B, in excess of a period of seventy-two (72) consecutive hours, the vehicle may be cited and the vehicle may be removed from the Waterfront Parking Lots by any member of the Police Department authorized by the Chief of Police in the manner and consistent with the requirements of the California Vehicle Code.

B. PENALTIES FOR VEHICLE PARKING OVER 72 HOURS IN HARBOR PARKING LOT. In the event a vehicle is parked, stopped or left standing in the Harbor Parking Lot in excess of a period of seventy-two (72) consecutive hours, does not have a valid slip holder parking permit, and has not been registered with the Waterfront parking office in advance, the vehicle may be cited and removed from the Harbor Parking Lot by any member of the Police Department authorized by the Chief of Police in the manner and consistent with the requirements of the California Vehicle Code. (Ord. 5649, 2014; Ord. 4757, 1992.)

17.36.060 Oversized Vehicles in Harbor Parking Lot.

All vehicles over twenty feet (20') in length are prohibited from parking in the Harbor Parking Lot, excepting those vehicles exempted by resolution of City Council. (Ord. 5458, 2008; Ord. 4757, 1992.)

17.36.070 Oversized Vehicles in Waterfront Parking Lots.

All vehicles over thirty three (33) feet in length are prohibited from entering or using any Waterfront Parking Lot, excepting those vehicles exempted by resolution of City Council. (Ord. 5262, 2002.)

17.36.080 Oversized Vehicles in Designated Waterfront Parking Lots.

The Waterfront Director shall designate parking spaces in Waterfront Parking Lots, including a limited number of oversize parking spaces, by signs, pavement stripes or other means of designation.

A. PARKING IN DESIGNATED PARKING STALLS ONLY. No vehicle shall be stopped, left standing or parked in any Waterfront Parking Lot, other than within a single marked stall designated for that size of vehicle.

B. PARKING IN MARKED STALLS ONLY. No vehicle shall be stopped, left standing or parked in any Waterfront Parking Lot, at angles, horizontally, diagonally or otherwise across the lines marking a parking stall designated for parking a vehicle.

C. NO PARKING IN OVERSIZED STALLS. No vehicle that is less than twenty (20) feet in length shall be stopped, left standing or parked in any Waterfront Parking Lot within a parking stall designated for an oversize vehicle.

D. NO PARKING OF OVERSIZED VEHICLES IN PASSENGER VEHICLE STALLS. No vehicle that is over twenty (20) feet in length shall be stopped, left standing or parked in any Waterfront Parking Lot, within a parking stall designated for passenger vehicles of ordinary length (less than twenty (20) feet). (Ord. 5564, 2011; Ord. 5262, 2002.)

17.36.090 No Personal Property in Parking Stalls.

No person shall occupy, fill or obstruct a space designated for parking in any Waterfront Parking Lot with any personal property other than a vehicle appropriate for the size of the parking stall, except by special permit of the Waterfront Director. (Ord. 5564, 2011; Ord. 5262, 2002.)

Chapter 17.40

RESERVE FOR HARBOR PRESERVATION

Sections:

17.40.010 Purpose.
17.40.020 Reserve for Harbor Preservation.
17.40.030 Accumulation of Funds.

17.40.010 Purpose.

The City Council has identified certain funds that shall be reserved for the purpose of accumulating funds for the preservation and enhancement of the Harbor, State Tidelands Trust, and Waterfront Department properties under the management of the City of Santa Barbara. Sources of funds to be committed for this purpose include but are not limited to surplus Waterfront Fund funds, interest earnings, and other sources as may be directed by the City Council. (Ord. 5110, 1999.)

17.40.020 Reserve for Harbor Preservation.

The City Finance Director shall establish and maintain a Reserve for Harbor Preservation in the Waterfront Tidelands Trust Fund for monies accumulated for preservation, enhancement, and management of Harbor, State Tideland Trust, and Waterfront Department properties. (Ord. 5110, 1999.)

17.40.030 Accumulation of Funds.

The City Finance Director shall deposit any funds received for the preservation and enhancement of the Harbor, State Tidelands Trust, and Waterfront Department properties and all interest earned from the investment of such funds in the Reserve for Harbor Preservation until a total of $5 million has been accumulated. If at any time the account balance for the Reserve for Harbor Preservation exceeds $5 million, the City Finance Director shall deposit all or a portion of the interest earned from the investment of those funds into the Operating Fund of the Waterfront Department as directed by a Resolution of the City Council. (Ord. 5110, 1999.)

TITLE 18
Airport

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5557	Airport Operations	July 28, 2011	Title 18

TITLE 18

AIRPORT

Chapter: 18.04 Definitions
Chapter: 18.08 General Regulations
Chapter: 18.10 Airport Security
Chapter: 18.16 Take-Off and Landings
Chapter: 18.18 Operation of Hang Gliders
Chapter: 18.20 Parked Aircraft
Chapter: 18.24 Taxiing
Chapter: 18.28 Motor Vehicle Regulations
Chapter: 18.32 Fire Regulations
Chapter: 18.36 Fees
Chapter: 18.40 Enforcement
Chapter: 18.44 Airport Commission

Chapter 18.04

DEFINITIONS

Sections:
18.04.010 Definitions.

The following words and phrases, whenever used in this Title, shall have the meaning and be construed as defined in this section.

A. **Aircraft**. Any machine or device capable of flight including, but not limited to, Airplanes, Helicopters, Gliders and Ultralights.

B. **Airfield.** That area on the Aircraft operation side of the Airport security perimeter fence including, but not limited to, baggage handling areas, Aircraft parking areas, hangars, fuel storage areas, perimeter roads, and all areas separated from roadways, sidewalks, buildings and highways by means of fencing, no trespassing signs or lack of evidence of provision of proper facilities for convenient, safe and easy entrance into and around subject land sections and areas, any other specific areas designated by the Airport Director as Airfield, or any other area on the Airport not otherwise defined in this chapter.

C. **Air Operations Area.** All portions of the Airport used or intended for use by Aircraft landing, taking-off and surface maneuvering, including, but not limited to, Controlled Movement Area, ramps and adjacent unpaved areas. The Air Operations Area does not include the Secure Area.

D. **Airplane.** A fixed-wing machine or device capable of flight.

E. **Airport.** The area comprising the Santa Barbara Municipal Airport, as the same may exist from time to time. The boundaries of the Airport are shown on the Airport Layout Plan adopted by resolution of the City Council as amended from time to time.

F. **Airport-Authorized Escort.** A person who has been authorized in writing by the Airport Director to accompany a person in a Restricted Area of the Airport.

G. **Airport Director.** The head of the Airport Department responsible to and under the direction of the City Administrator. The Airport Director shall also assist the Airport Commission in the performance of its duties to the City Council and shall keep the Airport Commission advised of the affairs of the Airport.

H. **Air Traffic Control Tower.** An Airport traffic control service operated by appropriate authority to promote the safe, orderly and expeditious flow of air traffic on or in the vicinity of the Airport.

I. **Authorized Person.** Any individual who has been issued Personnel Identification Media by the Airport Department which allows that individual to gain access to a Restricted Area.

J. **Controlled Movement Area.** The runways, taxiways, and other areas of the Airfield which are used for taxiing, takeoff, and landing of aircraft, not including aircraft parking areas.

K. **Glider.** An unpowered heavier-than-air Aircraft that is supported in flight by the dynamic reaction of the air against its lifting surfaces.

L. **Hang Glider.** A Glider capable of being carried, foot-launched and foot-landed solely by the energy and use of the pilot's legs, including, but not limited to, paragliders.

M. **Helicopter.** A rotary-wing machine or device capable of flight.

N. **Motor Vehicle.** A self-propelled land conveyance that does not run on rails.

O. **Personnel Identification Media.** A badge, credential, card, or other media that is issued by the Airport Director to an individual for purposes of allowing an individual to gain access to a Restricted Area.

P. **Restricted Area.** An area posted to indicate that access is limited to persons authorized by the Airport Director or under Airport-Authorized Escort. A Restricted Area includes, but is not limited to, a Secure Area, Air Operations Area, Security Identification Area, and Sterile Area.

Q. **Secure Area.** A portion of the Airport in which certain security measures specified in 49 C.F.R Part 1542 are in effect and where aircraft operators and foreign aircraft operators which have a security program under 49 C.F.R. Part 1544 or 1546 enplane and deplane passengers or sort or load baggage, including any adjacent areas which are not separated by adequate security barriers or measures.

R. **Security Device.** A mechanical or electronic device designed to detect, deter or prevent unauthorized access into a Restricted Area.

S. **Security Identification Display Area.** An area identified by the Airport Director where each person within the area is required to continuously display Personnel Identification Media or be accompanied by an Airport-Authorized Escort. This includes all Restricted Areas around the airline terminal used for boarding and servicing of Aircraft of scheduled commercial airlines or used for the loading or sorting of baggage.

T. **Security Vulnerability.** An unanticipated change to any system, measure, or procedure relating to Airport security that would diminish the Airport Department's ability to deter or detect unauthorized access to Restricted Areas.

U. **Sterile Area.** A portion of the Airport to which access is generally controlled by the TSA, or by an aircraft operator under 49 C.F.R. Part 1544, or by a foreign air carrier under 49 C.F.R. Part 1546, through the screening of persons and property.

V. **TSA.** The federal Transportation Security Administration of the Department of Homeland Security.

W. **Ultralight.** An Aircraft or device which satisfies the definition of an ultralight vehicle found in Title 14 of the Code of Federal Regulations. (Ord. 5557, 2011; Ord. 5203, 2001.)

Chapter 18.08

GENERAL REGULATIONS

Sections:

18.08.010 Hours for Public Use.
18.08.020 Solicitation.
18.08.030 Business Activity.
18.08.040 Advertising.
18.08.050 Business Tax Not Approval.
18.08.060 Off-Airport Car Rental Agencies.
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18.08.090 Approval of Airport Director for Aviation Demonstrations.
18.08.100 Airplane Equipment and Operation Rules.
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18.08.140 Preservation of Property.
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18.08.170 Animals.
18.08.180 Commercial Photography.
18.08.190 Prohibited Uses of Airspace.
18.08.200 Controlled Movement Area.
18.08.210 City Responsibilities.

18.08.010 Hours for Public Use.

A. AIRFIELD HOURS OF OPERATION. The Airfield shall be open for public aviation use twenty-four (24) hours of the day. The Airport Director may restrict use of the Airfield due to the condition of the runway, inclement weather or other causes in the interest of public safety.

B. AIRLINE TERMINAL HOURS OF OPERATION. The Airline Terminal shall be open for public use one hour before the first departing commercial airline flight and throughout the day until one hour after the last arriving commercial flight. The Airport Director may restrict the use of the Airline Terminal in the interest of public safety. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.020 Solicitation.

A. UNLAWFUL SOLICITATION IN AIRLINE TERMINAL. It shall be unlawful for any person to solicit and receive funds inside the Airline Terminal at the Airport.

B. UNLAWFUL SOLICITATION IN PARKING AREAS. It shall be unlawful for any person to solicit and receive funds in the parking areas at the Airport.

C. UNLAWFUL SOLICITATION ON SIDEWALKS. It shall be unlawful for any person to solicit and receive funds on the sidewalk adjacent to the Airline Terminal or the sidewalk adjacent to the parking areas at the Airport.

D. LAWFUL DISTRIBUTION AND SOLICITATION. Subdivisions A, B, and C apply only if the solicitation and receipt of funds is conducted by a person to or with passers-by in a continuous or repetitive manner. Nothing herein is intended to prohibit the distribution of flyers, brochures, pamphlets, books, or any other printed or written matter so long as such distribution is not made with the intent of immediately receiving funds, as defined in Subdivision E, at the locations referred to in Subdivision A, B, or C.

E. DEFINITIONS. For the purpose of this Section, the term "solicit and receive funds" means any written or oral request for (1) the donation of money, alms, property, or anything else of value, or (2) the pledge of a future donation of money, alms, property, or anything else of value, or (3) the sale or offering for sale of any property upon the representation, express or implied, that the proceeds of such sale will be used for a charitable or religious purpose. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.030 Business Activity.

It shall be unlawful for any person to engage in any business or commercial activity or provide any service on the Airport unless such person has a fixed place of business or a specific operating area assigned by the Airport Director on the Airport which is occupied by virtue of a lease, operating permit, license or rental agreement with the City of Santa Barbara permitting such activity, as recommended by the Airport Commission, and as required and approved, if necessary, by the City Council. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.08.040 Advertising.

It shall be unlawful to erect, repair, alter, relocate or maintain any sign within the Airport, or to direct or authorize another person to do so, except pursuant to a sign permit obtained in accordance with Chapter 22.70 of the Santa Barbara Municipal Code unless the sign is specifically exempted from the permit requirements as provided in Chapter 22.70. Signs which are exempt from the permit requirements as provided in Chapter 22.70 and which are located within the Air Operations Area and which face towards the Airfield, must be approved in writing by the Airport Director prior to their installation. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.08.050 Business Tax Not Approval.

The issuance of a City business license certificate or the granting of City building or sign permit shall not constitute City approval to solicit or do business, engage in commercial activity, or advertise on the Airport. (Ord. 5557, 2011; Ord. 3480 §2(part), 1971.)

18.08.060 Off-Airport Car Rental Agencies.

A. OFF-AIRPORT RENTAL AGENCY PERMITS. Any business entity not having a fixed place of business on the Airport and which offers motor vehicles for rent (or which arranges to rent motor vehicles) to the general public at the Airport may only do so after having obtained an "Off-Airport Rental Agency Permit" from the City (hereinafter such a business entity shall be referred to as an "Off-Airport Rental Agency" or "Agency"). Such permits shall be in a form acceptable to the Airport Director and City Attorney and approved by the City Council.

B. PAYMENT OF PERMIT FEE TO THE CITY. The Off-Airport Rental Agency Permit shall require the Rental Agency holding such a Permit to pay a monthly fee to the City based on a percentage of the gross receipts generated by the Agency from its operations at the Airport.

C. OPERATING CONDITIONS. Every Off-Airport Rental Agency shall conduct its business in compliance with all of the terms and conditions of the Off-Airport Rental Agency Permit. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4836, 1993; Ord. 4242, 1983; Ord. 3480, §2 (part), 1971.)

18.08.065 Commercial Ground Transportation Program.

A. RULES AND REGULATIONS. The City Council may adopt such rules and regulations, as recommended by the Airport Commission, which may be necessary to govern the conduct and operation of all commercial ground transportation providers on the Airport. Such rules and regulations shall be called the "Santa Barbara Airport Commercial Ground Transportation Program." For purposes of this Section, the term "Commercial Ground Transportation Providers" includes, but is not limited to, taxicabs, limousines, buses, courtesy shuttles and courier operators (for purposes of this Chapter, "courier operators" shall mean any person transporting property, baggage, or parcels for business purposes on Airport property and not for use or consumption on Airport property excluding persons transporting property, baggage, or parcels incidental to transporting Airport passengers, commercial air freight, and governmental entities providing ground transportation services at the Airport). The Airport Director shall administer the day-to-day operations of the Santa Barbara Airport Commercial Ground Transportation Program. The Airport Director has the discretion to make minor operational adjustments to the Program as needed for the effective operation of the Program. Substantive revisions to the Santa Barbara Airport Commercial Ground Transportation Program shall be made by the Airport Commission based upon recommendation of the Airport Director.

B. SANTA BARBARA AIRPORT COMMERCIAL GROUND TRANSPORTATION PROGRAM PERMITS. The Santa Barbara Airport Commercial Ground Transportation Program may include a requirement that all Commercial Ground Transportation Providers obtain a permit issued by the Airport Director and pay fees in the amounts established by resolution of the City Council. The procedure for the review and approval or rejection of the permit, if required, shall be set forth in the Santa Barbara Airport Commercial Ground Transportation Program.

C. FAILURE TO COMPLY WITH SANTA BARBARA AIRPORT COMMERCIAL GROUND TRANSPORTATION PROGRAM. The Airport Director, in his or her discretion, may deny, suspend, or terminate a Commercial Ground Transportation Provider permit for failure to comply with the Santa Barbara Airport Commercial Ground Transportation Program rules and regulations or any City, state or federal law. Written notification of the Airport Director's decision to deny, suspend, or terminate a Commercial Ground Transportation Provider permit shall be provided to the Provider at the address stated in the Provider permit application and shall state the date upon which the Provider's permit shall be denied, suspended or terminated. The decision of the Airport Director to deny, suspend, or terminate a Commercial Ground Transportation Provider permit may be appealed to the Airport Commission. A written notice of appeal shall be filed with the City Clerk within ten (10) days of the date of the Airport Director's written notification to the Provider of the permit denial, suspension or termination. The written appeal filed with the City Clerk shall state the grounds for appeal. The decision of the Airport Commission acting on the appeal shall be final.

D. NO SOLICITATION. It shall be unlawful for any person on the Airport to solicit or invite any person to ride in a vehicle used for the purpose of carrying passengers for hire, either by driving slowly past a loading entrance of the terminal building or by any other act or utterance calculated to induce that person to engage the vehicle, except that operators of properly permitted vehicles for hire may enter the airline terminal and display a passenger's name or affiliation on an otherwise blank sign no larger than one hundred (100) square inches to assist in identifying a passenger that has made a reservation, in advance, with the operator for ground transport services. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983.)

18.08.090 Approval of Airport Director for Aviation Demonstrations.

A. AVIATION DEMONSTRATION. It shall be unlawful for any person to conduct a public Aircraft, ground or aerial demonstration or exhibition on the Airport without the prior written approval of the Airport Director.

B. UNREGISTERED AIRCRAFT. It shall be unlawful for any person to operate an unregistered Aircraft on the Airport, except unregistered Aircraft with temporary authorization required under 14 CFR Part 47.31(b) and Aircraft of the United States Armed Forces. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.08.100 Aircraft Equipment and Operation Rules.

A. OPERATIONAL AIRPLANE BRAKES. Except when authorized by the Airport Director, it shall be unlawful to operate any Airplane on the Airport unless it has an operational tail or nose wheel and wheel brakes.

B. AIRPLANE TAXIING. If the pilot of an Airplane that does not have adequate brakes is authorized by the Airport Director to taxi the Airplane, the pilot shall taxi it in such a manner so as not to endanger any persons, buildings, fixtures or other Aircraft. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.130 Removal of Wrecked, Damaged or Disabled Aircraft.

Aircraft owners, their pilots or agents, shall be responsible for the prompt removal of any wrecked, damaged or disabled Aircraft or parts thereof, from any runway or taxiway or areas adjacent to runways or taxiways on the Airport. In the event of an unsafe or emergency condition, the Airport Director may cause the removal of a wrecked, damaged or disabled Aircraft or any of its parts, from any runways or taxiways or areas adjacent to runways or taxiways at the owner or agent's expense expense and without liability for damage that may result from such move. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.08.140 Preservation of Property.

A. UNLAWFUL DESTRUCTION OF AIRPORT PROPERTY. It shall be unlawful for any person to destroy, injure, deface or disturb any building, sign, equipment, marker, or other structure, tree, flower, lawn or other public property on the Airport.

B. UNLAWFUL ALTERATION OF AIRPORT BUILDING. It shall be unlawful for any person to **a**lter or add to any building on the Airport without first obtaining the express written approval of the Airport Director and all other required permits and approvals.

C. UNLAWFUL DUMPING ON AIRPORT PROPERTY. It shall be unlawful for any person to make an excavation, or dump any material on the Airport without express written approval of the Airport Director.

D. UNLAWFUL INTERFERENCE WITH AIRPORT PROPERTY. It shall be unlawful for any person to interfere or tamper with, or injure any part of the Airport or its equipment.

E. UNLAWFUL ABANDONMENT OF PERSONAL PROPERTY. It shall be unlawful for any person to abandon any personal property or litter on the Airport. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.150 Area Uses.

A. UNLAWFUL OBJECTS ON AIRPORT PROPERTY. It shall be unlawful for any person to place, store or leave unattended any object on a road, walkway or Aircraft tie-down or other area on the Airport without approval of the Airport Director.

B. UNLAWFUL UNCOVERED TRASH CONTAINERS. It shall be unlawful for any person to keep uncovered trash containers on the Airport.

C. UNLAWFUL HAULING. It shall be unlawful for any person to operate a vehicle for hauling trash, dirt, or any other material on the Airport unless the vehicle is equipped to prevent its contents from dropping, sifting, blowing, leaking or otherwise escaping.

D. UNLAWFUL CAMPING ON AIRPORT PROPERTY. It shall be unlawful for any person to camp (as that term is defined in Santa Barbara Municipal Code Section 15.16.060) or sleep, which means, for the purpose of this provision, sleeping on the Airport, including, but not limited to, the Airfield, leased buildings, Motor Vehicles, Aircraft, Helicopters or in field areas for a period of not less than two (2) consecutive hours, without the express written consent of the Airport Director.

E. UNLAWFUL STORAGE OF PERSONAL PROPERTY. It shall be unlawful for any person to store items of personal property, including, but not limited to, boats, motorhomes and semi-trailers on the Airport without the express written consent of the Airport Director. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.08.155 Duty to Notify.

In addition to all other local, state or federal reporting requirements, in the event of a release or threatened release of hazardous materials or other contaminants into the environment relating to or arising out of a person's use or occupancy of the Airport or in the event of any claim, demand, action or notice made against any person regarding a failure or alleged failure to comply with any environmental laws on the Airport, the person shall immediately notify the Airport Director and shall provide the Airport Director with copies of any written claims, demands, notices or actions so made. (Ord. 5203, 2001.)

18.08.160 Interfering or Tampering with Aircraft.

It shall be unlawful to interfere or tamper with an Aircraft on the Airport or put the engine in motion, or use any Aircraft, aircraft parts, radios, instruments or tools on the Airport, without the permission of the owner of the Aircraft. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.170 Animals.

A. ANIMALS PROHIBITED IN AIRPORT AIRLINE TERMINAL AND ON AIRFIELD. It shall be unlawful to enter the Airport Airline terminal or Airfield with a domestic or wild animal except for domestic animals allowed in Section 18.08.170.D herein or without the permission of the Airport Director.

B. HUNTING AND FISHING ON AIRPORT PROPERTY PROHIBITED. It shall be unlawful to hunt or fish on the Airport property.

C. HORSE RIDING ON AIRPORT PROPERTY PROHIBITED. It shall be unlawful to ride or walk a horse on the Airport property except as necessary to transport such animal by air.

D. PERMITTED DOMESTIC ANIMALS.

1. Animals Permitted in Airline Terminal or Airfield. Domestic animals may be allowed in the Airline Terminal and on the Airfield in the following circumstances:

(i) an assistance animal for a disabled person;

(ii) a person entering the Airline Terminal for the purpose of air travel with a domestic animal that is confined within an approved pet transport;

(iii) a person entering the Air Operations Area, for the purpose of air travel via a private or charter Aircraft, with a domestic animal that is restrained by a leash or is otherwise confined so as to be completely under control; or

(iv) an animal accompanying a law enforcement officer.

2. Domestic Animals Permitted on the Airport Property Except Airline Terminal and Airfield. Domestic animals may be allowed on the Airport property in the following circumstances:

(i) domestic animals, if the keeping of domestic animals is specifically permitted by an agreement entered into between the City of Santa Barbara and a person or entity for the rental or other occupancy of the Airport property. Such domesticated animals must be at all times restrained by a leash or confined in a kennel or other appropriate enclosure; or

(ii) domestic animals kept in accordance with Section 6.08.020 of the Municipal Code.

E. PROPER DISPOSAL OF ANIMAL WASTE. All animal waste must be immediately removed from the Airport property and disposed of properly.

F. ANIMALS MAY BE PROHIBITED BY AIRPORT DIRECTOR. Animals determined by the Airport Director, in his or her absolute discretion, to be an annoyance or a risk to the health and safety of the public shall be immediately and permanently removed from the Airport property. (Ord. 5390, 2006; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.180 Commercial Photography.

It shall be unlawful for any person to take still or motion photography on the Airport for commercial purposes without first obtaining the express written consent of the Airport Director, as well as obtaining all required permits from the City of Santa Barbara and paying the appropriate fees as established by a resolution of the Council of the City of Santa Barbara. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.08.190 Prohibited Uses of Airspace.

It shall be unlawful for any person except an employee of the United States performing his official duties, or a person who has the permission of the Airport Director, to prepare to operate, operate or release a kite, parachute, balloon, model aircraft, rocket or other non-aeronautical airborne objects on the Airport. (Ord. 5557, 2011; Ord. 3480 §2(part), 1971.)

18.08.200 Controlled Movement Area.

A. COMMUNICATION EQUIPMENT WITHIN CONTROLLED MOVEMENT AREA.

All persons entering or within the Controlled Movement Area shall comply with either of the following requirements:

1. Be equipped with an operating two-way radio capable of communicating on the Airport's Common Traffic Advisory Frequency and ground control frequency; or
2. Be escorted by a person with this capability.

B. AIRPORT TRAFFIC CONTROL TOWER APPROVAL. At those times when the Airport Traffic Control Tower is operational, except as needed to avoid danger, no person shall enter or move within the Controlled Movement Area without receiving approval from the Airport Traffic Control Tower.

C. AFTER-HOURS ACCESS TO CONTROLLED MOVEMENT AREA. At those times when the Airport Traffic Control Tower is not operational, all persons entering into or on the Controlled Movement Area must use the Common Traffic Advisory Frequency, shall announce all intended movements and shall perform all movements only when it is safe to do so. (Ord. 5557, 2011.)

18.08.210 City Responsibilities.

The City, its agents or employees operating the Airport, assume no responsibilities for damage to property stored thereon or property thereon of persons using the Airport facilities, by reason of fire, theft, vandalism, windstorm, flood, earthquake, collision or other cause, nor does it assume any liability by reason of injury to persons while on the Airport or while using the Airport facilities. (Ord. 3480 §2(part), 1971.)

Chapter 18.10

AIRPORT SECURITY

Sections:

18.10.010 Airport Restricted Areas.
18.10.020 Personnel Identification Media.
18.10.030 Tampering with Security Device.
18.10.040 Custody of Keys or Other Means of Access.
18.10.050 Unattended Baggage.

18.10.010 Airport Restricted Areas.

A. AIRPORT RESTRICTED AREAS; GENERALLY. The City Council may adopt by Resolution such rules and regulations as deemed necessary to control access to and conduct within the Airport Restricted Area. Failure to comply with the Restricted Area Rules and Regulations adopted by the City Council shall constitute a violation of this Code and be unlawful.

B. ACCESS TO AIRPORT RESTRICTED AREAS. Except as otherwise provided in this Code, it shall be unlawful for any person to enter into or to be present inside any Airport Restricted Area without the prior express permission from the Airport Director unless such person is accompanied by Airport-Authorized Escort. Any person given permission by the Airport Director to enter an Airport Restricted Area must enter and exit the Restricted Area through a designated entrance or exit point.

C. PASSING, THROWING, OR CARRYING OBJECTS INTO AN AIRPORT RESTRICTED AREA. It shall be unlawful for any person to pass, throw, or carry any object into an Airport Restricted Area, except objects that are carried through a designated entrance or exit by an Authorized Person or by a person under Airport-Authorized Escort.

D. VEHICLE ACCESS. Vehicles driven, parked, or stationed in an Airport Restricted Area must have prior authorization granted by the Airport Director or be supervised by an Airport-Authorized Escort. The Airport Director, or the Airport Director's designee, may remove non-authorized vehicles from the Restricted Area at the vehicle owner's expense. (Ord. 5557, 2011.)

18.10.020 Personnel Identification Media.

A. ISSUANCE OF PERSONNEL IDENTIFICATION MEDIA. The issuance of Personnel Identification Media is at the sole discretion of the Airport Director. Such media shall remain the property of the Airport and shall be surrendered to the Airport Department upon demand or upon termination of the need for access to the area for which the identification was issued.

B. MISUSE OF PERSONNEL IDENTIFICATION MEDIA. It shall be unlawful to falsify, forge, counterfeit, alter, or tamper with any Airport-issued Personnel Identification Media.

C. USE Of PERSONNEL IDENTIFICATION MEDIA ISSUED TO ANOTHER PERSON. It shall be unlawful to use or attempt to use the Personnel Identification Media issued to another person for entry into, exit from, or while inside a Restricted Area.

D. EXPIRED PERSONNEL IDENTIFICATION MEDIA. It shall be unlawful to use or attempt to use an expired Personnel Identification Media for entry into, exit from, or while inside a Restricted Area. Each person in possession of expired Personnel Identification Media shall immediately surrender it to the Airport Director. (Ord. 5557, 2011.)

18.10.030 Tampering with Security Device.

It shall be unlawful to tamper with, or attempt to tamper with, or in any way hamper the effective operation of a Security Device. (Ord. 5557, 2011.)

18.10.040 Custody of Keys or Other Means of Access.

Only persons authorized by the Airport Director shall have custody of, access to, or use of keys or other means of access used to lock and secure a Restricted Area. Authorized Persons shall not duplicate or distribute keys or other means used for access to a Restricted Area to anyone without written authorization from the Airport Director. (Ord. 5557, 2011.)

18.10.050 Unattended Baggage.

It shall be unlawful for any person to leave any bag, luggage, box, or container unattended in any public Airline Terminal areas of the Airport unless authorized by the Airport Director. An item shall be deemed unattended if the item is out of the line of sight or more than thirty five (35) feet away from the person who had possession of the item before it was left unattended. This section does not apply to items left in a baggage claim area by airline or baggage

service personnel in the ordinary course of business. (Ord. 5557, 2011.)

Chapter 18.16

TAKE-OFF AND LANDINGS

Sections:

18.16.010 Engine Run-Ups.
18.16.020 Operator Must be at Controls.
18.16.030 Caution in Starting Engines.
18.16.050 Take-Offs from End of Runway.
18.16.070 Landings - Fixed-Wing Aircraft.
18.16.080 Landings - Helicopter and Autogyro.
18.16.090 Common Traffic Advisory Frequency.
18.16.095 Take-Offs and Landings Prohibited Outside of the Santa Barbara Municipal Airport - Exceptions.
18.16.100 Motorless Aircraft.
18.16.110 Towing Objects from Aircraft.
18.16.120 Turbojet and Turboprop Touch-and-Go Landings Prohibited.
18.16.130 Local Helicopter Training Operations.

18.16.010 Engine Run-Ups.

All engine run-ups shall be made in designated areas. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.16.020 Operator Must be at Controls.

No person shall start or run an engine in an Aircraft on the Airport unless there is a person trained as a pilot or Aircraft mechanic in the Aircraft at the engine controls. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.16.030 Caution in Starting Engines.

A. STARTING ENGINES. It shall be unlawful for any person to start an engine of an Aircraft parked on the Airport in a manner that damages any other property, Aircraft, or persons, or that blows paper, dirt or other material across taxiways or runways, so as to endanger the safety of operations on the Airport.

B. FOREIGN OBJECT DEBRIS. It shall be unlawful for any person to use any material (such as oil absorbents or similar material) in such a manner that creates a hazard of personal injury or property damage when picked up, swirled or blown about by the blast from an Aircraft engine. (Ord. 5557, 2011; Ord. 5203; 2001; Ord. 3480 §2(part), 1971.)

18.16.050 Take-Offs from End of Runway.

Take-offs shall be made from the end of the runway unless the Airport Traffic Control Tower is in operation and has directed otherwise. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.16.070 Landings - Fixed-Wing Aircraft.

All landings shall be confined to the hard surface runways and shall be made on the runway designated by the Airport Traffic Control Tower or the proper runway for safe operation as indicated by wind and weather conditions when the tower is not in operation. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.16.080 Landings - Helicopter and Autogyro.

Helicopters may land in an area designated by the Airport Director or as directed by the Airport Traffic Control Tower, exercising due care with respect to other aircraft and/or people. Autogyros shall land and take-off on the active runway and taxi to the parking area as do fixed-wing Aircraft. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.16.090 Common Traffic Advisory Frequency.

In the interest of aviation safety during the hours that the Airport Traffic Control Tower is not in operation, all pilots conducting flight operations shall use the Common Traffic Advisory Frequency. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.16.095 Take-Offs and Landings Prohibited Outside of the Santa Barbara Municipal Airport - Exceptions.

A. LANDINGS OUTSIDE AIRPORT PROHIBITED. It shall be unlawful for any person to take off from or land any Aircraft within the limits of the City of Santa Barbara outside of the Santa Barbara Municipal Airport, except under the following circumstances:

1. In emergency situations where it is impossible or impractical for the Aircraft to remain in the air and landing is necessary to avoid greater danger;
2. When special permission has been secured from the City Administrator, or other person designated by the City Council of the City of Santa Barbara to grant such permission, in which event such landing and taking-off shall be solely in the area and under the conditions imposed by such public official;
3. Helicopters landing at officially-designated heliports;
4. Aircraft while engaged in firefighting, rescue operations or responding to a medical emergency;
5. Parachute or other contrivance used primarily as safety equipment;
6. Hang Gliders;
7. Military aircraft;
8. Law enforcement aircraft. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4118, 1981; Ord. 3777, 1975.)

18.16.100 Motorless Aircraft.

No motorless Aircraft shall land or take-off at the Airport without prior permission from the Airport Director. (Ord. 5557, 2011; Ord. 5203, 2001.)

18.16.110 Towing Objects from Aircraft.

It shall be unlawful to take off in an Aircraft towing any object or device, including but not limited to, Gliders and banners, without prior written permission from the Airport Director. (Ord. 5557, 2011; Ord. 5203, 2001.)

18.16.120 Turbojet and Turboprop Touch-and-Go Landings Prohibited.

Operators of turbojet and turboprop Aircraft are prohibited from conducting a series of touch-and-go practice landings at the Airport without the prior consent of the Airport Director. (Ord. 5557, 2011.)

18.16.130 Local Helicopter Training Operations.

Local Traffic (for purposes of this Section, “Local Traffic” means Helicopters conducting training operations operating in the traffic pattern, within sight of the tower, or Helicopters known to be departing or arriving from flight in local practice areas) Helicopter training operations shall not be conducted on the Airport without the prior written consent of the Airport Director. (Ord. 5557, 2011.)

Chapter 18.18

OPERATION OF HANG GLIDERS

Sections:

18.18.010 Prohibited Operations of Ultralights and Hang Gliders.

18.18.010 Prohibited Operations of Ultralights and Hang Gliders.

It shall be unlawful to operate a Hang Glider or Ultralight over the Airport or within one hundred feet (100') of any building used as a residence within the City of Santa Barbara. (Ord. 5557, 2011; Ord. 5265, 2003; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3831, 1976.)

Chapter 18.20

PARKED AIRCRAFT

Sections:

18.20.010 Aircraft Parking.
18.20.020 Proper Tie-Down.
18.20.030 Repair Areas.
18.20.040 Dismantled, Inoperable, Parked Aircraft or Parts Thereof.

18.20.010 Aircraft Parking.

Aircraft shall be parked only in a prescribed tie-down area or in a hangar unless otherwise instructed by the Airport Director. It shall be unlawful to park an Aircraft so as to restrict the flow of traffic within tie-down areas or on taxiways. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.20.020 Proper Tie-Down.

It shall be unlawful to leave an Aircraft unattended unless it is properly secured or placed in a hangar. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.20.030 Repair Areas.

It shall be unlawful to repair an Aircraft, engine, propeller, or apparatus on the Airport unless the area has been designated for that purpose by the Airport Director; except Aircraft owners may personally perform preventative maintenance on their own Aircraft in their assigned tie-down areas or hangars. Preventative Maintenance as used in this section is defined as those activities identified as preventative maintenance in Federal Aviation Regulation Part 43, Appendix A, except the spray application of paints and other similar decorative or protective coatings is prohibited. Aircraft owners personally performing preventative maintenance to their Aircraft must prevent the release of lubricants and other contaminants into the environment and ensure proper disposal of all wastes resulting from Aircraft maintenance activities. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.20.040 Dismantled, Inoperable, Parked Aircraft or Parts Thereof.

A. REMOVAL OF INOPERABLE AIRCRAFT. The owner of dismantled or inoperable Aircraft, or parts thereof, parked within the Airport, but excluding wrecked, damaged or disabled Aircraft located on or adjacent to a runway or taxiway, must remove such Aircraft, or parts thereof, from the Airport within seven (7) days of receipt of written notice from the Airport Director requesting such removal. The Aircraft, or parts thereof, may be moved to a non-public leased facility and out of public view subject to approval of the Airport Director.

B. REQUIREMENT TO MOVE PARKED AIRCRAFT. At the request of the Airport Director, in the interest of public safety and to preserve all necessary accesses, the operator, owner or pilot of any Aircraft on the Airport must move the Aircraft from the place where it is parked or stored to any other designated place on the Airport. If the owner, pilot or operator refuses to comply with this direction, the Airport Director may move the Aircraft at the owner's expense and without liability for damage that may result from such move. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

Chapter 18.24

TAXIING

Sections:

18.24.010 Complying with Orders.
18.24.020 Engine Blast.
18.24.050 Taxiing Into and Out of Hangars Prohibited.

18.24.010 Complying with Orders.

Each person operating an Aircraft on a part of the Airport that is not under the direction of the Airport Traffic Control Tower shall comply with orders, signals, and directions of an authorized representative of the Airport Director. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.24.020 Engine Blast.

It shall be unlawful to taxi any Aircraft on the Airport in a place where exhaust blast is likely to cause injury to persons or property. If Aircraft cannot be taxied without violating this section, the operator must have the Aircraft towed to the desired location on the Airport. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.24.050 Taxiing Into and Out of Hangars Prohibited.

It shall be unlawful to operate an Aircraft in, or taxi into or out of, a hangar. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

Chapter 18.28

MOTOR VEHICLE REGULATIONS

Sections:

18.28.010 General Regulations.
18.28.020 Accident Reporting.
18.28.030 Parking.
18.28.040 Fire Gates and Equipment.
18.28.060 Reckless Operation.
18.28.070 Yield Right-of-Way.
18.28.080 Pass to Rear of Aircraft.
18.28.090 Blocking Taxiway.
18.28.100 Rapid Removal of Gas Tenders.
18.28.110 Repairs to Motor Vehicles.
18.28.120 Obedience to Traffic Control Devices.

18.28.010 General Regulations.

A. UNLAWFUL OPERATION OF MOTOR VEHICLES ON AIRPORT. It shall be unlawful for any person to operate a Motor Vehicle on the Airport in violation of any provision of this Code, any rule or regulation adopted by resolution of the City Council, or any rule or regulation adopted by the Airport Director pursuant to authority granted under this Code.

B. MOTOR VEHICLE RULES AND REGULATIONS. The Airport Director is authorized to adopt rules and regulations governing the operation of Motor Vehicles on the Airport consistent with the provisions of this Code.

C. OPERATION OF MOTOR VEHICLES ON ROADS. It shall be unlawful to operate a Motor Vehicle on the Airport except on roadways, parking areas and other hard surfaces that are designated for such vehicles, except service vehicles authorized in writing by the Airport Director and emergency vehicles.

D. SERVICE VEHICLE IDENTIFICATION. All authorized service vehicles operating within the Air Operations Area of the Airport must have company identification displayed on both sides of the vehicle, visible and legible from a distance of one hundred (100) feet.

E. DESIGNATION OF CONSTRUCTION VEHICLES. All construction vehicles operating within the Air Operations Area shall display an orange and white checkered flag of not less than nine (9) square feet and shall obtain clearance from the Airport Traffic Control Tower when operating within one hundred (100) feet of a runway or taxiway.

F. NIGHTTIME VEHICLE DESIGNATION. All vehicles operating on the Air Operations Area from sunset to sunrise shall operate a rotating amber light beacon or strobe on the roof of the vehicle. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.28.020 Accident Reporting.

Each operator of a Motor Vehicle involved in an accident between that vehicle and an Aircraft or another vehicle on the Airport shall report such accident fully to the Airport Director as soon as possible after the accident. The report shall include to the greatest extent possible: the date, time and location of the accident; a description of all vehicles or Aircraft involved in the accident, including license or tail numbers; the name of the owners of the vehicles or Aircraft; the names of the vehicle or Aircraft operators and their license numbers; the owners' and operators' insurance carriers; the circumstances of the accident; and a list of any injuries or damages. (Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.28.030 Parking.

A. PAID PARKING AREAS. It shall be unlawful to:

1. Park a Motor Vehicle on the Airport in an area requiring payment for parking unless the required amount is paid.
2. Park a Motor Vehicle in such a manner as to occupy parts of two (2) marked spaces, unless approved by the Airport Director.

B. NO ABANDONED VEHICLES. It shall be unlawful to abandon a Motor Vehicle on the Airport.

C. OBEY SIGNS AND MARKINGS. It shall be unlawful to park or stand a Motor Vehicle at any place on the Airport in violation of any sign or pavement marking posted by the Airport Director.

D. NO PARKING WITHIN FIFTEEN FEET OF FIRE HYDRANT. It shall be unlawful to park or stand a Motor Vehicle within fifteen feet (15') of a fire hydrant on the Airport.

E. PARKING IN AIR OPERATIONS AREA. It shall be unlawful to park a Motor Vehicle in the Air Operations Area or in any Aircraft tie-down area unless authorized by the Airport Director. The Airport Director may authorize an owner or operator of an Aircraft stored in a hangar on the Airport to park a Motor Vehicle used to access the Aircraft in an aircraft hangar while using the Aircraft.

F. PARKING ONLY IN DESIGNATED AREAS. It shall be unlawful to park a Motor Vehicle on the Airport anywhere other than on an area that has been designated for parking by the Airport Director.

G. REMOVAL OF UNAUTHORIZED VEHICLES. The Airport Director or his or her designee may remove, at the owner's expense, any vehicle parked on the Airport in violation of this Title, and the vehicle shall be subject to a lien for the cost of removal. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.28.040 Fire Gates and Equipment.

Motor Vehicles shall be kept clear of gates, entrances and fire equipment at all times. (Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.28.060 Reckless Operation.

A. MOTOR VEHICLE OPERATION ON AIRPORT. It shall be unlawful to operate a Motor Vehicle on the Airport in a negligent or reckless manner or in excess of twenty-five (25) miles per hour or as otherwise posted.

B. MOTOR VEHICLE OPERATION IN AIR OPERATIONS AREA. It shall be unlawful to operate a Motor Vehicle in the Air Operations Area in a negligent or reckless manner or in excess of fifteen (15) miles per hour or as otherwise posted. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 4242, 1983; Ord. 3480 §2(part), 1971.)

18.28.070 Yield Right-of-Way.

Motor Vehicles on the Airfield shall yield right-of-way to taxiing Aircraft. (Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.28.080 Pass to Rear of Aircraft.

Motor Vehicles on the Airfield shall pass to the rear of Aircraft if the Aircraft's engine is running. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.28.090 Blocking Taxiway.

Gasoline tenders shall not be operated or parked so as to restrict taxiing Aircraft. (Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.28.100 Rapid Removal of Gas Tenders.

Gasoline tenders shall not be so positioned as to prevent their rapid removal. (Ord. 3480 §2(part), 1971.)

18.28.110 Repairs to Motor Vehicles.

Except as authorized in writing by the Airport Director, or to make minor repairs necessary for the prompt removal of the Motor Vehicle, it shall be unlawful to clean or make repairs to Motor Vehicles anywhere on the Airport other than designated shop areas. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.28.120 Obedience to Traffic Control Devices.

All roads and parking lots on the Airport are subject to public traffic regulations and control. It shall be unlawful to operate a Motor Vehicle in violation of any sign, signal or other traffic control device on the Airport. (Ord. 5557, 2011; Ord. 5203, 2001.)

Chapter 18.32

FIRE REGULATIONS

Sections:

18.32.010 Smoking.
18.32.020 Storage.
18.32.030 Cleaning Fluids.
18.32.040 Apron Surface Areas and Floor Surfaces.
18.32.050 Doping Materials.
18.32.060 Fueling Operations.
18.32.070 Fire Apparatus.

18.32.010 Smoking.

It shall be unlawful to smoke in any place on the Airport where smoking is prohibited by state law or City ordinance. In addition, it shall be unlawful to smoke within any baggage claim pavilion, the Security Identification Display Area, any hangar or within one hundred (100) feet of any Aircraft. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.32.020 Storage.

A. FIRE HAZARDS PROHIBITED. It shall be unlawful to store or stack material or equipment on the Airport in any manner that constitutes a fire hazard.

B. FLAMMABLE MATERIALS. It shall be unlawful to keep or store any flammable liquid, gas signal flare, or other similar material in a hangar or other building on the Airport, except that such material may be kept in an Aircraft in proper receptacles, in rooms or areas or in safety cans as approved by the City Fire Chief.

C. STORAGE IN HANGARS. All hangars on the Airport must be equipped with suitable metal receptacles, with self-closing covers, for storage of waste, rags and other rubbish, and all rubbish shall be removed from the hangar. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.32.030 Cleaning Fluids.

It shall be unlawful to use a flammable liquid having a flash point of less than one hundred ten degrees Fahrenheit (110 F) to clean an Aircraft or other engine, propeller or appliance on the Airport, unless it is done in the open air or in a room specifically set aside for that purpose. If a room is used, it must be a properly designed, fireproof and ventilated room or building, equipped with automatic sprinklers and adequate and readily accessible fire extinguishing apparatus, and in which all lights, wiring, heating, ventilation equipment, switches, outlets and fixtures are explosion proof, spark proof and vapor proof. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.32.040 Apron Surface Areas and Floor Surfaces.

Each person to whom a space on the Airport is leased, assigned, or made available for use, shall keep the space free and clear of weeds, oil, grease or other foreign materials that could cause a fire hazard or a slippery or otherwise unsafe condition. (Ord. 3480 §2(part), 1971.)

18.32.050 Doping Materials.

A. DOPING MATERIAL PROHIBITED EXCEPT AS PROVIDED HEREIN. It shall be unlawful to apply a doping material on the Airport except in a properly designed, fireproof and ventilated room or building in which all lights, wiring, heating, ventilation equipment, switches, outlets and fixtures are explosion proof, spark proof and vapor proof, and in which room or building all windows and doors are easily opened.

B. NO ENTRY INTO AREA WHERE DOPING MATERIAL BEING APPLIED. It shall be unlawful to enter or work in a room where doping materials are being used unless the person is wearing spark proof shoes. (Ord. 5557, 2011; Ord. 3480 §2(part), 1971.)

18.32.060 Fueling Operations.

A. AIRCRAFT FUELING RESTRICTIONS. Except as provided in the National Fire Protection Association (NFPA) 407 "Standards for Aircraft Fuel Servicing," it shall be unlawful to fuel or defuel an Aircraft on the Airport while:

1. The Aircraft engine is running;
2. The Aircraft is in a hangar or enclosed place;
3. Passengers are in the Aircraft, unless a passenger loading ramp is in place at the cabin door, the door is open, and a cabin attendant is at or near the door;
4. Operating a radio transmitter or receiver, or operating electrical switches.

B. FUELING PRECAUTIONS. It shall be unlawful to start the engine of an Aircraft on the Airport if there is any gasoline or other flammable liquid on the ground underneath.

C. BONDING. During the fueling of an Aircraft, the dispensing apparatus and the Aircraft must be bonded in accordance with the most current version of the National Fire Protection Association (NFPA) 407 "Standards for Aircraft Fuel Servicing."

D. OVERFLOW PREVENTION. Each person engaged in fueling or defueling shall exercise care to prevent the overflow of fuel, and must have readily accessible adequate fire extinguishers.

E. NO SMOKING. During the fueling or defueling of an Aircraft, no person shall, within one hundred feet (100') of that Aircraft, smoke or use any material that is likely to cause a spark or be a source of ignition.

F. FUELING EQUIPMENT MAINTENANCE. Each hose, funnel or apparatus used in fueling or defueling an Aircraft must be maintained in a safe and non-leaking condition and must be properly grounded to prevent ignition of flammable liquids.

G. FUELING PROCEDURES. Each person fueling or defueling an Aircraft on the Airport shall comply with the fire safety requirements and the fuel spill procedures set forth in the applicable and current version of the Airport Minimum Standards. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.32.070 Fire Apparatus.

Each occupant on the Airport shall supply and maintain adequate and readily accessible fire extinguishers, approved by fire underwriters for the hazard involved, that the Airport Director considers necessary. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

Chapter 18.36

FEES

Section:

18.36.010 Rates and Fees.

18.36.010 Rates and Fees.

Rates and fees charged by the City of Santa Barbara for public parking at the Airport shall be established by resolution of the City Council after consideration of the recommendations of the Airport Commission. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

Chapter 18.40

ENFORCEMENT

Sections:

18.40.010 Powers of Airport Director.
18.40.020 Issuance of Citations.
18.40.030 Carrying Firearms.
18.40.040 Penalty.

18.40.010 Powers of Airport Director.

The Airport Director shall be responsible for the enforcement of the provisions of this Title. (Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.40.020 Issuance of Citations.

The Airport Director, and those employees of the Airport Department charged by the Airport Director with enforcement duties, are authorized to issue written notices to appear as provided in Chapter 1.20 of this Code, of Section 853.6 of the California Penal Code, and to issue notices of illegal parking as provided in Section 40202 of the California Vehicle Code. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3480 §2(part), 1971.)

18.40.030 Carrying Firearms.

The Patrol Supervisor and Airport Patrol Officers may carry firearms while engaged in the performance of their duties. Prior to carrying firearms, the Patrol Supervisor and all Airport Patrol Officers must satisfactorily complete a course of training in the carrying and use of firearms which meets the minimum standards prescribed by the Commission on Peace Officers Standards and Training. The purpose and intent of the authorization to carry firearms provided in this section is to provide a means of self-defense or defense of others. The use and handling of such weapons shall comply in all respects with all applicable policies, rules and regulations. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3674 §2, 1974.)

18.40.040 Penalty.

The violation of any provision of this Title is a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed the sum of one thousand dollars ($1,000.00), or by imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 5557, 2011; Ord. 3480 §2(part), 1971.)

Chapter 18.44

AIRPORT COMMISSION

Sections:

18.44.010 Establishment.
18.44.020 Membership.
18.44.040 Compensation of Members.
18.44.050 Officers, Record, Quorum.
18.44.060 Meetings.
18.44.070 Powers and Duties.
18.44.075 Airport Commission Authority.
18.44.080 Delegation of Authority by City Council.
18.44.090 Continuation of Existing Arrangements.

18.44.010 Establishment.

There is hereby created and established an Airport Commission for the City of Santa Barbara. (Ord. 3726 §2, 1975.)

18.44.020 Membership.

The Commission shall consist of seven (7) regular members who shall be appointed and serve as follows:

A. REGULAR MEMBER INTERVIEWS. Prior to the appointment of a regular member, the prospective member shall be interviewed by members of the City Council at a public meeting attended by not less than a quorum of the City Council.

B. APPOINTMENT BY CITY COUNCIL. The seven regular members of the Commission shall be appointed by the City Council. They shall be subject to removal by motion of the City Council adopted by the affirmative votes of a majority of the total membership thereof. The regular members shall serve for terms of four years and until their respective successors are appointed and qualified. The terms for new and existing regular members shall be staggered so that the number of terms on the Commission expiring in any year shall not differ by more than one from the number of terms expiring in any other year. Such terms shall expire on January first of the appropriate year. A vacancy occurring before the expiration of a term shall be filled by appointment for the remainder of the unexpired term.

C. COMPOSITION OF COMMISSION. No less than four regular members appointed by the City Council to serve on the Commission shall be residents and electors of the City. (Ord. 5557, 2011; Ord. 3992, 1979; Ord. 3904, 1977; Ord. 3860, 1976.)

18.44.040 Compensation of Members.

The City Council may by resolution provide for remuneration of Commissioners. (Ord. 3726 §2, 1975.)

18.44.050 Officers, Record, Quorum.

The Airport Commission shall annually elect one (1) of its regular members as chairperson, one (1) of its regular members as vice chairperson, and such other officers as it may desire. The chairperson shall not serve more than two (2) consecutive terms of one (1) year each. The Commission shall cause to be kept a complete record of all its proceedings. A majority of the regular members of the Commission shall constitute a quorum for the transaction of all business of the Commission. In the event the City Council delegates the power to approve the execution of any agreement, lease, contract or the expenditure of funds to the Airport Commission, four (4) regular member votes shall be required to pass any action exercising such authority. (Ord. 5557, 2011; Ord. 5203, 2001; Ord. 3726 §2, 1975.)

18.44.060 Meetings.

The Airport Commission shall meet regularly once a month and at such other times as deemed necessary by the Commission. (Ord. 3726 §2, 1975.)

18.44.070 Powers and Duties.

The Airport Commission shall have the power and duty to advise the City Council regarding the following:

A. APPOINTMENT OF AIRPORT DIRECTOR. The selection and appointment of an Airport Director for the management of the Airport.

B. CONTRACTS, AGREEMENTS AND LEASES. The terms and conditions of all contracts and agreements pertaining to the operation of the Airport, and those leases which have terms for periods of longer than five (5) years or which involve Special Circumstances as defined in Section 18.44.075.C. Any matter required to be accomplished by ordinance of the City Council under the City Charter shall not be binding upon the City until the effective date of the ordinance adopted by the City Council.

C. RULES AND REGULATIONS. The promulgation of rules and regulations related to operation and maintenance of the Airport, including the fixing of rates, tolls, fees, rents, charges, or other payments to be made or received in connection with operation of the Airport.

D. FINANCIAL PLANS AND BUDGETS. The preparation of the financial plan and the budget for the operation of the Airport.

E. AIRPORT DEVELOPMENT PLANS. The preparation and submission for approval of the development plans of the Airport.

F. AIRPORT RESOLUTIONS. The preparation of resolutions regarding matters pertaining to the Airport. (Ord. 5557, 2011; Ord. 5337, 2004; Ord. 3726 §2, 1975.)

18.44.075 Airport Commission Authority.

A. AUTHORITY OF AIRPORT COMMISSION TO APPROVE AND AIRPORT DIRECTOR TO EXECUTE LEASES. Pursuant to the authority of Charter Section 812, the Airport Commission shall have the authority to review and approve on behalf of the City, and the Airport Director shall have the authority to execute, those leases, lease amendments, lease extensions, lease assignments and aeronautical permits for Airport-owned property or aviation activity which have a term of not longer than five (5) years or which do not involve Special Circumstances as defined in Subsection C hereof.

B. APPEAL. A prospective lessee under a lease or prospective aeronautical permit holder under an aeronautical permit that is denied by the Airport Commission may appeal the action of the Airport Commission denying the lease to the City Council. The procedures for such an appeal shall be as provided in Santa Barbara Municipal Code Section 1.30.050.

C. SPECIAL CIRCUMSTANCES. The term "Special Circumstances" as used in this Section shall mean those leases which, in the discretion of the Airport Director or the Airport Commission, involve issues of public interest, including, but not limited to, environmental, land use, or other issues that may be of concern to the general public. (Ord. 5557, 2011; Ord. 5337, 2004.)

18.44.080 Delegation of Authority by City Council.

The Airport Commission shall have the duty and power in its discretion to submit to the City Council requests for the delegation of authority regarding any or all matters referenced in Section 18.44.070 above. (Ord. 3726 §2, 1975.)

18.44.090 Continuation of Existing Arrangements.

After the effective date of this ordinance, services provided by City departments and offices to the Airport shall continue to be provided under existing arrangements until such time as the City Council does approve other arrangements. (Ord. 3726 §2, 1975.)

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TITLE 22
Environmental Policy and Construction

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5651	Design Standards for Development Near Highway 101	May 15, 2014	Chapter 22.65
5671	Historic Landmarks Commission Referral to Planning Commission	November 20, 2014	Section 22.22.133
5713	Solar Energy System Review Process	September 3, 2015	Chapter 22.91, Section 22.04.050

TITLE 22

ENVIRONMENTAL POLICY AND CONSTRUCTION

Sections:

Chapter: 22.04 Adoption of Uniform Construction/Technical Codes Related to Construction
Chapter: 22.05 Hazardous Waste Management Plan
Chapter: 22.06 Hazardous Waste Generators
Chapter: 22.07 Covenants of Easement
Chapter: 22.08 Partially Destroyed Buildings
Chapter: 22.09 Building Safety Assessment Placard System
Chapter: 22.10 Vegetation Removal
Chapter: 22.11 Maintenance of Approved Landscape Plans
Chapter: 22.12 Archaeological and Paleontological Resources
Chapter: 22.14 Surface Mining and Reclamation Practice
Chapter: 22.18 Seismic Safety Ordinance
Chapter: 22.21 Encroachments into Public Roads, Streets, Alleys and Rights of Way as Public Nuisance
Chapter: 22.22 Historic Structures
Chapter: 22.24 Flood Plain Management
Chapter: 22.32 Numbering Buildings
Chapter: 22.38 Undergrounding of Utilities
Chapter: 22.40 Underground Utility Districts
Chapter: 22.42 Tanks, Wells, Transmission Lines and Conduits as Public Nuisance
Chapter: 22.44 Street Dedication and Improvement for Building Permits
Chapter: 22.48 Naming of Public Facilities and Private Streets
Chapter: 22.52 Redevelopment
Chapter: 22.60 Streets and Sidewalks
Chapter: 22.64 Gates
Chapter: 22.65 Design Standards for Development Near Highway 101
Chapter: 22.68 Architectural Board of Review
Chapter: 22.69 Single Family Design Board
Chapter: 22.70 Sign Regulations
Chapter: 22.75 Outdoor Lighting
Chapter: 22.76 View Dispute Resolution Process
Chapter: 22.80 Water Conservation Standards
Chapter: 22.82 Energy Efficiency Standards
Chapter: 22.87 Storm Water Management for Development and Redevelopment Projects
Chapter: 22.90 Construction Prohibited in the Vicinity of the Conejo Road Landslide
Chapter: 22.91 Solar Energy System Review Process
Chapter: 22.92 Oil Drilling Prohibited
Chapter: 22.96 Maintenance of Abandoned Automobile Service Stations

Chapter 22.04

ADOPTION OF UNIFORM CONSTRUCTION/TECHNICAL CODES RELATED TO CONSTRUCTION

Sections:

22.04.010 Adoption of California Codes by Reference.
22.04.020 Amendments to California Building Code.
22.04.025 Amendments to California Residential Code.
22.04.030 Amendments to California Plumbing Code.
22.04.040 Amendments to California Mechanical Code.
22.04.050 Amendments to California Electrical Code.
22.04.060 Amendments to 2013 California Green Building Standards Code.
22.04.070 Amendments to 2012 International Property Maintenance Code.
22.04.080 Amendments to 1997 Uniform Code for Abatement of Dangerous Buildings.

22.04.010 Adoption of California Codes by Reference.

Subject to the amendments specified in Sections 22.04.020 through 22.04.080, the following Codes, certain appendix chapters, and the standards and secondary codes referenced therein are adopted and shall be known as the City of Santa Barbara Building Code.

A. The “California Administrative Code” (2013 Edition), as published by the California Building Standards Commission (also known as Part 1 of Title 24 of the California Code of Regulations).

B. The “California Building Code Volumes 1 and 2” (2013 Edition), as published by the California Building

Standards Commission, based on the 2012 International Building Code (also known as Part 2 of Title 24 of the California Code of Regulations), including Appendix Chapters B and J.

C. The “California Residential Code” (2013 Edition), as published by the California Building Standards Commission, based on the 2012 International Residential Code (also known as Part 2.5 of Title 24 of the California Code of Regulations), including Appendix Chapters F, G, H, I and K.

D. The “California Electrical Code” (2013 Edition), as published by the California Building Standards Commission, based on the 2011 National Electrical Code (also known as Part 3 of Title 24 of the California Code of Regulations).

E. The “California Mechanical Code” (2013 Edition), as published by the California Building Standards Commission, based on the 2012 Uniform Mechanical Code (also known as Part 4 of Title 24 of the California Code of Regulations).

F. The “California Plumbing Code” (2013 Edition), as published by the California Building Standards Commission, based on the 2012 Uniform Plumbing Code (also known as Part 5 of Title 24 of the California Code of Regulations), including Appendix Chapters H, I (Installation Standards) and K.

G. The “California Energy Code” (2013 Edition), as published by the California Building Standards Commission (also known as Part 6 of Title 24 of the California Code of Regulations).

H. The “California Historical Building Code” (2013 Edition), as published by the California Building Standards Commission (also known as Part 8 of Title 24 of the California Code of Regulations).

I. The “California Existing Building Code” (2013 Edition), as published by the California Building Standards Commission, based on the 2012 International Existing Building Code (also known as Part 10 of Title 24 of the California Code of Regulations).

J. The “California Green Building Standards Code” (2013 Edition), as published by the California Building Standards Commission (also known as Part 11 of Title 24 of the California Code of Regulations).

K. “The California Referenced Standards Code” (2013 Edition), as published by the California Building Standards Commission (also known as Part 12 of Title 24 of the California Code of Regulations).

L. The “International Property Maintenance Code” (2012 Edition), as published by the International Code Council.

M. The “Uniform Code for the Abatement of Dangerous Buildings” (1997 Edition), as published by the International Code Council.

(Ord. 5639, 2013; Ord. 5536, 2010; Ord. 5440, 2007; Ord. No. 5382, 2005; Ord. 5365, 2005; Ord. 5336, 2004; Ord. 5256, 2002; Ord. 5104, 1999; Ord. 4931, 1995; Ord. 4770, 1992; Ord. 4639, 1990; Ord. 4604, 1989; Ord. 4575, 1989; Ord. 4302, 1984; Ord. 4241, 1984; Ord. 4221, 1983; Ord. 4144, 1982; Ord. 4117, 1981; Ord. 4104, 1981; Ord. 4064, 1980.)

22.04.020 Amendments to California Building Code.

The California Building Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.020.

A. Section 105 “Permits” is amended by adding Sections 105.1.3 and 105.1.4 to read as follows:

105.1.3 Paving and Striping. Building permits shall be required for all paving, re-paving (including slurry coating), striping, re-striping, signage, and re-signage of parking spaces in parking lots and structures. Accessible parking spaces, access aisles, and signage shall be provided that meets currently adopted codes.

105.1.4 Demolition Permits. Building permits shall be required to demolish any building, portion of a building, or structure within the City of Santa Barbara and shall be subject to the following conditions:

1. The applicant shall ensure all utility connections have been removed by the appropriate utility providers, except such utility services that are approved for use in connection with the work of the demolition. The applicant shall provide verification from the utility providers that utility service has been disconnected.

2. The applicant shall obtain clearance from the Santa Barbara Air Pollution Control District for all commercial demolition, renovations and alterations.

3. All resulting building debris, trash, junk, vegetation, dead organic matter, rodent harborage, or combustible material that constitutes a threat to life, health, or property, or is detrimental to the public welfare or which may reduce adjacent property value shall be removed from the site within thirty (30) days after the demolition of the structure.

B. Section 105.2 “Work Exempt From Permit” is amended to read as follows:

Section 105.2 Work Exempt From Permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following (Note: For work involving detached one- and two-family dwellings or townhouses or buildings accessory to detached one- and two-family dwellings or townhouses, see Section 105 of the California Residential Code as amended):

Building:

1. One-story detached residential accessory structures used as tool and storage sheds, playhouses, portable and fixed playground equipment, bicycle or skateboard ramps and similar uses, provided the floor area does not exceed 120 square feet (11 m2) and the height does not exceed ten (10) feet at the highest point; and further provided the structure does not encroach into required setbacks or required open yards, does not obstruct required parking, and is not served by any utilities. The combined square footage of exempt accessory structures may not exceed 200 square feet on any single parcel.

2. Residential fences and walls not over 3½ feet high, as measured from the lowest adjacent grade within 5 feet of the fence or wall, that do not adversely affect drainage or cause erosion.

3. Oil derricks.

4. Residential retaining walls which are not over 4 feet in height as measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids, is installed on a slope 20% or greater, or the wall will tend to adversely affect drainage or cause increased erosion.

5. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.

6. Uncovered residential platforms, decks, porches, walks, and similar structures not more than 10 inches above adjacent grade, and not over any basement or story below.

7. Interior painting, papering, and similar finish work.

8. Temporary motion picture, television, and theater stage sets and scenery.

9. Ground mounted radio, television and other masts or antennae or dish shaped communication reception or transmitting structures less than 3 feet in diameter, which do not extend more than 15 feet above grade and are not served by electrical circuits regulated under the National Electrical Code (NEC). Lightweight roof-mounted radio, television, and other masts or antennae or dish shaped communication reception or transmitting structures less than 2 feet in diameter, which do not extend more than 15 feet above the roof, are not served by electrical circuits regulated under the NEC, and which are not subject to design review by the Architectural Board of Review, Historic Landmarks Commission, or Single Family Design Board.

10. Freestanding or movable cases, counters, and interior partitions not over 5 feet 9 inches in height, and not containing or requiring connections to electrical power or plumbing systems.

11. Permit applications shall be submitted for other miscellaneous and minor work; however, work which does not exceed $500 in valuation may be exempted by the Chief Building Official from permits and inspections.

Electrical:

Repairs and Maintenance. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Radio and Television Transmitting Stations. The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply and installations of towers and antennae.

Temporary Testing Systems. A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with the new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

C. Section 105.4 “Validity of Permit” is amended by adding Section 105.4.1 to read as follows:

105.4.1 Issuance. All work authorized by building permit for other than R-3 or U occupancies shall be issued to an appropriate contractor licensed in accordance with the provisions of California State Law.

D. Section 113 “Board of Appeals” is deleted in its entirety and readopted to read as follows:

113. Board of Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the Fire Code Official or Building Official relative to the application and interpretations of the technical codes, there shall be and is hereby created a Building and Fire Code Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The Fire Code Official or the Building Official shall be ex officio members and shall act as secretary to said Board but shall have no vote upon any matter before the Board. The Building and Fire Code Board of Appeals shall be appointed by the City Council and shall hold office at its pleasure.

The Board shall abide by the rules and procedures in Appendix B of this code and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Code Official or Building Official. This Board shall serve as the appeals board defined in Section 1.8.8 and 1.9.1.5.

E. Section 701A.1 "Scope" is amended to read as follows:

701A.1 Scope. This chapter applies to building materials, systems and/or assemblies used in the exterior design and construction of new buildings, remodels or additions to existing buildings located within a Wildland Urban Interface Fire Area as defined in Section 702A and 701A.3.1 Item No. 3.

F. Section 701A.3 "Application" is amended to read as follows:

701A.3 Application. New buildings, remodeled buildings or additions to existing buildings in any Fire Hazard Severity Zone or Wildland Urban Interface Area designated by the enforcing agency constructed after the application date shall comply with this chapter.

Exception: Accessory and/or Group U occupancy buildings may be exempted from all or portions of this chapter upon approval of the Fire Marshall and/or Chief Building Official.

G. Section 705A.2 "Roof Coverings" is deleted in its entirety and readopted to read as follows:

705A.2 Roof Coverings. Roof coverings on new buildings shall be class A noncombustible in accordance with adopted CBC Standards or otherwise as may be approved by the Chief Building Official. Roof coverings shall be class A or noncombustible fire retardant materials on existing buildings and additions or repairs to existing buildings. Treated or untreated wood shakes or shingles shall not be permitted, except on existing structures which are constructed with shake or shingle roofs, where less than 20% of the existing roof is being replaced within a two (2) year period, provided such replacement roofing is fire retardant treated wood shakes or shingles. "Green" or "Vegetated" roofs shall not be used in the Wildland Urban Interface Fire Area.

H. Section 705A.4 "Roof Gutters" is amended to read as follows:

705A.4 Roof Gutters. Roof gutters shall be provided with the means to prevent the accumulation of leaves and debris in the gutter. All roof gutters and downspouts shall be constructed of noncombustible materials.

I. Section 705A "Roofing" is amended by adding Section 705A.5 "Drip Edge Flashing" to read as follows:

705A.5 Drip Edge Flashing. When drip edge flashing is used at the free edges of roofing materials, it shall be noncombustible.

J. Section 706A.2 "Requirements" is amended to read as follows:

706A.2 Requirements. Ventilation openings for enclosed attics, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, and under-floor ventilation openings shall be fully covered with metal wire mesh, vents, other materials, or other devices that meet the following requirements:

1. The dimensions of the openings therein shall be a minimum of 1/16th inch (1.6 mm) and shall not exceed 1/8th inch (3.2mm).
2. The materials used shall be noncombustible.

Exception to Item No. 2: Vents located under the roof covering, along the ridge of roofs, with the exposed surface of the vent covered by noncombustible wire mesh, may be of combustible materials.

3. The materials used shall be corrosion resistant.
4. Turbine attic vents shall be equipped to allow one-way direction rotation only and shall not free spin in both directions.
5. Ventilation openings protected with vent openings that resist the intrusion of flame and embers, and which are listed by the State Fire Marshal, are exempt from complying with this subsection.

K. Section 708A.2 "Exterior Glazing" is amended to read as follows:

708A.2 Exterior Glazing. The following exterior glazing materials and/or assemblies shall comply with this section:

1. Exterior windows and/or skylights.
2. Exterior glazed doors.
3. Glazed openings within exterior doors.
4. Glazed openings within exterior garage doors.
5. Exterior structural glass veneer.
6. Glazing frames made of vinyl materials shall have welded corners, metal reinforcement in the interlock area, and be certified to the most current edition of ANSI/AAMA/NWWDA 101/I.S.2 structural requirements.

L. Section 903.2 "Where Required" is amended by adding Section 903.2.20 "Local Requirements" to read as follows:

903.2.20 Local Requirements. Approved automatic sprinkler systems shall be installed throughout buildings and structures as specified elsewhere in this Section 903.2 or as specified in this Section 903.2.18, whichever is more protective:

903.2.20.1 New Buildings, Generally. The construction of a new building containing any of the following occupancies: A, B, E, F, H, I, L, M, R, S or U.

Exceptions: A new building containing a Group U occupancy that is constructed in the City's designated High Fire Hazard Area is not required to provide a sprinkler system as long as the building does not exceed 500 square feet of floor area. A new building containing a U occupancy that is constructed outside the City's designated High Fire Hazard Area is not required to provide a sprinkler system as long as the building does not exceed 5000 square feet of floor area.

903.2.20.2 New Buildings in the High Fire Hazard Area. The construction of any new building within the City's designated High Fire Hazard Area.

Exception: A new building containing a Group U occupancy that is constructed in the City's designated High Fire Hazard Area is not required to provide a sprinkler system as long as the building does not exceed 500 square feet of floor area.

903.2.20.3 Additions to Buildings Other Than Single Family Residences. The addition of floor area to an existing building that contains any occupancy other than Group R, Division 3.

903.2.20.4 Remodels of Buildings Other Than Single Family Residences. The remodel or alteration of the interior of an existing building that contains any occupancy other than Group R, Division 3, where the floor area of the portion of the building that is modified or altered exceeds 50% of the existing floor area of the building. For purposes of this section, all modifications or alterations to an existing building that occur after the effective date of the ordinance adopting this section shall be counted in the aggregate toward the 50% threshold measured against the floor area of the building as it existed on the effective date of the ordinance adopting this section.

903.2.20.5 Change of Occupancy to a Higher Hazard Classification. Any change of occupancy in an existing building where the occupancy changes to a higher hazard classification.

903.2.20.6 Computation of Square Footage. For the purposes of this Section 903.2.18, the floor area of buildings shall be computed in accordance with the definition of "Floor Area, Gross" provided in Section 1002.1 of the California Building Code.

903.2.20.7 Existing Use. Any existing building not classified as Group R, Division 3, in existence at the time of the effective date of this code may have their use continued if such use was legal at the time. Additions to existing buildings shall require an automatic fire sprinkler system installed throughout, including areas not previously protected.

M. Section 907 "Where Required – New Buildings and Structures" is amended by adding Section 907.2.30 "Mixed Use Occupancies" to read as follows:

907.2.30 Mixed Use Occupancies. Where residential occupancies are combined with commercial occupancies, a fire alarm system shall be installed which notifies all occupants in the event of a fire. The system shall include automatic smoke detection throughout the commercial and common areas. In addition, a notification system shall be installed in a manner and location approved by the Fire Code Official that indicates the presence of residential dwelling units in accordance with Municipal Code Section 8.04.030.B.

N. Section 1208.4 "Efficiency Dwelling Units" is amended to read as follows:

1208.4 Efficiency Dwelling Units. Unless modified by local ordinance pursuant to Health and Safety Code Section 17958.1, efficiency dwelling units shall comply with the following:

1. The unit shall have a living room of not less than 220 square feet (20.4 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
5. Notwithstanding the provisions of subsection 1 above, for projects constructed or operated by a nonprofit or governmental agency offering housing at an Affordable Housing Cost to Lower Income Households (as those terms are defined in sections 50052.5 and 50079.5 of the California Health and Safety Code), the City may permit efficiency dwelling units for occupancy by no more than two persons who qualify as either very low or low income households, where the units have a minimum useable floor area (excluding floor area in the kitchen, bathroom and closet), of not less than 150 square feet. In all other respects, such efficiency dwelling units shall conform to the minimum standards specified in this code.

O. Table 1505.1 is amended to read as follows:

TABLE 1505.1
MINIMUM ROOF COVERING CLASSIFICATION
FOR TYPES OF CONSTRUCTION

IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B	B	B	B	B	B	B	B	B

P. Section 1505.1.3 "Roof Coverings Within All Other Areas" is deleted in its entirety and readopted to read as follows:

1505.1.3 Roof Coverings Within All Other Areas. The roof covering or roofing assembly of any new building or the re-roofing of any existing building, regardless of type or occupancy classification, shall be no less than Class B, except that Group H, Division 1 and Group I occupancies shall be Class A. Treated or untreated wood shakes or shingles shall not be permitted, except on existing structures which are constructed with shake or shingle roofs where less than 20% of the existing roof is being replaced within a two (2) year period, provided such replacement roofing is fire retardant treated wood shakes or shingles.

Exception: In the High Fire Hazard District, roof coverings shall be in accordance with Chapter 7A as amended.

Q. Section 1705.11.2 "Structural Wood" is amended to read as follows:

1705.11.2 Structural Wood. Continuous special inspection is required during field gluing operations of elements of the seismic force-resisting system. Periodic special inspection is required for nailing, bolting, anchoring and other fastening of components within the seismic force-resisting system, including wood shear walls, wood diaphragms, drag struts, braces, shear panels and hold-downs.

Exceptions:

1. Special inspection is not required for wood shear walls, shear panels and diaphragms, including nailing, bolting, anchoring and other fastening to other components of the seismic force-resisting system, where the fastener spacing of the sheathing is more than 4 inches (102 mm) on center (o.c.).
2. *Special inspection is not required if the building is designed in accordance with AWC SDPWS-2008 (NDS) Table 4.3A (Note: PLF values must be divided in half per 4.3.3) assuming that the allowable shear values reflected are reduced by 25%.*

R. Appendix B "Board of Appeals" is deleted in its entirety and readopted to read as follows:

B101.1 Application. The application for appeal shall be filed on a form obtained from the Building Official within 20 days after the notice was served.

B101.2 Membership of the Board. The City Council shall appoint individuals to an eligibility list. Appeals shall be scheduled before five members selected from the eligibility list by the Community Development Director or the Fire Chief as may be appropriate based on the subject matter.

B101.2.1 Quorum. It shall take a quorum of three members to hear an appeal and a majority vote of the Board convened to sustain an appeal.

B101.2.2 Chairperson. The chairperson shall be selected by the convened Board. The chairperson shall maintain order and conduct the meeting in accordance with Sections B102 and B102.1.

B102 Rules and Procedures. The Chief Building Official or Fire Chief may use the procedure for "Conduct of Hearing Appeals" in accordance with Chapter 6 of the Uniform Code for the Abatement of Dangerous Buildings for appeals. The Board may elect alternate procedures by a unanimous vote of the convened Board as they may deem appropriate.

B102.1 Procedures. Appeal hearings shall be conducted substantially in accordance with the following format:

1. The Chairperson shall call the meeting to order.
2. The Chairperson shall note the Board members present for the minutes.
3. The Chairperson shall recognize the Chief Building Official or Fire Chief for presentation of the appeal. The Chief Building Official or the Fire Chief shall read his/her recommendation to the Board. This recommendation shall be the standing motion before the Board.
4. The Chairperson shall recognize the Appellant for presentation of rebuttals.
5. All witnesses must be called by either the Appellant or the Chief Building Official or the Fire Chief and may be questioned.
6. After a motion to amend, accept, or deny the standing motion has been made and seconded, the Board may entertain comments from the public.
7. The Board shall vote on the standing or amended motion.
8. The Chairperson shall adjourn the meeting at the end of business.
9. The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.

B102.2 Meetings. The Board shall meet when needed to hear an appeal or when needed to transact business of the Board. Either the Chief Building Official or the Fire Chief or their designee shall act as Secretary of the Board.

B103 Alternatives. The Board may consider any alternate provided that it finds that the proposed design, material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in accessibility, suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation.

B104 Board Decisions. The decision of the Building and Fire Code Board of Appeals shall be final on all matters of appeals and shall become an order to the Appellant, Building Official or Fire Chief as may be appropriate.

S. Appendix J "Grading" is deleted in its entirety and readopted to read as follows:

J101 GRADING GENERAL

J101.1 Scope. The provisions of this chapter apply to grading, excavation and earthwork construction, including fills and embankments, and the control of grading site runoff, including erosion sediments and construction-related pollutants. The purpose of this appendix is to safeguard life, limb, property and the public welfare by regulating grading on private property.

J101.2 General Hazards. Whenever the Building Official determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Building Official, shall within the period specified therein repair or eliminate such excavation or embankment to eliminate the hazard and to be in conformance with the requirements of this code.

J101.3 Safety Precautions. If at any stage of the work the Building Official determines by inspection that further grading as authorized is likely to endanger any public or private property or result in the deposition of debris on any public way or interfere with any existing drainage course, the Building Official may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such person shall forthwith stop such work. The Building Official may authorize the work to proceed if the Building Official finds adequate safety precautions can be taken or corrective measures incorporated in the work to avoid likelihood of such danger, deposition or interference.

If the grading work as done has created or resulted in a hazardous condition, the Building Official shall give written notice requiring correction thereof as specified in California Building Code - Section 114 "Violations" or California Residential Code - Section 113 "Violations".

J101.4 Protection of Utilities. The owner of any property on which grading has been performed, and which requires a grading permit under Section J103, shall be responsible for the prevention of damage to any public utilities or services.

J101.5 Protection of Adjacent Property. The owner of any property on which grading has been performed, and which requires a grading permit under Section J103, is responsible for the prevention of damage to adjacent property, and no person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley, or other public or private property without supporting and protecting such property from settling, cracking or other damage which might result. Special precautions approved by the Building Official shall be made to prevent imported or exported materials from being deposited on the adjacent public way and/or drainage courses.

J101.6 Storm Water Control Measures. The owner of any property on which grading has been performed, and which requires a grading permit under Section J103, shall put into effect and maintain all precautionary measures necessary to protect adjacent water courses and public or private property from damage by erosion, flooding, and deposition of mud, debris, and construction-related pollutants originating from the site during grading and related construction activities as required in Chapter 22.85 and/or any special conditions imposed on a project as a result of the issuance of a discretionary permit by the City.

J101.7 Maintenance of Protective Devices. The owner of any property on which grading has been performed pursuant to a permit issued under the provisions of this code, or any other person or agent in control of such property, shall maintain in good condition and repair all drainage structures and other protective devices when they are shown on the grading plans filed with the application for grading permit and approved as a condition precedent to the issuance of such permit.

J101.8 Conditions of Approval. In granting any permit under this code, the Building Official may include such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but shall not be limited to:

1. Improvement of any existing grading to comply with the standards of this code.
2. Requirements for fencing of excavations or fills which may otherwise be hazardous.
3. Storm water control measures beyond those required by Section J101.6 of this Appendix J.

SECTION J102 DEFINITIONS

J102.1 Definitions. For the purposes of this appendix chapter, the terms, phrases and words listed in this section and their derivatives shall have the indicated meanings.

APPROVAL. Shall mean that the proposed work or completed work conforms to this chapter to the satisfaction of the Building Official.

AS–GRADED. The extent of surface conditions on completion of the approved grading project.

BEDROCK. In–place solid rock. The relatively solid, undisturbed rock in place either at the ground surface or beneath superficial deposits of alluvium, colluvium and/or soil.

BENCH. A relatively level step excavated into earth material on which fill is to be placed.

BEST MANAGEMENT PRACTICE (BMP). A stormwater pollution mitigation measure which is required to be employed in order to comply with the requirements of the NPDES permit issued to the City of Santa Barbara by the California Regional Water Quality Control Board.

BORROW. Earth material acquired from an off–site location for use in grading on a site.

CIVIL ENGINEER. A professional engineer registered in the state to practice in the field of civil works.

CIVIL ENGINEERING. The application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works.

COMPACTION. The densification of a fill by mechanical means.

CUT. See Excavation.

DESILTING BASINS. Physical structures constructed to allow the removal of sediments from surface water runoff.

DESIGN ENGINEER. Shall mean the civil engineer responsible for the preparation of the grading plans for the site grading work.

DOWN DRAIN. A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility.

EARTH MATERIAL. Any rock, natural soil or fill or any combination thereof.

ENGINEERING GEOLOGIST. A geologist experienced and knowledgeable in engineering geology. Shall mean a person holding a valid certificate of registration as a geologist in the specialty of engineering geology issued by the State of California under the applicable provisions of the Geologist and Geophysicist Act of the Business and Professions Code.

ENGINEERING GEOLOGY. The application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

EROSION. The wearing away of the ground surface as a result of the movement of wind, water or ice.

EROSION/SEDIMENTATION CONTROL PLAN (ESC). A site drawing with details, notes, and related documents that identify the measures taken by the permittee to (1) control construction-related erosion and prevent construction-related sediment and pollutants from being carried offsite by stormwater, and (2) prevent construction-related non-stormwater discharges from entering the storm drain system that complies with the latest version of the Building & Safety Division's ESC Policy.

EXCAVATION. The removal of earth material by artificial means, also referred to as a cut.

FIELD ENGINEER. The civil engineer responsible for performing the functions as set forth in Section J105.4.

FILL. Deposition of earth materials by artificial means.

GEOTECHNICAL ENGINEER. See Soils Engineer.

GEOTECHNICAL HAZARD. An adverse condition due to landslide, settlement, and/or slippage. These hazards include loose debris, slopewash, and the potential for mud flows from natural or graded slopes.

GRADE. The vertical location of the ground surface.

GRADE, EXISTING. The grade prior to grading.

GRADE, FINISHED. The final grade of the site that conforms to the approved plan.

GRADE, ROUGH. A stage at which the grade approximately conforms to the approved plan.

GRADING. An excavation or fill or combination thereof.

KEY. A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

LANDSCAPE ARCHITECT. A person who holds a certificate to practice landscape architecture in the State of California under the applicable landscape architecture provisions of Division 3, Chapter 3.5 of the Business and Professions Code.

LINE. Horizontal location of the ground surface.

NATURAL GRADE. The vertical location of the ground surface prior to any excavation or fill.

PRIVATE SEWAGE DISPOSAL SYSTEM. A septic tank with effluent discharging into a subsurface disposal field, into one or more seepage pits or into a combination of subsurface disposal field and seepage pit or of such other facilities as may be permitted.

PROJECT CONSULTANTS. Professional consultants required by this code which may consist of the design engineer, field engineer, soils engineer, engineering geologist, and architect as applicable to this chapter.

PROFESSIONAL INSPECTION. The inspection required by this code to be performed by the civil engineer, soils engineer or engineering geologist. Such inspections include those performed by persons supervised by such engineers or geologists and shall be sufficient to form an opinion relating to the conduct of the work.

SITE. Any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

SLOPE. An inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

SOIL. Naturally occurring superficial deposits overlying bedrock.

SOILS ENGINEER (GEOTECHNICAL ENGINEER). An engineer experienced and knowledgeable in the practice of soils (geotechnical) engineering.

SOILS ENGINEERING (GEOTECHNICAL ENGINEERING). The application of the principals of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection or testing of construction thereof.

STORM DRAIN SYSTEM. A conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, pipes, ditches and man-made channels, designed or used for collecting, dissipating, or conveying stormwater.

SURFACE DRAINAGE. Flows over the ground surface.

SOIL TESTING AGENCY. An agency regularly engaged in the testing of soils and rock under the direction of a civil engineer experienced in soil testing.

TERRACE. A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

SECTION J103 PERMITS REQUIRED

J103.1 Permits Required. Except as exempted in Section J103.2, no grading shall be performed without first having obtained a permit therefore from the Building Official. A grading permit does not include the construction of retaining walls or other structures. A separate permit shall be obtained for each site and may cover both excavations and fills. Any Engineered Grading as described in Section J104 shall be performed by a contractor licensed by the State of California to perform the work described herein. Regular Grading less than 5,000 cubic yards may require a licensed contractor if the Building Official determines that special conditions or hazards exist.

J103.2 Exemptions. A grading permit shall not be required for the following:

1. When approved by the Building Official, grading in an isolated, self-contained area, provided there is no danger to the public, and that such grading will not adversely affect adjoining properties.
2. Excavation for the construction of a structure permitted under this code.
3. Cemetery graves.
4. Excavations for wells, or trenches for utilities.
5. Exploratory excavations performed under the direction of a Soils Engineer or Engineering Geologist. This shall not exempt grading of access roads or pads created for exploratory excavations. Exploratory excavations must be restored to existing conditions, unless approved by the Building Official.
6. An excavation that is less than 50 cubic yards (38.3 m3) and complies with one of the following conditions:
   a) is less than 2 feet (610 mm) in depth, or
   b) does not create a cut slope greater than 5 feet (1524 mm) measured vertically upward from the cut surface to the surface of the natural grade and is steeper than 2 units horizontal to 1 unit vertical (50% slope).
7. A fill not intended to support a structure which does not obstruct a drainage course and complies with one of the following conditions:
   a) is less than 1 foot (305 mm) in depth and is placed on natural terrain with a slope flatter than 5 units horizontal to 1 unit vertical in (20% slope),
   b) is less than 3 feet (914 mm) in depth at its deepest point measured vertically upward from natural grade to the surface of the fill, and does not exceed 50 cubic yards and creates a fill slope no steeper than 2 units horizontal to 1 unit vertical (50% slope), or
   c) is less than 5 feet (1524 mm) in depth at its deepest point measured vertically upward from natural grade to the surface of the fill, and does not exceed 20 cubic yards and creates a fill slope no steeper than 2 units horizontal to 1 unit vertical (50% slope).
8. Exemption from the permit requirements of this appendix shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

J103.3 Unpermitted Grading. A person shall not own, use, occupy or maintain any site containing unpermitted grading. For the purposes of this Code, unpermitted grading shall be defined as any grading that was performed, at any point in time, without the required permit(s) having first been obtained from the Building Official, pursuant to Section 103.1.

J103.4 Availability of Permit at Site. No person shall perform any grading for which a permit is required under this chapter unless a copy of the grading permit and approved grading plans is in the possession of a responsible person and available at the site.

J103.5 Grading Plan Review, Inspection and Permit Fees. Fees shall be assessed in accordance with the provisions set forth in the City of Santa Barbara's most currently adopted fee schedule.

J103.6 Grading Security. The Building Official may require a security in such form and amounts as may be deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions. If required, a permit shall not be issued for grading unless the owner posts with the Building Official a security in one of the following forms:

1. A bond furnished by a corporate surety authorized to do business in this state.

2. A cash bond.
3. Savings and loan certificates or shares deposited and assigned to the City of Santa Barbara.
4. An instrument of credit from a financial institution subject to regulation by the State or Federal government and pledging that the funds necessary to carry out the grading are on deposit and guaranteed for payment, or a letter of credit issued by such a financial institution.
5. Where unusual conditions or special hazards exist, the Building Official may require security for grading involving less than 1,000 cubic yards (764.6 m3). Security required by this section may include incidental off-site grading on property contiguous with the site to be developed, provided written consent of the owner of such contiguous property is filed with the Building Official.
6. The Building Official may waive the requirements for a security for:
a) Grading being done by or for a governmental agency.
b) Grading necessary to remove a geotechnical hazard, where such work is covered by an agreement and security posted pursuant to the provisions of the City's "Subdivision Ordinance".
c) Minor grading on a site, not exceeding a slope of three horizontal to one vertical, provided such grading as determined by the Building Official will not affect drainage from or to adjacent properties.
d) Filling of holes or depressions, provided such grading will not affect the drainage from or to adjacent properties, or affect a rare, threatened or endangered species or its habitat, or other sensitive habitat.

J103.6.1 Amount of Security. The amount of security shall be based on the number of cubic yards of material in either excavation or fill, whichever is greater, plus the cost of all drainage or other protective devices or work necessary to eliminate geotechnical hazards. That portion of the security valuation based on the volume of material in either excavation or fill shall be computed as follows:
1. 100,000 cubic yards or less - 50 percent of the estimated cost of grading work.
2. Over 100,000 cubic yards - 50 percent of the cost of the first 100,000 cubic yards plus 25 percent of the estimated cost of that portion in excess of 100,000 cubic yards.
3. When the rough grading has been completed in conformance with the requirements of this code, the Building Official may at his or her discretion consent to a proportionate reduction of the security to an amount estimated to be adequate to ensure completion of the grading work, site development or planting remaining to be performed. The costs referred to in this section shall be as estimated by the Building Official.

J103.6.2 Conditions. All security shall include the conditions that the principal shall:
1. Comply with all of the provisions of this code, applicable laws, and ordinances;
2. Comply with all of the terms and conditions of the grading permit; and
3. Complete all of the work authorized by the permit.

J103.6.3 Term of Security. The term of each security shall begin upon the filing thereof with the Building Official, and the security shall remain in effect until the work authorized by the grading permit is completed and approved by the Building Official.

J103.6.4 Default Procedures. In the event the owner or the owner's agent shall fail to complete the work or fail to comply with all terms and conditions of the grading permit, it shall be deemed a default has occurred. The Building Official shall give notice thereof to the principal and security or financial institution on the grading permit security, or to the owner in the case of a cash deposit or assignment, and may order the work required to complete the grading in conformance with the requirements of this code be performed. The surety or financial institution executing the security shall continue to be firmly bound under an obligation up to the full amount of the security, for the payment of all necessary costs and expenses that may be incurred by the Building Official in causing any and all such required work to be done. In the case of a cash deposit or assignment, the unused portion of such deposit or funds assigned shall be returned or reassigned to the person making said deposit or assignment.

J103.6.5 Right of Entry. The Building Official or the authorized representative of the surety company or financial institution shall have access to the premises described in the permit for the purpose of inspecting the work.

In the event of default in the performance of any term or condition of the permit, the surety, or financial institution or the Building Official, or any person employed or engaged in the behalf of any of these parties, shall have the right to go upon the premises to perform the required work.

The owner or any other person who interferes with or obstructs the ingress to or egress from any such premises, of any authorized representative of the surety or financial institution or of the City of Santa Barbara, engaged in the correction or completion of the work for which a grading permit has been issued, after a default has occurred in the performance of the terms or conditions thereof, is guilty of a misdemeanor.

SECTION J104 PERMIT APPLICATION AND SUBMITTALS

J104.1 Submittal Requirements. In addition to the provisions of Sections J106 and J107, the applicant shall state the estimated quantities of excavation and fill.

J104.2 Site Plan Requirements. In addition to the provisions of Section J106, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code.

J104.2.1 Grading Designation. Grading in excess of 5,000 cubic yards or for the support of a structure shall be performed in accordance with the approved grading plan prepared by a civil engineer, and shall be designated as "engineered grading." Grading involving less than 5,000 cubic yards (3825 m3) shall be designated "regular grading" unless the permittee chooses to have the grading performed as engineered grading, or the Building Official determines that special conditions or unusual hazards exist, in which case grading shall conform to the requirements for engineered grading.

J104.2.2 Regular Grading Requirements. In addition to the provisions of Section J106 and Section J104.2, an application for a regular grading permit shall be accompanied by three sets of plans in sufficient clarity to indicate the nature and extent of the work. The plans and specifications shall be prepared and signed by an individual licensed by the state to prepare such plans or specifications.

Plans shall be drawn to scale upon substantial paper or mylar and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. Each sheet of each set of plans shall give the location of the work, the name and address of the owner, and the person by whom they were prepared.

The plans shall include, but shall not be limited to, the following information:

1. General vicinity of the proposed site.
2. Limiting dimensions and depth of cut and fill.
3. Location of any buildings or structures where work is to be performed, and the location of any buildings or structures within 15 feet of the proposed grading.
4. Contours, flow areas, elevations, or slopes which define existing and proposed drainage patterns.
5. Erosion/Sedimentation, storm water, and dust control provisions are required to be shown on the grading plan in accordance with the requirements of Sections J110, J111 and 112 of this appendix.

J104.2.3 Engineered Grading Requirements. In addition to the provisions of Sections J104.2 and J106, an application for an engineered grading permit shall be accompanied by specifications and supporting data consisting of a soils engineering report and engineering geology report. The plans and specifications shall be prepared and signed by an individual licensed by the state to prepare such plans or specifications when required by the Building Official.

Specifications shall contain information covering construction and material requirements.

Plans shall be drawn to scale upon substantial paper or mylar and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. Each sheet of each set of plans shall give the location of the work, the name and address of the owner, and the person by whom they were prepared.

The plans shall include, but shall not be limited to, the following information:

1. A vicinity map showing the proposed site.
2. Property limits and accurate contours of existing ground, and details of terrain and area drainage.
3. Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and related construction.
4. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains.
5. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners that are within15 feet of the property or that may be affected by the proposed grading operations.
6. Recommendations included in the soils engineering report and the engineering geology report shall be incorporated in the grading plans or specifications. When approved by the Building Official, specific recommendations contained in the soils engineering report and the engineering geology report, which are applicable to grading, may be included by reference.
7. The dates of the soils engineering and engineering geology reports, together with the names, addresses and phone numbers of the firms or individuals who prepared the reports.
8. A statement of the quantities of material to be excavated and/or filled and the amount of such material to be imported to, or exported from, the site.
9. A statement of the estimated starting and completion dates for work covered by the permit.
10. A statement signed by the owner acknowledging that a field engineer, soils engineer and engineering geologist, when appropriate, will be employed to perform the services required by this code, whenever approval of the plans and issuance of the permit are to be based on the condition that such professional persons be so employed.
11. Erosion/Sedimentation, storm water, and dust control provisions are required to be shown on the grading plan in accordance with the requirements of Sections J110, J111 and J112 of this appendix.
12. A drainage plan for that portion of a lot or parcel to be utilized as a building site (building pad), including elevations of floors with respect to finish site grade and locations of proposed stoops, slabs and fences that may affect drainage.
13. Location and type of any proposed private sewage disposal system.
14. Location of existing utilities and drainage facilities and recorded easements (public and private).
15. Location of all flood zones as designated and defined in Title 44, Code of Federal Regulations.

J104.3 Soils Engineering Report. The soils engineering report required by Section J104.2.2 shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, including buttress fills, when necessary, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes. All reports shall conform with the requirements of this Code and shall be subject to review by the Building Official. Supplemental reports and data may be required as the Building Official may deem necessary. Recommendations included in the reports and approved by the Building Official shall be incorporated in the grading plan or specifications.

J104.4 Engineering Geology Report. The engineering geology report required by Section J104.2.2 shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors. The engineering geology report shall include a geologic map and cross sections utilizing the most recent grading plan as a base. All reports shall conform with the requirements of this Code and shall be subject to review by the Building Official. Supplemental reports and data may be required as the Building Official may deem necessary. Recommendations included in the reports and approved by the Building Official shall be incorporated in the grading plan or specifications.

Exception: A soils engineering or engineering geology report is not required where the Building Official determines that the nature of the work applied for is such that a report is not necessary.

J104.5 Liquefaction Study. A geotechnical investigation may be required when the proposed work is a "Project" as defined in California Public Resources Code Section 2693, and is located in an area designated as a "Seismic Hazard Zone" as defined in Title 14, Section 3722 of the California Code of Regulations on Seismic Hazard Zone Maps issued by the State Geologist under Public Resources Code Section 2696.

Exception: A liquefaction study is not required where the Building Official determines from established local data that the liquefaction potential is low.

SECTION J105 INSPECTION

J105.1 General. Grading inspections shall be governed by Section J109 of this Appendix J and as indicated herein. Grading operations for which a permit is required shall be subject to inspection by the Building Official. Professional inspection of grading operations shall be provided by the Civil Engineer, Soils Engineer and the Engineering Geologist retained to provide such services in accordance with this Section for engineered grading and as required by the Building Official for regular grading.

J105.2 Special and Supplemental Inspections. The special inspection requirements of Section 1704.7 shall apply to work performed under a grading permit where required by the Building Official. In addition to the called inspections specified in Section J109, the Building Official may make such other inspections as may be deemed necessary to determine that the work is being performed in conformance with the requirements of this code. Investigations and reports by an approved soil testing agency, Soils Engineer and/or Engineering Geologist, and Field Engineer may be required. Inspection reports shall be provided when requested by the Building Official.

Inspection of drainage devices by the Field Engineer in accordance with this section may be required when the Building Official determines the drainage devices are necessary for the protection of the structures in accordance with this code.

J105.3 Field Engineer Inspections. When required, the field engineer shall provide professional inspection within such engineer's area of technical specialty, oversee and coordinate all field surveys, set grade stakes, and provide site inspections during grading operations to ensure the site is graded in accordance with the approved grading plan and the appropriate requirements of this code. During site grading, and at the completion of both rough grading and final grading, the Field Engineer shall submit statements and reports required by Sections J105.11 and J105.12. If revised grading plans are required during the course of the work, they shall be prepared by a Civil Engineer and approved by the Building Official.

J105.4 Soils Engineer Inspections. When required, the Soils Engineer shall provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction. The Soils Engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter. Revised recommendations relating to conditions differing from the approved soils engineering and engineering geology reports shall be submitted to the permittee, the Building Official and the Field Engineer.

J105.5 Engineering Geologist Inspection. When required, the Engineering Geologist shall provide professional inspection within such engineer's area of technical specialty, which shall include professional inspection of the bedrock excavation to determine if conditions encountered are in conformance with the approved report. Revised recommendations relating to conditions differing from the approved engineering geology report shall be submitted to the Soils Engineer.

J105.6 Permittee. The permittee shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this code. The permittee shall engage project consultants, if required, to provide professional inspections on a timely basis. The permittee shall act as a coordinator between the project consultants, the contractor and the Building Official. In the event of changed conditions, the permittee shall be responsible for informing the Building Official of such change and shall provide revised plans for approval.

J105.7 Building Official Inspections. The Building Official may inspect the project site at the following various stages of work requiring approval to determine that adequate control is being exercised by the professional consultants:

1. **Pregrade.** Before any construction or grading activities occur at the site, the permittee shall schedule a pregrade inspection with the Building Official. The permittee is responsible for coordinating that all project consultants are present at the pregrade inspection.
2. **Initial.** When the site has been cleared of vegetation and unapproved fill, and it has been scarified, benched or otherwise prepared for fill. No fill shall have been placed prior to this inspection. All measures as shown on the Erosion/Sedimentation Control Plan shall be installed and/or materials stockpiled for use as needed.
3. **Rough.** When approximate final elevations have been established; drainage terraces, swales and other drainage devices necessary for the protection of the building sites from flooding are installed; berms installed at the top of the slopes; and the statements required by Section J105.12 have been received.
4. **Final.** When grading has been completed; all drainage devices necessary to drain the building pad and project site are installed; slope planting established; irrigation systems installed; and the as-graded plans and required statements and reports have been submitted.

J105.8 Notification of Noncompliance. If, in the course of fulfilling their respective duties under this chapter, the Field Engineer, the Soils Engineer or the Engineering Geologist finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies and corrective measures which should be taken shall be reported immediately in writing to the permittee and to the Building Official.

J105.9 Transfer of Responsibility. If the Field Engineer, the Soils Engineer, or the Engineering Geologist of record is changed during grading, the work shall be stopped until the replacement has agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the Building Official in writing of such change prior to the recommencement of such grading.

J105.10 Non-Inspected Grading. No person shall own, use, occupy or maintain any non-inspected grading. For the purposes of this code, non-inspected grading shall be defined as any grading for which a grading permit was first obtained pursuant to Section J103, supra, but which has progressed beyond any point requiring inspection and approval by the Building Official, without such inspection and approval having been obtained.

J105.11 Routine Field Inspections and Reports. Unless waived by the Building Official, routine inspection reports shall be provided by the Field Engineer for all engineered grading projects. The Field Engineer shall file these reports with the Building Official as follows :

1. bi-weekly during all times when grading of 400 cubic yards or more per week is active on the site;
2. monthly, at all other times; and
3. at any time when requested in writing by the Building Official.

Such reports shall certify to the Building Official that the Field Engineer has inspected the grading site and related activities and has found them in compliance with the approved grading plans, the building code, grading permit conditions, and other applicable ordinances and requirements.

J105.12 Completion of Work. Upon completion of the rough grading work and at the final completion of the work, the following reports and drawings and supplements thereto are required for engineered grading or when professional inspection is required by the Building Official:

1. An as–built grading plan prepared by the Field Engineer retained to provide such services in accordance with Section J105.3, showing all plan revisions as approved by the Building Official. This shall include original ground surface elevations, as–graded ground surface elevations, lot drainage patterns, and the locations and elevations of surface drainage facilities and the outlets of subsurface drains. As–constructed locations, elevations and details of subsurface drains shall be shown as reported by the soils engineer.
2. The Field Engineer shall state in a report to the Building Official that to the best of their knowledge, the work within their area of responsibility was done in accordance with the final approved grading plan.
3. A report prepared by the Soils Engineer retained to provide such services in accordance with Section J105.4, including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the approved soils engineering investigation report. Soils Engineer shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soils engineering report and applicable provisions of this chapter. The report shall contain a finding regarding the safety of the completed grading and any proposed structures against hazard from landslide, settlement, or slippage.
4. A report prepared by the Engineering Geologist retained to provide such services in accordance with Section J105.5, including a final description of the geology of the site and any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The Engineering Geologist shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved engineering geologist report and applicable provisions of this chapter.
5. The grading contractor shall submit a statement of conformance to said as–built plan and the specifications.

J105.13 Notification of Completion. The permittee shall notify the Building Official when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion control measures have been completed in accordance with the final approved grading plan, and the required reports have been submitted and approved.

SECTION J106 EXCAVATIONS

J106.1 General. Unless otherwise recommended in the approved soils engineering or engineering geology report, cuts shall conform to the provisions of this section.

` In the absence of an approved soils engineering or engineering geology report, these provisions may be waived, as approved by the Building Official, for minor cuts not intended to support structures nor subject to a surcharge.

J106.2 Maximum Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than 2 units horizontal in 1 unit vertical (50% slope), unless the permittee furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property in conformance with the requirements of Section J111. The Building Official may require the excavation to be made with a cut face flatter in slope than two horizontal to one vertical if the Building Official finds it necessary for stability and safety.

J106.3 Slope Surface Protection. All slopes must be stabilized against surface erosion. Stabilization may be accomplished through the application of erosion control blankets, soil stabilizers or other means as approved by the Building Official.

J106.4 Drainage. Drainage, including drainage terraces and overflow protection, shall be provided as required by Section J109.

SECTION J107 FILLS

J107.1 General. Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section. In the absence of an approved soils engineering report, and if approved by the Building Official, these provisions may be waived for minor fills not intended to support structures.

J107.2 Preparation of Ground. Fill slopes shall not be constructed on natural slopes steeper than 2 units horizontal in 1 unit vertical (50% slope). The ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials scarifying to provide a bond with the new fill and, where slopes are steeper than 5 units horizontal in 1 unit vertical (20% slope) and the height is greater than 5 feet, benching into sound bedrock or other competent material shall be provided as a minimum in accordance with Figure J107.2 or as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 5 units horizontal in 1 unit vertical (20% slope) shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet wide but the cut shall be made before placing the fill and acceptance by the Soils Engineer or Engineering Geologist, or both, as a suitable foundation for fill.

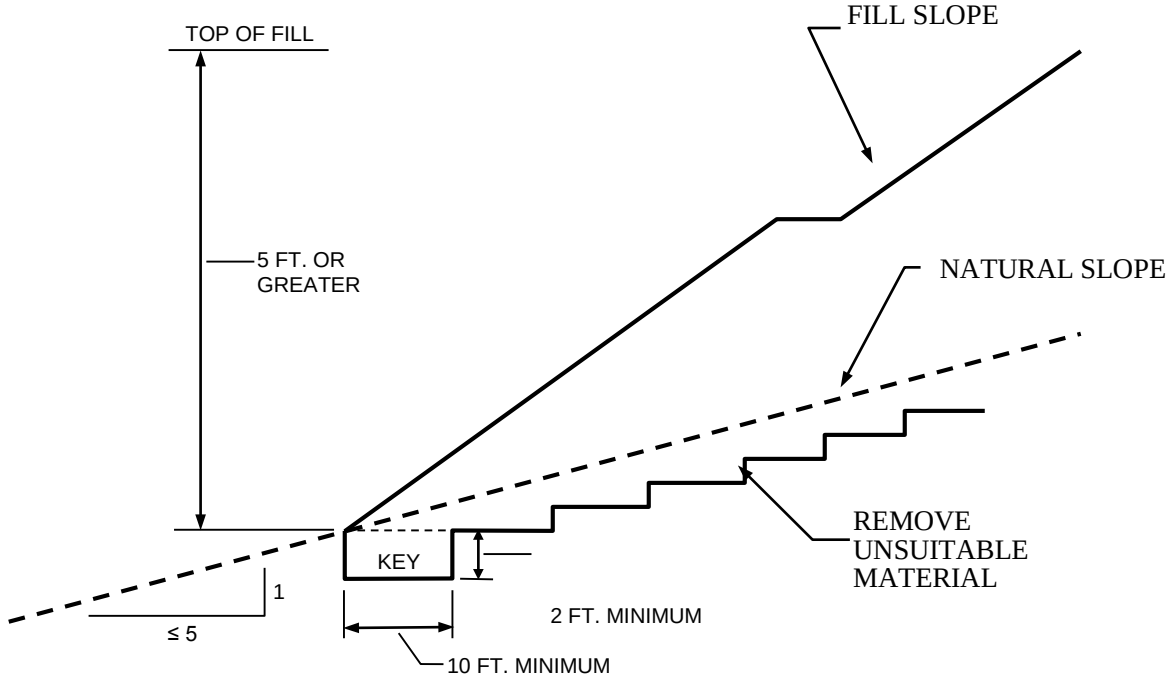

FIGURE J107.2 BENCHING DETAILS

J107.3 Subdrains. Except where recommended by the Soils Engineer or Engineering Geologist as not being necessary, subdrains shall be provided under all fills placed in natural drainage courses and in other locations where seepage is evident. Such sub-drainage systems shall be of a material and design approved by the Soils Engineer and acceptable to the Building Official. The permittee shall provide continuous inspection during the process of subdrain installation to conform with approved plans and Engineering Geologist's and Soils Engineer's recommendation. Such inspection shall be done by the soil testing agency. The location of the subdrains shall be shown on a plan by the Soils Engineer. Excavations for the subdrains shall be inspected by the Engineering Geologist when such subdrains are included in the recommendations of the Engineering Geologist.

J107.4 Fill Material. Detrimental amounts of organic material shall not be permitted in fills. Unless approved by the Building Official, no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.

Exception: The Building Official may permit placement of larger rock when the Soils Engineer properly devises a method of placement, and continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

1. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.
2. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below grade, measured vertically.
3. Rocks shall be placed so as to assure filling of all voids with well–graded soil.
4. The reports submitted by the Soils Engineer shall acknowledge the placement of the oversized material and whether the work was performed in accordance with the engineer's recommendations and the approved plans.
5. The location of oversized rock dispersal areas shall be shown on the as-built plan.

J107.5 Compaction. All fills shall be compacted to a minimum of 90 percent of maximum density. Fills shall be compacted throughout their full extent to a minimum relative compaction of 90 percent of maximum dry density within 40 feet below finished grade and 93 percent of maximum dry density deeper than 40 feet below finished grade, unless a lower relative compaction (not less than 90 percent of maximum dry density) is justified by the Soils Engineer. The relative compaction shall be determined by A.S.T.M. soil compaction test D1557 where applicable. Where not applicable, a test acceptable to the Building Official shall be used, unless the owner furnishes a soils engineering report conforming with the requirements of Section J104.3, stating that the site has been investigated and giving an opinion that a fill at a steeper slope will be stable and not create a hazard to public or private property. Substantiating calculations and supporting data may be required where the Building Official determines that such information is necessary to verify the stability and safety of the proposed slope. The Building Official may require the fill slope be constructed with a face flatter in slope than two horizontal to one vertical if the Building Official finds it necessary for stability and safety.

Field density shall be determined by a method acceptable to the Building Official. However, not less than ten percent of the required density tests, uniformly distributed, shall be obtained by the Sand Cone Method.

Fill slopes steeper than two horizontal to one vertical shall be constructed by the placement of soil a sufficient distance beyond the proposed finish slope to allow compaction equipment to operate at the outer surface limits of the final slope surface. The excess fill shall be removed prior to completion of rough grading. Other construction procedures may be utilized when it is first shown to the satisfaction of the Building Official that the angle of slope, construction method and other factors will accomplish the intent of this Section.

J107.4 Maximum Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 2 units horizontal in 1 unit vertical (50% slope).

J107.5 Slopes to Receive Fill. Where fill is to be placed above the top of an existing slope steeper than three horizontal to one vertical, the toe of the fill shall be set back from the top edge of the slope a minimum distance of 6 feet measured horizontally or such other distance as may be specifically recommended by a Soils Engineer or Engineering Geologist and approved by the Building Official.

J107.6 Inspection of Fill. For engineered grading, the Soils Engineer shall provide sufficient inspections during the preparation of the natural ground and the placement and compaction of the fill to be satisfied that the work is being performed in accordance with the conditions of plan approval and the appropriate requirements of this chapter. In addition to the above, the Soils Engineer shall be present during the entire fill placement and compaction of fills that will exceed a vertical height or depth of 30 feet (9144 mm) or result in a slope surface steeper than two horizontal to one vertical.

J107.6 Testing of Fills. Sufficient tests of the fill soils shall be made to determine the density thereof and to verify compliance of the soil properties with the design requirements, including soil types and shear strengths in accordance with the standards established by the Building Official.

SECTION J108 SETBACKS

J108.1 General. Cut and fill slopes shall be set back from the property lines in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the property line and shall be as shown in Figure J108.1, unless substantiating data is submitted justifying reduced setbacks.

J108.2 Top of Slope. The setback at the top of a cut slope shall not be less than that shown in Figure J108.1, or than is required to accommodate any required interceptor drains, whichever is greater.

FIGURE J108.1
DRAINAGE DIMENSIONS

J108.3 Toe of Fill Slope. The toe of fill slope shall be made not nearer to the site boundary line than one half the height of the slope with a minimum of 2 feet (610 mm) and a maximum of 20 feet (6096 mm). Where required to protect adjacent properties at the toe of a slope from adverse effects of the grading, additional protection approved by the Building Official, shall be included. Such protection may include, but shall not be limited to:

1. Setbacks greater than those required by Figure J108.1.
2. Provisions for retaining walls or similar construction.
3. Erosion protection of the fill slopes.
4. Provision for the control of surface waters.

J108.4 Alternate Setbacks. The Building Official may approve alternate setbacks. The Building Official may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

SECTION J109 DRAINAGE AND TERRACING

J109.1 General. Unless otherwise recommended by a registered design professional, and approved by the Building Official, drainage facilities and terracing shall be provided in accordance with the requirements of this Section .

Exception: Drainage facilities and terracing need not be provided where the ground slope is not steeper than 3 horizontal to 1 vertical (33 percent).

J109.2 Drainage Terraces. Drainage terraces at least 8 feet (2438 mm) in width shall be established at not more than 30 foot (9144 mm) vertical intervals on all cut or fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 100 feet (30480 mm) and up to 120 feet (36,576 mm) in vertical height, one terrace at approximately mid-height shall be 20 feet (6,096 mm) in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet (36,576 mm) in height shall be designed by the Civil Engineer and approved by the Building Official. Suitable access shall be provided to permit proper cleaning and maintenance.

Drainage swales or ditches on terraces shall have a minimum gradient of 5 percent longitudinal grade of not less than 5 percent nor more than 12 percent and a minimum depth of 1 foot (305 mm) at the flow line. There shall be no reduction in grade along the direction of flow unless the velocity of flow is such that slope debris will remain in suspension on the reduced grade. Such terraces must be paved with reinforced concrete not less than 3 inches (76 mm) in thickness, reinforced with 6-inch (152 mm) by 6-inch (152 mm) No. 10 by No. 10 welded wire fabric or equivalent reinforcing centered in the concrete slab or an approved equal paving. They shall have a minimum depth at the deepest point of 1 foot (305 mm) and a minimum paved width of 5 feet (1524 mm). Drainage terraces exceeding 8 feet (2438 mm) in width need only be so paved for a width of 8 feet (2438 mm), provided such pavement provides a paved channel at least 1 foot (305 mm) in depth. Downdrains or drainage outlets shall be provided at approximately 300-foot (91.44 m) intervals along the drainage terrace or at equivalent locations. Downdrains and drainage outlets shall be of approved materials and of adequate capacity to convey the intercepted waters to the point of disposal as defined in Section J109.5.

J109.3 Interceptor Drains and Overflow Protection. Berms, interceptor drains or other devices shall be provided at the top of cut or fill slopes to prevent surface waters from overflowing onto and damaging the face of a slope. Berms used for slope protection shall not be less than 12 inches (305 mm) above the level of the pad and shall slope back at least 4 feet (1219 mm) from the top of the slope.

Interceptor drains shall be installed along the top of manufactured slopes receiving drainage from a slope with a tributary width greater than 40 feet (12,192 mm), measured horizontally. They shall have a minimum depth of 1 foot (305 mm) and a minimum width of 3 feet (915 mm). The slope shall be approved by the Building Official, but shall not be less than 50 horizontal to 1 vertical (2 percent). The drain shall be paved with concrete not less than 3 inches (76 mm) in thickness, or by other materials suitable to the application. Discharge from the drain shall be accomplished in a manner to prevent erosion and shall be approved by the Building Official.

J109.4 Drainage Across Property Lines. Surface drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices.

J109.5 Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable street, storm drain, or natural watercourse drainage way approved by the Building Official and Public Works Director or other appropriate governmental agency jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices. De-silting basins, filter barriers or other methods, as approved by the Building Official and/or the Public Works Director, shall be utilized to remove sediments from surface waters before such waters are allowed to enter streets, storm drains or natural watercourses. If the drainage device discharges onto natural ground, riprap or a similar energy dissipater may be required.

Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, a public street or drainage structure approved to receive storm waters, unless waived by the Building Official. A lesser slope may be approved by the Building Official for sites graded in relatively flat terrain, or where special drainage provisions are made, when the Building Official finds such modification will not result in unfavorable drainage conditions.

SECTION J110 SLOPE PLANTING AND EROSION CONTROL

J110.1 General. The faces of cut and fill slopes shall be prepared and maintained to control erosion. This control shall consist of effective planting, erosion control blankets, soil stabilizers or other means as approved by the Building Official.

Exception: Erosion control measures need not be provided on cut slopes not subject to erosion due to the erosion-resistant character of the materials as approved by the Building Official.

Erosion control for the slopes shall be installed as soon as practicable and prior to calling for final inspection.

J110.2 Other Devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

SECTION J111 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) COMPLIANCE

J111.1 General. All grading plans and permits shall comply with the provisions of this section for NPDES compliance, including the owner of any property on which grading has been performed and which requires a grading permit under Section J103.

J111.2 Erosion/Sedimentation Control Plan (ESCP). No grading permit shall be issued unless the plans for such work include a Erosion/Sedimentation Control Plan that conforms to the Erosion/Sedimentation Control Policy of the City of Santa Barbara's Building & Safety Division, with details of best management practices, including desilting basins or other temporary drainage or control measures, or both, as may be necessary to control construction-related pollutants which originate from the site as a result of construction-related activities. Sites which have been graded and which require a grading permit under Section J103 are subject to penalties and fines per Section J111.4.

All best management practices shall be installed before grading begins. As grading progresses, all best management practices shall be updated as necessary to prevent erosion and control construction-related pollutants from discharging from the site. All best management practices shall be maintained in good working order to the satisfaction of the Building Official, unless final grading approval has been granted by the Building Official and all permanent drainage and erosion control systems, if required, are in place.

J111.4 Erosion/Sedimentation Control Plan, Effect of Noncompliance. Should the owner fail to install the best management practices required by Section J111.2, it shall be deemed that a default has occurred under the conditions of the grading permit security. Thereupon, the Building Official may enter the property for the purpose of installing, by City forces or by other means, the drainage, erosion control and other devices shown on the approved plans, or if there are no approved plans, as the Building Official may deem necessary to protect adjoining property from the effects of erosion, flooding, or the deposition of mud, debris or construction-related pollutants, or the Building Official may cause the owner to be prosecuted as a violator of this Code or may take both actions. The Building Official shall have the authority to collect the penalties imposed by this section upon determining that the site is in noncompliance. Payment of penalty shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work.

If the best management practices for storm water pollution prevention are not installed as prescribed in Section J111.2 and approved by the Building Official, the following penalties shall be imposed:

Grading Permit Volume Penalty:
1--10,000 cubic yards (1--7645.5 m3) = $100.00 per day
10,001--100,000 cubic yards (7646.3--76455 m3) = $250.00 per day
More than 100,000 cubic yards (76455 m3) = $500.00 per day

NOTE: See Section J108 for inspection request requirements.

SECTION J112 DUST CONTROL

Santa Barbara County Air Pollution Control District's dust control measures identified as Construction Impact Mitigation: PM10 Mitigation Measures in the District's *Scope and Content of Air Quality Sections in Environmental Documents* shall be adhered to during all ground disturbing activities.

SECTION J113 REFERENCED STANDARDS

These regulations establish minimum standards and are not intended to prevent the use of alternate materials, methods or means of conforming to such standards, provided such alternate has been approved.

The Building Official shall approve such an alternate provided he or she finds that the alternate is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, durability and safety.

The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims regarding the alternate.

The standards listed below are recognized standards. Compliance with these recognized standards shall be prima facie evidence with the standard of duty set forth in Section 107.

1. Testing.
   a) ASTM D 1557, Laboratory Characteristics Compaction of Soil Using Modified Effort
   b) ASTM D 1556, Density and Unit Weight of Soils In Place by the Sand Cone Method
   c) ASTM D 2167, Density and Unit Weight of Soils In Place by the Rubber Balloon Method
   d) ASTM D 2937, Density of Soils in Place by the Drive Cylinder Method
   e) ASTM D 2922, Density of Soil and Soil Aggregate In Place by Nuclear Methods
   f) ASTM D 3017, Water Content of Soil and Rock in Place by Nuclear Methods

(Ord. 5639, 2013; Ord. 5536, 2010; Ord. 5498, 2009; Ord. 5451, 2008; Ord. 5440, 2007.)

22.04.025 Amendments to California Residential Code.

The 2013 California Residential Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.025.

A. Section R105.1 “Required” is amended by adding Section R105.1.1 “Driveways and Parking Areas” and 105.1.2 “Demolition Permits,” to read as follows:

Section R105.1.1 Driveways and Parking Areas. Any work that is intended to create new, or to alter or demolish existing vehicular driveways and/or parking areas shall require a building permit. Prior to commencement of such work, the owner or authorized agent shall first make application to the Building Official and obtain the required permit.

Section 105.1.2 Demolition Permits. Building permits shall be required to demolish any building, portion of a building, or structure within the City of Santa Barbara, and shall be subject to the following conditions:

1. The applicant shall ensure all utility connections have been removed by the appropriate utility providers, except such utility services that are approved for use in connection with the work of the demolition. The applicant shall provide verification from the utility providers that utility service has been disconnected.
2. All resulting building debris, trash, junk, vegetation, dead organic matter, rodent harborage, or combustible material that constitutes a threat to life, health or property, or is detrimental to the public welfare, or which may reduce adjacent property value, shall be removed from the site within thirty (30) days after the demolition of the structure.

B. Section R105.2 is deleted in its entirety and readopted to read as follows:

Section R105.2 Work Exempt From Permit. Permits shall not be required for the following. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. (Note: For work other than work involving, or accessory to, detached one- and two-family dwellings or townhouses, see Section 105 of the 2013 California Building Code as amended):

Building:

1. One-story detached residential accessory structures used as tool and storage sheds, playhouses, portable and fixed playground equipment, bicycle or skateboard ramps and similar uses, provided the floor area does not exceed 120 square feet and the height does not exceed 10 feet at the highest point; and further provided the structure does not encroach into required setbacks or required open yards, does not obstruct required parking, and is not served by any utilities. The combined square footage of exempt accessory structures may not exceed 200 square feet on any single parcel.
2. Residential fences and walls not over 3½ feet high, as measured from the lowest adjacent grade of the fence or wall, and that such fence or wall will not adversely affect drainage or cause erosion.
3. Residential retaining walls which are not over 4 feet in height as measured from the bottom of the footing to the top of the wall, and that such wall will not support a surcharge, will not adversely affect drainage or cause erosion and is not located on a slope greater than 20%.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.
5. Uncovered residential platforms, decks, porches, walks, patios, flatwork and similar structures not more than 10 inches above adjacent grade, and not over any basement or story below.
6. Interior painting, papering, tiling, carpeting, counter tops and similar finish work.
7. Prefabricated swimming pools that are less than 24" deep.
8. Ground-mounted radio, television and other masts or antenna or dish-shaped communication reception or transmitting structures less than 3 feet in diameter, which do not extend more than 15 feet above grade and are not served by electrical circuits regulated under the National Electrical Code (NEC). Lightweight roof-mounted radio, television, and other masts or antenna or dish-shaped communication reception or transmitting structures less than 2 feet in diameter, which do not extend more than 15 feet above the roof, are not served by electrical circuits regulated under the NEC, and which are not subject to design review by the Architectural Board of Review, Historic Landmarks Commission, or Single Family Design Board.

Electrical:

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets therefore.
3. Replacement of branch circuit over current devices of the required capacity in the same location.
4. Electrical wiring, devices, appliances, apparatus, or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot- or chilled-water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds or less of refrigerant or that are actuated by motors of 1 horsepower or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with the new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

C. Section R112.1 "General" of Section R112 "Board of Appeals" is amended to read as follows:

R112.1 General. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020 of this Code.

D. Section R313.1 “Townhouse Automatic Fire Sprinkler Systems” is amended to read as follows:

R313.1 Townhouse Automatic Fire Sprinkler Systems. An automatic residential fire sprinkler system shall be installed in townhouses.

R313.1.1 Design and Installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904 R313.3 or NFPA 13D.

E. Section R313.2 “One- and Two-Family Dwellings Automatic Fire Sprinkler Systems” is amended to read as follows:

R313.2 One- and Two-Family Dwellings Automatic Fire Sprinkler Systems. An automatic residential fire sprinkler system shall be installed in one- and two- family dwellings.

R313.2.1 Design and Installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 R313.3 or NFPA 13D.

R313.2.2 City of Santa Barbara Local Requirements. Approved sprinkler systems shall be provided throughout a building in connection with the projects or changes of occupancy listed in this Section R313.2.2 or as specified elsewhere in this Section R313, whichever is more protective.

R313.2.3 Additions to or Remodels of Single Family Residences, Duplexes and Townhouses. Sprinklers are required for the addition of floor area to, or the modification or alteration of the interior of, an existing building that contains a Group R, Division 3 occupancy and townhouses, where the floor area of the portion of the building that is added, modified, or altered exceeds 75% of the existing floor area of the building. For purposes of this section, all additions, modifications, or alterations to an existing building that occur after the effective date of the ordinance adopting this section shall be counted in the aggregate toward the 75% threshold measured against the floor area of the building as it existed on the effective date of the ordinance adopting this section.

R313.2.4 Computation of Square Footage. For the purposes of this Section R313, the floor area of buildings shall be computed in accordance with the definition of “Floor Area, Gross” provided in Section 1002.1 of the California Building Code.

R313.2.5 Existing Use. Except as provided in this Section R313, any building in existence at the time of the effective date of the ordinance adopting this section may continue with such use if such use was legal at the time.

F. Section R327.1.1 “Scope” is amended to read as follows:

R327.1.1 Scope. This chapter applies to building materials, systems and/or assemblies used in the exterior design and construction of new buildings, remodels or additions to existing buildings located within a Wildland Urban Interface Fire Area as defined in Section R327.2 and R327.1.3.1, Item No. 3.

G. Section R327.1.3 “Application” is amended to read as follows:

R327.1.3 Application. New buildings, remodeled buildings or additions to existing buildings in any Fire Hazard Severity Zone or Wildland Urban Interface Area designated by the enforcing agency constructed after the application date shall comply with this chapter.

Exception: Accessory and/or Group U occupancy buildings may be exempted from all or portions of this chapter upon approval of the Fire Marshall and/or Chief Building Official.

H. Section R327.5 “Roofing” is deleted in its entirety and readopted to read as follows:

R327.5 Roofing

R327.5.1 General. Roofs shall comply with the requirements of Sections R327 and R902. Roofs shall have a roofing assembly installed in accordance with its listing and manufacturer’s installation instructions.

R327.5.2 Roof Coverings. Roof coverings on new buildings shall be class A noncombustible in accordance with adopted CRC Standards or otherwise as may be approved by the Chief Building Official. Roof coverings shall be class A or noncombustible fire retardant materials on existing buildings and additions or repairs to existing buildings. Treated or untreated wood shakes or shingles shall not be permitted, except on existing structures which are constructed with shake or shingle roofs where less than 20% of the existing roof is being replaced within a two (2) year period, provided such replacement roofing is fire retardant treated wood shakes or shingles. “Green” or “Vegetated” roofs shall not be used in the Wildland Urban Interface Fire Area.

R327.5.3 Roof Valleys. Where valley flashing is installed, the flashing shall be not less than 0.019-inch (0.48 mm) No. 26 gage galvanized sheet corrosion-resistant metal installed over not less than one layer of minimum 72 pound (32.4 kg) mineral-surfaced non-perforated cap sheet complying with ASTM D 3909, at least 36-inch wide (914 mm) running the full length of the valley.

R327.5.4 Roof Gutters. Roof gutters shall be provided with an approved means to prevent the accumulation of leaves and debris in the gutter. All roof gutters and downspouts shall be constructed of noncombustible materials.

R327.5.5 Drip Edge Flashing. When drip edge flashing is used at the free edges of roofing materials, it shall be noncombustible.

I. Section R327.6.2 “Requirements” is amended to read as follows:

R327.6.2 Requirements. Ventilation openings for enclosed attics, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, and underfloor ventilation openings shall be fully covered with metal wire mesh, vents, other materials, or other devices that meet the following requirements:

1. The dimensions of the openings therein shall be a minimum of 1/16th inch (1.6 mm) and shall not exceed 1/8th inch (3.2 mm).
2. The materials used shall be noncombustible.

Exception to No. 2: Vents located under the roof covering, along the ridge of roofs, with the exposed surface of the vent covered by noncombustible wire mesh, may be of combustible materials.

3. The materials used shall be corrosion resistant.
4. Individual ventilation openings shall not exceed 144 square inches.
5. Turbine attic vents shall be equipped to allow one-way direction rotation only and shall not free spin in both directions.
6. Ventilation openings protected with vent openings that resist the intrusion of flame and embers, and which are listed by the State Fire Marshal, are exempt from complying with this subsection.

J. Section R327.8.2 "Exterior Glazing" is amended to read as follows:

R327.8.2 Exterior Glazing. The following exterior glazing materials and/or assemblies shall comply with this section:

1. Exterior windows and/or skylights.
2. Exterior glazed doors.
3. Glazed openings within exterior doors.
4. Glazed openings within exterior garage doors.
5. Exterior structural glass veneer.

K. Chapter 3 "Building Planning" is amended by adding Sections R332 through R334 to read as follows:

R332 Special Inspections and Structural Tests. When structural tests and special inspections are required due to the methods of construction, the tests and inspections shall be performed and documented as is required in Chapter 17 of the California Building Code.

R333 Encroachments Into the Public Right-of-Way. Encroachments into the public right-of-way shall comply with the standards of Chapter 32 of the California Building Code.

R334 Safeguards During Construction. Provisions for pedestrian safety during construction and the protection of adjacent public and private properties shall be governed by the requirements of Chapter 33 of the California Building Code.

L. Section R401 "Foundations" is amended by adding Section 401.5 "Grading" to read as follows:

R401.5 Grading. All grading, excavations and earthwork, including work required and/or related to structures regulated by this code, shall comply with Appendix J "Grading" of the 2013 California Building Code as amended.

M. Section R401.4 "Soils Tests" is deleted in its entirety and readopted to read as follows:

R401.4 Soils Reports/Geotech Investigations. A Soils Report or Geotechnical Investigation shall be required as outlined in Section 1803 of the California Building Code.

Exceptions:

1. Single-story additions with less than a 500 square-foot "footprint" and that are less than 50% of the existing structure they are attached to.
2. Second story additions to an existing slab on grade structure that does not require new footings.
3. Detached "U" Occupancy Category buildings.

N. Section R401.4.1 "Geotechnical Evaluations" is amended to read as follows:

R401.4.1 Load-Bearing Values. Projects utilizing any of the exceptions of Section R401.4 shall use the presumptive load-bearing values of Table R401.4.1. Table R401.4.1 is not amended.

O. Section R403.1.2 "Continuous Footing in Seismic Design Categories D0, D1 and D2" is amended to read as follows:

R403.1.2 Continuous Footing in Seismic Design Categories D0, D1 and D2. The braced wall panels at exterior walls of buildings located in Seismic Design Categories D0, D1and D2 shall be supported by continuous footings. All required interior braced wall panels in buildings shall be supported by continuous footings.

P. Section R403.1.5 "Slope" is amended to read as follows:

R403.1.5 Slope. The top surface of footings shall be level. The bottom surface of footings shall not have a slope exceeding one unit vertical in ten units horizontal (10% slope). Footings shall be stepped where it is necessary to change the elevation of the top surface of the footings or where the slope of the bottom surface of the footings will exceed one unit vertical in ten units horizontal (10% slope).

For structures located in Seismic Design Categories D0, D1, D2, and E, stepped footings shall be reinforced with four ½-inch diameter (12.7 mm) deformed reinforcing bars. Two bars shall be placed at the top of the footing, and two bars shall be placed at the bottom of the footing.

Q. Section R404.2 "Wood Foundation Walls" is amended to read as follows:

R404.2 Wood Foundation Walls. Wood foundation walls shall be constructed in accordance with the provisions of Sections R404.2.1 through R404.2.6 and with the details shown in Figures 403.1(2) and R403.1(3). Wood foundation walls shall not be used for structures located in Seismic Design Categories D0, D1, D2, and E.

R. Section R802.10.2 "Design" is amended to read as follows:

R802.10.2 Design. Wood trusses shall be designed in accordance with accepted engineering practice. The design and manufacture of metal-plate-connected wood trusses shall comply with ANSI/TPI 1. The truss design drawings shall be prepared by a professional registered by the State of California.

S. Section R902.1 “Roofing Covering Materials” is amended to read as follows:

R902.1 Roofing Covering Materials. Roofs shall be covered with materials as set forth in Sections R904 and R905. A minimum Class A or B roof shall be installed in areas designated by this section. Classes A and B roofing required by this section to be listed shall be tested in accordance with UL 790 or ASTM E 108.

T. Section R902.1.1 “Roof Coverings Within Very-High Fire Hazard Severity Zones” is amended to read as follows:

R902.1.1 Roof Coverings Within Wildland Urban Interface Fire Area. The roofing and re-roofing requirements of structures within a Wildland Urban Interface Fire Area as defined in Section R327.2 and R327.1.3.1 Item No. 3 shall meet the requirements of R327.

U. Section R902.1.2 “Roof Coverings Within State-Responsibility Areas” is deleted in its entirety without replacement.

V. Section R902.1.3 “Roof Coverings in All Other Areas” is deleted in its entirety and readopted to read as follows:

R902.1.3 Roof Coverings in All Other Areas. The roof covering or roofing assembly of any new building or the re-roofing of any existing building, regardless of type or occupancy classification, shall be no less than Class B, except that Group H, Division 1 and Group I occupancies shall be Class A. Treated or untreated wood shakes or shingles shall not be permitted, except on existing structures which are constructed with shake or shingle roofs where less than 20% of the existing roof is being replaced within a two-year period, provided such replacement roofing is fire retardant treated wood shakes or shingles.

Exception: In the High Fire Hazard District, roof coverings shall be in accordance with Section R327 as amended.

W. Appendix Chapter G - Section AG105.2 “Outdoor Swimming Pool” is amended to read as follows:

AG105.2 Outdoor Swimming Pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa, shall be surrounded by a barrier which shall comply with the following:

1. The top of the barrier shall be at least 60 inches (1524 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

2. Openings in the barrier shall not allow the passage of a 4-inch diameter (102 mm) sphere.

3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions, except for normal construction tolerances and tooled masonry joints.

4. Where the barrier is composed of horizontal and vertical members, and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1¾ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 ¾ inches (44 mm) in width.

5. Where the barrier is composed of horizontal and vertical members, and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where the decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches (44 mm).

6. Maximum mesh size for chain link fences shall be a 2½-inch (57 mm) square, unless the fence has slats fastened at the top of the bottom or the bottom which reduce the openings to not more than 1¾ inches (44 mm).

7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1¾ inches (44 mm).

8. Access gates shall comply with the requirements of Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool, and shall be self-closing and have a self-latching device. Gates, other than pedestrian access gates, shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

8.1 The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate; and

8.2 The gate and barrier shall have no opening larger than ½ inch (12/7 mm) within 18 inches (457 mm) of the release mechanism.

9. Where a wall of a dwelling serves as part of the barrier, one of the following conditions will be met:

9.1 The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346;

9.2 Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or

9.3 Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Items 9.1 or 9.2 described herein.

10. Where an above-ground pool structure is used as a barrier, or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:

10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or

10.2 The ladder or steps shall be surrounded by a barrier which meets the requirements of Items 1 through 9. When ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter (102 mm) sphere.

X. Appendix Chapter I - Section AI101 "I" is deleted in its entirety and readopted to read as follows:

AI101.1 General. Private sewage disposal systems shall conform to the 2013 California Plumbing Code Appendix Chapter H.

(Ord. 5639, 2013; Ord. 5536, 2010; Ord. 5498, 2009; Ord. 5451, 2008; Ord. 5440, 2007.)

22.04.030 Amendments to California Plumbing Code.

The 2013 California Plumbing Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.030.

A. Section 102.3 "Board of Appeals" is hereby deleted in its entirety and readopted to read as follows:

102.3 Board of Appeals. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code, as amended by the City of Santa Barbara in Section 22.04.020.

B. Section 103.4 "Fees" is deleted in its entirety and readopted to read as follows:

103.4 Fees. Fee payments, fee schedules, work commencing prior to permit issuance, related fees and refunds shall be in accordance with 2013 California Residential Code Section R108 for one- and two-family dwellings and townhomes, and in accordance with 2013 California Building Code Section 109 for all other fees.

C. Section 402 "Installation" is amended by adding subsections 402.13 "Fountains" and 402.14 "Vehicle Wash Facilities" to read as follows:

402.13 Fountains. All fountains and other decorative bodies of water shall be equipped with a recirculation system and shall be designed to operate without a continuous supply of water.

402.14 Vehicle Wash Facilities.

402.14.1 All vehicle wash facilities using conveyorized, touchless and/or rollover in-bay technology shall reuse a minimum of fifty percent (50%) of water from previous vehicle rinses in subsequent washes.

402.14.2 Vehicle wash facilities using reverse osmosis to produce water rinse with a lower mineral content shall incorporate the unused concentrate in subsequent vehicle washes.

402.14.3 All hoses, pipes and faucets designed for the manual application of water to vehicles at vehicle wash facilities shall be equipped with a positive shut-off valve designed to interrupt the flow of water in the absence of operator-applied pressure.

D. Section 422.1 "Fixture Count" is deleted in its entirety and readopted to read as follows:

422.1 Fixture Count. Plumbing fixtures shall be provided for the type of building occupancy and in the minimum number shown in Table 422.1 (OSHPD 1, 2, 3, and 4) and Table 4-2.

Exception: Within existing buildings, the Chief Building Official may make alternate consideration findings for partial compliance on the basis of one or more of the following criteria:

1. The cost of compliance is in excess of 15% of all cost of construction as proposed or incurred within one (1) year before or after the work proposed; or
2. The proposed use does not intensify the occupant load by more than 15% of the existing occupant load; or
3. Due to physical constraints of existing buildings and occupancies relative to disabled access regulations.

The total occupant load and occupancy classification shall be determined in accordance with *Occupant Load Factor Table A*. Occupancy classification not shown in Table 422.1 shall be considered separately by the Authority Having Jurisdiction.

The minimum number of fixtures shall be calculated at 50 percent male and 50 percent female based on the total occupant load. Where information submitted indicates a difference in the distribution of the sexes, such information shall be used in order to determine the number of fixtures for each sex. Once the occupancy load and occupancy are determined, Table 422.1 shall be applied to determine the minimum number of plumbing fixtures required. Where applying the fixture ratios in Table 422.1 results in fractional numbers, such numbers shall be rounded to the next whole number. For multiple occupancies, fractional numbers shall be first summed and then rounded to the next whole number.

422.1.1 Family or Assisted-Use Toilet and Bathing Facilities. Where family or assisted-use toilet and bathing rooms are required in applicable building regulations, the facilities shall be installed in accordance with those regulations.

422.1.2 [DSA-AC] Effective January 1, 1990, in new construction and those existing facilities which occupancy type are listed in Tables 422.1 and 4-4 for public use, which apply for permit to undertake construction, structural alterations, repairs or improvements which exceed 50 percent of the square footage of the entire facility, shall install water closets, urinals, lavatories and drinking fountains as stipulated in Tables 422.1 and 404 for public use. Community and/or municipal parks with bleacher capacity not exceeding 500 seats shall be exempt from the requirements of this section and Tables 422.1 and 4-4. Each bathroom shall comply with Part 2, Chapter 11A and 11B of the California Building Code.

E. Chapter 4 "Plumbing Fixtures and Fixture Fittings" is amended by the addition of Section 423 "Water Meters Required".

423 Water Meters Required.

423.1 Group R Occupancies. Each dwelling unit, including apartment units and secondary units, shall be served by a separate City water meter. For projects of five (5) dwelling units or more, such meter shall serve only uses within the dwelling unit. All other uses, including, but not limited to, irrigation, water features (pools, spas, fountains), and shared laundry facilities, shall be served by an additional separate City water meter.

423.2 Occupancies Other Than Group R. All occupancies other than Group R serving a separate legal parcel shall be served by a single meter and no such meter shall also serve Group R occupancy.

F. Section 603.1 "General" is amended to read as follows:

603.1 General. Cross-connection control shall be provided in accordance with the provisions of this chapter and Sections 7583 through 7630 ("Drinking Water Supplies") of Title 17 of the California Administrative Code, and where there is a conflict between the requirements, the higher level of protection shall apply.

No person shall install any water-operated equipment or mechanism, or use any water-treating chemical or substance, if it is found that such equipment, mechanism, chemical, or substance causes pollution or contamination of the domestic water supply. Such equipment or mechanism shall be permitted only when equipped with an approved backflow prevention device or assembly.

G. Section 608.2 "Excessive Water Pressure" is amended to read as follows:

608.2 Excessive Water Pressure. Regardless of the pressure at the main, all occupancies served by the City of Santa Barbara Water Resources Division shall be equipped with an approved pressure regulator preceded by a strainer (unless a strainer is built into the device). Any irrigation system or other secondary piping that bypasses said regulator shall be equipped with its own approved pressure regulator and strainer, installed upstream of any piping, backflow device, valve, solenoid or outlet. Such regulator(s) shall control the pressure to all water outlets in the building unless otherwise approved by the Authority Having Jurisdiction. Each such regulator and strainer shall be accessibly located above ground or in a vault equipped with a properly sized and sloped bore-sighted drain to daylight, shall be protected from freezing, and shall have the strainer readily accessible for cleaning without removing the regulator or strainer body, or disconnecting the supply piping. Pipe size determinations shall be based on 80 percent of I the reduced pressure when using Table 6-6. An approved expansion tank shall be installed in the cold water distribution piping downstream of each such regulator to prevent excessive pressure from developing due to thermal expansion and to maintain the pressure setting of the regulator. The expansion tank shall be properly sized and installed in accordance with the manufacturer's instructions and listing. Systems designed by registered engineers shall be permitted to use approved pressure relief valves in lieu of expansion tanks, provided such relief valves have a maximum pressure relief setting of one hundred (100) pounds per square inch (689 kPa) or less.

H. Section 710.0 "Drainage of Fixtures Below the Next Upstream Manhole or Below the Main Sewer Level" is amended by adding Sections 710.14 "Sewage Pump Signaling Device" and 710.15 "Approved Type Backwater Valve," to read as follows:

710.14 Sewage Pump Signaling Device. Specially designed sewage disposal systems which depend upon a sewage lift pump or ejector for their operation shall be provided with an approved audible signaling device to warn building occupants in the event of pump failure.

710.15 Approved Type Backwater Valve. When the valuation of an addition, alteration, or repair to a building exceeds $1,000.00, or when additions, alterations, or repairs are made to the plumbing system or fixtures and a permit is required, an approved backwater valve shall be installed in accordance with Section 710.0 of this Code.

Exception: Repairs to the exterior surface of a building are exempt from the requirements of this section.

I. Section 713.2 "Private Sewage Disposal System" is amended to read as follows:

713.2 When no public sewer intended to serve any lot or premises is available in any thoroughfare or right-of-way abutting such lot or premises, drainage piping from any building or works shall be connected to an approved private sewage disposal system.

Approved private systems may be used until a public system is available. Upon written notice by the Chief Building Official to the record owner of title, such private systems shall be abandoned in accordance with the provisions of Section 722.0 of this code, and permits to connect to the public system must be secured.

(Ord. 5639, 2013; Ord. 5550, 2011; Ord. 5536, 2010; Ord. 5451, 2008; Ord. 5440, 2007.)

22.04.040 Amendments to California Mechanical Code.

The 2013 California Mechanical Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.040.

A. Section 108 "Board of Appeals" is hereby deleted in its entirety and readopted to read as follows:

108 Board of Appeals. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020.

B. Section 114.0 "Fees" is deleted in its entirety and readopted to read as follows:

114.0 Permit Fees. Fee payments, fee schedules, work commencing prior to permit issuance, related fees and refunds shall be in accordance with CRC Section R108 for one- and two-family dwellings and townhomes, and in accordance with CBC Section 109 for all other fees.

(Ord. 5639, 2013; Ord. 5536, 2010; Ord. 5440, 2007.)

22.04.050 Amendments to California Electrical Code.

A. The 2013 California Electrical Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.050. Article 89.108.8 of the California Electrical Code is deleted and readopted to read as follows:

89.108.8 Appeals Board. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020.

B. A new Article 690.4 (I) is added to the California Electrical Code to read as follows:

690.4 (I) Single-Family Residences. New single-family residences shall comply with the requirements of this Article.

(1) Conduit for Future Solar Photovoltaic System. Newly-constructed single-family dwelling units shall include minimum 1-inch diameter, metallic electrical conduit installed per this Section to accommodate future installation of roof-mounted solar photovoltaic systems. The electrical junction box and the segment of conduit run in the attic, or where there is no attic, to the roof deck, shall be permanently and visibly marked as "For Future Solar Photovoltaic".

(2) Conduit and Junction Box Locations. One conduit run shall originate at a readily accessible attic or roof deck location with proximity to California Energy Code's "Solar Zone Area" and terminate at a minimum 4-inch-square approved electrical junction box located within 72 inches horizontally and 12 inches vertically of a main electrical panel. A second conduit run shall originate at the electrical junction box and terminate at the main electrical panel. (Ord. 5713, 2015; Ord. 5639, 2013;Ord. 5536, 2010; Ord. 5440, 2007.)

22.04.060 Amendments to 2013 California Green Building Standards Code.

The 2013 California Green Building Standards Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.060.

A. Section 4.304 "Outdoor Water Use" is amended by adding Section 4.304.2 "Fountains" to read as follows:

4.304.2 Fountains. All fountains directly plumbed by potable water, on a single parcel of land, shall not exceed a total water surface area of twenty five square feet.

B. Section 5.304.2 "Outdoor Potable Water Use" is deleted in its entirety and readopted to read as follows:

5.304.2 Outdoor Potable Water Use. For new water service or for addition or alteration requiring upgraded water service for landscaped areas of at least 1,000 square feet but not more than 5,000 square feet (the level at which Water Code §535 applies), a separate City-issued irrigation meter shall be installed for outdoor potable water use.

C. Section 5.304 is amended by adding Section 5.304.4 to read as follows:

5.304.4 Fountains. All fountains directly plumbed by potable water, on a single parcel of land, shall not exceed a total water surface area of twenty five square feet. (Ord. 5639, 2013.)

22.04.070 Amendments to 2012 International Property Maintenance Code.

The 2012 International Property Maintenance Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.060.

A. Section 101.1 "Title" is amended to read as follows:

101.1 Title. These regulations shall be known as the International Property Maintenance Code of the City of Santa Barbara, hereinafter referred to as "this code".

B. Section 103 "Department of Property Maintenance Inspection" is deleted in its entirety without replacement.

C. Section 111 "Means of Appeal" is deleted and readopted to read as follows:

111 Means of Appeal. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code, as amended by the City of Santa Barbara in Section 22.04.020.

D. Section 112.4 "Failure to Comply" is amended to read as follows:

112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, may be assessed a citation as outlined in Santa Barbara Municipal Code Chapter 1.25.

E. Section 302.4 "Weeds" is amended to read as follows:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12". All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

F. Section 304.14 "Insect Screens" is amended to read as follows:

304.14 Insect Screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly-fitted screens of minimum 12 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellant fans, are employed.

G. Section 602.2 "Residential Occupancies" is deleted in its entirety and readopted to read as follows:

602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68ºF (20ºC) in all habitable rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

H. Section 602.3 "Heat Supply" is deleted in its entirety without replacement.

I. Section 602.4 "Occupiable Work Spaces" is deleted in its entirety without replacement.

(Ord. 5639, 2013.)

22.04.080 Amendments to 1997 Uniform Code for Abatement of Dangerous Buildings.

A. The 1997 Uniform Code for Abatement of Dangerous Buildings, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.080. Section 205 is deleted and readopted to read as follows:

205 Board of Appeals. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code, as amended by the City of Santa Barbara in Section 22.04.020. (Ord. 5639, 2013.)

Chapter 22.05

HAZARDOUS WASTE MANAGEMENT PLAN

Sections:

22.05.010 Purpose.

22.05.020 Decisions Shall be Consistent with County Hazardous Waste Management Plan.

22.05.010 Purpose.

The California State Legislature has declared it to be in the public interest to establish an effective process for hazardous waste management planning and has adopted a process for development and public review of local plans to serve as the primary planning documents for hazardous waste management. The County of Santa Barbara and appropriate city and state agencies have approved a Santa Barbara County Hazardous Waste Management Plan pursuant to that process.

It is the purpose of this Chapter to require certain decisions to be consistent with the portions of the approved county plan which identify general areas or siting criteria for hazardous waste facilities. (Ord. 4825, 1993.)

22.05.020 Decisions Shall be Consistent with County Hazardous Waste Management Plan.

To the extent required by the provisions of California Health and Safety Code Section 25135.7, all applicable zoning, subdivision, development plan, conditional use permit, modification and variance decisions on projects made by and on behalf of the City of Santa Barbara shall be consistent with the Hazardous Waste Management Plan for the County of Santa Barbara, as adopted, approved and amended, from time to time. The County has adopted the Hazardous Waste Management Plan as the Hazardous Waste Element of the Santa Barbara County Comprehensive Plan. (Ord. 4825, 1993.)

Chapter 22.06

HAZARDOUS WASTE GENERATORS

Sections:

22.06.010 Title.
22.06.020 Purpose and Intent.
22.06.030 Definitions.
22.06.040 Applicability.
22.06.050 Requirements.

22.06.010 Title.

This Chapter shall be referred to as the Hazardous Waste Generators Ordinance of the City of Santa Barbara. (Ord. 4825, 1993.)

22.06.020 Purpose and Intent.

The purpose of this Chapter is to implement certain policies of the Hazardous Waste Management Plan adopted in Chapter 22.05 of this Code by requiring hazardous waste generators to incorporate waste minimization and emergency response considerations into their uses and developments. The intent is to require generators to submit a Waste Minimization Plan to the Santa Barbara County Department of Environmental Health Services or successor agency and incorporate waste minimization techniques where technically and economically feasible, comply with the County Department of Environmental Health Services' Generator Permit Program and prepare an emergency response plan where required by Chapter 6.95 (commencing with Section 25500) of the California Health and Safety Code. (Ord. 4825, 1993.)

22.06.030 Definitions.

Whenever in this Chapter the following terms are used, they shall be construed to have the meaning(s) ascribed to them in this section unless it is apparent from the context in which they appear that some other meaning is intended.

A. Business Plan. A "Business Plan" means that plan which each business with specified quantities of hazardous materials (including wastes) must prepare under Chapter 6.95 of the California Health and Safety Code. The business plan must include an inventory of hazardous materials on site, an emergency response plan and employee training procedures.

B. Generator. "Generator" means the person, business or facility who, by nature of ownership, management or control is responsible for causing or allowing to be caused the creation of hazardous waste.

C. Generator Permit. "Generator Permit" means the annual permit to operate required by State law of all generators of hazardous waste. Generator Permits must be obtained from the Santa Barbara County Department of Environmental Health Services, or successor agency.

D. Hazardous Waste. "Hazardous Waste" means a waste, or combination of wastes, which because of the quantity, concentration or physical and chemical characteristics may either a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. Hazardous waste also includes those materials described in Title 22, Division 4.5, Chapter 11, California Code of Regulations (CCR).

E. Waste Minimization. "Waste Minimization" means the reduction, to the maximum extent feasible, of hazardous waste that is generated or subsequently stored, treated or disposed of. Waste minimization is a reduction in the total volume or quantity of hazardous waste and minimizes the present and future threat to human health and the environment. As used in the Hazardous Waste Management Plan and this Code, waste minimization includes source reduction, recycling and on site treatment of hazardous wastes. (Ord. 4825, 1993.)

22.06.040 Applicability.

The provisions of this Chapter apply to any activity within the City of Santa Barbara for which a Generator Permit is required that is undertaken by a person or business who is or will be a generator of hazardous waste. (Ord. 4825, 1993.)

22.06.050 Requirements.

A. As part of the application to the County Department of Environmental Health Services for a Generator Permit, the applicant shall submit a Waste Minimization Plan.

B. All new or modified Generator Permits shall incorporate waste minimization techniques to the maximum extent that is economically and technically feasible.

C. Prior to the issuance of any City building permit, the applicant shall have an approved Generator Permit from the County Department of Environmental Health Services or an accepted application for a Generator Permit.

D. Prior to commencement of operations, any building permit shall require submittal of a Business Plan to the County Department of Environmental Health Services if such a plan is required under Chapter 6.95 (commencing with Section 25500) of the California Health and Safety Code. (Ord. 4825, 1993.)

Chapter 22.07

COVENANTS OF EASEMENT

Sections:

22.07.010 Creation of Easements.
22.07.020 Common Ownership.
22.07.030 Effective Date, Duration.
22.07.040 Identification of Easement and Approval.
22.07.050 Runs with Real Property.
22.07.060 Recordation.
22.07.070 Procedure for Release of Covenant.
22.07.080 Fees.

22.07.010 Creation of Easements.

Pursuant to Article 2.7 (commencing with Section 65870) of Chapter 4 of Division 1 of Title 7 of the Government Code, which authorizes any city to adopt an ordinance for the imposition of covenants of easements, each City official or agency with authority to issue or approve a land use or development permit shall have authority to require recordation of covenants of easement to assure compliance with any conditions of approval and any other requirement of law. A covenant of easement required pursuant to this Chapter may be for parking, ingress, egress, emergency access, light and air access, landscaping, or open space purposes or a combination of the aforementioned purposes. For purposes hereof, "land use or development permit" shall include, but not be limited to, a grading permit, building permit, development plan approval, specific plan approval, conditional use permit, variance, modification, architectural design approval and all similar permits and approvals for the use of development of land. (Ord. 4454, 1987.)

22.07.020 Common Ownership.

A covenant of easement created pursuant to this Chapter shall only be effective if at the time of its recordation, all of the real property benefited or burdened by the covenant shall be in common ownership. (Ord. 4454, 1987.)

22.07.030 Effective Date, Duration.

The covenant of easement shall be effective when recorded and shall act as an easement pursuant to Chapter 3 (commencing with Section 801) of Title 2 of Part 2 of Division 2 of the Civil Code, except that it shall not merge into any other interest in the real property. Section 1104 of the Civil Code shall be applicable to conveyance of the affected real property. A covenant or easement authorized by this Chapter may not be terminated except as authorized by Section 22.07.070. (Ord. 4454, 1987.)

22.07.040 Identification of Easement and Approval.

A covenant of easement recorded pursuant to this Chapter shall describe the real property to be subject to easement and the real property to be benefited thereby and shall identify the approval, permit, or designation granted which relied upon or required the covenant. (Ord. 4454, 1987.)

22.07.050 Runs with Real Property.

A covenant executed pursuant to this Chapter shall be enforceable by the successors in interest to the real property benefited by the covenant, the City and any person authorized to enforce it by the City. (Ord. 4454, 1987.)

22.07.060 Recordation.

The covenant of easement (i) shall be recorded in the official records of the County of Santa Barbara, (ii) shall contain a legal description of the real property, and (iii) shall be executed by the owner of the real property. From and after the time of its recordation, the covenant shall impart notice thereof to all persons to the extent afforded by the recording laws of this state. Upon recordation, the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the real property. (Ord. 4454, 1987.)

22.07.070 Procedure for Release of Covenant.

A. RELEASE. Any owner of property which is burdened or benefited by the covenant of easement may file an application for the release of its covenant. The application shall be filed with the Community Development Department on forms approved by that Department, shall contain the information required by the Department and be accompanied by all applicable processing fees. The Community Development Department shall review said application and shall make a recommendation to the Planning Commission which shall conduct a hearing on said application. Upon a determination that the restriction of the property is no longer necessary to achieve the land use goals of the City, the Planning Commission shall direct the Community Development Director to record a release of the covenant.

B. APPEAL TO CITY COUNCIL. Any decision of the Planning Commission under this Section may be appealed to the City Council by filing a notice of appeal with the City Clerk and making payment of all required appeal fees within ten days after the decision of the Planning Commission. (Ord. 4454, 1987.)

22.07.080 Fees.

The City Council may, by resolution, establish fees for filing applications, processing covenants of easement and releases thereof and any other matters related to this Chapter. (Ord. 4454, 1987.)

Chapter 22.08

PARTIALLY DESTROYED BUILDINGS

Sections:

22.08.010 Title and Purpose.
22.08.020 Definitions Generally.
22.08.025 Partially Destroyed Buildings.
22.08.030 Notice to Property Owner.
22.08.040 Duties of Property Owner.
22.08.050 Failure to Abate.
22.08.060 Findings.
22.08.070 Financial Hardship.
22.08.080 Duties of Public Works Director.
22.08.090 Costs to be Borne by Property Owner.
22.08.100 Lien.
22.08.110 Interest Charges.

22.08.010 Title and Purpose.

The City Council hereby finds that the continued presence in an area or neighborhood of a partially destroyed building causes a blight on that neighborhood, adversely affects neighboring property values, invites vandalism, and may result in injury to persons and property. The City Council further finds that the continued presence of partially destroyed buildings is an unsightly and blighting physical object contrary to the general welfare and character of the community. The City Council further finds that the health, safety and welfare of the City requires the removal, repair, or reconstruction of partially destroyed buildings by the property owner or removal of said buildings by the City at the expense of the property owner after the property owner has been given the opportunity, but fails to carry out his duty to abate the condition. (Ord. 4032, 1979.)

22.08.020 Definitions Generally.

For the purposes of this chapter, words, phrases and terms not specifically defined in the Municipal Code shall have the meanings stated in the most recent versions of the California Building Code, as adopted and amended by the City, or Uniform Housing Code that has been adopted by the City. (Ord. 5451, Section 5, 2008; Ord. 4032, 1979.)

22.08.025 Partially Destroyed Buildings.

A partially destroyed building shall be any building or structure or part thereof which has received damage by fire, earthquake, flood, wind or by any similar cause except normal usage and which has not been repaired and which will require reconstruction or repair in order to restore the building or structure to its prior use and normal exterior appearance. (Ord. 4032, 1979.)

22.08.030 Notice to Property Owner.

The Building Official of the City shall give written notice by either personal service or by mail to the property owner of record of a partially destroyed building. Said notice shall include a copy of this chapter of the Code and a statement that the Building Official has determined that the building is a partially destroyed building with a brief and concise description of the conditions which make said building violative of this chapter. Said statement shall also specify a time within which the partially destroyed building shall be repaired, reconstructed or removed by the property owner. (Ord. 4032, 1979.)

22.08.040 Duties of Property Owner.

Within forty-five (45) days after receipt of written notice from the Building Official as provided for in §22.08.030, the property owner shall either remove the partially destroyed building or begin actual repair or reconstruction of such partially destroyed building. The Building Official, upon a showing of good cause and that the removal, repair or reconstruction is delayed due to causes beyond the control of the property owner, may extend the period of time for commencement and/or completion of the work. (Ord. 4032, 1979.)

22.08.050 Failure to Abate.

In the event the property owner has not begun the repair and reconstruction or removal of the structure within the time limits set forth in §22.08.040, the Building Official shall cause to be filed for record with the County Recorder, a Notice of Intention to Record a Notice of Order to Abate describing the real property, naming the property owner thereof, describing the violation and giving notice of the City Council hearing. The Building Official shall give written notice by personal delivery or mail to the property owner that the City intends to carry out the removal of the structure and have the cost of said removal be made a charge against the property owner and lien against the property, unless the building is removed, repaired and/or reconstructed so as to eliminate the condition that is violative of this chapter. The Building Official shall also advise the property owner that he has a right to attend and present evidence at a scheduled hearing before the City Council of the City of Santa Barbara for the purpose of final determination that the building is a partially destroyed building as defined under this chapter, that the blighting condition should be eliminated and that the building should be removed by the City if the violation of this chapter is not eliminated by other parties. Said hearing shall begin no later than thirty (30) days after the date of the personal delivery or mailing of the notice and may be continued by the City Council. (Ord. 4032, 1979.)

22.08.060 Findings.

Upon completion of the hearing, the City Council shall find as to the fact that the building is a partially destroyed building and upon such fact being found shall determine that the building shall be removed, repaired, and/or reconstructed by the property owner within a prescribed time or the City shall cause the building to be removed. Said determination shall be made based upon the evidence presented and a report from the Building Official regarding the existing condition of the building, the estimated costs of repair, reconstruction and removal and the desirability of abating the blighted condition. If the City Council makes such a determination, written findings and an order shall be approved. After said hearing, the City Clerk shall cause to be filed for record a Notice of Order to Abate with the County Recorder and shall give all parties who have a recorded interest in the property notice of such recordation by mail. (Ord. 4032, 1979.)

22.08.070 Financial Hardship.

If the property owner makes an application to the City Council for financial assistance for the repair and/or reconstruction of the partially destroyed building prior to the conclusion of the hearing conducted under 22.08.050 and during the course of that hearing it is determined by the City Council that said partially destroyed building included a legal dwelling as defined by City zoning ordinance; and, if the City Council finds during said hearing that the property owner of said partially destroyed building desires to repair and/or reconstruct the building; and, if the property owner is unable, after making reasonable efforts, to obtain the necessary financing for said repair and/or reconstruction and does not have his or her own financial resources to complete same; and, if the City Council determines that it would be both appropriate and desirable to repair and/or restore said dwelling, then under such conditions the City Council may:

a. determine that a financial hardship exists;

b. determine that the restoration of the dwelling is consistent with the City's housing plans, programs, and priorities thereof;

c. authorize the appropriate City department, advisory committee, commission, or authority to process an appropriate application for financial assistance from any source of funds then available to the City or to any resident of the City, for the purpose of repair and/or reconstruction of said dwelling;

d. upon the authorization set forth in (c) above, extend the prescribed time for the removal, repair or reconstruction to such date as shall allow sufficient time to determine the outcome of the application for financial assistance. (Ord. 4032, 1979.)

22.08.080 Duties of Public Works Director.

The Public Works Director shall, after completion of the hearing and approval of the findings by the City Council that the building is a partially destroyed building, and after the failure of property owner to remove, repair or reconstruct the partially destroyed building within the prescribed time as set forth in the order, obtain the necessary services by contract or by using City forces to carry out the removal of the partially destroyed building as directed by City Council. A record shall be kept of all costs incurred by the City including time spent for the preparation of plans and the supervision of the work to carry out the removal of the building as a partially destroyed building. Upon completion of said efforts, the Public Works Director shall file a report with the City Council as to the costs incurred. The property owner shall be provided a copy of said report, notice of a hearing before the City Council, and an opportunity to appear before the City Council to be heard regarding the reasonableness of the costs incurred by the City. (Ord. 4032, 1979.)

22.08.090 Costs to be Borne by Property Owner.

Upon completion of the hearing before the City Council as to the reasonableness of the costs, the City Council shall determine the reasonable costs incurred by the City to remove the partially destroyed building and the property owner shall be advised of said amount which shall be due and payable to the City. Upon request of the property owner, the City may agree to a mutually acceptable payment schedule. (Ord. 4032, 1979.)

22.08.100 Lien.

In the event the amount determined to be due and payable to the City is not paid within thirty (30) days after the determination by the City Council or as otherwise agreed, said amount shall become a charge against the property involved. The City Administrator shall thereafter cause the amount of said charge to be recorded on the assessment roll as an assessment against the property and thereafter said assessment shall constitute a special assessment and lien against and upon the property. Any portion of said assessment remaining unpaid after the due date for payment thereof shall be subject to the penalties and proceedings then in effect for property taxes due within the City of Santa Barbara. (Ord. 4032, 1979.)

22.08.110 Interest Charges.

The City shall be entitled to interest at the rate applicable for unpaid taxes on all costs incurred by the City as determined pursuant to Section 22.08.090. (Ord. 4032, 1979.)

Chapter 22.09

BUILDING SAFETY ASSESSMENT PLACARD SYSTEM

Sections:

22.09.010 Building Safety Assessment Placard.
22.09.020 Definitions.
22.09.030 Placards.
22.09.040 Standards.
22.09.050 Posting of Placards.
22.09.060 Unlawful to Alter or Remove Placard.
22.09.070 Unlawful to Violate Placard Conditions.

22.09.010 Building Safety Assessment Placard System.

The City of Santa Barbara hereby establishes a building safety assessment placard system for the purpose of notifying the public of the condition of inspected buildings and structures and to inform the public of any conditions or limitations placed on the entry into or continued occupancy of inspected buildings or structures. The Chief Building Official shall administer the building safety assessment placard system. The provisions of this Chapter are applicable to all buildings and structures regulated by the City of Santa Barbara. (Ord. 5495, 2009.)

22.09.020 Definitions.

For purposes of this Chapter, the following terms and phrases are defined as follows:

A. BUILDING AND SAFETY DIVISION. The Building and Safety Division of the Community Development Department of the City of Santa Barbara.

B. CHIEF BUILDING OFFICIAL. The Chief Building Official of the City of Santa Barbara or his or her authorized representative.

C. PLACARD. A form established by the Chief Building Official that announces the condition of a building or structure and informs persons of any applicable conditions or limitations on the entry into or continued occupancy of the building or structure.

D. SAFETY ASSESSMENT. A visual, non-destructive examination of a building or structure for the purpose of determining the condition of the building or structure and establishing appropriate conditions or limitations on the entry into or continued occupancy of the building or structure. (Ord. 5495, 2009.)

22.09.030 Placards.

The Chief Building Official shall develop and maintain building safety assessment placard forms. Each placard form shall include a reference to this Chapter, the City Seal, and the address and phone number of the Building and Safety Division. (Ord. 5495, 2009.)

22.09.040 Standards.

Subject to the discretion of the Chief Building Official to respond to individual circumstances, the building safety assessment placards should fall within the following general categories and should be used in the following circumstances:

A. INSPECTED – LAWFUL OCCUPANCY PERMITTED. This placard is posted on a building or structure when the Chief Building Official has determined, following a safety assessment, the building or structure has no apparent structural hazards. This placard does not necessarily mean that there is no damage to the building or structure.

B. RESTRICTED USE. This placard is posted on a building or structure when the Chief Building Official has determined, following a safety assessment, the building or structure is damaged and entry into or continued occupancy of the building or structure must be conditioned or limited in order to protect the safety of the public and the occupants. The placard will note in general terms the type of damage observed during the safety assessment and will specify the conditions or limitations on entry into or continued occupancy of the building or structure.

C. UNSAFE – DO NOT ENTER OR OCCUPY. This placard is posted on a building or structure when the Chief Building Official has determined, following a safety assessment, the building or structure has been damaged to such a degree that entry into or continued occupancy of the building or structure poses a threat to life and safety. Buildings or structures posted with this placard shall not be entered under any circumstance, except as authorized in writing by the Chief Building Official. Safety assessment teams working under the authority of the Chief Building Official are authorized to enter these buildings or structures at any time. The placard will note in general terms the type of damage observed during the safety assessment. This placard is a not demolition order. If the Chief Building Official determines a building or structure must be demolished in order to protect public safety, a separate demolition order shall be issued. (Ord. 5495, 2009.)

22.09.050 Posting of Placards.

A. LAWFUL OCCUPANCY PERMITTED. Upon completion of a safety assessment during which the Chief Building Official determines that the building or structure has no apparent structural hazard, the Chief Building Official may post an INSPECTED – LAWFUL OCCUPANCY PERMITTED placard at each entry point into the building or structure.

B. RESTRICTED OR UNSAFE. Upon completion of a safety assessment during which the Chief Building Official determines the building or structure has been damaged to a degree that public safety requires restrictions on, or prohibitions against, the entry into or continued occupancy of the building or structure, the Chief Building Official shall post the appropriate placard from the categories specified in subsections B or C of Section 22.09.040 at each entry point into the building or structure. Once a placard is attached to, or posted at, a building or structure, the placard shall not be removed, altered, or covered except by, or at the direction of, the Chief Building Official. (Ord. 5495, 2009.)

22.09.060 Unlawful to Alter or Remove Placard.

It shall be unlawful for any person to alter, remove, cover, or deface a placard except as authorized by the Chief Building Official. (Ord. 5495, 2009.)

22.09.070 Unlawful to Violate Placard Conditions.

A. It shall be unlawful for any person to enter or continue to occupy any building or structure in violation of any condition or limitation specified on any placard affixed to, or posted at, a building or structure pursuant to this Chapter.

B. It shall be unlawful for any person to knowingly enter or continue to occupy any building or structure in violation of any condition or limitation placed on such entry or occupancy by the Chief Building Official, whether or not a placard remains affixed to, or posted at, the building or structure. (Ord. 5495, 2009.)

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Chapter 22.10

VEGETATION REMOVAL

Sections:

22.10.010 Title.
22.10.020 Purpose.
22.10.030 Definitions.
22.10.040 Permit Required - Exceptions.
22.10.050 Application.
22.10.055 Fees.
22.10.060 Approval - Conditions.
22.10.090 Severability.

22.10.010 Title.

This chapter shall be known and referred to as the Vegetation Removal Ordinance of the City of Santa Barbara. (Ord. 3808 §1, 1975.)

22.10.020 Purpose.

The purpose of this chapter is to control the removal of vegetation from hillside areas of the City of Santa Barbara and areas designated as open space in the Open Space Element of the General Plan in order to prevent erosion damage, reservoir siltation, denuding, flood hazards, soil loss, and other dangers created by or increased by improper clearing activities; and to establish the administrative procedure for issuance of permits for vegetation removal. (Ord. 4043, 1980; Ord. 3808 §1, 1975.)

22.10.030 Definitions.

For the purposes of this Chapter, the following words shall have the meanings set forth herein unless the context requires a different meaning:

A. "HILLSIDE DESIGN DISTRICT" means a parcel or a portion of a parcel which is within the Hillside Design District as defined in Section 22.68.060 of this Code.

B. "PERSON" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

C. "SITE" means any lot or parcel of land or contiguous combination thereof under the same ownership, or portion of any lot or parcel, where vegetation removal is performed or permitted.

D. "VEGETATION" means introduced or native plants, shrubs, trees, grasses, and roots thereof.

(Ord. 5416, 2007; Ord. 4878, 1994; Ord. 3808 §1, 1975.)

22.10.040 Permit Required - Exceptions.

No person may permit, cause to have done or perform vegetation removal on any site in the Hillside Design District, as defined in Section 22.10.030.A contrary to the terms of or without first having obtained a permit from the Division of Land Use Controls; except that a permit is not required for the following:

A. Harvesting of crops, fruit or nut trees.

B. Removal or destruction of vegetation on a site on which the total area of native vegetation removal is less than one thousand (1,000) square feet within a period of one year, and not exceeding three thousand (3,000) square feet in any five year period, if such removal or destruction of vegetation is deemed appropriate, taking into account potential siltation or pesticide contamination of creeks, drainages or water supply reservoirs, by the Chief of Building and Zoning. Removal or destruction of non-native vegetation on a site on which the total area of non-native vegetation removal is less than two thousand (2,000) square feet within a period of one year, and not exceeding six thousand (6,000) square feet in any five year period, if such removal or destruction of vegetation is deemed appropriate, taking into account potential siltation or pesticide contamination of creeks, drainages or water supply reservoirs, by the Chief of Building and Zoning. Removal or destruction of native or non-native vegetation will not be subject to a Vegetation Removal Permit if the Applicant can show that the average slope of the removal site and access to the removal site is less than twenty percent (20%).

C. The removal or destruction of vegetation performed, caused to be performed, required to be performed, or approved by a fire prevention agency having jurisdiction including but not limited to weed abatement, clearance around a building or structure, fuel breaks, fire breaks and controlled burns, except that when new construction is proposed in the Hillside Design District and clearance will be required around the new construction under the California Fire Code, a Vegetation Removal Permit shall be required unless the applicant can show that the vegetation removal meets the exception set forth in Paragraph B above.

D. The removal or destruction of vegetation by public utilities on existing rights-of-way or property owned by such utility or existing access rights-of-way to such utility rights-of-way or property.

E. The removal or destruction of vegetation by public agencies on publicly owned property or rights-of-way for trails, roads, highways, streets, flood control projects or other similar or related public uses.

F. The removal or destruction of vegetation in connection with work performed under a valid grading permit issued pursuant to the provisions of Chapter 22.06 of the Municipal Code (Grading Ordinance) when the work includes precautionary measures to control erosion and flood hazards during the prosecution of such work as well as upon completion thereof and all conditions set forth in Section 22.10.060 of this Chapter have been met. (Ord. 4878, 1994; Ord. 4043, 1980; Ord. 3808 §1, 1975.)

22.10.050 Application.

Prior to the removal or destruction of vegetation covered by this chapter, the owner or person in control of a site, or the agent of either one, shall submit a written application on forms prescribed and provided by the Division of Land Use Controls of the City of Santa Barbara, properly filled in. Said forms when completed shall at a minimum describe the proposed location, method, purpose, and duration of the vegetation removal and the anticipated impact on flood hazards, erosion, soil loss, reservoir siltation, sedimentation and water quality. No application shall be considered complete until the data requested by the application form is submitted to the Division of Land Use Controls, and an Environmental Assessment, if required, has been completed. (Ord. 4043, 1980; Ord. 3808 §1, 1975.)

22.10.055 Fees.

Application and permit fees shall be established by resolution of the City Council. There shall be a fee for filing of an application which is intended to cover the costs of processing the application and is not refundable. In addition, there shall be a separate fee for the permit that is issued. Any person who shall commence work for which a permit is required under this chapter without first having obtained a required permit, shall, if subsequently permitted to obtain a permit, pay fees in the amount of five (5) times the required fees as established by resolution. (Ord. 4043, 1980.)

22.10.060 Approval - Conditions.

The Division of Land Use Controls shall issue a permit approving the proposed vegetation removal when satisfied that the performance of the work will not be likely to create new or increase existing flood, erosion, soil loss, reservoir siltation, sedimentation or water quality hazards, and the proposed work conforms with the requirements of all applicable laws and rules and regulations adopted pursuant thereto. No such permit shall be issued unless it has been approved by the Architectural Board of Review or the Historic Landmarks Commission if it is in a Landmarks District.

A. The Community Development Department may impose such conditions on the issuance of a permit as are deemed reasonably necessary to avoid creating new or increasing existing flood, erosion, soil loss, reservoir siltation, sedimentation or water quality hazards. These conditions may include, but shall not be limited to, the following:

1. A requirement that certain protective structures or devices be installed in or adjacent to drainage courses to control downstream transportation of silt or debris;
2. The methods to be used in the removal or destruction of vegetation and the sequence of such operations;
3. A requirement that portions of the area cleared which are not necessary for prompt use for crops or trees be planted with approved grasses or other plants to provide protection against erosion damage.

B. Each permit issued shall contain the following conditions:

1. Vegetation removal shall be prohibited from November 1 to April 15 of any year unless effective and specific erosion control measures approved by the Division of Land Use Controls are in place.
2. Removal of any native vegetation in the one hundred (100) year flood zone of any creek or drainage shall be prohibited except as required for flood control purposes or to restore native habitat.
3. Soil Suitability. Site specific agricultural soil tests shall be required on all very low suitability land planned for orchard crop production in order to determine the viability of that land for such crops prior to the issuance of any land use permits as set forth in Administrative Guidelines approved by resolution of City Council. Agricultural use shall not be allowed on land with non-viable soils including soils that are shown to have a very high erosion hazard potential or which qualify as Class VIII soils as defined by the United States Department of Agriculture Soil Conservation Service.
4. Avocado Root Rot. Where a property is or is proposed to be planted with avocados in an area which is shown to have a very high root rot hazard, a three (3) to six foot (6') fence, wall or other suitable barrier shall be installed in order to prevent the spread of Avocado Root Rot.
5. Minimization of Soil Erosion. A mixture of Blando Brome and Zorro Fescue shall be seeded in all cleared orchard areas between October 1 and November 15. Seeds shall be hand broadcast at a rate of eight (8) pounds per acre and shall be covered by one-half (½) to one (1) inch of soil. Mowing shall occur after the seeded grass has matured in the Spring in order to allow for continued perpetuation.

6. Oak Tree Removal. Any oak tree with a minimum trunk diameter of four inches (4") measured four feet (4') from the base of the trunk removed shall be replaced by five (5) oak trees of the same species elsewhere on the lot. Replaced oak trees shall be effectively maintained.

7. Habitat Protection. Removal of any native vegetation in the one hundred (100) year flood zone of any creek or drainage is prohibited, except as required for flood control purposes. In addition, vegetation removal shall be prohibited in any area that is determined to be a Southern Oak Woodland, Riparian or Bunchgrass habitat by a qualified biologist.

8. Land clearing that involves noise generation greater than 60 dB(A) at the property line adjacent to any school or other educational facility shall not occur during hours when classes are in session. (Ord. 4878, 1994; Ord. 4043, 1980; Ord. 3808 §1, 1975.)

22.10.090 Severability.

If any portion of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application thereof to other persons or circumstances shall not be affected thereby. (Ord. 3808 §1, 1975.)

Chapter 22.11

MAINTENANCE OF APPROVED LANDSCAPE PLANS

Sections:

22.11.010 General Provisions.
22.11.020 Definitions.
22.11.030 Maintenance Required.
22.11.040 No Alteration of Approved Landscape Plan Without a Permit.
22.11.050 Alterations to Approved Landscape Plans.

22.11.010 General Provisions.

The provisions of this Chapter shall apply as follows:

A. SCOPE OF APPLICATION. The provisions of this Chapter shall apply to the following lots within the City:

1. Any lot developed with a multiple-family residential, commercial, or industrial use; or

2. Any lot developed solely with a single-family residence or a duplex residential unit, where the conditions of approval for the development on the lot require the installation and maintenance of trees or landscaping in accordance with an approved landscape plan.

B. RELATIONSHIP TO CITY TREE PRESERVATION ORDINANCE. If a tree is protected under both Chapter 15.24 and this Chapter 22.11, the alteration or removal of such a tree shall be processed and regulated in accordance with the provisions of Chapter 15.24. Otherwise, any tree shown on an approved landscape plan for a lot subject to this Chapter shall be maintained in accordance with the approved landscape plan and the provisions of this Chapter. (Ord. 5505, 2009.)

22.11.020 Definitions.

As used in this Chapter, the following terms shall have the indicated meanings:

A. ALTERATION. An alteration shall include, but not be limited to, the addition, placement, replacement, cutting, or removal of trees, plants, or other improvements on an approved landscape (excluding the replacement of trees, plants, or other improvements with trees, plants, or other improvements of substantially similar design, character, and coverage at maturity).

B. APPROVED LANDSCAPE PLAN. Any approved plan on record with the City that shows landscaping or tree improvements on the lot.

C. MAINTENANCE. Maintenance of an approved landscape plan consists of all of the following:

1. Regular watering, pruning, fertilizing, and clearing of debris and weeds in a manner that promotes and maintains the health and natural growing conditions of the trees and plants shown to remain or to be installed on the approved landscape plan.

2. Timely and regular removal of dead trees or plants shown to remain or to be installed on the approved landscape plan and the immediate replacement of such dead trees or plants with new trees or plants of substantially similar design, character, and coverage at maturity as the trees or plants shown to remain or to be installed on the approved landscape plan. Removal of dead trees may require prior notice to and approval from the Parks and Recreation Director pursuant to Section 15.24.030.

3. Installation, maintenance, repair, and replacement (as necessary) of irrigation systems as specified on the approved landscape plan.

4. Compliance with any additional directions or specifications regarding the maintenance of trees and plants shown to remain or to be installed on the approved landscape plan and the irrigation systems indicated on an approved landscape plan for the lot. (Ord. 5505, 2009.)

22.11.030 Maintenance Required.

It is unlawful for an owner of a lot subject to the provisions of this Chapter to not maintain the trees, plants, irrigation system, and other improvements shown on an approved landscape plan in accordance with the approved landscape plan and the provisions of this Chapter. (Ord. 5505, 2009.)

22.11.040 No Alteration of Approved Landscape Plan Without a Permit.

It is unlawful for any person to alter or to authorize or allow the alteration of an approved landscape plan for a lot subject to the provisions of this Chapter without the permit required pursuant to Section 22.11.050. (Ord. 5505, 2009.)

22.11.050 Alterations to Approved Landscape Plans.

Alterations to approved landscape plans for lots subject to the provisions of this Chapter are subject to the following regulations:

A. PERMIT REQUIRED. Except as provided in Subsections C and D of this Section, any alteration to the design, character, plant coverage at maturity, or other improvements specified on an approved landscape plan shall require a permit issued by the Community Development Department.

B. REVIEW AND APPROVAL. An application for a permit to alter an approved landscape plan shall require prior approval from the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board, depending upon which body approved the landscape plan or which body is responsible for reviewing the development on the lot.

C. SIGNIFICANT ALTERATION OR REMOVAL OF TREES. Any significant alteration or removal of a tree shown on an approved landscape plan for a lot subject to this Chapter shall require compliance with Chapter 15.24 of this Code. For purposes of this subsection C, the significant alteration or removal of a tree is defined as specified in Section 15.24.020 of this Code.

D. EXCEPTIONS.

1. Notwithstanding Subsection A above, a permit is not required for minor alterations as specified in the administrative procedures for the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board, as approved by a resolution of the City Council. Minor alterations to approved landscape plans may be approved as a ministerial action by the Community Development Director (or the Director's designee) without review by the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board. The Community Development Director or the Director's designee shall have the authority and discretion to refer any minor alteration to the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the integrity of the landscape plan.

2. Any alteration to an approved landscape plan for a lot located within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District shall be reviewed and approved pursuant to Section 22.22.130 of this Code. (Ord. 5505, 2009.)

Chapter 22.12

ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Sections:

22.12.001 Legislative Intent.
22.12.010 Applicability.
22.12.020 Standards.

22.12.001 Legislative Intent.

It is the intent of this Section to provide for the preservation and protection of significant archaeological and paleontological resources found in the City of Santa Barbara.

22.12.010 Applicability.

All new development in the City of Santa Barbara shall be designed and constructed wherever feasible to avoid destruction of archaeological and paleontological resources consistent with the standards outlined in Section 22.12.020, below.

22.12.020 Standards.

1. KNOWN SITES. Permits to perform grading determined through the Environmental Review process or indicated through records kept by the State of California, or the University of California, to be within an area of known or probable archaeological or paleontological significance may be conditioned in such a manner as to:

(a) Ensure the preservation or avoidance of the site, if feasible; or

(b) Minimize adverse impacts on the site; or

(c) Allow reasonable time for qualified professionals to perform archaeological or paleontological investigations at the site; or

(d) Preserve for posterity, in such other manner as may be necessary or appropriate in the public interest, the positive aspects of the archaeological or paleontological site involved.

2. UNKNOWN SITES. Where a grading permit has been issued with respect to an area not known at the time of issuance to include archaeological or paleontological resources, and where it is subsequently learned, either by representatives of the City or by any persons doing development pursuant to a grading permit, that significant archaeological or paleontological resources may be encompassed within the area to be graded or being graded, all grading which has substantial potential to damage archaeological or paleontological resources shall cease and the grading permit deemed suspended to that extent. The finding of a site which may contain significant archaeological or paleontological resources shall be reported to the Chief of Building and Zoning, or the Public Works Director if a public project, and the Community Development Director within 72 hours from the time such archaeological or paleontological resources are found. The Chief of Building and Zoning, or the Public Works Director if a public project, upon receiving such a report, shall cause a preliminary investigation of the site to be made by qualified experts at the permittee's expense within five (5) working days after the time such a report is received. If the preliminary investigation should confirm that the site does or may contain significant archaeological or paleontological resources, the grading permit shall be suspended for a period not to exceed 45 days after the date the finding of the resources was first reported to or learned by the City. During the period of suspension, and as promptly as reasonably possible, the Chief of Building and Zoning, or the Public Works Director if a public project, shall develop conditions to be included in the grading permit pursuant to the provisions of Subsection 22.12.020.1 When such conditions are developed and included in the grading permit, said permit shall be deemed reissued subject to such conditions, and the suspension shall be deemed terminated. In extraordinary circumstances, the suspension may be extended beyond 45 days if the Chief of Building and Zoning, or the Public Works Director if a public project, makes application to the City Council for such an extension and the Council shall approve extension of the suspension.

3. APPEALS. Any condition or conditions imposed pursuant to the provisions of Subsection 22.12.020.1 may be appealed to the Planning Commission and thence to the Council in the manner prescribed by Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4174, 1982.)

Chapter 22.14

SURFACE MINING AND RECLAMATION PRACTICE

Sections:

22.14.010 Purpose and Intent.
22.14.020 Definitions.
22.14.030 Incorporation of State Act and Regulations.
22.14.040 Scope.
22.14.050 Permit and Reclamation Plan Requirements.
22.14.060 Review Procedures.
22.14.070 Performance Bond.
22.14.080 Public Records.
22.14.090 Periodic Review.
22.14.100 Amendments.
22.14.110 Enforcement.
22.14.120 Appeals.

22.14.010 Purpose and Intent.

This Ordinance is adopted pursuant to the California Surface Mining and Reclamation Act of 1975 (Public Resources Code 2710 et seq.), hereinafter referred to as the State Act, and the California Administrative Code Regulations adopted pursuant thereto (14 Cal. Admin. Code §3500 et seq.), hereinafter referred to as the State Regulations.

The City Council finds and declares that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society and the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect public health and safety.

The City Council further finds that the reclamation of mined lands, as provided in this ordinance, the State Act, and the State Regulations, will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

The City Council further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore, may vary accordingly.

The City Council further finds that the purpose of the regulation of surface mining operations is to assure that:

A. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

B. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, and aesthetic enjoyment.

C. Residual hazards to the public health and safety are eliminated. (Ord. 4483, 1987)

22.14.020 Definitions.

A. "Exploration" or "Prospecting" means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of materials present.

B. "Mined Lands" includes the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which results from, or is used in, surface mining operations are located.

C. "Minerals" include any naturally occurring chemical element or compound, or groups, elements or compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

D. "Mining Waste" includes the residual of soil, rock, tailings, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

E. "Operator" means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf.

F. "Overburden" includes soil, rock or other materials that lie above the natural mineral deposit or in between deposits, before or after their removal, by surface mining operations.

G. "Permit" includes any formal authorization from or approval by, the City, the absence of which would preclude surface mining operations.

H. "Person" means any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

I. "Reclamation" is the process of land treatment that minimizes water degradation, air pollution, damaged aquatic or wildlife habitat, flooding, erosion, and other adverse effect from surface mining operations, including adverse surface effects, incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization or other measures.

J. "State Board" means the State Mining and Geology Board, and the Department of Conservation, State of California.

K. "State Geologist" is the individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.

L. "Surface Mining Operations" are all or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include but are not limited to, in-place distillation, retorting or leaching; the production and disposal of mineral wastes; prospecting and exploratory activities. (Ord. 4483, 1987)

22.14.030 Incorporation of State Act and Regulations.

The provision of the California Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 through 2793) and the California Administrative Code Regulations implementing the Act (14 Cal. Admin. Code Sections 3500 through 3508), as either may be amended from time to time, are made part of this paragraph by reference, as if fully set forth herein. (Ord. 4483, 1987)

22.14.040 Scope.

The provisions of this Chapter shall apply to the incorporated areas of the City of Santa Barbara and all lands owned by the City outside the corporate limits, except as follows:

A. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

B. Prospecting and exploration for minerals of commercial value where less than 1000 cubic yards of over-burden is removed in any one location of one acre or less.

C. Any surface mining operation that does not involve either the removal of a total of more than 1,000 cubic yards of minerals, ores, and overburden, or involve more than one acre in any location.

D. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.

E. Such other mining operations that the City deter-mines to be of an infrequent nature, and which involve only minor surface disturbances and are categorically identified by the State Board, pursuant to Sections 2714(d) and 2758(c) of the California Surface and Mining Reclamation Act of 1975. (Ord. 4483, 1987)

22.14.050 Permit and Reclamation Plan Requirements.

A. Unless exempt by provisions of the State Act or State Regulations, any person who proposes to engage in surface mining operations, as defined in this Chapter, shall, prior to the commencement of such operations, obtain (1) a permit to mine and (2) approval of a reclamation plan in accordance with the provisions set forth in this Chapter, the State Act and the State Regulations.

An application for a permit or for approval of a reclamation plan for surface mining operations shall be made on forms provided by the Community Development Department.

B. A person who has obtained a vested right to conduct a surface mining operation prior to January 1, 1976, shall not be required to secure a permit pursuant to the pro-visions of this Chapter, as long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of this Chapter. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has in good faith and in reliance upon a permit or other authorization, if such permit or such other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefore. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

A person who claims to have obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall submit to the Community Development Department not later than March 31, 1988, an application for approval of a reclamation plan for operations to be conducted after January 1, 1976, unless (i) a reclamation plan was approved by the County of Santa Barbara prior to January 1, 1976, and (ii) the person submitting that plan has accepted responsibility for re-claiming the mined lands in accordance with that Plan. No provision of this Chapter shall be construed to require the filing of a reclamation plan or, the reclamation of mined lands, on which surface mining operations were con-ducted prior to, but not after January 1, 1976.

C. The Community Development Director shall notify the State geologist of the filing of all permit applications within thirty (30) days of receipt of the completed application.

D. This Ordinance shall be periodically reviewed and revised, as necessary, in order to insure that it is in accordance with the State policy for mined lands and reclamation. (Ord. 4483, 1987)

22.14.060 Review Procedures.

The Community Development Department shall forward the completed application to the Environmental Analyst for environmental review. Following completion of the environ-mental review process, the Community Development Director shall schedule a public hearing before the Planning Commission for the purpose of consideration of the issuance of a conditional use permit for the proposed surface mining operation. (Ord. 4483, 1987)

22.14.070 Performance Bond.

On a finding by the Planning Commission that a supple-mental guarantee for the reclamation of the mined land is necessary, and upon a determination by the Community Development Department of the cost of the reclamation of the mined land according to the reclamation plan, a surety bond, lien, or other security guarantee, conditioned upon the faithful performance of the reclamation plan, shall be filed with the Community Development Department. Such surety shall be executed in favor of the City of Santa Barbara and shall be reviewed and revised as necessary, biannually. Such surety shall be maintained in an amount equal to the cost of completing the remaining reclamation of the site as pre-scribed in the approved or amended reclamation plan during the succeeding two year period or other reasonable term. (Ord. 4483, 1987)

22.14.080 Public Records.

Any reclamation plan, report, application, and other document pursuant to this Chapter is a public record unless it can be demonstrated to the satisfaction of the City that the release of such information or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The City shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications and other documents submitted pursuant to this chapter, including proprietary information, shall be furnished to the district geologist of the State Division of Mines and Geology by the City of Santa Barbara. Proprietary information shall be made available to persons other than the state geologist only when authorized by the mine operator and by the mine owner, in accordance with Section 2778, California Surface and Reclamation Act of 1975. (Ord. 4483, 1987)

22.14.090 Periodic Review.

As a condition of approval for the permit or the reclamation plan or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the permit and the reclamation plan. (Ord. 4483, 1987)

22.14.100 Amendments.

A proposed amendment to an approved reclamation plan may be submitted to the City at any time, detailing proposed changes from the original plan. Deviation from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the City.

An amendment to an approved reclamation plan shall be approved in the same procedure as is prescribed for approval of the reclamation plan.

Variations in approved reclamation plans may be allowed upon request of the operator or applicant upon a finding by the Planning Commission that each such requested variation is necessary to achieve the prescribed or higher post-mining use of the re-claimed land. (Ord. 4483, 1987)

22.14.110 Enforcement.

It shall be the duty of the Community Development Director to enforce this Chapter. Any person who violates the provisions of this Chapter shall be subject to the penalties described in Chapter 1.28 of the Santa Barbara Municipal Code. (Ord. 4483, 1987)

22.14.120 Appeals.

Any person aggrieved by an act or determination of the Planning Commission in the exercise of the authority granted herein shall have the right to appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4483, 1987)

Chapter 22.18

SEISMIC SAFETY ORDINANCE

Sections:

22.18.010 Scope.
22.18.020 Definitions.
22.18.030 General Requirements.
22.18.040 Appeals.
22.18.050 Enforcement.
22.18.060 Administration.

22.18.010 Scope.

This Chapter shall apply to all buildings identified by street address within the "City of Santa Barbara Survey of Potentially Hazardous Buildings" completed in 1988 ("Survey"). The Chapter shall also apply to any other building which utilizes unreinforced masonry bearing walls as an element of construction and for which construction began prior to the City's adoption on July 24, 1947 of the 1946 Edition of the California Building Code as adopted and amended by the City. This Chapter does not apply to (i) single family residences, duplexes, or buildings containing less than five dwelling units and used exclusively for residential purposes, and (ii) buildings owned and occupied by federal, state or county governments. (Ord. 5451, Section 5, 2008; Ord. 4984, 1996; Ord. 4586, 1989.)

22.18.020 Definitions.

A. BEARING WALL. A wall with a total superimposed load in excess of one hundred (100) pounds per linear foot, or an infill wall that will experience lateral forces as a result of the inability of other lateral load resisting framing elements to resist the lateral forces specified in Appendix Chapter One of the Uniform Code for Building Conservation.

B. DISTRICT MITIGATION SCHEDULE. A document adopted by resolution of City Council that subdivides the City of Santa Barbara into five districts, and includes a schedule identifying, by district, deadlines for permit approval and for completion of construction.

C. HIGH RISK BUILDING. Any Potentially Hazardous Building having an occupant load in excess of one hundred (100) persons, as determined by California Building Code, as adopted and amended by the City, Section 1002.1, except (i) a building having exterior walls braced with masonry or wood frame crosswalls of at least full story height, with a minimum length of one and one-half (1 1/2) times the story height, spaced less than forty (40) feet apart in each story, or (ii) a building occupied less than twenty (20) hours per week. Any building meeting one of these exception criteria shall be classified as a Moderate Risk Building.

D. MODERATE RISK BUILDING. Any Potentially Hazardous Building not classified as a High Risk Building.

E. NOTICE OF BUILDING CLASSIFICATION. A notice to be mailed by the Chief of Building and Safety to the owner of every structure identified within the Survey, specifying the degree of risk represented by that structure.

F. POTENTIALLY HAZARDOUS BUILDING. A building for which construction began prior to the City's adoption on July 24, 1947 of the 1946 Edition of the California Building Code, as adopted and amended by the City, and which is constructed of unreinforced masonry bearing wall construction.

G. SERVICE DATE. The date a notice is posted by the United States Postal Service, as evidenced by certified mail receipt, to a building owner at the address most recently indicated by the roles of the County Tax Assessor.

H. CALIFORNIA HISTORICAL BUILDING CODE. Part 8 of Title 24 of the California Code of Regulations.

I. CALIFORNIA BUILDING CODE, AS ADOPTED AND AMENDED BY THE CITY. A model code published by the International Conference of Building Officials, incorporated by reference in Section 22.04.010 of this Code.

J. UNIFORM CODE FOR BUILDING CONSERVATION. A code applying exclusively to existing buildings and published by the International Conference of Building Officials, the Second Printing (copyright 1987) portions of which have been amended by local ordinance and incorporated by reference in Section 22.04.010 of this Code. (Ord. 5451, Section 5, 2008; Ord. 4984, 1996; Ord. 4586, 1989.)

22.18.030 General Requirements.

Each Potentially Hazardous Building shall be designated as either a High or Moderate Risk Building and shall be included on a list of such structures maintained by the Chief of Building and Safety. The owners of each structure listed in the Survey shall be served a Notice of Building Classification and a District Mitigation Schedule.

A. PERMITS AND CONSTRUCTION. Unless otherwise excepted, each Potentially Hazardous Building shall meet all of the requirements outlined in Appendix Chapter One of the Uniform Code for Building Conservation as amended by local ordinance. Where the scope of work proposed by the owner of a Potentially Hazardous Building, including demolition and replacement of an existing building or structure pursuant to Section 28.87.045, is limited to compliance with this Chapter, the requirements for permit approval shall be exclusively those outlined within this Chapter. Minor exterior work, such as parapet bracing or wall anchor plate installation on buildings located within El Pueblo Viejo Landmark District or another landmark district or on a building that is a designated Landmark, shall be subject to review by the Community Development Director or designee in accordance with guidelines approved by the Historic Landmarks Commission. Such minor exterior work on buildings outside of landmark districts shall be subject to review by the Community Development Director or designee in accordance with guidelines approved by the Architectural Board of Review. Other exterior work will be subject to full Historic Landmarks Commission or Architectural Board of Review approval, as applicable. Nothing in this Chapter shall be construed so as to prohibit additions to buildings as permitted under Municipal Code Chapter 28.85.

B. TIME LIMITS. All time limits shall be as outlined in the District Mitigation Schedule established by resolution of the City Council.

C. EXCEPTIONS. Two categories of buildings are excepted from this general requirement as provided below: (i) Moderate Risk Buildings which may utilize alternative compliance measures provided by Appendix Chapter One of the Uniform Code for Building Conservation in accordance with Table No. A1-E as amended by local ordinance and adopted by reference in Chapter 22.04 of this Code, and (ii) historical buildings listed in the 1987 Cultural Resources Section of the City's Master Environmental Assessment, and Landmarks and Structures of Merit designated pursuant to Chapter 22.22 of this Code which may utilize the alternative compliance measures outlined in (i) above or those described in Chapter 8-5 "Alternative Structural Regulations" of the California Historical Building Code. Application of alternative compliance measures for High Risk Historic Buildings shall be evaluated on a case by case basis in accordance with the required findings of reasonable safety contained in the California Historical Building Code. (Ord. 5609, 2013; Ord. 5451, Section 5, 2008; Ord. 4984, 1996; Ord. 4847, 1994; Ord. 4586, 1989.)

22.18.040 Appeals.

Property owners appealing the determination that their building is potentially hazardous must do so in writing to the Building and Fire Code Board of Appeals ("Board") in accordance with Section 204 of the Uniform Administrative Code. An appeal shall be filed with the City Clerk within 180 days of the service date for the Notice of Building Classification. Each appeal request shall be accompanied by a fee in an amount set by resolution of the City Council and shall include verification that (i) construction began after July 24, 1947, (ii) materials used were other than unreinforced masonry, or (iii) the building is in compliance with requirements outlined in Sections A106 through A108 of the Uniform Code for Building Conservation, as demonstrated by a complete structural analysis in accordance with those sections. The Chief of Building and Safety shall review all materials used in support of the appeal prior to scheduling the appeal and may reclassify such buildings based upon the information submitted. All decisions and appeals shall be governed by standards and procedures established by the Community Development Director and all decisions of the Board shall be final. (Ord. 4984, 1996; Ord. 4586, 1989.)

22.18.050 Enforcement.

Any person who fails to comply with the provisions of this Chapter within the time limits established herein is guilty of a misdemeanor. Each 30 day period of continued failure to comply shall constitute a separate offense. In the alternative, the Chief of Building and Safety may elect to invoke the provisions of the Uniform Code for the Abatement of Dangerous Buildings. (Ord. 4984, 1996; Ord. 4586, 1989.)

22.18.060 Administration.

The Chief of Building and Safety may promulgate administrative rules and policies for the administration of this Chapter. (Ord. 4984, 1996; Ord. 4586, 1989.)

Chapter 22.21

ENCROACHMENTS INTO PUBLIC ROADS, STREETS, ALLEYS AND RIGHTS OF WAY AS PUBLIC NUISANCE

Sections:

22.21.010 Encroachments into Public Roads, Streets, Alleys and Rights of Way Declared a Nuisance.
22.21.020 Description of Property in Resolution Declaring Nuisance.
22.21.030 Resolution May Cover Several Parcels.
22.21.040 Posting and Form of Notice to Abate.
22.21.050 Time for Posting Notice to Abate.
22.21.060 Council to Hear Objections to Proposed Removal.
22.21.070 Order to Abate - Owner May Abate Before City Begins Work.
22.21.080 Report of City's Expenses.
22.21.090 Hearing On and Confirmation of City's Costs - Costs to be Lien - Collecting Costs.
22.21.100 Reservation of Police Powers.

22.21.010 Encroachments into Public Roads, Streets, Alleys and Rights of Way Declared a Nuisance.

A. Encroachments in, on, under, or interfering with the use or improvement of any public road, street, alley, storm drain, sewer or waterline easement, or other public property or right of way which are not removed within 30 days following demand by the City Public Works Director or City Engineer may be declared to be a public nuisance by resolution of the City Council.

B. Any obstruction to the use or improvement of any public road, street, alley, sewer or water easement, or other public property or right of way may be declared to be a public nuisance by resolution of the City Council.

C. A condition declared to be a public nuisance by resolution of the City Council may be abated at the joint and several expense of:

1. the person or persons who placed, installed, or constructed such encroachment or obstruction;
2. the person or persons for whose benefit such encroachment or obstruction was placed, installed or constructed; and,
3. the present owner(s) of the land or premises for the benefit of which the encroachment or obstruction was placed, installed or constructed. (Ord. 4831, 1993)

22.21.020 Description of Property in Resolution Declaring Nuisance.

The resolution adopted pursuant to Section 22.21.010 shall describe the property upon which the nuisance exists, or the property for the benefit of which such nuisance was placed, installed, or constructed by reference to the latest County Tax Assessor's records available to the public, and no other description of the property shall be required. In lieu thereof, reference may be made to the parcel or lot and block number of the property according to the official map or other records. (Ord. 4831, 1993)

22.21.030 Resolution May Cover Several Parcels.

Any number of parcels of property may be included in one and the same resolution declaring the nuisance. (Ord. 4831, 1993)

22.21.040 Posting and Form of Notice to Abate.

After adoption of the resolution as provided by Sections 22.21.020 and 22.21.030, the Public Works Director, or City Engineer shall cause a notice to abate the nuisance to be mailed to the person responsible for the obstruction or encroachment, if known, and conspicuously posted on the property on which the nuisance exists, and on the property which was to benefit from the obstruction or encroachment, if reasonably identified. At least three such notices shall be placed on such property, near such nuisance, at intervals not more than one hundred feet (100') in distance apart. Such notice shall include the words: "Notice to Abate Nuisance" in letters not less than one inch (1") in height, and shall be substantially in the following form:

NOTICE TO ABATE NUISANCE

NOTICE IS HEREBY GIVEN, that on , 19 , the Santa Barbara City Council adopted a resolution declaring that an obstruction or encroachment located within or extended into public property by , or installed for the benefit of property more particularly described in such resolution, constitutes a public nuisance which must be abated by removal, otherwise the obstruction or encroachment will be removed and the nuisance will be abated by order of the City in which case the cost of such removal, together with incidental expenses, shall be charged to such person or agency responsible and assessed upon the lots and lands for the benefit of which such installation was made, and such costs and incidental expenses will constitute a lien upon such lots or lands until paid. Reference is hereby made to such resolution for further particulars.

All persons and all property owners having any objections to the proposed abatement are hereby notified to attend a meeting of the Santa Barbara City Council to be held on the day of , 19 , at the Council Chamber of the Santa Barbara City Hall, 735 Anacapa Street, Santa Barbara, California, when their objections will be heard and given due consideration.

Dated:

(Ord. 4831, 1993)

22.21.050 Time for Posting Notice to Abate.

The notice provided in Section 22.21.040 shall be posted at least ten (10) days prior to the time stated therein for hearing objections by the City Council. (Ord. 4831, 1993)

22.21.060 Council to Hear Objections to Proposed Removal.

At the time stated in the notice posted pursuant to Sections 22.21.040 and 22.21.050, the Council shall hear and consider all objections or protests, if any, to the proposed abatement found by resolution to be a nuisance, and may continue the hearing from time to time. Upon the conclusion of the hearing the Council by motion or resolution shall allow or overrule any or all objections, whereupon the Council may perform the work of removal. The decision of the Council on the matter shall be final and conclusive. (Ord. 4831, 1993)

22.21.070 Order to Abate - Owner May Abate Before City Begins Work.

After final action has been taken by the Council under Section 22.21.060 on the disposition of any protests or objections, or in case no protests or objections have been received, the Council, by motion or resolution, may order the Public Works Director or City Engineer to abate the nuisance considered pursuant to this Chapter by causing such nuisance to be removed and the premises restored to a lawful condition, suitable for public use and such officer, and the deputies, agents and employees of such officer are hereby expressly authorized to enter upon private property for that purpose. Any property owner, or other person responsible, shall have the right to have such nuisance abated at his own expense; providing abatement is accomplished prior to the arrival of the City officer or representatives prepared to do the same. (Ord. 4831, 1993)

22.21.080 Report of City's Expenses.

The City officer or deputy charged with such abatement shall keep an account of the costs, including the costs of printing and posting notices, of abating the nuisance as provided in this Chapter. The City officer or deputy charged with such abatement shall render an itemized written report to the Council, identifying the parties known to be responsible, and showing the costs, apportioned to each separate lot or parcel of land as provided in this Chapter. At least five days before such report is submitted to the Council for confirmation, a copy of the report, together with a notice of the time when such report shall be submitted to the Council for confirmation, shall be mailed to the address of the parties responsible, if their address is known, and posted with City Council meeting notices on the premises of City Hall. (Ord. 4831, 1993)

22.21.090 Hearing On and Confirmation of City's Costs - Costs to be Lien - Collecting Costs.

At the time fixed for receiving and considering the report required by Section 22.21.080, the City Council shall hear the same, together with any objections which may be raised by any of the persons liable to be assessed for the work of abating the nuisance and thereupon make such modifications in the report as they deem necessary, after which, by motion or resolution, the report shall be confirmed. The amount of the cost for abating such nuisance shall be referred to the City Finance Director for collection and may be assessed against the various parcels of land referred to in the report and, as confirmed, shall constitute a lien on such property for the amount of such assessments, respectively.

After confirmation of such report, a copy thereof shall, as determined by the Finance Director, be delivered to the County Assessor and to the County Tax Collector, whereupon it shall be the duty of such officers to add the amounts of the respective assessments to the next regular bills for taxes levied against the respective lots and parcels of land identified and thereafter such amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as is provided for ordinary property taxes.
(Ord. 4831, 1993)

22.21.100 Reservation of Police Powers.

Nothing in this Chapter is intended to limit the ability of the City to respond as needed to remove a nuisance or other obstruction where required to maintain the public health, peace or safety, under provisions of Chapter 10.56 of this Code, or as otherwise required in proper exercise of a police power. At the discretion of the Public Works Director or City Engineer any such obstruction, encroachment or other nuisance which has been placed, fallen, or is so positioned as to directly interfere which public use, obscure visibility, impede traffic, produce imminent hazard, or which is placed in violation of any law, shall be removed without the order, delay, notice, or accounting provided in this Chapter. The Public Works Director is authorized to seek recovery for the costs of such removal from the party or parties responsible. (Ord. 4861, 1994; Ord. 4831, 1993)

Chapter 22.22

HISTORIC STRUCTURES

Sections:

22.22.010 Purpose.
22.22.020 Definitions.
22.22.030 The Preparation and Use of Historic Resource Surveys; Identification of Potential Historic Resources for Possible Designation as a City Landmark or a Structure of Merit.
22.22.035 Demolition Applications Within a Survey Area.
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22.22.040 Criteria for Designation of Landmarks and Structures of Merit.
22.22.050 Procedure for Designation of a Landmark.
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22.22.070 Repair and Maintenance of Landmarks and Structures of Merit.
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22.22.092 Bed and Breakfast Inns in Designated Historic Structures.
22.22.100 El Pueblo Viejo Landmark District.
22.22.102 Map.
22.22.104 Required Architectural Styles.
22.22.110 Brinkerhoff Avenue Landmark District.
22.22.112 Map.
22.22.114 Required Architectural Styles.
22.22.120 Riviera Campus Historic District.
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22.22.131 Review of Single Family Residential Units.
22.22.132 Historic Landmarks Commission Notice and Hearing.
22.22.133 Historic Landmarks Commission Referral to Planning Commission.
22.22.135 Application Fee.
22.22.140 Publicly Owned Property.
22.22.145 Project Compatibility Analysis.
22.22.150 Preservation Easements.
22.22.160 Incentives for Preserving Historic Resources.
22.22.170 Appeal from Commission to City Council.
22.22.180 Expiration of Project Design Approvals.

22.22.010 Purpose.

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, perpetuation and use of structures, natural features, sites and areas within the City of Santa Barbara having historic, architectural, archaeological, cultural or aesthetic significance is required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to:

A. Safeguard the heritage of the City by providing for the protection of landmarks representing significant elements of its history;

B. Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within landmark districts reflecting unique and established architectural traditions;

C. Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;

D. Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;

E. Promote the private and public use of landmarks and landmark districts for the education, prosperity and general welfare of the people;

F. Stabilize and improve property values within the City;

G. Undertake the identification, inventory, and consideration of those structures, sites and natural features within the City which may merit designation as a City Historic Resource in accordance with the Historic Resource criteria established by state Public Resource Code Section 5024.1, as it is presently enacted or hereinafter amended. (Ord. 5333, 2004; Ord. 3900 §1, 1977.)

22.22.020 Definitions.

Unless the context requires a different meaning, the words and phrases used in this chapter are defined as follows:

A. "**ADOBE**." An unburnt, sun-dried, clay brick; or a building made of adobe bricks.

B. "**ADVISORY MEMBER**." An Honorary Member of the Historic Landmarks Commission of the City of

Santa Barbara appointed under the provisions of the City Charter.

C. "**ALTERATION**." An exterior change or modification. For the purposes of this chapter, an alteration shall include, but not be limited to, exterior changes to or modification of a structure, including the architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, a structural addition, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

D. "**ARCHAEOLOGICAL**." Pertaining to the scientific study of the life and culture of earlier peoples by excavation of sites and relics.

E. "**ARCHITECTURAL**." Pertaining to the science, art or profession of designing and constructing buildings.

F. "**CEQA.**" The "California Environmental Quality Act" as codified at state Public Resources Code §§ 21000 et seq. and the approved Administrative Guidelines related thereto as established in the California Code of Regulation, Title 14, Chapter 3, §§ 15000-15387.

G. "**COMMISSION**." Historic Landmarks Commission established by City Charter.

H. "**CONTRIBUTING RESOURCE OR STRUCTURE.**" A building, structure, object, or site within the boundaries of an Historic District which reflects the significance of the district as a whole, either because of historic associations, historic architectural qualities, or its archaeological features. Another key aspect of a "contributing resource" is its possible historic integrity.

I. "**COUNTY ASSESSOR**." The Tax Assessor of the County of Santa Barbara.

J. "**CULTURAL**." Pertaining to the concepts, habits, skills, arts, instruments, institutions, etc. of a given people in a given period.

K. "**DEMOLITION**." The permanent removal from a structure of either a significant component or a character defining element, as may be determined by the Historic Landmarks Commission or where appropriate, by the Community Development Director. Demolition shall include, but not be limited to, the act of pulling down, destroying, removing, relocating or razing a structure or commencing the work thereof with the intent of completing the same.

L. "**ELEVATIONS**." The flat scale orthographic projected drawings of all exterior vertical surfaces of a building.

M. "**FAÇADE**." The front of a building or the part of a building facing a street, courtyard, etc.

N. "**HISTORIC DISTRICT."** A delineated geographic area of the City (or a noncontiguous grouping of real properties within the City) where most of the properties within the district are thematically architecturally related and possess historical significance, special character, or aesthetic value, including, but not limited to, a distinct section of the City possessing a significant concentration of cultural resources which are united historically or aesthetically either by plan or by physical development, as such a district is designated by the City Council, acting by resolution or by ordinance, as being worthy of protection under this Chapter.

O. "**HISTORIC RESOURCE**." A City designated "Landmark" or a City designated "Structure of Merit."

P. "**HISTORIC RESOURCE SURVEY**." A field investigation of structures, sites, or natural features within a certain designated area or neighborhood of the City made by the City for the purpose of identifying potential City Historic Resources.

Q. "**LANDMARK**." A structure, natural feature, site or area having historic, architectural, archaeological, cultural or aesthetic significance and designated as a landmark under the provisions of this chapter.

R. "**LANDMARK DISTRICT**." An area of the City of Santa Barbara containing a number of structures, natural features or sites having historic, architectural, archaeological, cultural or aesthetic significance and designated as a landmark district under the provisions of this Chapter.

S. "**MEMBER**." A member of the Historic Landmarks Commission of the City of Santa Barbara appointed under the provisions of the City Charter.

T. "**NATURAL FEATURE**." A tree, plant life or geological or other distinctive physical characteristic or natural feature or element present on the real property.

U. "**NEIGHBORHOOD**." An area of the City of Santa Barbara designated as such in the City's General Plan.

V. "**NON-CONTRIBUTING RESOURCE OR STRUCTURE**." A building, structure, object, or site within the boundaries of an Historic District that does not possess the age, qualifications, or characteristics of a Contributing Resource, but which has been included within the Historic District because of its geographic location within the Historic District.

W. "**OWNER**." A person, association, partnership, firm, corporation or public entity appearing as the holder of legal title to any property on the last assessment roll of the County Assessor.

X. "**POTENTIAL HISTORIC RESOURCES LIST**." A list consisting of those structures, real property sites, or real property natural features which have been identified by the Historic Landmarks Commission as being a potentially significant historic resource as such identification process is provided for in Section 22.22.030 hereof.

Y. "**PRESERVATION EASEMENT**." An interest held by the public in any structure, natural feature, site or area not owned by the public and restricting its use, alteration, relocation or demolition for the purpose of preservation.

Z. **"PROJECT DESIGN APPROVAL."** The review and approval of an application on its merits where the application has been filed pursuant to Santa Barbara Municipal Code Chapter 22.22, Chapter 22.68, or Chapter 22.69, and where the minutes of the Historic Landmarks Commission (or the Architectural Board of Review or the Single Family Design Board, as the appropriate case may be) designate the approval as the "Project Design Approval." For the purposes of the state "Permit Streamlining Act" (Government Code section 65950 et seq.), the "Project Design Approval" is the substantive approval of the project on its design merits.

AA. "**SITE PLAN**." A flat scale drawing of the place where something is, is to be, or was located.

BB. "**STRUCTURE**." A building or any other man-made object affixed on or under the ground.

CC. "**STRUCTURE OF MERIT**." A structure not designated as a landmark but deserving official recognition as having historic, architectural, archaeological, cultural or aesthetic significance and designated as a Structure of Merit under the provisions of this Chapter. (Ord. 5624, 2013; Ord. 5537, 2010; Ord. 5501, 2009; Ord. 5333, 2004; Ord. 4848, 1994; Ord. 3904 §8, 1977; Ord. 3900 §1, 1977.)

22.22.030 The Preparation and Use of Historic Resource Surveys; Identification of Potential Historic Resources for Possible Designation as a City Landmark or a Structure of Merit.

A. **POTENTIAL HISTORIC RESOURCES LIST**. The Historic Landmarks Commission, acting with the administrative support of Community Development Department staff, shall periodically review, amend, and maintain a master list of potential Historic Resources within the City (The City's "Potential Historic Resources List") as part of the certified Master Environmental Assessment Guidelines for Archaeological Resources and Historic Structures and Sites (hereinafter the "MEA Historic Resources Guidelines") as such Guidelines are defined and provided for in CEQA Guideline Section 15169.

B. **SURVEYS AND IDENTIFICATION OF POTENTIAL HISTORIC RESOURCES**.

1. **Use of Historic Resource Surveys**. The Community Development Director shall prepare, administer, and implement regulations for undertaking and completing Historic Resource Surveys within certain designated areas and neighborhoods of the City of Santa Barbara on a regularly scheduled basis for the purposes of identifying possible Historic Resources pursuant to the mandate of Subsection (A) above for the listing of such resources on the Potential Historic Resources List. Such Historic Resource Surveys shall be conducted in a manner consistent with the requirements of the City's MEA Historic Resources Guidelines and with appropriate survey regulations as approved by resolution of the City Council. The Historic Resource Surveys shall also be undertaken in accordance with locational priorities established by the Commission for certain areas and neighborhoods of the City, subject only to the necessary direction and budgetary approval of the City Council.

2. **Initial Survey Study Area Designation**. The area of the City shown on the "2004 Demolition Review/Historic Resources Survey Study Area" as shown on the map denominated the "2004 Demolition Review/ Historic Resources Survey Study Area," attached hereto as a Chapter exhibit (dated as of the effective date of the ordinance approving this amendment), shall be the first area of the City designated for neighborhood Historic Resource Surveys pursuant to the requirements of Subsection (B)(1) above.

3. **Administrative Review of Existing Potential Historic Resources List**. Upon the adoption of the ordinance making this amendment to Chapter 22.22, the Community Development Director, acting through the City's Urban Historian or other appropriate designated staff, is hereby directed to undertake an administrative review of each of the properties, buildings, structures, and real property features which were heretofore listed on the City's Potential Historic Resources List, as such List was attached as an appendix to the City's Master Environmental Assessment Historic Resources Guidelines as approved by action of the City Council in January 2002. This administrative review shall be completed within two (2) years of the adoption of the ordinance amending this Chapter and shall, within one hundred twenty (120) days of its completion, result in the submission to the HLC of a proposed revised Potential Historic Resources List consistent with the provisions of this Chapter for consideration and appropriate revisions, and its approval by the HLC at a noticed public hearing conducted in accordance with the processes set forth in subsection (E) and subsection (F) hereof.

C. **IDENTIFICATION OF POTENTIAL RESOURCES BY COMMISSION MEMBERS**. In addition to the identification of potential Historic Resources through the use of Historic Resource Surveys pursuant to subsection (B) above, a member of the Commission may identify a structure, a real property site, or a natural feature which, in the Commissioner's opinion, may qualify for possible inclusion on the City's Potential Historic Resources List. Any such identification may be made by the filing of a written request for the listing of the structure, site, or natural feature as a Potential City Historic Resource pursuant to the provisions of this Section. Such written request shall state in detail the reasons the Commissioner believes that such a listing is appropriate and shall be made in accordance with the criteria for listing as a Potential Historic Resource established in the MEA Historic Resources Guidelines.

D. **LISTING OF STRUCTURES, SITES, AND NATURAL FEATURES ON THE CITY'S POTENTIAL HISTORIC RESOURCES LIST**.

1. **Use of Survey Identifications**. Those structures, real property sites, or natural features identified through the survey process established by Subsection (B) hereof as having potential for designation as a City Historic Resource shall be considered and acted upon by the Commission for official listing on the City's Potential Historic Resources List at a noticed hearing conducted in accordance with subsection (E) below held not more than one year after the identification of the structure, real property site, or feature through the completion of the Survey process for that area of the City.

Pending a hearing on possible listing initiated pursuant to this subsection (D), the Community Development staff may arrange for the preparation of an expert Historic Structure/Site Report regarding the possible Historic Resource significance of the structure, site, or feature. Such report shall be prepared in accordance with the requirements of the MEA Historic Resources Guidelines.

The failure of the Commission to list an identified structure, site or feature within the one year time frame required by this subsection shall constitute a determination by the Commission that the structure, site, or feature is not appropriate for listing on the City's Potential Historic Resources List, unless a delay beyond one year is at the specific written request of the owner of the real property being considered for listing.

2. **Commissioner Historic Resource Identification Requests**. Those structures, real property sites, or natural features identified as a result of a Commissioner request as having a potential for designation as City Historic Resources pursuant to Subsection (C) above shall be considered and acted upon by the Commission for listing on the Potential Historic Resources List at a noticed hearing conducted in accordance with subsection (E) below held not more than one hundred twenty (120) days after the date of the filing with the Community Development Director of the written request by a Commissioner pursuant to subsection (C) hereof. Pending a hearing on a possible listing initiated pursuant to this subsection, the Community Development staff may request the preparation of a report prepared by the City's Urban Historian regarding the possible Historic Resource significance of the site, structure, or feature.

The failure of the Commission to list a structure, site, or feature identified by a Commissioner as having a potential for designation within the one hundred twenty (120) day time frame required by this subsection shall constitute a determination by the Commission that the structure, site, or feature is not appropriate for listing on the City's Potential Historic Resources List unless a delay beyond one hundred twenty (120) days is at the specific written request of the owner of the real property being considered for listing.

3. **Use of Historic Structure/Site Report Obtained in Connection with HLC Review**. Those structures, real property sites, or natural features identified as a result of a Historic Structure/Site Report obtained either in connection with HLC review occurring pursuant to the landmark district requirements of Section 22.22.130 or Section 22.22.140 (or obtained in connection with environmental review of a proposed new development conducted in accordance with the requirements of the City MEA Historic Resource Guidelines) as having the potential for designation as City Historic Resources shall be considered and acted upon by the Commission for listing on the Potential Historic Resources List. Such consideration shall occur at a Commission hearing held concurrent and in accordance with the landmark district hearing process required by Section 22.22.130 or concurrent with HLC final comment review of the submitted Historic Structure/Site Report scheduled in accordance with the process established for such HLC comments in the MEA, as the case may be.

E. **PUBLIC HEARING PROCESS FOR POSSIBLE LISTING**. Prior to conducting the noticed hearing required by subsection (D)(1) or (D)(2) above for the listing of an identified structure, site, or natural feature, the owner(s) of the real property upon which the structure or feature is located (as such ownership is listed on the last equalized County of Santa Barbara Tax Assessment Roll) shall be provided with written notice of the Commission's hearing by depositing a notice thereof in the regular United States Mail not less than sixty (60) days prior to the scheduled hearing date, unless the owner consents in writing to a lesser period of time. Such notice shall, at a minimum, contain the notice information required by state Government Code Section 65094, [as currently enacted or hereinafter amended].

At the Commission hearing to consider the listing, the property owner [or owner's representative] and City staff shall be entitled to present any relevant evidence, both oral and written, to establish whether the structure, site or natural feature has appropriate potential for designation as a City Historic Resource.

F. **APPEAL OF LISTING DETERMINATION TO THE CITY COUNCIL**. A decision by the Commission to list a structure, site, or feature on the City's Potential Historic Resources List may be appealed to the City Council in accordance with the appeal procedures established in Santa Barbara Municipal Code Chapter 1.30.

G. **ADMINISTRATIVE REGULATIONS RELATING TO THE PRESERVATION OF CITY HISTORIC RESOURCES**. The City Community Development Director shall prepare administrative regulations relating to the proper completion of Historic Surveys, the method of listing of Potentially Historic Resources and the appropriate process for evaluating measures intended to protect and preserve identified potentially Historic Resources, and such administrative regulations shall be approved by a resolution of the City Council adopted concurrently with the ordinance effectuating this amendment to Santa Barbara Municipal Code Chapter 22.22. (Ord. 5333, 2004.)

22.22.035 Demolition Applications Within a Survey Area.

A. **PROPOSED DEMOLITION OF AN OLDER UNSURVEYED STRUCTURE, FEATURE OR SITE**. An application for a building permit to alter a structure, site, or natural feature within the area denominated as the "2004 Demolition Review/Historic Resources Survey Study Area" (or within any other survey area which may subsequently be established by the City Council pursuant to this Chapter) shall be referred to the Community Development Director for a determination of whether the structure, site, or feature may have potential as a City Historic Resource in accordance with the criteria established in this Chapter and for a determination of whether the alteration work proposed in the permit application could constitute a "demolition" as that term is defined by this Chapter.

B. **ADMINISTRATIVE RESOURCE EVALUATIONS**. If, under Section (A) above, the site, structure, or feature proposed for demolition (as determined by the Community Development Director in accordance with definition in this Chapter) has not yet been surveyed and it is determined, through the use of City records, that the structure or feature is in excess of fifty years of age, the Community Development Director shall request that an administrative historic resource evaluation be prepared by the City Urban Historian (or other appropriate City staff person designated by the Director). This evaluation shall be for the purposes of assessing the potential historic resource significance of the structure, site, or feature prior to its demolition. In addition, the purpose of the administrative historic resource evaluation shall be to determine whether it is appropriate to obtain an Historic Structure/Site Report in order to assist the Commission in determining whether the structure, site, or feature should be considered by the Commission for designation as a City Historic Resource pursuant to this Chapter.

C. **COMPLETION OF THE ADMINISTRATIVE EVALUATION - ACTION ON EVALUATIONS**.

1. **Timeframe for Administrative Evaluation – Failure to Complete**. The administrative Historic Resource evaluation required by Subsection (B) above shall be completed within thirty (30) calendar days of the date of an applicant's request for a permit to demolish a structure or natural feature or site within a survey area. Absent the written consent of the property owner, the failure to complete such an administrative evaluation within the required thirty (30) day period shall be deemed a determination that the structure, feature, or site has no potential as a City Historic Resource, and thereafter, the City shall issue the requested demolition permit on a ministerial basis, provided that the applicant/owner has otherwise complied with applicable City building/demolition permit submittal requirements for such a demolition.

2. **Determination of No Potential Historic Significance**. If the administrative Historic Resource evaluation determines in a timely fashion under this Section that the structure, feature, or site has no significant potential as an Historic Resource, the City shall issue the requested demolition permit on a ministerial basis, provided the applicant has otherwise complied with any other applicable City building/demolition permit submittal requirements for such a demolition.

3. **Determination of Potential Historic Significance**. If the administrative Historic Resource evaluation determines that a structure, site, or a natural feature has potential as a City Historic Resource, the Community Development Director shall refer the requested demolition permit for full discretionary review by the Commission and for a concurrent determination by the Commission concerning the possible designation of the structure, site, or feature as a City Historic Resource. Such a Commission hearing shall be conducted pursuant to the hearing requirements of subsection (D) below and shall occur within the time frame set forth therein.

Upon completion of an Administrative Evaluation which indicates that the structure, site or feature may have potential as a City Historic Resource, and pending a Commission hearing on the issuance of the demolition permit or the possible designation of the structure, site, or feature, the Community Development Director shall require the applicant, at the applicant's expense, to obtain and submit a professional report on the possible Historic Resource significance of the structure, site, or feature for which the demolition permit application has been made. Such a report shall be prepared in accordance with the requirements of the MEA Historic Resource Guidelines and shall be made available to the Commission for consideration at its scheduled hearing on the permit request and possible designation.

D. **COMMISSION PUBLIC HEARING PROCESS FOR DEMOLITION APPLICATIONS AND POSSIBLE LISTING OR DESIGNATION**.

1. **Complete Demolitions**. For those demolition applications referred to the Commission pursuant to the requirements of subsection (C)(3) above which, in the opinion of the Community Development Director, constitute the complete demolition of a possibly historic structure or of a site feature, the demolition permit request shall be scheduled at the Commission for a hearing on the demolition permit application in accordance with this Section concurrently with a duly noticed hearing to allow the Commission to initiate a recommendation to the City Council to designate the structure or feature as a City Landmark pursuant to Section 22.22.050 of this Chapter.

The Commission hearing shall be scheduled within sixty (60) days of the completion of and submission to the City of the owner's Historic Resource Report required by subsection (C)(3) above, as such completion shall be certified in writing by the Community Development Director. The applicant/owner shall be provided with not less than fifteen (15) days prior written notice of the Commission hearing, which notice shall contain the information required by state Government Code Section 65094, as currently enacted or hereinafter amended, provided that such notice period may be less with the owner's specific written consent.

At the Commission hearing, the applicant/owner and City staff shall be entitled to present all relevant evidence, both oral and written, to establish whether a demolition permit should be issued for the structure, site or feature and to establish whether the structure, site, or feature should or should not be recommended for designation as a City Landmark.

In deciding whether to approve the issuance of a demolition permit pursuant to this subsection (D)(1), if the Commission determines that the demolition permit should be issued, the Commission may also impose those historic preservation mitigation measures in connection with the issuance of the demolition permit that the Commission deems appropriate.

If the Commission declines to issue the requested demolition permit, the Commission shall concurrently act to adopt a resolution of intention initiating the possible designation of the structure, site or feature as a City Landmark to the City Council pursuant to the Landmark designation provisions of Section 22.22.050 of this Chapter.

2. **Partial Demolitions**. For those permit applications referred to the Commission pursuant to the requirements of subsection (C)(3) above which, in the opinion of the Community Development Director, constitute the removal or demolition of a significant component or character-defining element of a possibly historic structure, site, or feature (hereinafter referred to as a "partial demolition"), the permit request shall be scheduled at the Commission for a hearing on the application in accordance with this subsection (D)(2) concurrently with a duly noticed hearing to allow the Commission to also decide among the following options: 1. the listing of the structure, site, or feature as a Potential Historic Resource, or 2. its designation by the Commission as a City Structure of Merit, or 3. a recommendation to the City Council to designate the structure, site, or feature as a City Landmark pursuant to this Chapter.

The Commission hearing shall be scheduled within sixty (60) days of the completion of and submission to the City of the owner's Historic Resource Report required by subsection (C)(3) above, as such completion shall be certified complete by the Community Development Director. The applicant/owner shall be provided with not less than fifteen (15) days prior written notice of the Commission hearing, which notice shall contain the information required by state Government Code Section 65094, as currently enacted or hereinafter amended provided that such notice period may be less with the owner's specific written consent.

In deciding whether to approve the City's issuance of a building permit for a partial demolition pursuant to this subsection (D)(2), if the Commission decides that the permit may be issued, the Commission may impose appropriate historic preservation mitigation measures in connection with the issuance of the permit and may also elect to list the altered structure, site, or feature as a Potential City Historic Resource or to designate it as a Structure of Merit or to recommend its designation as a City Landmark by the City Council pursuant to the designation requirements of this Chapter.

When deciding an application for a permit for a partial demolition pursuant to this subsection (D)(2), if the Commission declines to issue such a permit altogether, it shall concurrently act to either designate the structure, site, or feature as a City Structure of Merit or to adopt a resolution of intention recommending its designation as a City Landmark by the City Council pursuant to the Landmark designation requirements of this Chapter.

In considering whether to designate the structure, site or feature a City Landmark, the City Council, if it elects not to designate the structure, site, or feature as a City Landmark, may approve the issuance of the requested permit with those historic preservation mitigation measures deemed appropriate by the Council, which conditions may include the designation of the altered structure as a Structure of Merit.

E. **FAILURE TO ACT WITHIN A TIMELY MANNER**. Should the Commission fail to act to designate a structure, site, or feature for which a demolition application has been made and deemed complete and which has been referred to the Commission pursuant to subsection (C)(3) of Section 22.22.035 above as a Structure of Merit, or should the Commission fail to recommend the City Council designate a structure, site or feature as a City Landmark as required by this Section, the demolition application shall be deemed approved and shall be issued by City staff without additional conditions except those related to compliance with other Municipal Code requirements.
(Ord. 5333, 2004.)

22.22.037 Demolition of a Listed Historic Structure.

A. **GENERALLY**. No building permit shall be issued for the demolition (as defined in this Chapter) of a structure, site, or natural feature listed on the City's Potential Historic Resources List except upon the completion of a review of the application by the Commission and except upon the imposition of appropriate and necessary measures designed by the Commission to mitigate any potential for loss of Historic Resources.

Such Commission review shall be conducted in accordance with the resource preservation criteria and process established in the MEA Historic Resource Guidelines.

B. **AUTHORITY TO PROHIBIT THE DEMOLITION OF A POTENTIAL CITY HISTORIC RESOURCE**. The Commission may appropriately condition the demolition or partial demolition of a structure, site, or natural feature listed on the Potential Historic Resources List as necessary to mitigate the potential loss of Historic Resources resulting from the demolition or partial demolition. However, the Commission may not deny an application to partially or completely demolish a listed structure, natural feature, or site unless the Commission undertakes one of the following actions: 1. initiates and completes the designation of the structure, natural feature, or site as a City Structure of Merit, or 2. the Commission adopts a resolution of intention recommending the designation of the structure, site, or feature as a City Landmark to the City Council pursuant to the Landmark designation processes and notice requirements established by this Chapter.

C. **FAILURE OF THE COMMISSION TO DESIGNATE IN A TIMELY FASHION; STANDARD DEMOLITION CONDITIONS**. The failure of the Commission to make a Structure of Merit designation (or to initiate a Landmark designation to the City Council in the case of a Landmark) in connection with the denial of a partial or complete demolition application for a structure, feature, or site covered by this Section within sixty (60) days of the completion of the City's environmental review of the application shall be deemed an approval of the permit without permit conditions concerning the mitigation of the loss of Historic Resources, except for those standard mitigation measures identified in the MEA Historic Resource Guidelines as being appropriate for the loss of a listed structure, site, or feature, and except for those conditions necessary for compliance with other Municipal Code building permit requirements.

D. **MINOR ALTERATIONS TO POTENTIAL HISTORIC RESOURCES**. Notwithstanding subsection (A) hereof, nothing herein shall be deemed to require HLC review of all building permit applications for alterations to a property listed on the Potential Historic Resources List except for those alterations which otherwise require the issuance of a building permit and which, in the determination of the Community Development Director, constitute a "demolition" as that term is defined in this Chapter.

In addition, certain exterior alterations to a potentially significant Historic Resource (as listed on the Potential Historic Resources List) which require the issuance of a building permit may be approved by the Community Development Director on an administrative basis pursuant to the processes established in Section 22.22.030(G) [the Historic Resource Administrative Regulations] if, in the prior written determination of the Community Development Director, the proposed alteration will not substantially and adversely alter the structure's appearance or remove a character-defining feature of the structure, site or natural feature. Such administrative review shall be in the sole discretion of the Community Development Director and, if necessary, may be referred to the HLC for a determination of whether any particular application may constitute a substantial and adverse alteration to the structure, site, or feature necessitating formal review of the application by the HLC. (Ord. 5333, 2004.)

22.22.040 Criteria for Designation of Landmarks and Structures of Merit.

In considering a proposal to recommend to the City Council any structure, natural feature, site or area for designation as a Landmark or, in designating a City Structure of Merit, the Commission shall utilize any or all of the following criteria and considerations:

A. Its character, interest or value as a significant part of the heritage of the City, the State or the Nation;

B. Its location as a site of a significant historic event;

C. Its identification with a person or persons who significantly contributed to the culture and development of the City, the State or the Nation;

D. Its exemplification of a particular architectural style or way of life important to the City, the State or the Nation;

E. Its exemplification of the best remaining architectural type in a neighborhood;

F. Its identification as the creation, design or work of a person or persons whose effort has significantly influenced the heritage of the City, the State or the Nation;

G. Its embodiment of elements demonstrating outstanding attention to architectural design, detail, materials or craftsmanship;

H. Its relationship to any other landmark if its preservation is essential to the integrity of that landmark;

I. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;

J. Its potential of yielding significant information of archaeological interest;

K. Its integrity as a natural environment that strongly contributes to the well-being of the people of the City, the State or the Nation. (Ord. 5333, 2004; Ord. 4848, 1994; Ord. 3900 §1, 1977.)

22.22.050 Procedure for Designation of a Landmark.

Upon its own initiative or upon the application of any person or entity (hereinafter referred to as the "applicant") the Commission may recommend to the City Council the designation as a landmark of any structure, natural feature, site or area (hereinafter referred to as the "property") having historic, architectural, archaeological, cultural or aesthetic significance. The procedure for designation of any landmark is as follows:

A. The Commission may adopt a resolution of intention announcing its intention to consider recommendation of the property to the City Council for designation as a landmark.

B. No later than thirty-five (35) days from the date of such resolution of intention, the Commission shall conduct a public hearing on the proposed designation, at which hearing any interested party shall be provided a reasonable opportunity to be heard. In the absence of timely oral or written objection by any interested party, such public hearing may be continued to subsequent meetings of the Commission.

C. Prior to the Commission's public hearing on the proposed designation, notice of the time, place and purpose of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication at least once in a newspaper of general circulation within the City, and, at least ten (10) days prior to the date of the hearing, by first class mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties, as the ownership of such properties is listed on the last equalized assessment roll for the County of Santa Barbara.

D. Upon the completion of the properly noticed public hearing on the proposed designation, the Commission shall adopt a resolution to either recommend designation of the property as a landmark or to deny such a designation, no later than the next regularly scheduled meeting following the public hearing. However, in the absence of timely oral or written objection by any interested party, adoption of any such resolution may be continued to subsequent meetings of the Commission. The resolution shall be reduced to writing and shall contain specific findings by the Commission to recommend the designation or to deny the designation, as the case may be. Upon adoption of a resolution to deny recommendation, consideration of the proposal for designation shall terminate in the absence of a timely appeal to the City Council.

E. After receipt of a resolution of recommendation for designation from the Commission, the City Council shall consider the recommendation pursuant to Section 22.22.055.

F. An appeal from a decision rendered by the Commission under Section 22.22.050.D may be filed pursuant to Section 22.22.170. (Ord. 5333, 2004; Ord. 4848, 1994; Ord. 3900 §1, 1977.)

22.22.055 Procedure for Resolution of Designation of a Landmark by City Council.

A. **PROCEDURE FOR ADOPTION OF RESOLUTION OF DESIGNATION**. Upon receipt of a resolution of recommendation for designation from the Historic Landmarks Commission or an appeal of a denial in accordance with the requirements of Section 22.22.170, and after completion of a public hearing in accordance with the following procedures, the City Council may designate any structure, natural feature, site or area as a Landmark by adopting a resolution of designation as follows:

1. At its next regular City Council meeting for which an agenda has not been finalized, the City Council shall set a date for a public hearing thereon to consider the Commission's resolution of recommendation or an appeal of a resolution of denial.
2. Notice of the time, place and purpose of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication at least once in a newspaper of general circulation within the City and by first class mail to any applicant, the owner or owners of the property, and to abutting property owner(s) as such ownership is listed on the last equalized assessment roll for Santa Barbara County.
3. A public hearing on the recommendation for designation shall be held on the date designated, at which hearing any interested party shall be provided a reasonable opportunity to be heard.
4. Upon the City Council's adoption of a resolution of designation as a Landmark, the City Clerk shall cause such resolution of designation to be recorded against the property in the Office of the Recorder of the County of Santa Barbara within sixty (60) days of the City Council's adoption of the resolution of designation.

B. **FAILURE TO ADOPT WITHIN NINETY (90) DAYS**. If the City Council does not act to adopt a resolution of designation within ninety (90) days after a resolution of recommendation of designation from the Historic Landmarks Commission is received by the City Clerk, designation of the property as a landmark shall be deemed to be denied. (Ord. 5333, 2004; Ord. 4848, 1994.)

22.22.070 Repair and Maintenance of Landmarks and Structures of Merit.

A. PRESERVATION OF LANDMARKS AND STRUCTURES OF MERIT. Every Landmark and Structure of Merit shall be maintained in good repair by the owner thereof, or such other person or persons who may have the legal custody and control thereof, in order to preserve it against decay and deterioration. Nothing in this chapter shall be construed so as to prohibit ordinary and necessary maintenance and repair of a Landmark provided that whenever such repair or maintenance would result in an alteration to the exterior of the structure or whenever it would require the issuance of a City building permit, the issuance of such a permit shall be reviewed by the Commission and, if necessary, conditioned in accordance with the requirements of this Chapter, provided that such review shall be consistent with the Landmark alteration review authority granted by Section 817(c) of the City Charter and Section 22.22.080 hereof. Every Landmark or Structure of Merit is hereby determined to be eligible for application of alternative standards for historical structures as provided in the California Building Code as adopted and amended by the City.

B. RECONSTRUCTION OF HISTORIC RESOURCES WITHIN THE CONEJO SLIDE AREA. Designated City Historic Resources located within the Slide Mass C Area may be reconstructed in accordance with the latest edition of the Historical Building Code as adopted by the State of California, as amended by the City of Santa Barbara, provided that such reconstruction is accomplished as follows:

1. in a manner which follows the Secretary of Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995); and
2. in a manner consistent with appropriate historic design review where design approval is obtained from the City’s Historic Landmarks Commission as required by Santa Barbara Municipal Code Sections 22.22.080 and 22.22.090; and
3. the structure constituting the Historic Resource is never expanded in size except for a one-time expansion not to exceed one hundred and fifty (150) net square feet provided that such expansion is first reviewed and approved by the City Historic Landmarks Commission.. (Ord. 5522, 2010; Ord. 5451, Section 5, 2008; Ord. 5333, 2004; Ord. 3900 §1, 1977.)

22.22.080 Demolition, Relocation, or Alteration of a Landmark.

A. **ALTERATIONS TO A CITY LANDMARK – REQUIRED FINDINGS**. No City Landmark shall be altered on the exterior, relocated, or demolished, except where the Historic Landmarks Commission has determined that one or more of the following findings are applicable to the proposed alteration, relocation, or demolition:

1. The exterior alterations are being made primarily for the purposes of restoring the Landmark to its original appearance or in order to substantially aid in the preservation or enhancement of the Landmark.
2. The relocation of the Landmark will substantially aid its long-term preservation or enhancement.
3. The landmark has been damaged by an earthquake, fire, or other similar natural casualty such that its repair or restoration is not reasonably practical or feasible and specific measures have been imposed as pre-conditions on the demolition, which measures mitigate the loss of the Landmark to a less than significant level or which measures are deemed sufficient to warrant a finding of overriding considerations pursuant to the CEQA.

B. **ISSUANCE OF AN APPROVAL FOR THE RELOCATION, DEMOLITION, OR ALTERATION OF A CITY LANDMARK**. In issuing an approval for the alteration of a City Landmark pursuant to this Section, the Commission shall make one or more of the findings required by Subsection (A) hereof in addition to imposing mitigation measures as conditions of approval consistent with such findings.

C. **ALTERATIONS TO A PROPOSED LANDMARK**. No structure, natural feature, or site recommended for designation as a Landmark pursuant to Section 22.22.050 hereof shall be altered on the exterior, relocated, or demolished after adoption by the Commission of a resolution of intention for such designation, except pursuant to the requirements of this Section.

D. **APPEALS TO THE CITY COUNCIL**. A final decision made by the Historic Landmarks Commission pursuant to the provisions of this Section may be appealed to the City Council pursuant to the requirements of Santa Barbara Municipal Code Chapter 1.30. Any decision by the City Council on appeal pursuant to this Section shall comply with the finding requirements of Subparagraph (A) hereof as well as the applicable requirements and provisions of the California Environmental Quality Act.

E. **SIGNIFICANT PRUNING OR REMOVAL OF AN HISTORIC TREE.** The significant pruning or removal of an historic tree is processed and regulated in accordance with Chapter 15.24 of this Code. (Ord. 5505, 2009; Ord. 5333, 2004; Ord. 4848, 1994; Ord. 4029, 1979; Ord. 3900 §1, 1977.)

22.22.085 Designation of Structures of Merit.

A. **DESIGNATIONS**. The City has established the Structure of Merit designation in order to encourage the preservation of the City's historic and architecturally significant structures, sites, or features under circumstances where such buildings and sites do not rise to the level of a City Landmark. The Commission may designate as a Structure of Merit any structure not designated as a Landmark but deserving of official City recognition as having historic, architectural, archaeological, cultural or aesthetic significance.

B. **CRITERIA FOR STRUCTURE OF MERIT DESIGNATION**. In considering a proposal for designation of a Structure of Merit, the Commission shall apply the considerations and criteria provided for Landmarks in Section 22.22.040 of this Chapter. Some of the determining factors in the appropriateness of a Structure of Merit designation rather than a City Landmark designation are the following: 1. the amount of eligibility criteria found applicable; 2. the level of original structural or historical integrity of the Historic Resource; and, 3. the quality or number of resources of this type remaining within the City.

C. **NOTICE OF INTENT TO DESIGNATE A STRUCTURE OF MERIT**. Except for those structures, sites or features designated Structures of Merit pursuant to the demolition regulations of Section 22.22.035 and Section 22.22.037, prior to taking action to designate a structure as a City Structure of Merit, the Commission shall adopt a resolution of intention announcing its intention to consider such a designation at a hearing to be held not less than seventy five (75) days after the adoption of the Resolution, unless the owner of the property proposed for designation consents in writing to a lesser period of notice. Prior to conducting the public hearing required by this subsection for the designation of an identified structure, site, or feature, the owner(s) of the real property upon which the structure or feature is located (as such ownership is listed on the last equalized County of Santa Barbara Assessment Roll) shall be provided with a copy of the Commission resolution and a written notice of the Commission hearing by depositing a notice thereof in the regular United States Mail not less than sixty (60) days prior to the scheduled hearing date. Such notice shall, at a minimum, contain the notice information required by state Government Code Section 65094, as currently enacted or hereinafter amended.

D. **HEARING OF STRUCTURE OF MERIT DESIGNATION**. At the scheduled Commission hearing, the property owner or owner's representative and the City staff shall be entitled to present relevant evidence, both oral and written, to establish whether the structure has appropriate potential for possible designation as a City Historic Resource. Upon completion of the public hearing, the Commission shall vote to adopt or to not adopt a resolution of the Commission designating the structure, site or feature as a City Structure of Merit.

E. **APPEALS TO THE CITY COUNCIL**. A final decision made by the Commission pursuant to the provisions of this Section may be appealed to the City Council pursuant to the requirements of Santa Barbara Municipal Code Chapter 1.30.

F. **RECORDATION OF RESOLUTION OF DESIGNATION**. Upon the Commission's adoption of a resolution of designation as a City Structure of Merit (or upon a final decision of the City Council on an appeal of such a designation), the Community Development Director shall cause such resolution of designation to be recorded with respect to the real property thereof in the Office of the Recorder of the County of Santa Barbara within sixty (60) days of the Commission's adoption of the resolution of designation. (Ord. 5333, 2004; Ord. 4848, 1994; Ord. 3900 §1, 1977.)

22.22.090 Demolition, Relocation, or Alteration of a Structure of Merit.

A. **ALTERATIONS TO A STRUCTURE OF MERIT – REQUIRED FINDINGS**. No Structure of Merit shall be altered on the exterior, relocated, or demolished except where the Historic Landmarks Commission has made one or more of the following findings:

1. The exterior alterations are being made for the purposes of restoring the Structure of Merit to its original appearance or in order to substantially aid its preservation or enhancement as a Historic Resource.

2. The relocation of the Structure of Merit will substantially aid in its long-term preservation or enhancement as a Historic Resource.

3. The Structure of Merit has been damaged by an earthquake, fire, or other similar casualty such that its repair or restoration is not reasonably practical or economically feasible and specific measures have been imposed as pre-conditions on the demolition or alterations, which measures mitigate the potential for adverse historic resource impacts resulting from loss of the Structure to a less than significant level or which measures are sufficient to warrant a finding of overriding considerations pursuant to the CEQA.

4. The Commission has determined that the preservation of the Structure of Merit is not economically feasible or that the demolition of a Structure of Merit is warranted in order to avoid or lessen the economic hardship to the Owner, and the Commission has conditioned the issuance of a City demolition permit upon specific measures which will mitigate the potential for adverse historic resource impacts resulting from the demolition of the Structure of Merit to a less than significant level or such measures are sufficient to warrant a finding of overriding considerations pursuant to the CEQA.

5. The Commission has determined that the proposed changes to the Structure of Merit do not constitute a demolition as defined by this Chapter and constitute alterations which are not incompatible with the goal of long-term preservation or enhancement of the Structure as a City Historic Resource.

B. **ISSUANCE OF PERMITS FOR RELOCATION, DEMOLITION, OR ALTERATION OF A CITY STRUCTURE OF MERIT**. An application for a permit to alter on the exterior, relocate, or demolish any City Structure of Merit shall be referred to the Historic Landmarks Commission for its review, approval, approval with conditions, or denial prior to the issuance of such a permit along with any environmental review deemed appropriate under CEQA. Such Commission review, in addition to determining that the proposed changes are appropriate and compatible with the historic resource, shall be for the purposes of determining the potential for loss of resources of historic significance and be conducted in the manner provided for in the City's MEA Historic Resource Guidelines and the California Environmental Quality Act. In issuing such a permit, the Commission shall make one or more of the findings required by subsection (A) hereof.

Should the Commission deny the issuance of a demolition permit for a Structure of Merit, concurrent with such a denial, the Commission shall initiate the procedures called for in SBMC Section 22.22.050 to adopt a resolution of intention announcing its intention to make a recommendation that the site, structure or feature be designated a City Landmark and forwarding such resolution of recommendation to the City Council for action by the Council in accordance with this Chapter.

C. **APPEALS TO THE CITY COUNCIL**. A final decision made by the Historic Landmarks Commission pursuant to the provisions of this Section may be appealed to the City Council pursuant to the requirements of Santa Barbara Municipal Code Chapter 1.30. Any decision by the City Council on appeal pursuant to this Section shall comply with the finding requirements of Subparagraph (A) hereof as well as the applicable requirements and provisions of the California Environmental Quality Act.

D. **DENIAL OF A DEMOLITION PERMIT BY THE CITY COUNCIL**. In the event that the City Council, on an appeal pursuant to subsection (C) hereof, declines to authorize the issuance of a demolition permit for a Structure of Merit (either with or without mitigating conditions), the Council shall, within forty five (45) days of such a Council determination, adopt a Resolution of Intention announcing its intention to designate such Structure of Merit as a City Landmark in accordance with the Landmark designation requirements of this Chapter and, thereafter, to preclude its demolition except under the limited circumstances of Section 22.22.080.

Should the City Council fail to act to designate the structure, site, or feature as a City Landmark within the time period required by Section 22.22.055, a demolition permit shall be issued within thirty (30) days of the expiration of the time within which the Council may act, provided that prior to the Building Official's issuance of such a permit, appropriate mitigation conditions (and as determined by environmental review) may be imposed on the permit by the City Building Official as such conditions may be recommended to the Official by the Commission during the thirty (30) day period. (Ord. 5333, 2004.)

22.22.092 Bed and Breakfast Inns in Designated Historic Structures.

Plans for conversion of an existing Structure of Merit or a Landmark in the R-O Restricted Office Zone into a Bed and Breakfast Inn, or for alterations to such structures for this purpose, or for construction of new structures to be used for this purpose on a lot on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is located, shall be submitted to the Historic Landmarks Commission for review and action, in accordance with this chapter. (Ord. 4848, 1994; Ord. 4697, 1991.)

22.22.100 El Pueblo Viejo Landmark District.

A. **PURPOSE**. The purpose of the El Pueblo Viejo Landmark District is to preserve and enhance the unique historic and architectural character of the central core area of the City of Santa Barbara, which developed around the Royal Presidio, founded in 1782, and which contains many of the City's important historic and architectural landmarks. In addition to the preservation of those landmarks as provided in this chapter, that purpose is to be achieved by regulating the compatibility of architectural styles used in the construction of new structures and the exterior alteration of existing structures within a designated area, which includes the scenic entrances to the central core area of the City, in order to continue and perpetuate the City of Santa Barbara's renowned tradition of Hispanic architecture.

B. **DESIGNATION**. The following described area within the City of Santa Barbara is hereby designated as a landmark district and shall be known as "El Pueblo Viejo":

Part I

Beginning at the intersection of State Street with Mission Street; thence southeasterly along State Street to its intersection with Sola Street; thence northeasterly along Sola Street to its intersection with Laguna Street; thence southeasterly along Laguna Street to its intersection with Ortega Street; thence southwesterly along Ortega Street to its intersection with State Street; thence southeasterly along State Street to its intersection with East Cabrillo Boulevard; thence northeasterly along East Cabrillo Boulevard to its intersection with Santa Barbara Street; thence northwesterly along Santa Barbara Street to its intersection with the extension of Garden Street; thence northwesterly along the extension of Garden Street to U.S. Highway 101; thence returning southwesterly along Garden and Santa Barbara Streets to the intersection of Santa Barbara Street with East Cabrillo Boulevard; thence northeasterly along East Cabrillo Boulevard to its intersection with U.S. Highway 101; thence returning along Cabrillo Boulevard to its intersection with Castillo Street; thence northwesterly along Castillo Street to its intersection with U.S. Highway 101; thence returning southeasterly along Castillo Street to its intersection with Cabrillo Boulevard; thence returning northeasterly along West Cabrillo Boulevard to its intersection with Chapala Street; thence northwesterly along Chapala Street to its intersection with Carrillo Street; thence southwesterly along Carrillo Street to its intersection with U.S. Highway 101; thence northeasterly along Carrillo Street to its intersection with Chapala Street; thence northwesterly along Chapala Street to its intersection with Sola Street; thence northeasterly along Sola Street to its intersection with State Street; thence northwesterly along State Street to its intersection with Mission Street; said intersection being the point of beginning.

Part II

Beginning at the intersection of Los Olivos Street and Laguna Street; thence southwesterly along Los Olivos Street to its intersection with Garden Street; thence northwesterly along Garden Street to its intersection with the southerly prolongation of a line bearing N. 03º16'40"W. as shown in Assessor's Map Book 51, page 15, County of Santa Barbara, dated 1960; thence northerly along said line to its intersection with a line bearing N.29º11'W.; thence northwesterly along said line to its intersection with the boundary line of the City of Santa Barbara; thence beginning northeasterly and continuing along said boundary line to its intersection with the northerly prolongation of Mission Ridge Road; thence southerly and westerly along Mission Ridge Road to a line bearing N.03ºW., said line being the westerly line of Mission Ridge Road and the easterly boundary line of Parcel 19-071-10 shown in Assessor's Map Book 19, page 07, County of Santa Barbara, dated 9/73; thence along a straight line southwesterly to the intersection of Plaza Rubio and Emerson Avenue; thence southwesterly along Plaza Rubio to its intersection with Laguna Street; thence northeasterly along Laguna Street to its intersection with Los Olivos Street, said intersection being the point of beginning.

The El Pueblo Viejo Landmark District shall include all properties located within the area described in this section, and all properties fronting on either side of any street or line forming the boundary of such area; except that the following areas shall be excluded:

1. Stearns Wharf;
2. areas located within the Brinkerhoff Avenue Landmark District; and
3. that area south of West Cabrillo Boulevard and to the west of a point one-hundred-and-fifty (150) feet east of an imaginary extension of Bath Street at its same course. (Ord. 4729, 1991; Ord. 4237, 1983; Ord. 4177, 1982; Ord. 4175, 1982; Ord. 3900 §1, 1977; Ord. 3888, 1977.)

22.22.102 Map.

The areas described in Section 22.22.100 are shown on the map(s) labeled "El Pueblo Viejo Landmark District". All notations, references and other information shown on said map(s) are incorporated by reference herein and made a part hereof. In the event of variance between the map and the written description contained in Section 22.22.100, the written description shall prevail. (Ord. 4175, 1982; Ord. 3900 §1, 1977.)

22.22.104 Required Architectural Styles.

A. **ALTERATIONS TO STRUCTURES WITHIN EL PUEBLO VIEJO.**

1. **Generally.** Any structure hereafter constructed or altered as to its exterior appearance and located within El Pueblo Viejo Landmark District shall, as to its exterior architecture, be compatible with the Hispanic tradition as it has developed in the City of Santa Barbara from the later 18th century to the present, with emphasis on the early 19th century "California Adobe" and "Monterey Revival" styles, and the "Spanish Colonial Revival" style of the period from 1915 to 1930. Examples of these styles are:

a. Hill-Carrillo Adobe ("California Adobe").
b. De la Guerra Adobe ("California Adobe").
c. Covarrubias Adobe ("California Adobe").
d. Mihran Studios ("Monterey Revival").

e. Arlington Theatre ("Spanish Colonial Revival").
f. Santa Barbara County Courthouse ("Spanish Colonial Revival").
g. El Paseo ("Spanish Colonial Revival").
h. Lobero Theatre ("Spanish Colonial Revival").

2. **Alterations Within El Pueblo Viejo.** Notwithstanding subsection (A)(1) hereof, alterations to existing structures within the El Pueblo Viejo Landmark District may also be permitted by the Commission under the following circumstances:

a. The Commission determines that the owner of the existing structure is proposing alterations or additions to the structure that match the original architectural style and such alterations or additions do not significantly alter the structure; and

b. The Commission determines that the alteration or addition would be more compatible with the existing structure by matching and maintaining the existing architectural style which demonstrates outstanding attention to architectural design, detail, material, or craftsmanship.

B. **LANDMARKS AND STRUCTURES OF MERIT**. A designated Landmark or Structure of Merit not conforming to any of the architectural styles required in Sections 22.22.100(A.) and 22.22.104(A.) of this Chapter may be altered on the exterior for the purpose of restoration of its original appearance, or to substantially aid its preservation or enhancement, in its particular architectural style, with the prior written approval of the Commission or City Council under Section 22.22.170.

C. **OUTDOOR LIGHTING**. Any structure hereafter constructed or altered as to its exterior appearance and located within El Pueblo Viejo Landmark District shall comply with the applicable requirements of Chapter 22.75 as to its outdoor lighting, and with the City's Outdoor Lighting Design Guidelines. (Ord. 5333, 2004; Ord. 5035, 1997; Ord. 4848, 1994; Ord. 4729, 1991; Ord. 4175, 1982; Ord. 3900 §1, 1977.)

22.22.110 Brinkerhoff Avenue Landmark District.

A. **PURPOSE**. The purpose of the Brinkerhoff Avenue Landmark District is to preserve and enhance the historic and architectural character of the Brinkerhoff Avenue area of the City of Santa Barbara, which is a unique neighborhood of late 19th century and early 20th century structures. That purpose is to be achieved by regulating, within a designated area, the compatibility of architectural styles used in the construction of new structures, and the exterior alteration of existing structures in conformance with their original, significant architectural qualities, in order to continue and perpetuate examples of this important era in Santa Barbara's history.

B. **DESIGNATION**. The following described area within the City of Santa Barbara is hereby designated as a landmark district and shall be known as "Brinkerhoff Avenue Landmark District":

Assessor's Parcel Nos. 37-122-09, 37-122-17, 37-123-12, 37-123-13, 37-162-01 through 37-162-12, 37-163-01, 37-163-02, 37-163-09 through 37-163-20, 37-203-02 and 37-203-03 as shown on pages 12 (3/72), 16 (3/70) and 20 (L/D) in Assessor's Map Book 37 for the County of Santa Barbara.

The Brinkerhoff Avenue Landmark District shall include all properties located within the above described area and those portions of streets fronting on those parcels as shown on the attached map labeled "Brinkerhoff Avenue Landmark District." (Ord. 4237, 1983; Ord. 4175, 1982; §22.22.110 as adopted by Ord. 3900 was renumbered to §22.22.102 by Ord. 4175, 1982; Ord. 3900, §1, 1977; Ord. 3888, 1977.)

22.22.112 Map.

The area described in Section 22.22.110 is shown on the map labeled "Brinkerhoff Avenue Landmark District." All notations, references and other information shown on said map are incorporated by reference herein and made a part hereof. (Ord. 4175, 1982.)

22.22.114 Required Architectural Styles.

A. **BRINKERHOFF ARCHITECTURAL STYLE.** Any structure hereafter constructed or altered as to its exterior appearance and located within Brinkerhoff Avenue Landmark District shall, as to its exterior architecture, be compatible with the late 19th century and early 20th century tradition as it developed in the Santa Barbara area, with emphasis on the "Italianate," "Eastlake," "Colonial Revival," and "Queen Anne" styles. Examples of these styles are:

1. Hernster House, 136 W. Cota Street ("Italianate")
2. Tallant House, 528 Brinkerhoff Avenue ("Eastlake" "Stick")
3. Ross House, 514 Brinkerhoff Avenue ("Queen Anne/Colonial Revival")
4. 501 Chapala Street ("Queen Anne")

B. **LANDMARKS AND STRUCTURES OF MERIT**. A designated landmark or structure of merit located within Brinkerhoff Avenue Landmark District and not conforming to any of the architectural styles required in Sections 22.22.110(A.) and 22.22.114(A.) of this chapter may be altered on the exterior for the purpose of restoration of its original appearance, or to substantially aid its preservation or enhancement, in its particular architectural style with the prior written approval of the Commission or City Council under Section 22.22.170. (Ord. 4848, 1994; Ord. 4729, 1991; Ord. 4175, 1982.)

22.22.120 Riviera Campus Historic District.

A. **PURPOSE**. The purpose of the Riviera Campus Historic District is to preserve and enhance the historic and architectural character of the Riviera Campus in the City of Santa Barbara, which is comprised of the historic campus of the Santa Barbara Normal School of Manual Arts and Home Economics, which later became the University of California at Santa Barbara. That purpose is to be achieved by regulating, within a designated area, the compatibility of architectural styles used in the construction of new structures, and the exterior alteration of existing structures in conformance with their original, significant architectural qualities, in order to continue and perpetuate the preservation of this valued feature of the City's built environment.

B. **DESIGNATION**. The area within Specific Plan No. 7 (Riviera Campus) within the City of Santa Barbara is hereby designated as a historic district and shall be known as "Riviera Campus Historic District." The Riviera Campus Historic District shall include all properties located within the above-described area and those portions of streets fronting on those parcels as shown on the attached map labeled "Riviera Campus Historic District."

C. **REQUIRED ARCHITECTURAL STYLES**.

1. Any structure hereafter constructed or altered as to its exterior appearance and located within Riviera Campus Historic District shall, as to its exterior architecture, be compatible with the Spanish Colonial Revival and Spanish Eclectic architecture of the extant buildings on the Riviera Campus. Examples of these styles are:

a. The Quadrangle Building, 2030 Alameda Padre Serra ("Spanish Eclectic")
b. The Grand Stairway, 2030 Alameda Padre Serra ("Spanish Eclectic")
c. Furse Hall, 2040 Alameda Padre Serra ("Spanish Colonial Revival")
d. Ebbets Hall, 2020 Alameda Padre Serra ("Spanish Colonial Revival")

D. **LANDMARKS AND STRUCTURES OF MERIT**. A designated landmark or structure of merit located within Riviera Campus Historic District, and not conforming to any of the architectural styles required in Subsections A and C of this Section, may be altered on the exterior for the purpose of restoration of its original appearance, or to substantially aid its preservation or enhancement, in its particular architectural style with the prior written approval of the Commission or City Council under Section 22.22.170. (Ord. 5319, 2004.)

22.22.125 El Encanto Hotel Historic District.

A. Purpose. The purpose of El Encanto Hotel Historic District is to preserve and enhance the historic and architectural character of the historic El Encanto Hotel Landmark site in the City of Santa Barbara, which is a unique complex of early 20th century structures and landscape features. That purpose is to be achieved by regulating, within a designated area, the compatibility of architectural styles used in the construction of new structures, and the exterior alteration of existing structures in conformance with their original, significant architectural qualities, in order to continue and perpetuate examples of this important era in Santa Barbara's history.

B. Designation. The area within the map labeled El Encanto Hotel-Historic District (attached hereto as a Chapter exhibit) within the City of Santa Barbara is hereby designated as a historic district and shall be known as "El Encanto Hotel Historic District." The El Encanto Hotel Historic District shall include all the properties located within the above-described area and those portions of streets fronting on the parcel as shown on the labeled "El Encanto Hotel Historic District" map.

C. Required HLC Review, Architectural Styles, and Preservation Goals.

1. No structure or real property within the El Encanto Hotel Historic District shall be constructed, demolished, moved, or altered on its exterior without approval of the Commission.

2. Any structure hereafter constructed or altered as to its exterior appearance and located within El Encanto Hotel Historic District shall, as to its exterior architecture, be compatible with the currently existing Craftsman/Vernacular and Spanish Colonial Revival architecture of the Contributing Resource buildings within the El Encanto Hotel Historic District.

D. Contributing Resource Structures and Landscape Features.

1. Any Contributing Resource structure or Contributing feature located within El Encanto Hotel Historic District shall be preserved and maintained by owners thereof in good condition and repair. Contributing Resource structures may be repaired and altered on the exterior for the purpose of restoring its original appearance, or to substantially aid in its preservation or enhancement (especially with respect to its particular architectural style) with the prior written approval of the Commission.

2. Any landscape feature within El Encanto Hotel Historic District identified by the City as a Contributing Resource shall, as to its exterior appearance, be preserved and not significantly altered without the prior written approval of the Commission. (Ord. 5624, 2013.)

22.22.130 El Pueblo Viejo Landmark District and Brinkerhoff Avenue Landmark District.

A. **APPROVAL FOR CONSTRUCTION, DEMOLITION, MOVING OR EXTERIOR ALTERATION**. No structure or real property in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District shall be constructed, demolished, moved or altered on its exterior without the approval of the Commission or City Council upon appeal. Minor alterations specified in the Historic Landmarks Commission Rules and Procedures, adopted from time to time by resolution, may be allowed subject to the review of the Community Development Director or his/her representative.

B. **PROCEDURE**. Any application for an approval or permit to construct, demolish, move or alter the exterior of any structure or real property located within El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District, together with plans, elevations and site plans therefore, shall be referred to the Commission for review. A permit shall not be issued without the prior written approval of the Commission or City Council upon appeal. Any change of the exterior color or the outdoor lighting of any structure shall be referred to the Commission for review. If a building permit is not required, there shall not be any exterior alteration or change of exterior color unless there has been a final written approval of the Commission, where required, or the City Council upon appeal. The Commission or City Council on appeal shall not approve issuance of such permit unless the plans conform to the provisions of this Chapter. Any application shall be considered and either approved or disapproved by the Commission at its next regularly scheduled meeting for which an agenda has not been finalized after completion of any required environmental assessment, but may be continued to the next regular meeting. In the absence of timely oral or written objection by the applicant, the Commission may continue consideration of an application to subsequent meetings. In the event an applicant objects to continuance by the Commission and if the Commission takes no action on the application, then the application shall be deemed approved.

C. **SIGN PERMITS**. Signs which have been approved by the Sign Committee or the Commission or City Council upon appeal and for which a valid permit has been issued by the City shall not require a permit or approval under this section. Applications for permits for signs to be erected or altered within El Pueblo Viejo Landmark District and Brinkerhoff Avenue Landmark District shall be considered by the Commission only upon an appeal filed pursuant to Section 22.70.050.I.

D. **PLACEMENT, ALTERATION, OR REMOVAL OF NATURAL FEATURES (INCLUDING TREES) ON PRIVATE PROPERTY.** No natural feature affecting the exterior visual qualities of private property located in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District (excluding trees listed in Section 15.24.020 of this Code, which are processed pursuant to Chapter 15.24) shall be placed, altered, or removed without the approval of the Commission or City Council upon appeal. Minor alterations specified in the Historic Landmarks Commission Rules and Procedures, adopted from time to time by resolution, may be allowed subject to the review of the Community Development Director or his or her representative. (Ord. 5505, 2009; Ord. 5035, 1997; Ord. 4995, 1996; Ord. 4916, 1995; Ord. 4893, 1994; Ord. 4878, 1994; Ord. 4848, 1994; Ord. 4175, 1982; Ord. 4111, 1981; Ord. 4101, 1981; Ord. 4029, 1979; Ord. 3900, §1, 1977.)

22.22.131 Review of Single Family Residential Units.

A. NEIGHBORHOOD PRESERVATION ORDINANCE FINDINGS. If a project is referred to the Historic Landmarks Commission for review pursuant to Section 22.69.030 of this Code, the Historic Landmarks Commission shall, in addition to any review required pursuant to this Chapter 22.22, make the findings required for approval of the project as specified in Section 22.69.050 of this Code prior to approving the project.

B. GREEN BUILDING STANDARD FOR LARGE RESIDENCES. If a project referred to the Historic Landmarks Commission for review pursuant to Section 22.69.030 of this Code proposes 500 square feet or more of new net floor area (new construction, replacement construction, or additions), and the net floor area of all existing and new buildings on the lot resulting from the application will exceed four thousand (4,000) square feet of net floor area as calculated pursuant to Section 28.04.315, all new square footage (new construction, replacement construction, or additions) proposed as part of the project shall meet or exceed a three-star designation under the Santa Barbara Contractors' Association Built Green program or equivalent standards under another green construction program recognized by the City. (Ord. 5518, 2010; Ord. 5416, 2007; Ord. 4995, 1996.)

22.22.132 Historic Landmarks Commission Notice and Hearing.

A. **PROJECTS THAT REQUIRE PUBLIC HEARING**. Historic Landmarks Commission review of the following projects must be preceded by a noticed public hearing:

1. New single residential units, residential duplexes, multiple residential units, mixed use (residential and non-residential) buildings, or nonresidential buildings,
2. The addition of over 500 square feet of net floor area to a single residential unit or residential duplex,
3. An addition of a new second or higher story to an existing single residential unit or residential duplex,
4. An addition of over 150 square feet of net floor area to an existing second or higher story of a single residential unit or residential duplex,
5. The addition of over 500 square feet of net floor area or any change that will result in an additional residential unit to a multiple residential unit,
6. Small non-residential additions as defined in Chapter 28.85,
7. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the building footprint),
8. Projects involving exterior lighting with the apparent potential to create significant glare on neighboring parcels,
9. Projects involving the placement or removal of natural features with the apparent potential to significantly alter the exterior visual qualities of real property, or

10. Projects involving an application for an exception to the parking requirements for a single family residential unit as specified in Section 28.90.100.G.1.c. of this Code.

B. **MAILED NOTICE.** Not less than ten calendar days before the date of the hearing required by Subsection A above, the City shall cause written notice of the hearing to be sent by first class mail to the following persons: (1) the applicant and (2) the current record owner (as shown on the latest equalized assessment roll) of any lot, or any portion of a lot, which is located not more than three hundred feet (300') from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Historic Landmarks Commission, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. **ADDITIONAL NOTICING METHODS**. In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents of any of the ten (10) lots closest to the lot which is the subject of the action. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

D. **PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER**. Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice for the first hearing before the Historic Landmarks Commission shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Historic Landmarks Commission to be published in a newspaper, or 2. mailed notice of hearings before the Historic Landmarks Commission after the first hearing conducted by the Historic Landmarks Commission, except as otherwise provided in the Historic Landmarks Commission Guidelines adopted by resolution of the City Council. (Ord. 5609, 2013; Ord. 5518, 2010; Ord. 5505, 2009; Ord. 5444, 2008; Ord. 5416, 2007; Ord. 5380, 2005; Ord. 4995, 1996.)

22.22.133 Historic Landmarks Commission Referral to Planning Commission.

A. **PLANNING COMMISSION COMMENTS.** When the Historic Landmarks Commission determines that a development is proposed for a site which is highly visible to the general public, the Historic Landmarks Commission may, prior to granting project design approval of the application, require presentation of the application to the Planning Commission solely for the purpose of obtaining comments from the Planning Commission regarding the application for use by the Historic Landmarks Commission in its deliberations.

B. **PLANNING COMMISSION NOTICE AND HEARING.** Prior to making any comments regarding an application pursuant to this Section, the Planning Commission shall hold a noticed public hearing. Notice of the hearing shall be provided in accordance with the requirements of Section 22.22.132. (Ord. 5671, 2014; Ord. 5444, 2008; Ord. 5380, 2005; Ord. 4995, 1996.)

22.22.135 Application Fee.

Applications submitted pursuant to Section 22.22.130 shall be accompanied by an application fee in the amount established by resolution of the City Council. (Ord. 3955 §7, 1978.)

22.22.140 Publicly Owned Property.

A. **PUBLICLY OWNED BUILDINGS GENERALLY.** Except as provided in Subsections (B) and (C) below, any structure, natural feature, site or area owned or leased by any public entity other than the City of Santa Barbara and designated as a Landmark or Structure of Merit, or located within any landmark district, shall not be subject to the provisions of Sections 22.22.070, 22.22.080, 22.22.104, 22.22.114, 22.22.130, and 22.22.170 of this Chapter.

B. **EXCEPTION FOR CITY FACILITIES**. The alteration, construction or relocation of any structure, natural feature, site or area owned or leased by the City and designated as a Landmark or Structure of Merit, or located within any landmark district, shall be reviewed by the Commission unless the City Council deems that said review would not be in the public interest.

C. **EXCEPTION FOR IMPROVEMENTS WITHIN THE HIGHWAY 101 SANTA BARBARA COASTAL PARKWAY DESIGN DISTRICT**. The alteration, construction or relocation of any structure, natural feature, site or area owned or leased by a public entity within the Highway 101 Santa Barbara Coastal Parkway Special Design District as defined by Municipal Code Section 22.68.060, which requires a Coastal Development Permit pursuant to Municipal Code Chapter 28.44 and which is designated as a Landmark or Structure of Merit, or which is located within any landmark district shall be reviewed by the Commission.

D. **EXCEPTION FOR STREET TREES, CITY TREES, HISTORIC TREES AND SPECIMEN TREES.** Notwithstanding Subsection B above, the placement, alteration, or removal of the following trees shall be processed and regulated as follows:

1. Any tree planted in a parkway strip, tree well, public area, or street right-of-way owned or maintained by the City is processed and regulated pursuant to Chapter 15.20 of this Code.

2. Any tree designated by a resolution of the City Council as an "historic tree", an "historic landmark tree" or a "specimen tree" is processed and regulated pursuant to Chapter 15.24. (Ord. 5505, 2009; Ord. 5416, 2007; Ord. 5333, 2004; Ord. 4940, 1996; Ord. 4848, 1994; Ord. 4175, 1982; Ord. 3900 §1, 1977.)

22.22.145 Project Compatibility Analysis.

A. PURPOSE. The purpose of this section is to promote effective and appropriate communication between the Historic Landmarks Commission and the Planning Commission (or the Staff Hearing Officer) in the review of development projects and in order to promote consistency between the City land use decision making process and the City design review process as well as to show appropriate concern for preserving the historic character of certain areas of the City.

B. PROJECT COMPATIBILITY CONSIDERATIONS. In addition to any other considerations and requirements specified in this Code, the following criteria shall be considered by the Historic Landmarks Commission when it reviews and approves or disapproves the design of a proposed development project in a noticed public hearing pursuant to the requirements of Section 22.22.132:

1. Compliance with City Charter and Municipal Code; Consistency with Design Guidelines. Does the project fully comply with all applicable City Charter and Municipal Code requirements? Is the project's design consistent with design guidelines applicable to the location of the project within the City?

2. Compatible with Architectural Character of City and Neighborhood. Is the design of the project compatible with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara and of the particular neighborhood surrounding the project?

3. Appropriate size, mass, bulk, height, and scale. Is the size, mass, bulk, height, and scale of the project appropriate for its location and its neighborhood?

4. Sensitivity to Adjacent Landmarks and Historic Resources. Is the design of the project appropriately sensitive to adjacent Federal, State, or City Landmarks or other nearby designated historic resources, including City structures of merit, sites, or natural features?

5. Public Views of the Ocean and Mountains. Does the design of the project respond appropriately to established scenic public vistas?

6. Use of Open Space and Landscaping. Does the project include an appropriate amount of open space and landscaping?

C. PROCEDURES FOR CONSIDERING PROJECT COMPATIBILITY.

1. Projects with Design Review Only. If a project only requires design review by the Historic Landmarks Commission pursuant to the provisions of this Chapter and does not require some form of discretionary land use approval, the Historic Landmarks Commission shall consider the criteria listed in Subsection (B) above during the course of its review of the project's design prior to the issuance of the preliminary design approval for the project.

2. Projects with Design Review and Other Discretionary Approvals. If, in addition to design review by the Historic Landmarks Commission, a project requires a discretionary land use approval (either from the Staff Hearing Officer, the Planning Commission, or the City Council), the Historic Landmarks Commission shall review and discuss the criteria listed in Subsection (B) above during its conceptual review of the project and shall provide its comments on those criteria as part of the minutes of the Commission decision forwarded to the Staff Hearing Officer, the Planning Commission, or the City Council (as the appropriate case may be) and as deemed necessary by the Historic Landmarks Commission. (Ord. 5464, 2008.)

22.22.150 Preservation Easements.

Easements restricting the use, alteration, relocation or demolition for the purpose of preservation of the facades or any other portions of designated landmarks or structures of merit may be acquired by the City through gift, devise or purchase. (Ord. 3900 §1, 1977.)

22.22.160 Incentives for Preserving Historic Resources.

A. Legislative Intent; Administrative Regulations. In enacting this section, the City Council seeks to adopt a City program of incentives to encourage the maintenance and preservation of historic resources within the City of Santa Barbara. In order to carry out this program more effectively and equitably and to further the purposes of this section, the Council may also, by resolution, supplement these provisions by adopting administrative regulations and standardized forms for a broad City program of economic and other incentives intended to support the preservation, maintenance, and appropriate rehabilitation of the City's significant historic resources.

B. Preservation Incentives Under the State Mills Act - Government Code Sections 50280-50290. Preservation incentives may be made available by the City to owners of properties that are "Qualified Historic Properties" (as that term is used by Government Code Section 50280.1) such as individually designated City landmarks or structures of merit or those properties that are deemed to contribute to designated City Historic Districts (or Districts listed in the National Register) as determined appropriate by the City Council.

C. Qualified Historic Property Mills Act Contracts.

1. Purpose.

a. The purpose of this Section is to implement state Government Code Sections 50280 through 50290 in order to allow the City approval of Qualified Historic Property Contracts by establishing a uniform City process for the owners of qualified historic resource properties within the City to enter into Mills Act contracts with the City.

b. The City Council finds and determines that entering into Qualified Historic Property Contracts, as hereinafter provided, is an incentive for owners of designated historic resources to rehabilitate, maintain, and preserve those properties.

c. The City Council further finds that, in some instances, the preservation of these properties will assist in restoring, maintaining, and preserving the City's existing stock of affordable housing and support the goals and objectives in the Land Use Element of the City General Plan concerning the preserving of historically and architecturally significant residential structures.

2. Limitations on Eligibility For a Mills Act Contract.

a. In approving this program, it is the intent of the City Council that unrealized revenue to the City from property taxes not collected due to executed Qualified Historic Property Contracts shall not exceed a total annual amount (including total individual amounts for any one historic property), as such amounts are established by a resolution of the City Council adopted concurrently with the enactment of this Chapter, unless exceeding this limit is specifically approved by the Council.

b. In furtherance of this policy, Qualified Historic Property Contracts shall be limited to a maximum number of contracts each year consisting of a certain number of residential properties each year and a certain number of commercial or industrial properties each year, unless the City Council approves additional contracts beyond the established limits as such amounts are established by a resolution of the City Council adopted concurrently with the enactment of this Chapter. In addition, no single-family residence approved for a City contract pursuant to this section may have an assessment value in excess of an amount established by the City Council nor may the assessed value of any non-single-family home property (i.e., a multi-family residential, commercial, or industrial property) exceed an amount established in the City Council's concurrent resolution.

c. For the purpose of this Subparagraph (2), "assessed valuation" does not include any portion of the value of a mixed-use structure which is already exempt from payment of property taxes by a determination of the County Assessor in compliance with Sections 4(b) and 5 of Article XIII of the California Constitution, and Sections 214, 254.5, and 259.5 of the Revenue and Taxation Code.

3. Required Provisions of Qualified Historic Property Contracts.

Mills Act Provisions Required.

a. The required provisions of a Qualified Historic Property Contract between the City and the property owner shall be those required by State law (Government Code Sections 50281 and 50286) expressly including the following specifications:

Term.

(i) The contract shall be for the minimum ten (10) year term, with automatic renewal yearly by either the City or the property owner on the anniversary of the contract date in the manner provided in Government Code Section 50282.

Restoration and Maintenance Plan; Standards.

(ii) The fundamental purpose of the contract will be an agreement to assist the property owner in the owner's restoration, maintenance, and preservation of the qualified historic resource; therefore, the plan for restoration and maintenance of the property required by the contract shall conform to the rules and regulations of the State of California Office of Historic Preservation (California Department of Parks and Recreation), the Secretary of the Department of the Interior's Standards, and the State Historical Building Code.

Verification of Compliance with Plan.

(iii) The real property owner will expressly agree in the contract to permit periodic examination of the interior and exterior of the premises by the County Assessor, the City Community Development Director (or his or her designee), the State Department of Parks and Recreation, and the State Board of Equalization, as may be necessary to verify the owner's compliance with the contract agreement, and to provide any information requested to ensure compliance with the contract agreement.

Property Visible from Street.

(iv) The real property owner will expressly agree and the plan shall provide that any fencing or landscaping along the public right-of-way frontages of the real property will such that it allows the home or building to be visible to the public from the public rights-of-way.

Recordation of Contract.

(v) The contract shall be recorded by the Santa Barbara County Recorder's Office and shall be binding on all successors-in-interest of the owner with respect to both the benefits and burdens of the contract.

Notice to State.

(vi) The City shall provide written notice of the contract to the State of California Office of Historic Preservation within 180 days of entering into the contract.

Procedure for Non-Renewal.

(vii) The procedure for notice of non-renewal by the owner or the City shall be as identified in State law [Government Code Section 50282 (a), (b), and (c), and Section 50285.]

Annual Report Required.

(viii) The contract shall require the real property owner to file an annual report, initially, on the program of implementing the plan or restoration or rehabilitation until that has been completed to the satisfaction of the Community Development Director, and thereafter, on the annual maintenance of the property, which report may require documentation of the owner's expenditures in restoring, rehabilitating, and maintaining the Qualified Historic Property.

Cancellation of Contracts.

(ix) The contract shall expressly provide for the City's authority to cancel the contract if the City determines that the owner has breached the contract either by his or her failure to restore or rehabilitate the property in accordance with the approved plan or by the failure to maintain the property as restored or rehabilitated. The manner of cancellation shall be as set forth in Government Code Sections 50285 and 50286.

Breach of Contract.

b. Additionally, the contract shall state that the City may cancel the contract if it determines that the owner has breached any of the other substantive provisions of the contract or has allowed the property to deteriorate to the point that it no longer meets the significance criteria under which it was originally designated.

Cancellation Fee.

c. The contract may also provide that if the City cancels the contract for any of these reasons, the owner shall pay the State of California a cancellation fee of twelve and one-half percent of the full value of the property at the time of cancellation, as determined by the County Assessor, without regard to any restriction on the property imposed by the Historic Property Contract.

Force Majeur Cancellations.

d. The contract shall require that in the event preservation, rehabilitation, or restoration of the Qualified Historic Property becomes infeasible due to damage caused by natural disaster (e.g., earthquake, fire, flood, etc.), the City may cancel the contract without requiring the owner to pay the State of California the above-referenced cancellation fee as a penalty. However, in this event, a contract may not be cancelled by the City unless the City determines, after consultation with the State of California Office of Historic Preservation, in compliance with Public Resources Code Section 5028, that preservation, rehabilitation, or restoration is infeasible.

Standard Contract.

e. The City Community Development Department shall prepare and maintain a sample "Historic Property Contract" with all required provisions specified by this Subparagraph (3).

4. Procedures for Application for and Approval of Historic Property Contracts.

a. An owner of a qualified historic property (as listed in Paragraph (B) above) may file an application for entering into an Historic Property Contract with the City.

b. Each application shall be accompanied by a complete legal description of the property; and

c. Within sixty (60) days of the submission of the application, a plan for the restoration or rehabilitation of the property.

d. In January of each year, the City may notify, either by mailing or published notices, the owners of qualified historic properties of the period of application for and process for City Historic Property Contracts for that calendar year.

e. Application forms, as prescribed by the City, shall be mailed to any property owner who requests the application forms.

f. Upon submission of an application and the plan for restoration or rehabilitation of the property, the application and plan shall be reviewed for completeness by the City's Urban Historian within sixty (60) days of the submission. In connection with this review, the Urban Historian shall complete an initial inspection of the Qualified Historic Property, obtain photo documentation of the existing condition of the property, and utilize the inspection information to revise the plan for restoration or rehabilitation where necessary.

g. All applications and plans for restoration or rehabilitation deemed complete and acceptable to the City's Urban Historian shall, within sixty (60) days of being deemed complete, be submitted to the City's Historic Landmarks Commission. Such application and plans shall be evaluated by both the Urban Historian and the Commission for compliance with established City criteria that will include, but not be limited to, the following findings:

(i) the plan will substantially contribute to the preservation of an historic and unique City resource which is threatened by possible abandonment, deterioration, or conflicting regulations, and it will enhance opportunities for maintaining or creating affordable housing, or it will facilitate the preservation and maintenance of a property in cases of economic hardship.

(ii) the plan will support substantial reinvestment in a historic resource and rehabilitation of a historic structure in the expanded State Enterprise Zone and other areas where the City is concentrating resources on facade improvements, home rehabilitation, or similar revitalization efforts.

(iii) the Community Development Director has certified that the property does not now consist of any unpermitted or unsafe construction or building elements, is not the subject of a pending City code enforcement matter, and is current on the payment of all property taxes.

(iv) whether the plan calls for any new construction, in particular new construction or additions which might impact the eligibility for the structure to qualify as a Qualified Historic Resource, as that term is used in the Mills Act.

h. Upon completion of the Historic Landmarks Commission review of the application and plan, the Commission shall make a recommendation to the City Community Development Director for the City approval or disapproval of the contract.

i. If an application is recommended for approval by the Historic Landmarks Commission and the Urban Historian, the City shall prepare a contract according to its standard contract form, which shall be deemed to have all provisions necessary for a Historic Property Contract with the City.

j. Additional provisions in the Contract desired by the owner shall be subject to approval by the Community Development Director or, when determined appropriate by the Community Development Director, by the City Council and as to form by the City Attorney in all cases.

k. The City Finance Director shall determine that the proposed contract does not cause the total annual revenue loss to the City to exceed the amounts established by resolution for this program by the City Council, both collectively and for individual properties.

l. Upon approval of the contract by the Finance Director, the contract signed by the property owners shall be submitted to the City Clerk/City Administrator and City Attorney for execution of the contract on behalf of the City and for recordation by the City Clerk's Office.

m. Historic Property Contracts that exceed the limits identified in this Section shall only be approved and executed after and upon the express approval of the City Council. (Ord. 5501, 2009.)

22.22.170 Appeal from Commission to City Council.

A. **APPEAL FROM COMMISSION TO THE CITY COUNCIL.** A final decision of the Commission made pursuant to Section 22.22.035, Section 22.22.030(D), Section 22.22.037, Section 22.22.050(D), Section 22.22.080(D), Section 22.22.085, Section 22.22.130, or Section 22.22.132 may be appealed to the City Council by any interested person pursuant to the appeal procedures established by Santa Barbara Municipal Code Chapter 1.30. In deciding such an appeal, the City Council shall make those findings required of the Commission with respect to a Commission determination made pursuant to this Chapter.

B. **NOTICE OF APPEAL.** In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Commission made pursuant to Subsection A above shall be provided in the same manner as notice was provided for the hearing before the Commission.

C. **FEE FOR APPEAL.** At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5380, 2005; Ord. 5333, 2004; Ord. 4995, 1996; Ord. 4848, 1994; Ord. 3955 §8, 1978; Ord. 3900 §1, 1977.)

22.22.180 Expiration of Project Design Approvals.

A. **PROJECT DESIGN APPROVAL**.

1. **Approval Valid for Three Years.** A Project Design Approval issued by the Historic Landmarks Commission or the City Council on appeal shall expire if a building permit for the project is not issued within three (3) years of the granting of the Project Design Approval by the Commission or the City Council on appeal.

2. **Extension of Project Design Approvals.** Upon a written request from the applicant submitted prior to the expiration of the Project Design Approval, the Community Development Director may grant one (1) two-year extension of a Project Design Approval.

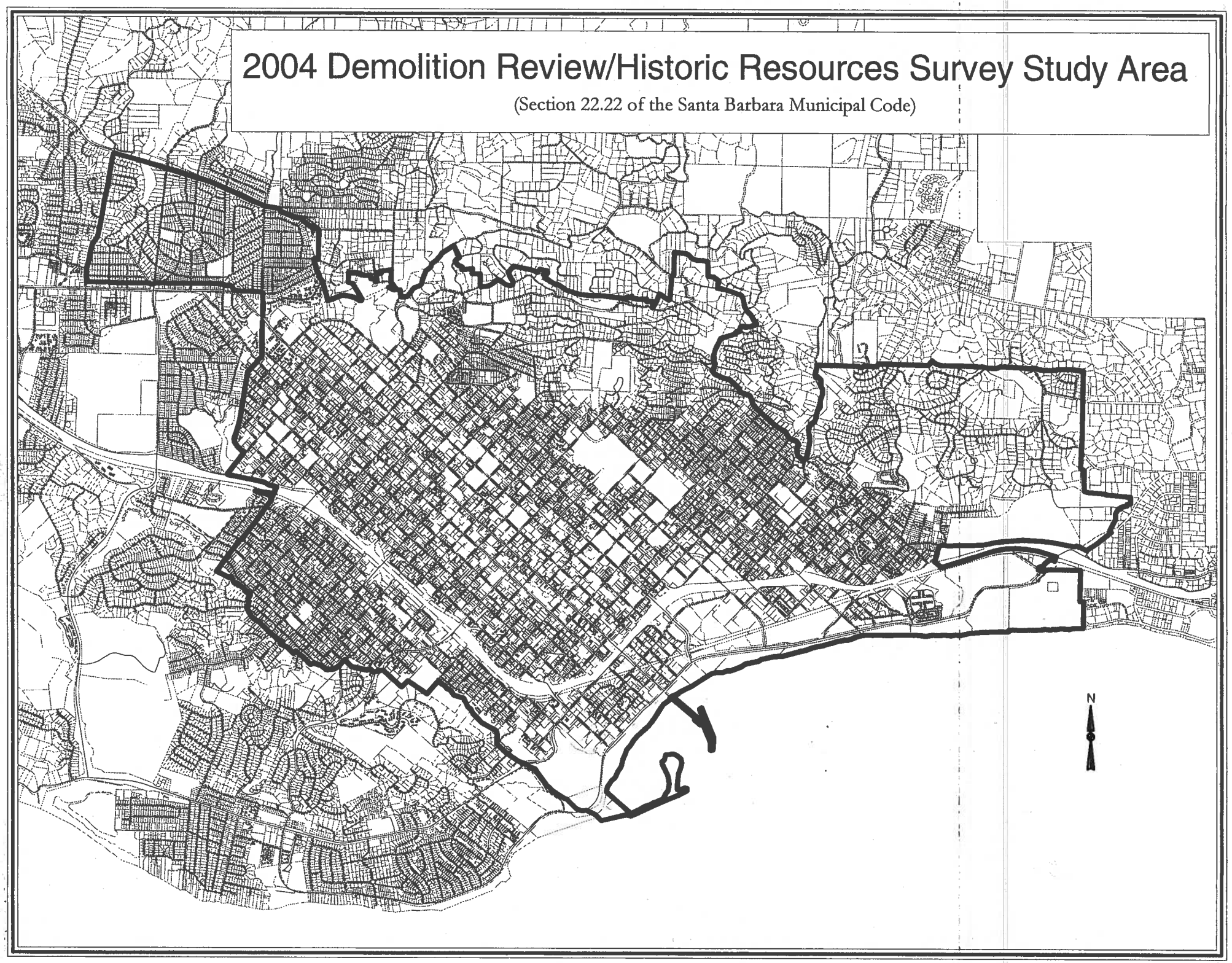
B. **EXCLUSIONS OF TIME**. The time period specified in this Chapter for the validity of a Project Design Approval shall not include any period of time during which either of the following applies:

1. a City moratorium ordinance on the issuance of building permits is in effect; or

2. a lawsuit challenging the validity of the Project's approval by the City is pending in a court of competent jurisdiction. (Ord. 5537, 2010; Ord. 5518, 2010.)

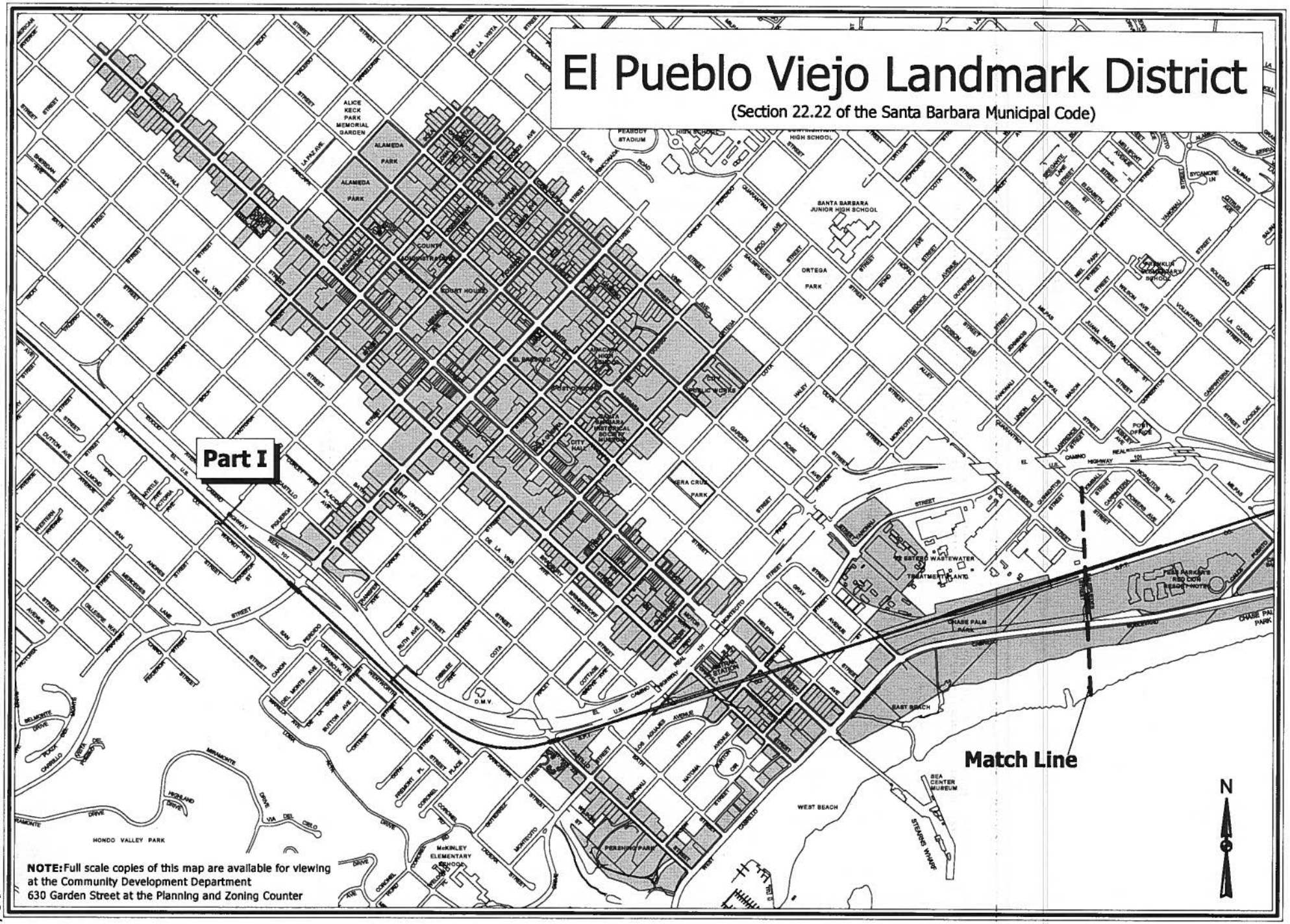
2004 Demolition Review/Historic Resources Survey Study Area

(Section 22.22 of the Santa Barbara Municipal Code)



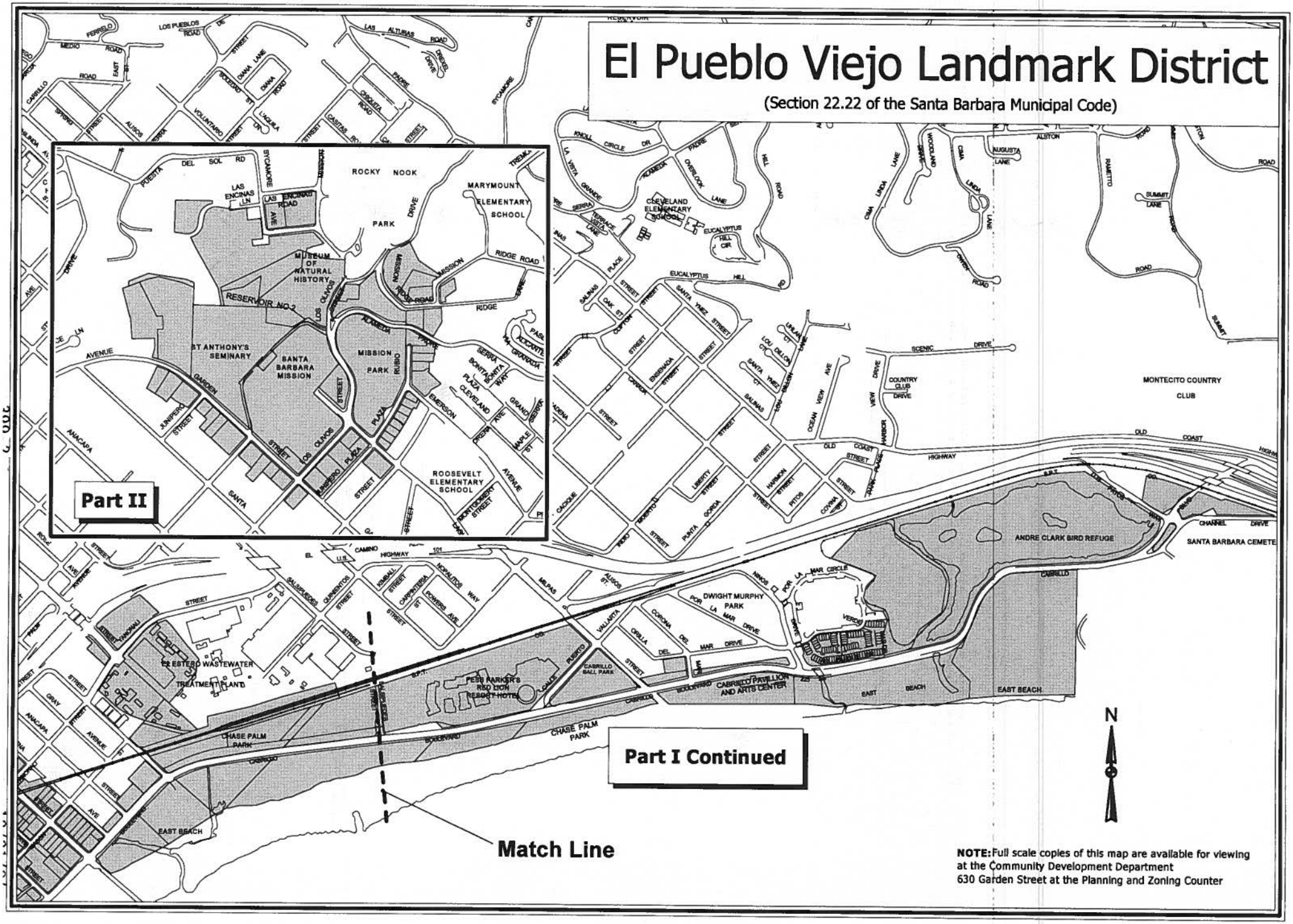
El Pueblo Viejo Landmark District

(Section 22.22 of the Santa Barbara Municipal Code)



El Pueblo Viejo Landmark District

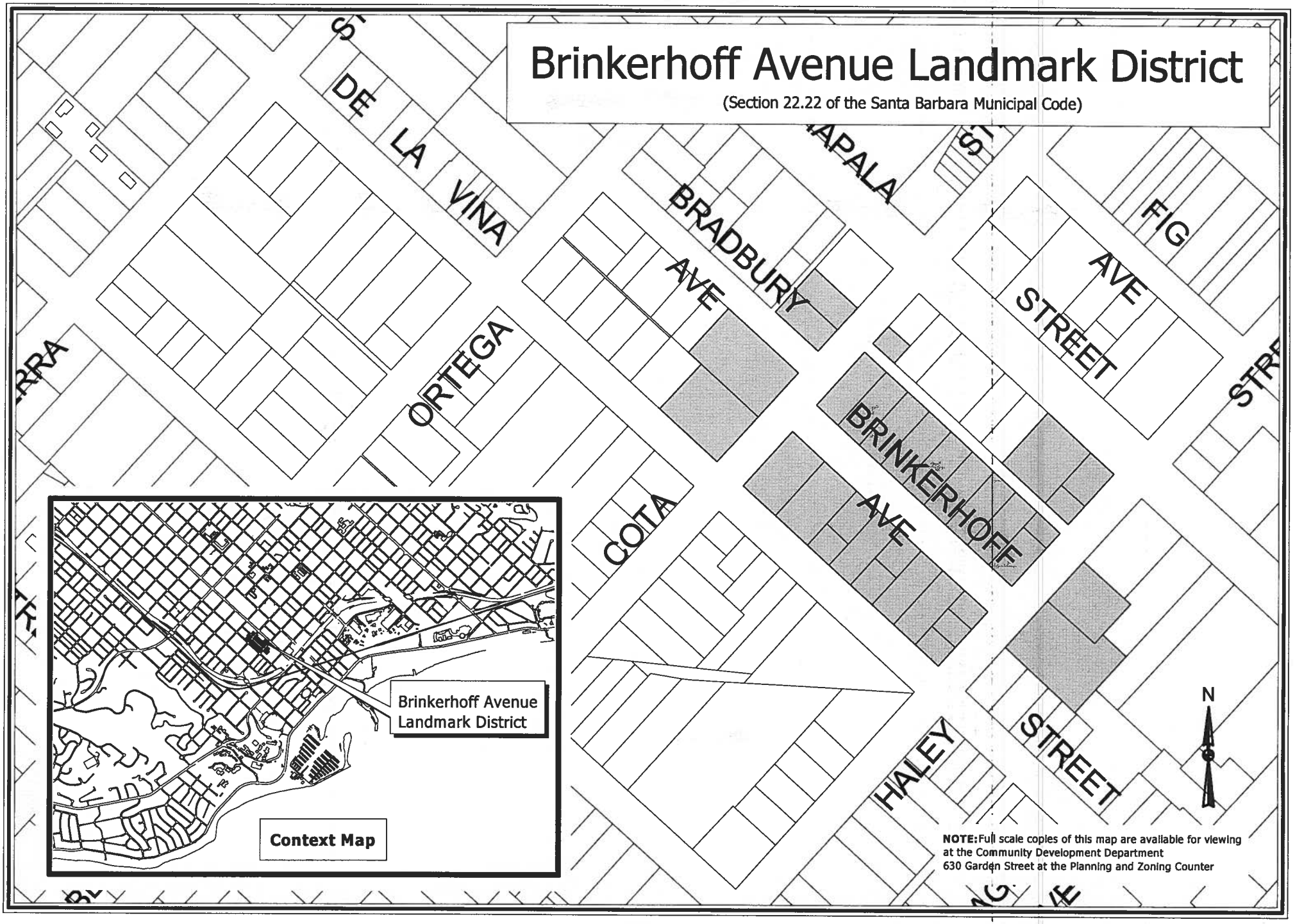
(Section 22.22 of the Santa Barbara Municipal Code)



NOTE: Full scale copies of this map are available for viewing at the Community Development Department 630 Garden Street at the Planning and Zoning Counter

Brinkerhoff Avenue Landmark District

(Section 22.22 of the Santa Barbara Municipal Code)

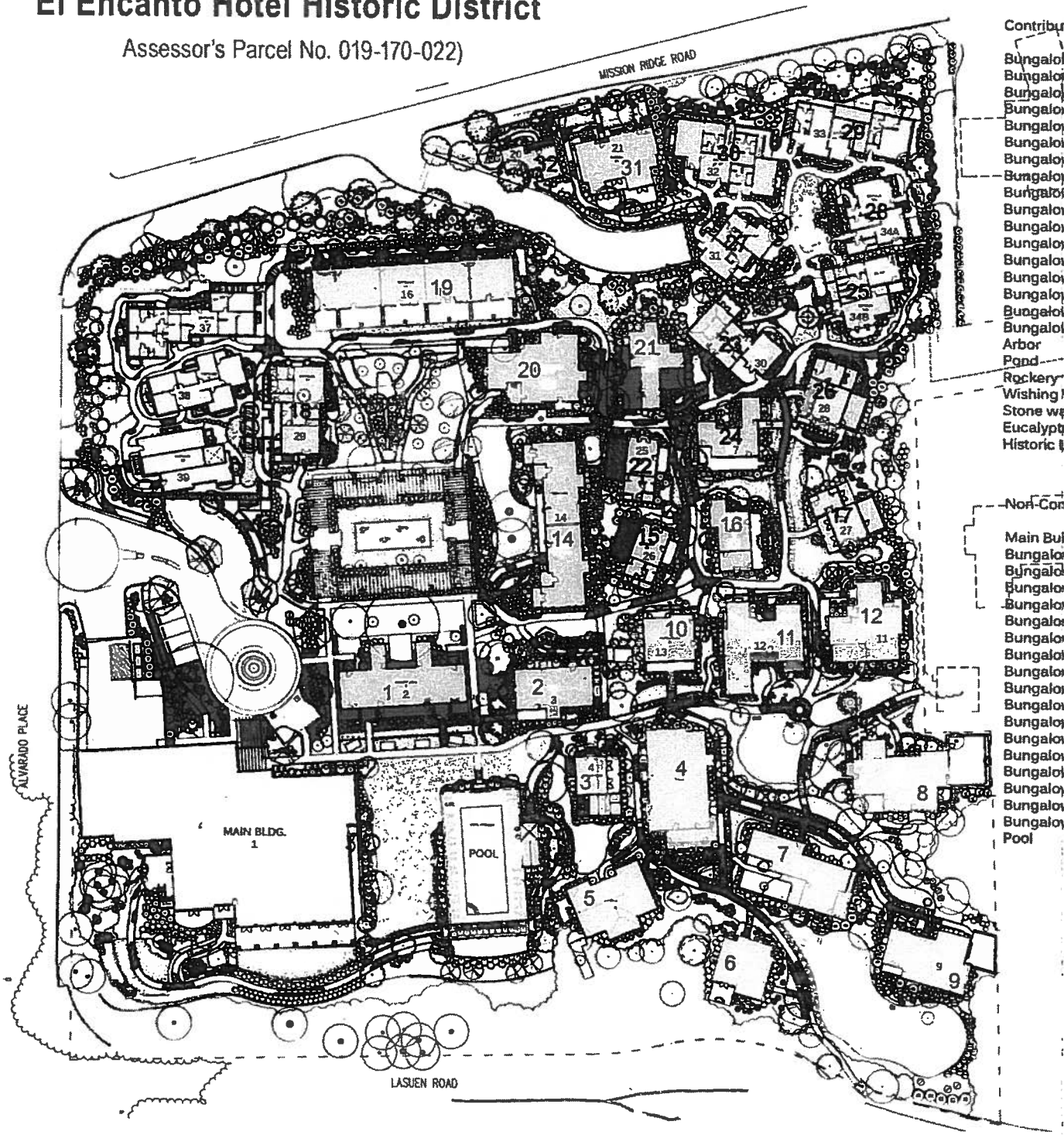


NOTE: Full scale copies of this map are available for viewing at the Community Development Department 630 Garden Street at the Planning and Zoning Counter

rev. 12/31/04

El Encanto Hotel Historic District

Assessor's Parcel No. 019-170-022)



Contributing Structures and Features

Bungalow 1
Bungalow 2
Bungalow 5
Bungalow 4
Bungalow 6
Bungalow 7
Bungalow 9
Bungalow 8
Bungalow 12
Bungalow 14
Bungalow 20
Bungalow 19
Bungalow 24
Bungalow 16
Bungalow 21
Bungalow 32
Bungalow 31
Arbor
Pond
Rockery
Wishing Well
Stone walls and Stone Steps
Eucalyptus trees
Historic Lawn Areas

Non-Contributing Structures

Main Building
Bungalow 3
Bungalow 11
Bungalow 10
Bungalow 22
Bungalow 15
Bungalow 17
Bungalow 26
Bungalow 18
Bungalow 23
Bungalow 27
Bungalow 30
Bungalow 29
Bungalow 28
Bungalow 25
Bungalow 37
Bungalow 38
Bungalow 39
Pool

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Chapter 22.24

FLOOD PLAIN MANAGEMENT

Sections:

22.24.010 Findings of Fact.
22.24.020 Statement of Purpose.
22.24.030 Methods of Reducing Flood Losses.
22.24.040 Definitions.
22.24.050 Lands to Which This Chapter Applies.
22.24.060 Basis for Establishing the Areas of Special Flood Hazard.
22.24.070 Compliance.
22.24.080 Abrogation and Greater Restrictions.
22.24.090 Interpretation.
22.24.100 Warning and Disclaimer of Liability.
22.24.110 Establishment of Development Permit.
22.24.120 Designation of the Chief of Building and Zoning.
22.24.130 Duties and Responsibilities of the Chief of Building and Zoning.
22.24.140 Variance and Appeal Procedure.
22.24.150 Conditions for Variances.
22.24.160 General Standards for Flood Hazard Reduction.
22.24.170 Coastal High Hazard Areas.
22.24.180 Floodways.

22.24.010 Findings of Fact.

A. The flood hazard areas of the City of Santa Barbara are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.020 Statement of Purpose.

It is the purpose of the chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To insure that potential buyers are notified that property is in an area of special flood hazard; and

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.030 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this Chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and,

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.040 Definitions.

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

A. APPEAL. A request for a review of the Chief of Building and Zoning's interpretation of any provision of this Chapter or a request for a variance.

B. AREA OF SHALLOW FLOODING. An area designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM) and as to which the base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

C. AREA OF SPECIAL FLOOD HAZARD. See "Special flood hazard area".

D. BASE FLOOD or 100 YEAR FLOOD. A flood having a one percent (1%) chance of being equalled or exceeded in any given year.

E. BASEMENT. An area of a building having its floor subgrade (below ground level) on all sides.

F. BREAKAWAY WALLS. Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which (i) is not part of the structural support of the building; (ii) is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building or to any buildings to which they might be carried by flood waters; (iii) has a safe design loading resistance of not less than ten and no more than twenty pounds per square foot; and (iv) has been certified for use in the building by a registered engineer or architect and meets the following standards:

1. Breakaway wall collapse will result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building will not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

G. COASTAL HIGH HAZARD AREA. An area subject to high velocity waters, including coastal and tidal inundation or tsunamis and designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, Ve or V.

H. DEVELOPMENT. Any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

I. FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of flood waters;

2. The unusual and rapid accumulation or runoff of surface waters from any source; or

3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

J. FLOOD BOUNDARY AND FLOODWAY MAP. The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

K. FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

L. FLOOD INSURANCE STUDY. An official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

M. FLOODPLAIN or FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see definition of "flooding").

N. FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

O. FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, the California Building Code as adopted and amended by the City, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion control ordinances) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

P. FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Q. FLOODWAY or REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be preserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

R. FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes vessel docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

S. HIGHEST ADJACENT GRADE. The highest undisturbed elevation of the ground surface prior to construction next to the proposed walls of a structure.

T. LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

U. MANUFACTURED HOME. A structure, transportable in one or more sections, which is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

V. MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

W. MEAN SEA LEVEL. The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

X. NEW CONSTRUCTION. A structure for which the "start of construction" occurred on or after the effective date of this Chapter, or any applicable amendment thereto.

Y. ONE HUNDRED YEAR FLOOD. See "base flood".

Z. PERSON. An individual, firm, partnership, association or corporation, or agent of the foregoing, or this state or its agencies or political subdivisions.

AA. REMEDY A VIOLATION. To bring a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance by various means, including but not limited to, protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

BB. RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, or brook.

CC. SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

DD. SPECIAL FLOOD HAZARD AREA (SFHA). An area having special flood or coastal high hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE or V.

EE. START OF CONSTRUCTION. The date the building permit was issued, provided the actual start of construction was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation pursuant to a valid building permit. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

FF. STRUCTURE. A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

GG. SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure within any twenty four (24) month period, the cost of which equals or exceed fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

HH. VARIANCE. A grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

II. VIOLATION. The failure of a structure or other development to be in full compliance with this Chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided. (Ord. 5451, Section 5, 2008; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.050 Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazards within the City of Santa Barbara. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.060 Basis for Establishing the Areas of Special Flood Hazard.

"The Flood Insurance Study for The City of Santa Barbara", dated May 4, 1978 and revised October 15, 1985, and December 3, 1991 and all subsequent revisions by the U. S. Federal Emergency Management Agency with accompanying Flood Insurance Rate Maps is hereby adopted by reference and declared to be a part of this Chapter. Copies of the Flood Insurance Study and maps referred to therein, shall be maintained on file at 630 Garden Street, Santa Barbara, California, and at the Office of the City Clerk, City Hall, Santa Barbara, California. The Flood Insurance Study establishes the areas of special flood hazard identified by the Federal Emergency Management Agency or the Federal Insurance Administration. These areas are the minimum area of applicability of this Chapter; their boundaries may be changed, or new areas designated by the City Council following a recommendation thereon by the Chief of Building and Zoning. (Ord. 4731, 1991; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.070 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.080 Abrogation and Greater Restrictions.

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.090 Interpretation.

In the interpretation and application of this Chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and, deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.100 Warning and Disclaimer of Liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Santa Barbara, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision made thereunder. (Ord.4522, 1988; Ord. 3972, 1978.)

22.24.110 Establishment of Development Permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard. Application for a development permit shall be made on forms furnished by the Chief of Building and Zoning and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. The following information is required on an application:

A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures.

B. Elevation in relation to mean sea level to which any structure has been will be floodproofed;

C. All certifications required by Sections 22.24.130F and 22.24.160; and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.120 Designation of the Chief of Building and Zoning.

The Chief of Building and Zoning is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.130 Duties and Responsibilities of the Chief of Building and Zoning.

Duties of the Chief of Building and Zoning shall include, but not be limited to:

A. Review of all development permits to determine that the permit requirements of this Chapter have been satisfied.

B. Review of all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

C. Review of all development permits to determine that the site is reasonably safe from flooding and will not result in flood elevations increasing more than one foot.

D. Review of all development permits to determine if the proposed development adversely affects the flood carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

E. When base flood elevation data in accordance with Section 22.24.060 is unavailable, the Chief of Building and Zoning shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Section 22.24.160 pertaining to specific standards for residential and nonresidential construction.

F. Maintain for public inspection all records pertaining to the provisions of this Chapter, including:

1. The certification required in Section 2.24.160.C.1 (floor elevations);
2. The certification required in Section 22.24.160.C.2 (elevations in areas of shallow flooding);
3. The certification required in Section 22.24.160.C.3 (elevation or floodproofing of nonresidential structures);
4. The certification required in Section 22.24.160.C.3 (wet floodproofing standard);
5. The certified elevation required in Section 22.24.160.E.2 (subdivision standards);
6. The certification required in Section 22.24.180.A (floodway encroachments); and
7. The information required in Section 22.24.170 (coastal construction standards).

G. Notify adjacent communities, the Santa Barbara County Flood Control and Water Conservation District, and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. Require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained.

H. Make interpretations as to the exact location of the boundaries of the areas of special flood hazards, (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The persons contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 22.24.140.

I. Take action to remedy violations of this Chapter as specified in Section 22.24.070. (Ord. 4539, 1988; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.140 Variance and Appeal Procedure.

A. The Planning Commission of the City of Santa Barbara shall hear and decide appeals and requests for variances from the requirements of this Chapter.

B. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Chief of Building and Zoning in the enforcement or administration of this Chapter.

C. The applicant or any interested person may appeal the decision of the Planning Commission to the City Council in accordance with the procedures provided in Section 1.30.050 of this Code.

D. In reviewing such application, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and each of the following:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the General Plan and Flood Plain Management Program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items identified in Paragraph D have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

F. Upon consideration of the factors identified in Paragraph D and the purposes of this Chapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

G. The Chief of Building and Zoning shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 5136, 1999; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.150 Conditions for Variances.

A. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided the provisions of Section 22.24.140D are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

2. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 22.24.140.D, or conflict with existing local laws or ordinances.

F. An applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Chief of Building and Zoning in the office of the Santa Barbara County Recorder in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 4522, 1988, Ord. 3972, 1978.)

22.24.160 General Standards for Flood Hazard Reduction.

In all areas of special flood hazards the following standards shall apply:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. All manufactured homes shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement, and shall be elevated so that the lowest floor is at or above the base flood elevation, unless a higher elevation is required by the Chief of Building and Zoning.

B. Construction Material and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. Require within Zones AH, AO or VO, adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation, unless a higher elevation is required by the Chief of Building and Zoning. Nonresidential structures may meet the standards in subsection 3. below. Upon the completion of the structure the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, or verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the Chief of Building and Zoning.

2. New construction and substantial improvement of any structure in Zone AO or VO shall have the lowest floor, including basement, elevated at least as high as the depth number specified in feet on the FIRM, or at least two feet above the highest adjacent grade if no depth number is specified. Nonresidential structures may meet the standards in subsection 3. below. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the Chief of Building and Zoning.

3. Nonresidential construction shall either be elevated in conformance with subsection 2. above or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects for buoyancy; and

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Chief of Building and Zoning.

4. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or

b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.

5. Manufactured homes shall also meet the standards in subsection A.2. above.

D. Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision Proposals.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

2. All final subdivision plans shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Chief of Building and Zoning.

3. All subdivision proposals shall be consistent with the need to minimize flood damage.

4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

5. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.170 Coastal High Hazard Areas.

Within coastal high hazard areas established pursuant to Section 22.24.060, the following standards shall apply:

A. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation, unless a higher elevation is required by the Chief of Building and Zoning.

B. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation or storage.

C. Fill shall not be used for structural support of buildings.

D. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

E. The Chief of Building and Zoning shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with subsection A above.

2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.180 Floodways.

Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply to floodways.

A. No encroachments, including fill, new construction, substantial improvements, and other development are permitted unless a registered professional engineer or architect certifies that the development will not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection A above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 22.24.160 and 22.24.170.

C. No mobile homes may be placed in any floodway, except in a mobile home park or mobile home subdivision established prior to the effective date of this Chapter. (Ord. 4522, 1988; Ord. 3972, 1978.)

Chapter 22.32

NUMBERING BUILDINGS

Sections:

22.32.010 Assignment of Numbers - When City Shall Affix at Owner's Expense.
22.32.020 Failure to Place Number Unlawful.
22.32.030 Size, Color and Location of Numbers.
22.32.040 Numbering System Generally.

22.32.010 Assignment of Numbers - When City Shall Affix at Owner's Expense.

The City engineer shall have charge of the matter of numbering houses, buildings and similar structures and shall, upon request, give any property owner or occupant of any house or building the number of his premises. It shall be his duty to notify, in writing, householders and others to place proper numbers where required. Such notice shall state the number required, and upon their failure to place the number on the building he may cause the same to be done at the expense of the City, which expense shall be collected from the person liable therefor. (Prior Code §11.5.)

22.32.020 Failure to Place Number Unlawful.

Any person failing to place a number upon premises owned or occupied by him within ten (10) days from the giving of the notice mentioned in Section 22.32.010 by the City Engineer, shall be guilty of a misdemeanor. (Prior Code §11.6.)

22.32.030 Size, Color and Location of Numbers.

The numbers required by this chapter shall be plain Arabic numbers at least three inches (3") in height and shall be so located that they are clearly visible from the street. The numbers shall be in a color contrasting to the background on which they are placed. (Prior Code §11.7.)

22.32.040 Numbering System Generally.

All houses, buildings and lots fronting on streets or public thoroughfares shall be numbered in the following manner:

(1) Beginning at State Street the lots, houses and buildings shall be numbered consecutively to the City limits on streets extending in northeasterly, northerly and southwesterly, southerly directions respectively. The even numbers shall be on the southeast or east side of streets running in a northeasterly or northerly direction respectively from State Street and odd numbers shall be on the northwesterly or westerly sides respectively of such streets. On streets running in a southwesterly or southerly direction from State Street, even numbers shall be on the northwesterly and westerly sides and odd numbers on the southeasterly and easterly sides respectively of such streets. One hundred (100) numbers shall be assigned to each block beginning with number one (1) at the opposite sides of State Street.

(2) Beginning at Quinientos Street, lots, houses and buildings shall be numbered consecutively to the City limits on streets extending in northwesterly and southeasterly directions respectively. On streets northwesterly of Quinientos Street and generally parallel to State Street, the numbers shall be even on the northeasterly or northerly sides and odd on the southwesterly or southerly sides. On streets southeasterly of Quinientos Street and generally parallel to the prolongation of the southerly end of State Street, the numbers shall be even on the southwesterly side and odd on northeasterly side. One hundred (100) numbers shall be assigned for each block starting with the number one (1) on opposite sides of Quinientos Street and the numbers southeasterly of Quinientos Street shall be followed by the letter S.

(3) Twenty-five feet (25') frontage shall be allowed for each number; provided, that where a block exceeds four hundred and fifty feet (450') then fractional numbers may be used in such manner that the total of the numbers in a block shall not exceed one hundred (100). All avenues, alleys or other places occupied or used for residence or business purposes shall be numbered in a like manner, and the numbers shall correspond with the numbers in the block in which such avenues, alleys or places are situated. (Prior Code §11.8.)

Chapter 22.38

UNDERGROUNDING OF UTILITIES

Sections:

22.38.010 Purpose and Requirements for Undergrounding Utilities.
22.38.020 Definitions.
22.38.030 Service Connection Requirements.
22.38.040 Undergrounding at the Time of Roadway Widening or Extension.
22.38.050 Hardship Waiver; In-Lieu Fees.
22.38.060 Appeal to City Council.
22.38.065 Relief Where Undergrounding is Impossible.
22.38.070 Fees.
22.38.080 Rules and Regulations.
22.38.100 Overhead Utilities Prohibited Where Services Underground.
22.38.110 Emergency Exceptions.
22.38.120 Unusual Circumstances and Other Exceptions.
22.38.125 Utilities Installed in Rights of Way, Permit Required.

22.38.010 Purpose and Requirements for Undergrounding Utilities.

A. PURPOSE. This Chapter specifies the requirements for underground utilities related to construction projects in the City, which include but are not limited to new subdivisions, other private development projects, public streets and other public improvements.

B. SPECIFIC REQUIREMENTS. Specific requirements to place and maintain utility wires and related facilities underground are contained in various portions of the Santa Barbara Municipal Code, including:

1. Roadway Projects. Section 22.38.040 of the Code contains undergrounding requirements for roadway widening and extension projects.
2. Service Connections. Section 22.38.030 of this Code contains undergrounding requirements for service connections.
3. Subdivisions. Section 27.08.025 of this Code contains undergrounding requirements for subdivisions.
4. Underground Districts. Chapter 22.40 of this Code contains undergrounding requirements for underground utility districts that have been established pursuant to this Code. (Ord. 4318, 1985.)

22.38.020 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. NEW STRUCTURE. (i) A new free standing structure which has utility service; (ii) a structure to which additions are made, within any twenty-four (24) month period, which exceed 500 square feet and fifty percent (50%) of the existing floor area; (iii) a structure to which alterations and substantial improvements are made, within any twenty-four (24) month period, which exceed fifty percent (50%) of the replacement value of the structure; or (iv) a building, which has utility service, that is moved to another location or relocated on the same parcel.

B. ROADWAY. The portion of a highway or street improved, designed or ordinarily used for vehicular travel.

C. UTILITY. Electricity, telephone, street lighting, cable television, communications, personal communications, cellular phone service, other telecommunications and similar services.

D. SERVICE CONNECTIONS. The utility service equipment serving an individual parcel.

E. DISTRIBUTION FACILITIES. The utility service equipment serving more than one individual parcel.

F. UTILITY SERVICE EQUIPMENT. Facilities for the provision or transmission of electricity, telephone, street lighting, cable television, personal communications, cellular phone service, other telecommunications and similar services, including wires, conduit, poles, supports, antennae, transformers, insulators, switches, and related or appurtenant facilities. (Ord. 5048, 1998; Ord. 4907, 1995; Ord. 4318, 1985.)

22.38.030 Service Connection Requirements.

A. UNDERGROUND INSTALLATION REQUIRED. All service connections for utilities serving a new structure or any existing structure located on the same parcel as a new structure except for distribution facilities shall be installed or relocated underground, except as permitted by this Chapter.

B. ROUTING. Underground service routing for commercial and industrial properties shall be located in a manner that avoids interference with future potential building areas.

C. TRENCHING. When utilities are being installed as required by this Section or Section 22.38.040, cable or conduit shall be installed for all utilities while trenches are open to prevent unnecessary retrenching of driveways, streets and gutters.

D. ABOVEGROUND INSTALLATIONS. Construction plans which are submitted to the City for approval shall show transformers, pedestals and mounted terminal boxes and shall be subject to approval of the Chief of Building and Safety. (Ord. 4907, 1995; Ord. 4318, 1985.)

22.38.040 Undergrounding at the Time of Roadway Widening or Extension.

Whenever a roadway widening or roadway extension project in the City, whether undertaken pursuant to the provisions of Division 3 of the California Streets and Highways Code, a special assessment proceeding or otherwise, requires the relocation or extension of existing overhead utility services, such relocated or extended utility services shall be located underground pursuant to this Chapter. The participation by the respective utility companies in the costs for relocating or extending utility services shall be determined in accordance with the then applicable rules, regulations and tariffs on file with the California Public Utilities Commission. (Ord. 4218, 1985.)

22.38.050 Hardship Waiver; In-Lieu Fees.

A. PROCEDURE. Whenever the cost of placing utility services underground is so great as to constitute an unreasonable hardship, the applicant for a City building permit or other permit or the owner of an interest in the real property may apply in writing to the Chief of Building and Safety for relief from the provisions of this Chapter. The request shall contain (i) a detailed description of the overhead utility services proposed to be placed underground; (ii) separate itemized cost estimates for construction of the project if the utilities were placed or relocated (a) underground or (b) above ground; and (iii) such other information as needed to determine hardship.

B. INVESTIGATION AND HEARING. The Chief of Building and Safety shall investigate the costs of the project if the utilities were placed underground or relocated above ground and obtain any other necessary information to make a determination on the application. Within twenty (20) days after the filing of the application, the Chief of Building and Safety shall hold a hearing on the matter at a scheduled time and place.

C. UNREASONABLE HARDSHIP; FINDINGS. After considering the request for relief, the Chief of Building and Safety shall determine whether any relief is proper under the circumstances, including, but not limited to, indefinite deferral of the undergrounding requirement. The Chief of Building and Safety shall grant relief only upon the following findings, as applicable:

1. The cost of placing existing utility services underground is either so (i) exorbitant or (ii) disproportionate to the total cost of construction as to constitute an unreasonable hardship;
2. No new utility poles are to be erected;
3. There are other overhead utility lines in the immediate vicinity which would remain even if no waiver were granted;
4. The costs of undergrounding exceeds ten percent (10%) of the project valuation if the project is a subdivision, or five percent (5%) of the project valuation for a project other than a subdivision, as determined by the currently adopted valuation tables of the Chief of Building and Safety or through use of an estimate provided by the architect, engineer or contractor for the project, whichever is higher;
5. The grant of approval would not be inconsistent with the intent and purposes of this Chapter;
6. Where the project is or includes, as a substantial portion of the work, the installation or replacement of utilities distribution facilities and there are unusual conflicts or other conditions or circumstances which preclude reasonable measures to install utilities underground, the Chief of Building and Safety shall provide such relief as is consistent with the intent and purposes of this Chapter; or
7. Where the project involves the reconstruction, restoration or rebuilding of a single family residence which was damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy; provided, however, this finding is only available if the affected utility has determined that the required undergrounding is infeasible or not advisable for technical or maintenance reasons. For purposes of this finding only, the payment of in-lieu fees, as provided in paragraph 3 of Subsection 22.38.050.D below, may be waived by the Community Development Director if the reconstructed single family residence does not exceed the net square footage of the residence that was legally permitted prior to the damage or destruction.

D. REQUIRED CONDITIONS. If relief is granted by the Chief of Building and Safety, the following conditions shall be imposed, as applicable:

1. The owner must execute and cause to be recorded, on forms to be provided by the City, a waiver of the right of protest to the formation of an assessment district proposed for the purpose of undergrounding utilities; and
2. An electric meter enclosure or other enclosure suitable for both overhead and underground utilities is to be installed; and
3. The owner shall pay the City an in-lieu fee of ten percent (10%) of the project valuation if the project is a subdivision and (i) the subdivision will contain more than two (2) new lots, or (ii) more than two (2) dwellings exist or may legally be constructed within the subdivision or (iii) the property is not zoned solely for residential uses. Alternatively, the owner shall pay the City an in-lieu fee of five percent (5%) of the project valuation for other subdivisions or a project other than a subdivision. Project valuation shall be determined utilizing valuation tables or through use of an estimate provided by the architect, engineer or contractor for the project, whichever is higher. The fees shall be deposited in a fund to be used only for undergrounding of utilities in the City and purposes directly related thereto. For subdivisions, the in-lieu fees shall be paid to the City prior to approval of a Final Map or Parcel Map. For other projects, the in-lieu fee shall be paid to the City prior to the issuance of the building permit for the project, unless a building permit is not required for the project, in which event the fee shall be paid to the City within thirty (30) days after the granting of the relief is final.

4. As to each subdivision for which a five percent (5%) in-lieu fee will be paid, an agreement approved by the City Attorney shall be recorded which (i) prohibits more than two lots within the property being subdivided, (ii) restricts the use of the subdivided property to residential uses, and (iii) prohibits the construction, maintenance or use of more than two dwellings on the subdivided property. The agreement shall require that if there is not compliance with the above conditions and restrictions, the Owner, at its sole cost, shall cause all utilities within the property that is subdivided to be placed underground.

5. Where the project is or includes, as a substantial portion of the work, the installation or replacement of utilities distribution facilities and there are unusual conflicts or other conditions or circumstances which preclude reasonable measures to install utilities underground, the Chief of Building and Safety shall provide, as a condition of any relief from requirements of this Chapter, an in lieu payment or other commitment sufficient to insure placement of overhead conduit underground to an extent which is equivalent to the extent of the conduit for which relief is granted.

E. INAPPLICABILITY TO SUBDIVISION APPROVALS. This Section does not authorize the waiver of any subdivision map condition related to undergrounding of utilities except as authorized by Sections 22.38.050.D and 27.08.025 of the Code.

F. TERMINATION OF AUTHORITY. The authority to grant relief pursuant to this Section or Section 22.38.060 shall terminate should a court of competent jurisdiction determine that the City may not lawfully impose or collect the in-lieu fee specified in Subsection D. (Ord. 5503, 2009; Ord. 5048, 1998; Ord. 4455, 1987; Ord. 4399, 1986; Ord. 4318, 1985.)

22.38.060 Appeal to City Council.

A. PROCEDURE. Any determination of the Chief of Building and Safety concerning a hardship waiver request under this Chapter may be appealed by any interested person to the City Council by filing a written appeal with the City Clerk within ten (10) days after the date of such decision. The decision of the Chief of Building and Safety is final if an appeal is not filed in a timely manner.

B. APPEAL REQUIREMENTS. The appeal shall contain (i) a detailed description of the overhead utility services proposed to be placed underground, (ii) separate itemized cost estimates for construction of the project if the utilities were placed underground or relocated aboveground, and (iii) the grounds for the appeal.

C. SCHEDULING OF HEARING. The City Council shall, at its regular meeting next following receipt of the appeal, set the appeal for hearing.

D. GRANTING APPEAL, UNREASONABLE HARDSHIP, FINDINGS, CONDITIONS. Upon consideration of the appeal, the City Council may grant such relief as it may deem proper under the circumstances, including, but not limited to, indefinite deferral of such requirement. Such appeal may be granted based upon the findings and conditions stated in Subsections C and D of Section 22.38.050. (Ord. 4318, 1985.)

22.38.065 Relief Where Undergrounding is Impossible.

Upon application therefor, the Planning Commission is authorized to relieve a property owner from the requirement that it underground all of the utilities provided the Commission finds that (i) the owner cannot obtain a right-of-way or right-of-way entry on an adjacent parcel which is necessary to accomplish the undergrounding, or (ii) it is otherwise impossible to underground the utilities. Relief granted under this Section shall not be effective unless the Owner (i) pays to the City the lesser of the costs of the undergrounding that is not required or the amount of the fees that would be required to obtain a waiver under Section 22.38.050 and (ii) waives the right to protest the amount of that payment. That payment shall be deposited in a fund to be used only for undergrounding in the City and purposes related thereto. The property owner shall have the burden of proof and the decision of the Planning Commission shall be final. (Ord. 4399, 1986.)

22.38.070 Fees.

The City Council may, by resolution, establish fees for applications and appeals authorized by this Chapter. (Ord. 4318, 1985.)

22.38.080 Rules and Regulations.

The Chief of Building and Safety shall have the authority to promulgate and administer rules and regulations necessary for the administration and interpretation of this Chapter. These rules and regulations shall be effective only for thirty (30) days after their adoption unless they are approved by resolution of the City Council. (Ord. 4318, 1985.)

22.38.100 Overhead Utilities Prohibited Where Services Underground.

A. UNLAWFUL TO INSTALL. It shall be unlawful for any person or utility to erect, construct, place, or install any utility poles, overhead wires, overhead conduits, or associated overhead structures:

1. Along any public or private street, road, drive or access, public right of way, or other corridor in which the electrical power utility distribution lines or services for electricity have been placed or located underground; or,

2. Along any public or private street, road, drive or access, public right of way, or other corridor in which the principal utilities providing service for that corridor are maintained underground.

B. UNLAWFUL TO MAINTAIN. It shall be unlawful for any person or utility to keep, maintain, continue, employ or operate utility poles, overhead wires, overhead conduits or associated overhead structures which have been installed, constructed or otherwise placed in violation of this Chapter. (Ord. 5048, 1998.)

22.38.110 Emergency Exceptions.

Notwithstanding the provisions of Section 22.38.100, overhead facilities may be installed and maintained for a period, not to exceed thirty (30) days, as necessary in order to provide emergency service. Emergency overhead facilities may be installed and maintained for a period in excess of 30 days, but not to exceed 180 days, upon the approval of the Public Works Director. (Ord. 5048, 1998.)

22.38.120 Unusual Circumstances and Other Exceptions.

With respect to overhead utility services and notwithstanding the provisions of Section 22.38.100, the City Council may authorize, on such terms and conditions as the Council may deem appropriate, a person or utility to erect, construct, install, maintain, use or operate overhead structures for any of the following services:

A. Poles, wires, and associated overhead structures for a period of time longer than one hundred and eighty (180) days as necessary to address emergency conditions, or to correct for damage to, loss of, unusual, or interrupted, utility service(s);

B. Municipal facilities or equipment installed under the supervision and to the satisfaction of the Public Works Director;

C. Poles or electroliers used exclusively for street lighting;

D. Overhead wires (exclusive of supporting structures) to cross a portion of the area serviced by underground utilities or connecting to buildings on the perimeter of such area when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;

E. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;

F. Overhead wires, attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

G. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;

H. Equipment which is appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes, meter cabinets and concealed ducts;

I. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects; and,

J. Poles, wires, and associated overhead structures which were existing in place on January 1, 1997. (Ord. 5048, 1998.)

22.38.125 Utilities Installed in Rights of Way, Permit Required.

In order to provide for coordination of conduits and protection for existing utility services, it shall be unlawful for any person or utility to place, install, construct or maintain overhead or underground utilities lines, conduits, poles, services or other improvements within a City street, public alley or other public right of way without approval by Public Works Permit issued by the Public Works Director. (Ord. 5048, 1998.)

Chapter 22.40

UNDERGROUND UTILITY DISTRICTS

Sections:

22.40.010 Definitions.
22.40.020 Public Hearing by Council.
22.40.030 Report by Public Works Director.
22.40.040 Council may Designate Underground Utility Districts by Resolution.
22.40.050 Unlawful Acts.
22.40.060 Exception, Emergency or Unusual Circumstances.
22.40.070 Other Exceptions.
22.40.080 Notice to Property Owners and Utility Companies.
22.40.090 Responsibility of Utility Companies.
22.40.100 Responsibility of Property Owners.
22.40.110 Responsibility of City.
22.40.120 Extension of Time.
22.40.130 Penalty for Violation.

22.40.010 Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

(a) "Commission" means the Public Utilities Commission of the State;

(b) "Underground Utility District" or "District" means that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 22.40.040;

(c) "Person" means and includes individuals, firms, corporations, partnerships, and their agents and employees;

(d) "Poles, overhead wires and associated overhead structures" mean poles, towers, supports, wires, conductors, guys, stubs, platforms, cross-arms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within a district and used or useful in supplying electric, communication or similar or associated service;

(e) "Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. 3327 §1(part), 1968.)

22.40.020 Public Hearing by Council.

The Council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication or similar or associated service. The City Clerk shall notify all affected property owners as shown on the last Equalized Assessment Roll and utilities concerned by mail of the time and place of such hearings at least ten (10) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive. (Ord. 3327 §1(part), 1968.)

22.40.030 Report by Public Works Director.

Prior to holding such public hearing, the Public Works Director shall consult with all affected utilities and shall prepare a report for submission at such hearing containing, among other information, the extent of such utilities' participation and estimates of the total costs to the City and affected property owners. Such report shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities. (Ord. 3327 §1(part), 1968.)

22.40.040 Council May Designate Underground Utility Districts by Resolution.

If, after any such public hearing the Council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby. (Ord. 3327 §1(part), 1968.)

22.40.050 Unlawful Acts.

Whenever the Council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 22.40.040, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when the overhead facilities are required to be removed by such resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 22.40.100, and for such reasonable time required to remove said facilities after such work has been performed, and except as otherwise provided in this chapter. (Ord. 3327 §1(part), 1968.)

22.40.060 Exception, Emergency or Unusual Circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten (10) days, without authority of the Council in order to provide emergency service. The Council may grant special permission, on such terms as the Council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. (Ord. 3327 §1, 1968.)

22.40.070 Other Exceptions.

In any resolution adopted pursuant to Section 22.40.040, the City may authorize any or all of the following exceptions:

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the Public Works Director;

(b) Poles, or electroliers used exclusively for street lighting;

(c) Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;

(d) Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;

(e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one (1) location on the building to another location on the same building or to an adjacent building without crossing any public street;

(f) Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;

(g) Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;

(h) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Ord. 3327 §1(part), 1968.)

22.40.080 Notice to Property Owners and Utility Companies.

Within ten (10) days after the effective date of a resolution adopted pursuant to Section 22.40.040, the City Clerk shall notify all affected utilities and persons owning real property within the district created by said resolution of the adoption thereof. The City Clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location.

Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 22.40.040, together with a copy of this chapter, to affected property owners as such are shown on the last Equalized Assessment Roll and to the affected utilities. (Ord. 3327 §1(part), 1968.)

22.40.090 Responsibility of Utility Companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 22.40.040, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the Commission. (Ord. 3327 §1(part), 1968.)

22.40.100 Responsibility of Property Owners.

(a) Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 22.40.080 and the termination facility on or within said building or structure being served. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 22.40.040 hereof, the Public Works Director shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last Equalized Assessment Roll, to provide the required underground facilities within ten (10) days after receipt of such notice.

(b) The notice to provide the required underground facilities may be given either by personal service or mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last Equalized Assessment Roll, and when no address appears, to General Delivery, City of Santa Barbara. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the Public Works Director shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches (8") by ten inches (10") in size, to be posted in a conspicuous place on said premises.

(c) The notice given by the Public Works Director to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within thirty (30) days after receipt of such notice, the Public Works Director will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.

(d) If upon the expiration of the thirty (30) day period, the said required underground facilities have not been provided, the Public Works Director shall forthwith proceed to do the work, provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the Public Works Director shall in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the Public Works Director he shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which said time shall not be less than ten (10) days thereafter.

(e) The Public Works Director shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the Council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.

(f) Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.

(g) If any assessment is not paid within five (5) days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the Public Works Director, and the Public Works Director is directed to turn over to the Assessor and Tax Collector a notice of lien on each of the properties on which the assessment has not been paid, and the Assessor and Tax Collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. Said assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent (6%) per annum. (Ord. 3946, 1978; Ord. 3327 §1(part), 1968.)

22.40.110 Responsibility of City.

The City shall remove at its own expense all City owned equipment from all poles required removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 22.40.040. (Ord. 3327 §1(part), 1968.)

22.40.120 Extension of Time.

In the event that any act required by this ordinance or by a resolution adopted pursuant to Section 22.40.040 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished may be extended for a period equivalent to the time of such limitation, upon a showing of satisfactory evidence. (Ord. 3327 §1(part), 1968.)

22.40.130 Penalty for Violation.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, and shall be punishable therefor as provided for in this chapter. (Ord. 3327 §1(part), 1968.)

Chapter 22.42

TANKS, WELLS, TRANSMISSION LINES AND CONDUITS AS PUBLIC NUISANCE

Sections:

22.42.010	**Certain Tanks, Wells, Transmission Lines, Etc. Declared a Nuisance.**	**22.42.060**	**Council to Hear Objections to Proposed Removal.**
22.42.020	**Description of Property in Resolution Declaring Nuisance.**	**22.42.070**	**Order to Abate - Owner May Abate Before City Begins Work.**
22.42.030	**Resolution May Cover Several Parcels.**	**22.42.080**	**Report of City's Expenses.**
22.42.040	**Posting and Form of Notice to Abate.**	**22.42.090**	**Hearing On and Confirmation of City's Costs - Costs to be Lien - Collecting Costs.**
22.42.050	**Time for Posting Notice to Abate.**	**22.42.100**	**Reservation of Police Powers.**

22.42.010 Certain Tanks, Wells, Transmission Lines, Etc. Declared a Nuisance.

Buried tanks, surface tanks, cisterns, wells, transmission lines and other conduits located within or extending into a park, beach, road, street, alley, harbor or airport property, or other public property or right of way which are not removed within 30 days following demand by the Public Works Director or City Engineer may be declared to be a public nuisance by resolution of the City Council and thereafter abated at the joint and several expense of:

1. the party, person or persons responsible for the installation;
2. the party, person or persons for whose benefit the installation was made; and,
3. the present owner(s) of the land or premises for the benefit of which the installation was made.

(Ord. 4830, 1993)

22.42.020 Description of Property in Resolution Declaring Nuisance.

The resolution adopted pursuant to Section 22.42.010 shall describe the property upon which the nuisance exists, or the property for the benefit of which such nuisance was installed, by reference to the latest County Tax Assessor's records available to the public, and no other description of the property shall be required. In lieu thereof, reference may be made to the parcel or lot and block number of the property according to the official map or other records. (Ord. 4830, 1993)

22.42.030 Resolution May Cover Several Parcels.

Any number of parcels of property may be included in one and the same resolution declaring the nuisance. (Ord. 4830, 1993)

22.42.040 Posting and Form of Notice to Abate.

After adoption of the resolution as provided by Sections 22.42.020 and 22.42.030, the Public Works Director, or City Engineer shall cause a notice to abate the nuisance to be mailed to the person responsible for the installation, if known, and conspicuously posted on the property on which the nuisance exists, and on the property which was to benefit from the facility installed, if reasonably identified. At least three such notices shall be placed on such property, near such nuisance, at intervals not more than one hundred feet (100') in distance apart. Such notice shall include the words: "Notice to Abate Nuisance" in letters not less than one inch (1") in height, and shall be substantially in the following form:

NOTICE TO ABATE NUISANCE

NOTICE IS HEREBY GIVEN, that on the day of , , the Santa Barbara City Council adopted a resolution declaring that one or more tanks, wells, cisterns, transmission lines or other conduits located within or extended into public property by , or installed for the benefit of property more particularly described in such resolution, constitutes a public nuisance which must be abated by removal, otherwise they will be removed and the nuisance will be abated by order of the City in which case the cost of such removal, together with incidental expenses, shall be charged to such person or agency responsible and assessed upon the lots and lands for the benefit of which such installation was made, and such costs and incidental expenses will constitute a lien upon such lots or lands until paid. Reference is hereby made to such resolution for further particulars.

All persons and all property owners having any objections to the proposed abatement are hereby notified to attend a meeting of the Santa Barbara City Council to be held on the day of , , at the Council Chamber of the Santa Barbara City Hall, 735 Anacapa Street, Santa Barbara, California, when their objections will be heard and given due consideration.

Dated:

(Ord. 4830, 1993.)

22.42.050 Time for Posting Notice to Abate.

The notice provided in Section 22.42.040 shall be posted at least ten (10) days prior to the time stated therein for hearing objections by the City Council. (Ord. 4830, 1993)

22.42.060 Council to Hear Objections to Proposed Removal.

At the time stated in the notice posted pursuant to Sections 22.42.040 and 22.42.050, the Council shall hear and consider all objections or protests, if any, to the proposed abatement found by resolution to be a nuisance, and may continue the hearing from time to time. Upon the conclusion of the hearing the Council by motion or resolution shall allow or overrule any or all objections, whereupon the Council may perform the work of removal. The decision of the Council on the matter shall be final and conclusive. (Ord. 4830, 1993)

22.42.070 Order to Abate - Owner May Abate Before City Begins Work.

After final action has been taken by the Council under Section 22.42.060 on the disposition of any protests or objections, or in case no protests or objections have been received, the Council, by motion or resolution, may order the Public Works Director or City Engineer to abate the nuisance considered pursuant to this Chapter by causing such nuisance to be removed and the premises restored to a lawful condition suitable for public use and such officer, and the deputies, agents and employees of such officer are hereby expressly authorized to enter upon private property for that purpose. Any property owner, or other person responsible, shall have the right to have such nuisance abated at his own expense; providing abatement is accomplished prior to the arrival of the City officer or representatives prepared to do the same. (Ord. 4830, 1993)

22.42.080 Report of City's Expenses.

The City officer or deputy charged with such abatement shall keep an account of the costs, including the costs of printing and posting notices, of abating the nuisance as provided in this Chapter. The City officer or deputy charged with such abatement shall render an itemized written report to the Council, identifying the parties known to be responsible, and showing the costs, apportioned to each separate lot or parcel of land as provided in this Chapter. At least five days before such report is submitted to the Council for confirmation, a copy of the report, together with a notice of the time when such report shall be submitted to the Council for confirmation, shall be mailed to the address of the parties responsible, if their address is known, and posted with City Council meeting notices on the premises of City Hall. (Ord. 4830, 1993.)

22.42.090 Hearing On and Confirmation of City's Costs - Costs to be Lien - Collecting Costs.

At the time fixed for receiving and considering the report required by Section 22.42.080, the Council shall hear the same, together with any objections which may be raised by any of the persons liable to be assessed for the work of abating the nuisance and thereupon make such modifications in the report as they deem necessary, after which, by motion or resolution, the report shall be confirmed. The amount of the cost for abating such nuisance shall be referred to the City Finance Director for collection and may be assessed against the various parcels of land referred to in the report and, as confirmed, shall constitute a lien on such property for the amount of such assessments, respectively.

After confirmation of such report, a copy thereof shall, as determined by the Finance Director, be delivered to the County Assessor and to the County Tax Collector, whereupon it shall be the duty of such officers to add the amounts of the respective assessments to the next regular bills for taxes levied against the respective lots and parcels of land identified and thereafter such amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as is provided for ordinary property taxes.
(Ord. 4830, 1993)

22.42.100 Reservation of Police Powers.

Nothing in this Chapter is intended to limit the ability of the City to respond as needed to remove a nuisance or other obstruction where required to maintain the public health, peace or safety, or where otherwise required in proper exercise of a police power. (Ord. 4830, 1993.)

Chapter 22.44

STREET DEDICATION AND IMPROVEMENT FOR BUILDING PERMITS

Sections:

22.44.010 Scope and Applicability.
22.44.020 Exceptions.
22.44.030 Dedication Procedure.
22.44.040 Improvement Procedure.
22.44.050 Issuance of Building Permits.
22.44.070 Lots Affected by Street Widening.
22.44.080 Improvement Standards.
22.44.090 Appeal.

22.44.010 Scope and Applicability.

(a) This chapter shall apply in all zones other than the A, E, R-1, or R-2 zones as set forth in Ordinance No. 3710 (the Zoning Ordinance) of the City, as amended. Except as otherwise provided in this chapter, no building or structure shall be erected, reconstructed, structurally altered or enlarged, and no building permit shall be issued therefor on any lot, if such lot abuts a public street or right-of-way for public street purposes, unless one-half (1/2) of such public street or right-of-way abutting such lot has been dedicated and improved so as to meet the standards for such street as provided in Section 22.44.080, or such dedication and improvement has been assured to the satisfaction of the Public Works Director.

(b) The maximum area of land required to be so dedicated shall not exceed twenty-five percent (25%) of the area of any such lot. In no event shall such dedication as required herein reduce the lot below an area of six thousand (6,000) square feet.

(c) No such dedication shall be required with respect to those portions of such a lot occupied by a main building.

(d) No additional street improvements shall be required in connection with the issuance of a building permit as set forth herein where the abutting street is satisfactory in its right-of-way width including existing street pavement, curbs, curbs and gutters, and sidewalks and where such existing improvements are contiguous to the lot represented in such building permit application.

(e) No building or structure shall hereafter be erected on any such lot within the street right-of-way limits or within the additional widening limits of street right-of-way as required by this chapter. (Ord. 3353 §1(part), 1969.)

22.44.020 Exceptions.

The provisions of Section 22.44.010 shall not apply to the following construction:

(a) One (1) single-family dwelling or duplex with customary accessory buildings when erected on a vacant lot;

(b) Additions and accessory buildings incidental to a residential building legally existing on the lot, provided no additional dwelling units or guest rooms are created;

(c) Additions and accessory buildings incidental to other than a residential building existing on the lot, provided the total accumulative floor area of all additions and accessory buildings shall not exceed twenty-five percent (25%) of the floor area of existing buildings;

(d) Building permit applications filed with the Building Division prior to the effective date of this chapter. (Ord. 3353 §1(part), 1969.)

22.44.030 Dedication Procedure.

(a) Any person required to dedicate land by the provisions of this chapter shall make an offer to dedicate for street right-of-way purposes including street right-of-way widening purposes, and such offer shall be properly executed by all parties of interest including beneficiaries and trustees in deeds of trust as shown by current preliminary title report prepared by a title company, approved by the City for that purpose. Such report shall be furnished by the applicant in the course of application for a building permit. Such offer shall be on a form approved by the City Attorney and the Public Works Director and shall be in such terms as to be binding on the owner of the lot involved, his heirs, assignees or successors in interest and shall continue until the City Council accepts or rejects such offer or until six (6) months from the date such offer is filed with the Public Works Director, whichever occurs first. The offer shall provide that the dedication shall be completed upon acceptance by resolution adopted by the City Council, after which the fact of such offer and acceptance shall be recorded by the City in the Office of the County Recorder. Upon recordation of the offer and acceptance of such street right-of-way, the Building Division and other City departments concerned shall proceed with the examination of the building permit application and complete the processes under such application including the issuance of such permit. Should a building permit not be issued in connection with said application or such application be withdrawn by the applicant within six (6) months, in either case from the date of recordation of the street right-of-way dedication and acceptance, the applicant for such building permit shall be issued a release from such dedication requirement and the right-of-way so recorded shall then be relinquished by the City to the owner of the lot involved in the application for building permit.

(b) For purposes of this section, dedication and acceptance of such right-of-way shall be considered as satisfactorily assured when the City Council accepts such dedication by resolution. (Ord. 3353 §1(part), 1969.)

22.44.040 Improvement Procedure.

(a) Any person required to make improvements by the provisions of this section shall make and complete the same to the satisfaction of the Public Works Director prior to the issuance of an occupancy permit by the Chief of Building and Zoning; provided, that where such improvements are not required to be immediately installed, such person shall file with the City Clerk a bond in such an amount as the Public Works Director shall estimate and determine to be necessary to cause the completion of such future improvements.

(b) Such bond may be either a cash bond or a bond executed by a company authorized to act as a surety in the State. The bond shall be payable to the City and be conditioned upon the faithful performance of any and all work required to be done, and that should such work not be done or completed within the time specified, the City may at its option cause the same to be done or completed, and the parties executing the bond shall be firmly bound under a continuing obligation for the payment of all necessary costs and expenses incurred in the construction thereof. The bond shall be executed by the owner of the lot as principal, and if a surety bond, shall also be executed by a corporation authorized to act as a surety under the laws of the State.

(c) Whenever the owner elects to deposit a cash bond, subject to the approval of the City Council, the City is authorized in the event of any default on his part to use any or all of the deposit money to cause the required work to be done or completed and for payment of all incidental costs and expenses therefor. Any money remaining following completion of the required street improvement shall be refunded.

(d) When a substantial proportion of the presently required improvement has been completed to the satisfaction of the Public Works Director, and the completion of the remaining improvements is delayed due to conditions beyond the owner's control, the Public Works Director may recommend acceptance of the completed portions and the City Council may, upon such recommendation, authorize a bond in an amount estimated and determined by the Public Works Director to be adequate to assure the completion of the required improvements required to be made.

(e) Whenever a surety bond has been filed in compliance with this section, the City is authorized in the event of any default on the part of the principal, to enforce collection under such bond for any and all damages sustained by the City by reason of any failure on the part of the principal faithfully and properly to do or complete the required improvements, and in addition, may cause all of the required work to be done or completed, and the surety upon the bond shall be firmly bound for the payment of all necessary costs thereof.

(f) The terms of the bond obligation shall begin upon the deposit of cash or the filing of the surety bond and shall end upon the date of completion to the satisfaction of the Public Works Director and acceptance by the City Council of all improvements required to be made. The fact of such completion shall be endorsed by a statement thereof signed by the Public Works Director, and the deposit, if any shall be returned to the owner or the surety bond may be exonerated at any time thereafter.

(g) For purposes of the section, improvements shall be considered as satisfactorily assured when the Public Works Director or the City Council accepts the cash or surety bond provided for herein or the improvements required to be made have been completed to his satisfaction. Upon acceptance of either the cash bond or surety bond and evidence of the deposit of either with the City, the Public Works Director shall notify the Chief of Building and Zoning thereof. (Ord. 3353 §1(part), 1969.)

22.44.050 Issuance of Building Permits.

When all dedication and improvements required by this chapter have been completed or satisfactorily guaranteed as to completion, a building permit may be issued, provided all structural and zoning requirements directly applicable to the building permit have been satisfactorily complied with. (Ord. 3353 §1(part), 1969.)

22.44.070 Lots Affected by Street Widening.

On a lot which is affected by street widening required by the provisions of this chapter, all required yards, setbacks, parking area, loading space and building locations for new buildings or structures or additions to buildings or structures shall be measured and calculated from the new lot line created by said widening; however, in applying all other provisions of this chapter, the area of such lots shall be considered as that which existed immediately prior to such required street widening. (Ord. 3353 §1(part), 1969.)

22.44.080 Improvement Standards.

(a) The following dimensional street standards and improvements shall be applicable in the requirement for dedication and improvement, as required by this chapter, and by the street deficiency study of the City made pursuant to Section 2156 of the Streets and Highways Code, on file in the Office of the Public Works Director, and shall include proposed street right-of-way to be acquired as well as existing street right-of-way.

(1) STREETS HAVING A RIGHT-OF-WAY WIDTH OF NOT LESS THAN ONE HUNDRED FEET (100'). Each one-half (1/2) of the street shall consist of not less than thirty-two feet (32') of paved section measured between curb faces and not less than ten feet (10') of sidewalk and parkway area of which at least five feet (5') shall be paved. The remaining eight feet (8') may be utilized as a portion of divider or median strip width.

(2) STREETS HAVING A RIGHT-OF-WAY WIDTH OF NOT LESS THAN EIGHTY FEET (80') AND A PAVED ROADWAY WIDTH OF NOT LESS THAN SIXTY FEET (60'). Each one-half (1/2) of the street shall consist of not less than thirty feet (30') of paved section measured from the center line of pavement to the curb face, together with a parkway and sidewalk area measuring ten feet (10') from the curb face to the street right-of-way line with concrete sidewalks constructed within such area to the width currently required by the Zoning Ordinance (No. 3710) and the Santa Barbara Municipal Code.

(3) STREET RIGHTS-OF-WAY HAVING A RIGHT-OF-WAY WIDTH NOT LESS THAN SIXTY FEET (60') WITH A PAVED ROADWAY WIDTH OF NOT LESS THAN FORTY FEET (40') WITH A SIDEWALK AREA OF TEN FEET (10') ON EACH SIDE OF THE PAVED SECTION. Each half of the street shall consist of not less than twenty feet (20') of pavement measured from the center line of pavement to the curb face, and ten feet (10') of sidewalk and parkway area with not less than five feet (5') of sidewalk.

(4) A STREET RIGHT-OF-WAY NOT LESS THAN FIFTY-FOUR FEET (54') WITH A PAVED WIDTH OF NOT LESS THAN THIRTY-FOUR FEET (34') MEASURED FROM CURB FACE TO CURB FACE. Each half of the street shall have a paved width of not less than seventeen feet (17') measured from the center line of pavement to the curb face and including ten feet (10') of sidewalk and parkway area where the minimum width of sidewalk shall be five feet (5') or such dimension as required by the Zoning Ordinance or the Santa Barbara Municipal Code provisions as related to the zoning for the abutting property.

(b) All improvements required to be made by the provisions of this subsection shall be done in accordance with the applicable provisions as set forth in standard specifications and/or standard plans on file in the Public Works Department of the City and as set forth under the applicable sections of Chapter 22.60 of the Santa Barbara Municipal Code.

(c) The Public Works Director may approve and allow such variations and deviations from the aforesaid requirements as he determines are made necessary by the conditions of the terrain and the existing improvements contiguous to the property involved. (Ord. 3353 §1(part), 1969.)

22.44.090 Appeal.

Any person may appeal any determination of the Public Works Director made in connection with the administration and enforcement of the improvement provisions of this chapter by making such appeal to the City Council pursuant to the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 3353 §1(part), 1969.)

Chapter 22.48

NAMING OF PUBLIC FACILITIES AND PRIVATE STREETS

Sections:

22.48.010 Purpose.
22.48.020 Principles, Policies and Priorities.
22.48.030 Change of Name.
22.48.040 Recommendations of Community or Citizen Groups.
22.48.050 Initiation.
22.48.060 Review of Request - Referral.
22.48.070 Hearing.
22.48.080 Private Street Names.
22.48.090 Change of Private Street Name.

22.48.010 Purpose.

The City Council finds and determines that the public has an interest in the naming of public facilities, including parks, buildings and streets, owned or controlled by the City, that no consistent policy has been employed in the past in selecting the names of public facilities, that the renaming of facilities without due consideration in the context of established principles results in confusion and detracts from the honor accorded in naming a facility, and that, therefor, it is desirable and in the public interest to delineate the policies, principles and procedures for the selection of names and naming of public facilities. (Ord. 3485 §1(part), 1971.)

22.48.020 Principles, Policies and Priorities.

The election of names for public facilities shall conform to the following principles, policies and priorities:

(a) As a general policy, names which commemorate the culture and history of Santa Barbara will be given first priority; those names commemorating California history may be given second priority;

(b) The name of an individual shall be considered only if such individual has made a particularly meritorious and outstanding contribution, over a period of several years, to the general public interest or the interests of the City;

(c) A preference shall be given to names of long established local usage, names which are euphonious, and names which lend dignity to the facility to be named;

(d) Names selected shall be of enduring, honorable fame, not notoriety, and shall be commensurate with the significance of the facility;

(e) Proliferation of names for different parts of the same facility should be avoided, and the same name should not be applied to a similar kind of facility;

(f) Names with connotations which by contemporary community standards are derogatory or offensive shall not be considered. (Ord. 3485 §1(part), 1971.)

22.48.030 Change of Name.

Existing names and names once established shall not be changed unless, after investigation and public hearing, the name is found to be inappropriate. (Ord. 3485 §1(part), 1971.)

22.48.040 Recommendations of Community or Citizen Groups.

In the selection of names for City owned facilities the suggestions, comments and recommendations of community or citizen groups and the citizens in the neighborhood of the facility shall be duly considered; provided, that such suggestions, comments and recommendations are not inconsistent with the provisions of this chapter. (Ord. 3485 §1(part), 1971.)

22.48.050 Initiation.

Any person may initiate the naming of a City owned facility by submitting to the City Administrator a request for such action and setting forth the proposed name, a description of the facility, and a statement evidencing that the proposed name is consistent with the policies and guidelines of this chapter. (Ord. 3485 §1(part), 1971.)

22.48.060 Review of Request - Referral.

The City Administrator shall review all requests to name a City owned facility and shall refer the request to the department having jurisdiction of such facility and the appropriate commission or committee for consideration of the request. (Ord. 3485 §1(part), 1971.)

22.48.070 Hearing.

The commission or committee to which the City Administrator has referred a naming request pursuant to Section 22.48.060 shall hold a public hearing to consider the necessity or desirability of naming the facility, and the proposed name and any alternatives. Such commission or committee shall prepare a recommendation for action by the City Council. The recommendation shall include the name, if any, for the facility which is deemed most appropriate in accordance with the policies and guidelines of this chapter and the justification for the selection of such name. (Ord. 3485 §1(part), 1971.)

22.48.080 Private Street Names.

Whenever a private street or way is constructed, other than in a subdivision as provided in Title 27 of this Code, upon which structures will front, requiring an address, a proposed name for such street or way may be submitted to the Public Works Department for consideration by the Subdivision Review Committee. If such name is not a duplication of or so nearly the same as to cause confusion with the name of an existing street or way located in the City of Santa Barbara, or in close proximity thereto, and if such name is appropriate for a street name, such name shall be approved by such Committee, and recommended to the City Council for adoption.

If upon the completion of such private street or way, no name has been submitted as hereinabove set forth, the Public Works Director may propose a name for such private street or way and submit the same to the Subdivision Review Committee for approval. Such Committee shall adopt a resolution either approving such proposed name or any other name agreed upon by the Committee, which resolution shall be forwarded to the City Council as a recommendation for action by the Council.

A copy of the resolution of the City Council naming a private street or way shall be forwarded promptly to the City Police, Fire and Public Works Departments, the United States Postal Service, the County Clerk and County surveyor and the City Clerk shall also notify abutting property owners of such change of name. (Ord. 4090, 1980; Ord. 3249 §1, 1967.)

22.48.090 Change of Private Street Name.

Whenever it is ascertained by the Subdivision Review Committee that the existing name of any private street or way should be changed to avoid duplication of or confusion with the names of public streets, such Committee may adopt a resolution proposing a new name to be designated for such private street or way and submit the same to the City Council for action. The procedure for such change of name by the City Council shall be the same, as near as may be, as that provided by Section 970.5 of the Streets and Highways Code or any comparable section for change of name by County action. Upon the adoption of a resolution changing such name, notices thereof shall be sent as provided in Section 22.48.080 hereof. (Ord. 4090, 1980; Ord. 3249 §2, 1967.)

Chapter 22.52

REDEVELOPMENT

Sections:

22.52.010 Existence of Blight.
22.52.020 Application of Community Redevelopment Law.
22.52.030 Declaration of Need.
22.52.040 City Council as Agency.

22.52.010 Existence of Blight.

It is hereby found and determined that there exists within the City of Santa Barbara blighted areas as defined in Article 3 (commencing with Section 33030), Chapter 1, Part 1, Division 24 of the California Health and Safety Code, which article is a part of the Community Redevelopment Law. (Ord. 3277 §1(part), 1968.)

22.52.020 Application of Community Redevelopment Law.

Except as herein or otherwise provided the procedures specified and the powers granted in the Community Redevelopment Law, consisting of Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code, shall be applicable in the City. (Ord. 3277 §1(part), 1968.)

22.52.030 Declaration of Need.

It is hereby found and declared, pursuant to Section 33101 of the California Health and Safety Code, that there is need for the Redevelopment Agency created by Section 33100 of such code to function in the City and such Agency is hereby authorized to transact business and exercise its powers under the Community Redevelopment Law and this chapter. (Ord. 3277 §1(part), 1968.)

22.52.040 City Council as Agency.

Pursuant to the provisions of Section 33200 of the California Health and Safety Code, the City Council declares itself to be the redevelopment agency, and all rights, powers, duties, privileges and immunities vested by the Community Redevelopment Law and this chapter in such agency are vested in the City Council. (Ord. 3906, 1977; Ord. 3428 §1, 1970; Ord. 3277 §1(part), 1968.)

Chapter 22.60

STREETS AND SIDEWALKS

Sections:

22.60.010 Definitions.
22.60.020 Permit Required, Issuance, Time for Completion.
22.60.024 Permit Required for Blasting, House Moving or Heavy Load Transportation.
22.60.028 Fees for Permits.
22.60.030 Warranty of Work.
22.60.070 Contractor to Notify Public Works Department to Inspect Before Commencement.
22.60.090 Standards of Materials and Workmanship.
22.60.100 Standards of Material and Workmanship - Use of Portland Cement.
22.60.105 Applications to Make Curb Cut Exceeding Thirty (30) Feet.
22.60.110 Width of Sidewalks - Next to Business Property.
22.60.120 Width of Sidewalks - Next to Residential Property.
22.60.130 Minimum Thickness of Sidewalks.
22.60.140 Minimum Thickness of Driveways.
22.60.180 Curing Construction, Etc., Defects.
22.60.190 Permittee's Duty to Protect Work.
22.60.200 Closing Abandoned Access Openings in Sidewalks - Generally.
22.60.210 Abandoned Access Openings - Notice to Restore.
22.60.220 Abandoned Access Openings - Restoration - Determination and Appeal.
22.60.230 Barricading Street During Paving, Prohibition of Parking, Detour of Traffic - Generally.
22.60.240 Notice of Closed Streets.
22.60.280 Replacing Pavement.
22.60.290 Conditions of Granting Building Permit Applications or Subdivisions - Generally.
22.60.300 New Lots to be Served by Public Streets - Improvements and Construction.
22.60.310 Completion of Street Construction Before Issuance of Building Permit.
22.60.320 Permit Required for Joining Private Street to Official Street System.
22.60.330 City Personnel to Exert No Dominion Over Private Streets, Etc. - Position of Public Works Department.

22.60.010 Definitions.

For the purpose of this chapter:

A. "Commercial or business property" means all property excepting property containing three (3) residential units or less, which property is used solely for residential purposes whether such units be in the same or different structures.

B. "Contractor" means a contractor licensed in accordance with Chapter 9 of Division 3 of the Business and Professions Code (Contractors License Law) of the State of California.

C. "Permittee" means a person who obtained a permit authorized by this chapter.

D. "Public Works Director" means the Public Works Director of the City of Santa Barbara or a person authorized by him.

E. "Residential property" means all property other than commercial or business property.

F. "Working day" means a day that City offices are open for business. (Ord. 4090, 1980; prior Code 39.17.)

22.60.020 Permit Required, Issuance, Time for Completion.

A. Permit. No person shall construct, reconstruct, repair, remove or replace any pavement, sidewalk, driveway, curb, gutter or any other improvements in any public street, alley, court, right-of-way, or public place within the City, or commence any excavation therein, or construct any improvements on public property, easements or rights-of-way owned or to be conveyed to the City without first making application for and obtaining a written permit from the Public Works Director to perform such work.

B. Emergency Repairs. It shall be unlawful for any person to commence any work for which a permit is required by provision of this chapter until a permit for the subject work has been issued by the Public Works Department, except in those cases where emergency repairs of utilities or other excavation work done for the protection of the public safety require street excavation prior to issuance of a permit. This exception shall not apply to any such work done for the protection of public safety unless the person who performs such repairs or work files a complete application for a permit, including the required fees and charges, with the Public Works Department within three (3) working days after commencing such repairs or work and obtains the required permit.

C. Issuance. Permits issued pursuant to Section 22.60.020 will only be issued to:

1. A contractor with the appropriate classification required to perform the work for which the permit is issued; or

2. The owner of a single-family residence for the construction of a concrete sidewalk, driveway, curb and gutter adjacent to the parcel upon which said residence is located.

D. Time for Completion. The time to complete the work for which the permit is issued will be ninety (90) days after the date the permit is issued unless otherwise specified in writing on the permit by the Public Works Director. (Ord. 4090, 1980; prior Code 39.18.)

22.60.024 Permit Required for Blasting, House Moving or Heavy Load Transportation.

No person shall commence any blasting, house moving, or heavy load transportation for which a permit is required by this Code or other ordinance of the City until a permit for that work has been issued by the Public Works Department. (Ord. 4090, 1980.)

22.60.028 Fees for Permits.

The fees for permits authorized by this chapter and inspection charges shall be established by resolution of the City Council. The fees for permits authorized by this chapter that are issued after the work has commenced shall be two times the amount of the fee normally charged for such a permit, except where emergency repairs and work are performed pursuant to Subsection B of Section 22.60.020 of this Code and a permit application has been filed in a timely manner as set forth in said Subsection B. (Ord. 4090, 1980.)

22.60.030 Warranty of Work.

A. Guarantee. In addition to any other guarantee or warranty provided elsewhere by law, every permittee shall provide a guarantee and warranty that there shall be no failure of any work performed that is authorized by a permit issued pursuant to Section 22.60.020 of this Code within two (2) years after the completion of such work. The permittee shall be exonerated from this warranty when it is determined, on appeal pursuant to Subsection C of Section 22.60.030 of this Code, that such failure did not result from work performed by the permittee. Whenever there is any failure of such work within said two-year period, the Public Works Department will give the permittee notice to repair such work to the satisfaction of the Public Works Department. A new two-year warranty period by the permittee shall commence to run with the completion of repairs to any work that has been reconstructed or repaired pursuant to notice by the City.

B. Failure to Repair. If the permittee fails to repair or correct the failed work within forty-eight (48) hours or within a greater time that is specified in the above notice, the City will have the failed work repaired and the costs will be charged to and paid by the permittee within thirty (30) days after receipt of a billing from the City. If the permittee does not pay said billing, or has not posted adequate security to guarantee payment of said billing upon determination of an appeal, the permittee shall not be entitled to a permit under this chapter.

C. Appeal. A permittee may appeal any charges made under this chapter by filing a notice of appeal pursuant to the provisions of Section 1.30.050 of this Code.

D. Current Address. Every person who obtains a permit under this chapter shall notify the Public Works Department of any change of address within two (2) years after the completion of any work under such permit so that there can be prompt notification regarding any failed work. (Ord. 5136, 1999; Ord. 4090, 1980.)

22.60.070 Contractor to Notify Public Works Department to Inspect Before Commencement.

Before beginning the work as authorized by a permit required by Section 22.60.020, the permittee shall notify the Public Works Department and request inspection not less than twenty-four (24) hours in advance of the commencement of such work. (Ord. 4090, 1980; Ord. 2420 §13, 1953.)

22.60.090 Standards of Materials and Workmanship.

The materials and workmanship of all improvements referred to in Section 22.60.020 shall conform to the current standards, specifications and requirements of the City Public Works Department as approved by the Public Works Director and on file with the City Clerk. (Ord. 4090, 1980; prior Code §39.24.)

22.60.100 Standards of Material and Workmanship - Use of Portland Cement.

No material other than Portland cement concrete shall be used for the permanent construction of sidewalks, driveways, curbs or curb and gutters in or adjacent to any street, alley, court or public place within the City. (Prior Code §39.25.)

22.60.105 Applications to Make Curb Cut Exceeding Thirty (30) Feet.

Applications to make curb cuts exceeding thirty (30) feet in length will not be issued, unless approved by the City Administrator. (Ord. 4090, 1980.)

22.60.110 Width of Sidewalks - Next to Business Property.

Sidewalks contiguous to commercial or business property shall begin at the curb and extend the full width as required under Section 22.60.120, so as to leave no unpaved surface between the curb and sidewalk except as may be permitted by the City Council upon petition of the majority of the property owners abutting such street on the same side thereof within the nearest two (2) intersections. (Prior Code §39.26.)

22.60.120 Width of Sidewalks - Next to Residential Property.

Sidewalks contiguous to residential property shall have the following minimum widths; provided, that the City Council may grant permission for a lesser width where circumstances require such reduction;

1. Six feet (6') for streets having a right-of-way width of more than sixty feet (60').
2. Five feet (5') for streets having a width of sixty feet (60') or less. (Ord. 4090, 1980; prior Code §39.27.)

22.60.130 Minimum Thickness of Sidewalks.

No sidewalk shall be less than three and one-half inches (3-l/2") in thickness. (Prior Code §39.28.)

22.60.140 Minimum Thickness of Driveways.

The thickness of driveways shall be as follows:

1. To residential property, not less than six inches (6").
2. To commercial or business property, not less than eight inches (8"). (Prior Code §39.29.)

22.60.180 Curing Construction, Etc., Defects.

When the Public Works Director requires defective construction or materials removed from a job authorized under Section 22.60.020, the contractor shall make satisfactory replacement before the work shall be finally accepted. (Ord. 4090, 1980; prior Code §39.33.)

22.60.190 Permittee's Duty to Protect Work.

The permittee shall adequately protect the work at all times and take all necessary precautions to prevent accidents during the progress thereof up to the time of final acceptance and he shall hold the City, its officers and employees free and save them harmless from any and all liability arising directly or indirectly out of or on account of the prosecution of the work performed under this chapter. Protective measures shall include furnishing and maintaining adequate barriers, lights, signs, temporary bridges, guards, watchman and the maintenance of detours as the same may be required for the safe and satisfactory execution of the work and the protection of the public up to the final acceptance of the project. Surplus materials, equipment and debris shall be removed immediately following the completion of the work. (Ord. 4090, 1980; prior Code §39.34.)

22.60.200 Closing Abandoned Access Openings in Sidewalks - Generally.

The Public Works Director is authorized to inspect all existing driveways, entrances, entries and other access openings through curb lines to streets in the City, and when the use of adjacent property is abandoned, or consolidated with the use of other property, or changed in nature, so as to no longer require any driveway, entrance, entry or access for the use of such property, the Public Works Director is hereby authorized to close such openings by replacing such curb, gutter, sidewalk or other work as is necessary to restore normal pedestrian, parking and gutter use. (Ord. 4090, 1980; prior Code §39.35.)

22.60.210 Abandoned Access Openings - Notice to Restore.

In any instance in which the Public Works Director determines that replacement restoration referred to in Section 22.60.200 is necessary because of abandonment of use, he shall cause notice by registered mail to be sent to the owners of the property adjacent to the opening in the curb, the use of which has been abandoned and to the person in possession of such property, to the address where such property is located and where the proposed replacement is to be made. Such notice shall state the proposed replacement, the determination of abandoned use and the date of commencement of work of such replacement. In no instance shall the date so stated for commencement of such work be less than thirty (30) days from the time of mailing such notice. (Ord. 4090, 1980; prior Code §39.35.)

22.60.220 Abandoned Access Openings - Restoration - Determination and Appeal.

The determination of abandonment of use and required replacement by the Public Works Director as outlined in Section 22.60.210 shall be final; provided, that upon application by the property owner to the City Council and upon proper showing at a regular meeting thereof, the Council may grant such relief from such proposed replacement and restoration as in its judgement the exigencies of the case may demand. Any such application to the City Council must be filed with the City Clerk not more than ten (10) days after the property owner received the notice provided in Section 22.60.210. (Ord. 4090, 1980; prior Code §39.37.)

22.60.230 Barricading Street During Paving, Prohibition of Parking, Detour of Traffic - Generally.

Whenever any street or portion of street in the City is being improved by grading, paving or other street improvement the Public Works Department may barricade and close such street or any portion of the street, prohibit parking thereon and detour traffic for such length of time as may be necessary to complete such work of improvement or allow such work of improvement to harden properly, set or become in condition for travel. (Ord. 4090, 1980; prior Code §39.5.)

22.60.240 Notice of Closed Streets.

In all cases of closing streets pursuant to Section 22.60.230 the Public Works Department shall place, or cause to be placed, barriers, obstructions or legible notices to indicate the closed condition of the closed area. (Ord. 4090, 1980; prior Code §39.6.)

22.60.280 Replacing Pavement.

No person shall remove, disturb or displace any part of the bituminous, concrete, or asphalt pavement of any street within the limits of the City for laying pipes, repairing streets or for any other purposes, unless pursuant to the current standards, specifications and requirements authorized under Section 22.60.090 of this Code. (Ord. 4090, 1980; prior Code §39.10.)

22.60.290 Conditions of Granting Building Permit Applications or Subdivisions - Generally.

No building permit application or subdivision shall be granted, except upon compliance with the terms and conditions contained in this Code. (Ord. 4090, 1980; prior Code §39.11.)

22.60.300 New Lots to be Served by Public Streets - Improvements and Construction.

A. GENERAL REQUIREMENT. Each lot created by a subdivision as to which a tentative map is approved after December 16, 1986 shall front upon a public street constructed according to the applicable specifications for streets, unless (i) the lot is served by a private road, lane, drive or driveway which serves no more than two (2) lots, or (ii) the Planning Commission (or City Council on appeal) waives this requirement.

B. APPLICATION FOR WAIVER. A property owner may file a request for a waiver of the requirement in Subsection A with the Public Works Department. The request shall contain all necessary information required by the Public Works Department and shall be accompanied by the required fee. The Public Works Director or the person designated by the Public Works Director shall review the request and recommend to the Planning Commission that the request should be (i) approved or approved with conditions which would allow the lots to be served by a private road, lane, drive or driveway, rather than a public street or (ii) denied.

C. HEARING. The Planning Commission, or City Council on appeal, shall conduct a public hearing to determine whether the request should be (i) approved or approved with conditions which would allow the lots to be served by a private road, lane, drive or driveway, rather than a public street, or (ii) denied.

D. NOTICE. Not less than ten (10) days before the date of the public hearing, notice of the date, time and place of the hearing, location of the subject property and nature of the request shall be given to owners of (i) each lot abutting the subject property, (ii) any private road, lane, way or driveway needed for access to the subject property and (iii) each lot abutting any such private roads, lanes, ways and driveways. For this purpose, the last known name and address of the owners as shown upon the last assessment roll of the County of Santa Barbara shall be utilized.

E. FINDINGS. The Planning Commission, or City Council on appeal, may grant a waiver if it finds all of the following:

1. The proposed roadway, lane, drive or driveway will provide adequate access to the subject property and other properties using said roadway, lane, drive or driveway.

2. The proposed roadway, lane, drive or driveway and adjacent paved areas will provide adequate access for fire suppression vehicles as required by applicable fire regulations, including but not limited to turnaround area, width, grade and construction.

3. There is adequate provision for maintenance of the proposed private road, lane, drive or driveway by either of the following:

a. There is a recorded agreement that provides for adequate maintenance of said road, lane, drive or driveway, or

b. The owner of the subject property has agreed to adequately maintain said private road, lane, drive or driveway and said agreement has been or will be recorded prior to recordation of the final or parcel map.

4. The waiver is in the best interests of the City and will improve the quality and reduce the impacts of the proposed development.

F. REQUIRED CONDITIONS. If a waiver is granted, the following conditions shall be imposed:

1. The owner must execute and cause to be recorded on form provided by the City, a waiver of the right to protest the formation of an assessment district proposed for the purpose of street, roadway or related improvements.

2. The private roads, lanes, drives and driveways permitted under this Section shall be constructed and installed in compliance with the Subdivision Design and Improvement Standards approved by resolution of the City Council.

3. The proposed private road, lane, drive or driveway has been or will be constructed to the standards approved by the Public Works Director and if the road, lane, drive or driveway has not been constructed, adequate improvement security to guarantee such construction has been given to the City's Public Works Department.

4. An agreement for maintenance of the proposed private road, lane, drive or driveway, subject to the review and approval of the Public Works Director and City Attorney, has been or will be recorded.

G. ADDITIONAL CONDITIONS. The Planning Commission or City Council may impose other conditions on a waiver which are consistent with the intent and purposes of this Section.

H. APPEAL TO CITY COUNCIL. Any decision of the Planning Commission concerning a waiver request under this Section may be appealed in accordance with the provisions of Section 1.30.050 of this Code. (Ord. 5136, 1999; Ord. 4442, 1987; Ord. 4090, 1980; prior Code 39.12.)

22.60.310 Completion of Street Construction Before Issuance of Building Permit.

No building permit shall be granted for building construction upon new lots or parcels created subject to the terms of Section 22.60.300 until all of the construction of required streets and private roads, lanes, drives and driveways has been completed or improvement security for such completion has been filed with and accepted by the Public Works Department. (Ord. 4442, 1987; Ord. 4090, 1980; Ord. 2633 §1, 1957; prior Code §39.13.)

22.60.320 Permit Required for Joining Private Street to Official Street System.

No street, lane, alley, way, road, right-of-way, passage or thoroughfare shall be connected with the official street system of the City, without a written permit therefor issued by the Public Works Department. The word "street" as used in this section shall be defined as any lane, alley, way, road, right-of-way, passage or thoroughfare serving more than two (2) separate lots or parcels. (Ord. 4090, 1980; prior Code §39.14.)

22.60.330 City Personnel to Exert No Dominion Over Private Streets, Etc. - Position of Public Works Department.

No officer, agent or employee of the City shall perform any repair, maintenance, upkeep, or take any remedial or corrective action, nor exert any dominion, control or jurisdiction, nor to do any act upon or in connection with any street, lane, alley, way, road, right-of-way, driveway, passage or thoroughfare in the City which is not an official street of the City, as designated upon the official street map of the City. This shall not be construed to prevent the Public Works Department from carrying on its service functions pursuant to its rules and regulations, or from installing mains and incidental facilities in any such street, lane, alley, way, road, right-of-way, driveway, passage or thoroughfare within specially granted easements for use of the subsurface thereof. (Ord. 4090, 1980; prior Code §39.15.)

Chapter 22.64

GATES

Section:

22.64.010 Generally.

22.64.010 Generally.

Each gate on or near the line of any public street or alley of the City shall be so hung that the same shall swing inward from such street or alley; or such gate shall be provided with a spring, or other arrangement, so as to make such gate self-closing, and so that the same shall not obstruct, or be liable to obstruct, the free use in the customary manner of any such street or alley, nor be, or liable to become inconvenient, injurious or dangerous to a person walking along any such street or alley, or the sidewalk. (Ord. 3144 §1, 1966; prior Code §32.17.)

Chapter 22.65

DESIGN STANDARDS FOR DEVELOPMENT NEAR HIGHWAY 101

Sections:

22.65.010 Purpose and Intent.
22.65.020 Definitions.
22.65.030 Applicability and Exemptions.
22.65.040 Design Standards for Air Quality.
22.65.050 Maintenance of Design Features.

22.65.010 Purpose and Intent.

It is the purpose of this Chapter to limit and regulate development within close proximity to Highway 101 in a manner that promotes the health, safety, and welfare of the residents of the City of Santa Barbara.

Pursuant to 2011 General Plan Policy ER7, the design standards in this Chapter are intended to limit the number of people, including Sensitive Individuals, who receive Extensive Exposure to potential air pollution hazards from highway vehicle exhaust including diesel particulates by limiting the development of new sensitive land uses within close proximity of Highway 101 or by modifying the design of new sensitive land uses to reduce the amount of air pollution exposure received, until such time as statewide diesel particulate levels are reduced by planned State regulations or other means. (Ord. 5651, 2014.)

22.65.020 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the following meanings:

A. Accessory Building. As defined in Section 28.04.010 of this Code.

B. Extensive Occupancy or Exposure. Substantial time periods involving daily occupancy or frequent lengthy visits of many hours occurring repeatedly over many years as experienced with residential land uses and schools.

C. Main Building. As defined in Section 28.04.145 of this Code.

D. Required Outdoor Living Space. Outdoor living space or open yard area required in accordance with City residential zoning standards as specified in Title 28 of this Code.

E. Sensitive Individuals. Persons most susceptible to adverse effects of poor air quality (including from diesel particulates), including children, the elderly, and people who are ill or have serious chronic respiratory, heart, or other medical conditions that are exacerbated by air pollution.

F. Sensitive Land Uses. Land uses that involve Extensive Occupancy or Exposure by Sensitive Individuals, including residences; nursing homes, retirement homes, and other community care facilities; schools; and large family day care facilities. Land uses not considered sensitive land uses include retail, commercial services, and offices.

G. State Highway Roadside Sound Wall. A roadside sound wall constructed by the California Department of Transportation. (Ord. 5651, 2014.)

22.65.030 Applicability and Exemptions.

A. Applicability.

1. Location. Any property that is located in whole or part within 250 feet of Highway 101 as measured from the outer edge of the nearest highway travel lane (excluding highway on- and off-ramps) is subject to the requirements of this Chapter, unless identified as exempt in Subsection B of this Section 22.65.030.

2. Types of Development. The following types of development are subject to the requirements of this Chapter, unless identified as exempt in Subsection B of this Section 22.65.030:

a. The development of one or more new residential units on a lot.

b. An addition to an existing residential unit that increases the net floor area of the residential unit by more than 50% of the net floor area that existed within the residential unit as of December 1, 2011. If multiple additions are made to a residential unit during the time this Chapter is in effect, the amount of the additional floor area shall be measured in the aggregate.

c. The development of a new main building that will be occupied by a Sensitive Land Use.

d. The demolition of an existing building and its replacement with a main building that will be occupied by a Sensitive Land Use.

e. A change of use of an existing main building from a use not defined as a Sensitive Land Use to a Sensitive Land Use.

f. A change of use of an existing Main Building from a Sensitive Land Use that existed on the effective date of the ordinance adopting this Chapter to a different Sensitive Land Use.

B. Exemptions. The following projects are exempt from this Chapter:

1. Sound Walls. Projects on sites where a State Highway Roadside Sound Wall is located between the highway and project site.

2. Prior Applications. Projects with applications submitted to the City before December 1, 2011, for development permits including a Master Application, building permit plan check, or for other development approval, where the application has not expired.

3. Approved Projects. Projects that received a final approval from the City prior to December 1, 2011, where the approval remains valid.

4. New Buildings More than 250 Feet from Highway. Projects where the property owner submits a site plan that demonstrates that no new Main Building or required outdoor living area that is to be occupied by a Sensitive Land Use will be located within 250 feet of Highway 101, as measured from the outer edge of the nearest highway travel lane.

5. Site-Specific Demonstration. Projects where the property owner can demonstrate to the satisfaction of the Community Development Director or the Director's designee that site-specific climatic or topographic conditions avoid or address the air quality risks from Highway 101 on the site such that the site-specific conditions present a health risk of less than 10 excess cancer cases per one million persons.

Nothing in this Subsection B prevents an applicant from incorporating the design standards specified in Section 22.65.040 to exempt projects on a voluntary basis. (Ord. 5651, 2014.)

22.65.040 Design Standards for Air Quality.

The following design standards apply to development and occupancy of main buildings to which this Chapter applies. The location, design, and filtration standards specified in this Section are not required for accessory buildings or areas on the lot where Sensitive Individuals would not be subject to Extensive Occupancy or Exposure (e.g., parking).

A. Proximity to Highway 101 and Project Design Features. Main buildings that will be occupied by Sensitive Land Uses are prohibited from locating within 250 feet of Highway 101, unless the City Community Development Director or designee determines that project design features satisfactorily address air quality risks. When determining whether the project design features satisfactorily address air quality risks, the Director shall consider the following factors:

1. Distance from Highway 101. Main buildings and outdoor living areas that will be extensively occupied by Sensitive Land Uses should be located as far from Highway 101 as feasible. For projects that have a mixture of Sensitive Land Uses and non-sensitive land uses, Main Buildings and areas expected to have Extensive Occupancy or Exposure by Sensitive Individuals should be located furthest from the highway, while facilities for non-sensitive populations and/or involving short-term use (such as parking facilities) should be placed closer to the highway.

2. Building Orientation and Outdoor Living Areas. Main Buildings for occupancy by Sensitive Land Uses should be oriented with doors and outdoor living areas on the side of the building away from the highway in order to provide physical screening by the building.

3. Vegetative Screening and Physical Barriers. Project sites to be occupied by Sensitive Land Uses should incorporate dense, tiered vegetative plantings between the highway and the Main buildings and outdoor living areas that are to be occupied by Sensitive Land Uses, which helps to remove air pollutants and reduce diesel particulate concentrations. Vegetation should largely entail trees with complex foliage (leafy vegetation or with needles) that allow substantial in-canopy airflow; preferably in multiple rows, using tree plantings of tall and uniform height that retain foliage year-round and have a long life span. Inclusion of physical barriers such as walls and solid fences between the highway and the project also help to reduce air pollutant exposure levels.

4. Air Infiltration. In addition to a filtration system as required in Section 22.65.040.B, Main Buildings occupied by Sensitive Land Uses should be designed to locate air intake vents on the side of building away from the highway and use double-paned windows throughout.

5. Other Measures. An applicant proposing a Sensitive Land Use that will be located within 250 feet of Highway 101 may propose other measures that have a demonstrated ability to reduce highway air pollution exposure.

B. Interior Air Filtration System. Main Buildings intended for occupation by a Sensitive Land Use that are located within 250 feet of Highway 101 and are not exempt pursuant to Section 22.65.030.B shall incorporate a central ventilation system with air filtration rated at Minimum Efficiency Reporting Value of "MERV13" or better for enhanced particulate removal efficiency. The owner of any development subject to this requirement shall attach a copy of the operator's manual for the central ventilation and filtration system as an exhibit to every lease of the building or any portion of the building. (Ord. 5651, 2014.)

22.65.050 Maintenance of Design Features.

Design features incorporated into an approved project design pursuant to Section 22.65.040 shall be maintained as long as this Chapter remains in effect. (Ord. 5651, 2014.)

Chapter 22.68

ARCHITECTURAL BOARD OF REVIEW

Sections:

22.68.010 Architectural Board of Review.
22.68.015 Definitions.
22.68.020 Design Review – Non-Residential and Multi-Family Residential Buildings.
22.68.030 Alternative Design Review by Historic Landmarks Commission.
22.68.040 Architectural Board of Review Notice and Hearing.
22.68.045 Project Compatibility Analysis.
22.68.050 Architectural Board of Review Referral to Planning Commission.
22.68.060 Special Design Districts.
22.68.070 Special Design District – Lower Riviera Survey Area (Bungalow District).
22.68.080 Signs.
22.68.090 Approval of Plans for Buildings or Structures on City Lands.
22.68.100 Appeal to Council – Notice and Hearing.
22.68.110 Expiration of Project Design Approvals.

22.68.010 Architectural Board of Review.

A. **PURPOSE**. Section 814 of the Santa Barbara City Charter creates and establishes an Architectural Board of Review for the City to promote the general public welfare of the City and to protect and preserve the natural and historical charm and beauty of the City and its aesthetic appeal and beauty.

B. **MEMBERSHIP**. The Architectural Board of Review shall be composed of seven (7) members to be appointed as provided in the Charter.

C. **OFFICERS - QUORUM**. The members of the Architectural Board of Review shall elect from their own members a chair and vice-chair. The Community Development Director or his or her designee shall act as secretary and record Board actions and render written reports thereof for the Board as required by this Chapter. The Board shall adopt its own rules of procedure. Four (4) members shall constitute a quorum, one (1) of which shall be an architect. (Ord. 5519, 2010; Ord. 5416, 2007; Ord. 5050, 1998; Ord. 4701, 1991; Ord. 3792, 1975; Ord. 3646, 1974.)

22.68.015 Definitions.

A. **DEFINED IN THIS CHAPTER**. If any word or phrase is defined in this Chapter 22.68, the definition given in this Chapter shall be operative for the purposes of this Chapter.

B. **DEFINED IN CHAPTER 28.04**. If a word or phrase used in this Chapter 22.68 is not defined in this Chapter, but is defined in Chapter 28.04 of this Code, the word or phrase shall have the same meaning in this Chapter as the meaning specified in Chapter 28.04.

C. **UNDEFINED WORDS AND PHRASES**. Any words or phrases used in this Chapter 22.68 that are not defined in this Chapter or Chapter 28.04 of this Code shall be construed according to the common meaning of the words and the context of their usage.

D. **PROJECT DESIGN APPROVAL.** With respect to design review by the Architectural Board of Review, a "Project Design Approval" is as defined in SBMC Section 22.22.020. (Ord. 5537, 2010; Ord. 5416, 2007.)

22.68.020 Design Review – Non-Residential and Multi-Family Residential Buildings.

A. **APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT**. No building permit or grading permit, the application for which is subject to design review by the Architectural Board of Review in accordance with the requirements of this Chapter 22.68, shall be issued without the approval of the Board or the City Council, on appeal.

B. **BUILDING PERMITS - NONRESIDENTIAL, MULTIPLE RESIDENTIAL, DUPLEX, TWO OR MORE DETACHED RESIDENTIAL UNITS AND MIXED USE**. Any application for a building permit to construct, alter, or add to the exterior of a non-residential, multi-family residential, residential duplex or mixed use (residential and non-residential) building or a related accessory structure, or any application which will result in two or more detached residential units on one lot in any zone (other than the Single Family Zones listed in Chapter 28.15 of this Code), shall be referred to the Architectural Board of Review for design review in accordance with the requirements of this Chapter.

C. **SUBDIVISION GRADING PLANS**. All subdivision grading plans involving grading on a lot or lots located in any zone (other than the Single Family Zones listed in Chapter 28.15 of this Code) shall be referred to the Architectural Board of Review for a review of the proposed grading.

D. **GRADING PERMITS**. Any application for a grading permit that proposes grading on any lot (other than a lot located in the Single Family Zones listed in Chapter 28.15 of this Code or a lot that is developed exclusively with a single family residence in any zone) and which application is not submitted in connection with an application for a building permit for the construction or alteration of a building or structure on the same lot shall be referred to the Architectural Board of Review for a review of the proposed grading.

E. **EXTERIOR COLOR**.

1. **New Buildings**. The Architectural Board of Review shall review the exterior color of any new building or structure that is subject to design review by the Architectural Board of Review.

2. **Alterations**. If a change of the exterior color of a building or structure is proposed in connection with another alteration to a building or structure that is subject to design review by the Architectural Board of Review, the Architectural Board of Review shall review the proposed change of color in the course of the design review of the other alteration(s).

3. **Non-Residential Buildings or Structures**. The Architectural Board of Review shall review any change to the exterior color of a non-residential building or related accessory structure whether or not the change of color is proposed in connection with another alteration of the building or structure that is subject to design review by the Architectural Board of Review.

F. **HIGHWAY 101 IMPROVEMENTS**. Improvements to U.S. Highway 101 or appurtenant highway structures which require a Coastal Development Permit pursuant to the City's Certified Local Coastal Program, and which are located within the Highway 101 Santa Barbara Coastal Parkway Special Design District as defined by Municipal Code Section 22.68.060, shall be referred to the Architectural Board of Review for design review, except for improvements to those portions of U.S. Highway 101 and its appurtenant structures that are located within the El Pueblo Viejo Landmark District, which are subject to review by the Historic Landmarks Commission pursuant to SBMC §22.22.140.B.

G. **SUBSTANTIAL ALTERATIONS TO APPROVED LANDSCAPE PLANS FOR LOTS DEVELOPED WITH NONRESIDENTIAL OR MULTI-FAMILY RESIDENTIAL USES.** The Architectural Board of Review shall review any substantial alteration or deviation from the design, character, plant coverage at maturity, or other improvements specified on an approved landscape plan for any lot within the City of Santa Barbara that is developed with a multiple residential unit, a mixed use development, or a building that is occupied by a nonresidential use, whether or not such alteration or deviation to the landscape plan is proposed in connection with an alteration to a building or structure on the lot that is subject to design review by the Architectural Board of Review. Whether a proposed alteration or deviation is substantial shall be determined in accordance with the Architectural Board of Review guidelines.

H. **ARCHITECTURAL BOARD OF REVIEW SUBMITTAL REQUIREMENTS**. Applications for review by the Architectural Board of Review shall be made in writing in such form as is approved by the Community Development Director. No application required to be referred to the Architectural Board of Review shall be considered complete unless accompanied by the application fee in the amount established by resolution of the City Council.

I. **ADMINISTRATIVE REVIEW AND APPROVAL**. Minor design alterations, as specified in the Architectural Board of Review Design Guidelines approved by a resolution of the City Council, may be approved as a ministerial action by the Community Development Director (or the Director's designee) without review by the Architectural Board of Review. The Community Development Director or the Director's designee shall have the authority and discretion to refer any minor design alteration to the Architectural Board of Review if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the architectural or landscape integrity of the building, structure or surrounding property. (Ord. 5505, 2009; Ord. 5416, 2007; Ord. 5333, 2004; Ord. 5271, 2003; Ord. 5035, 1997; Ord. 4995, 1996; Ord. 4940, 1996; Ord. 4878, 1994; Ord. 4849, 1994; Ord. 4768, 1992; Ord. 4725, 1991; Ord. 4701, 1991; Ord. 4076, 1980; Ord. 4040, 1980; Ord. 3835, 1976; Ord. 3646, 1974.)

22.68.030 Alternative Design Review by Historic Landmarks Commission.

A project that is otherwise subject to review by the Architectural Board of Review in accordance with the requirements of this Chapter shall be referred to the Historic Landmarks Commission for review in accordance with the requirements of Chapter 22.22 of this Code if the project is proposed in any of the following locations:

A. A lot on which a City Landmark or City Structure of Merit is located,

B. A property on the City's Potential Historic Resources List, or

C. Any property located within El Pueblo Viejo Landmark District or another landmark district.

This referral to the Historic Landmarks Commission is supplemental to any other design review requirements required by Chapter 22.22 due to the status of any building or structure on the lot or the location of the lot within a landmark district. The fact that an application for a building permit or grading permit is not subject to design review pursuant to this Chapter 22.68 shall not excuse or exempt an application from review pursuant to Chapter 22.22 of this Code. (Ord. 5416, 2007.)

22.68.040 Architectural Board of Review Notice and Hearing.

A. **PROJECTS THAT REQUIRE A NOTICED HEARING**. Review of the following projects by the Architectural Board of Review must be preceded by a noticed public hearing:

1. A new residential duplex, multiple residential unit, mixed-use (residential and non-residential) building, or non-residential building,
2. The addition of over 500 square feet of net floor area to a residential duplex or multiple residential unit,
3. An addition of a new story or an addition to an existing second or higher story of a residential duplex or multiple residential unit,
4. An addition or alteration to a multiple residential unit that will result in an additional residential unit,
5. Small non-residential additions as defined in Chapter 28.85 of this Code,
6. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the building footprint), or
7. Projects involving exterior lighting with the apparent potential to create significant glare on neighboring parcels.

B. **MAILED NOTICE.** Not less than ten calendar days before the date of the hearing required by Subsection A above, the City shall cause written notice of the project hearing to be sent by first class mail to the following persons: (1) the applicant and (2) the current record owner (as shown on the latest equalized assessment roll) of any lot, or any portion of a lot, which is located not more than three hundred feet (300') from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Architectural Board of Review, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. **ADDITIONAL NOTICING METHODS**. In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents of any of the twenty (20) lots closest to the lot which is the subject of the action. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

D. **PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER**. Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice of the first hearing before the Architectural Board of Review shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Architectural Board of Review to be published in a newspaper, or 2. mailed notice of hearings before the Architectural Board of Review after the first hearing conducted by the Architectural Board of Review, except as otherwise provided in the Architectural Board of Review Guidelines adopted by resolution of the City Council. (Ord. 5609, 2013; Ord. 5444, 2008; Ord. 5416, 2007; Ord. 5380, 2005; Ord. 4995, 1996.)

22.68.045 Project Compatibility Analysis.

A. PURPOSE. The purpose of this section is to promote effective and appropriate communication between the Architectural Board of Review and the Planning Commission (or the Staff Hearing Officer) in the review of development projects and in order to promote consistency between the City land use decision making process and the City design review process as well as to show appropriate concern for preserving the historic character of certain areas of the City.

B. PROJECT COMPATIBILITY CONSIDERATIONS. In addition to any other considerations and requirements specified in this Code, the following criteria shall be considered by the Architectural Board of Review when it reviews and approves or disapproves the design of a proposed development project in a noticed public hearing pursuant to the requirements of Chapter 22.68:

1. Compliance with City Charter and Municipal Code; Consistency with Design Guidelines. Does the project fully comply with all applicable City Charter and Municipal Code requirements? Is the project's design consistent with design guidelines applicable to the location of the project within the City?

2. Compatible with Architectural Character of City and Neighborhood. Is the design of the project compatible with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara and of the particular neighborhood surrounding the project?

3. Appropriate size, mass, bulk, height, and scale. Is the size, mass, bulk, height, and scale of the project appropriate for its location and its neighborhood?

4. Sensitivity to Adjacent Landmarks and Historic Resources. Is the design of the project appropriately sensitive to adjacent Federal, State, and City Landmarks and other nearby designated historic resources, including City structures of merit, sites, or natural features?

5. Public Views of the Ocean and Mountains. Does the design of the project respond appropriately to established scenic public vistas?

6. Use of Open Space and Landscaping. Does the project include an appropriate amount of open space and landscaping?

C. PROCEDURES FOR CONSIDERING PROJECT COMPATIBILITY.

1. Projects with Design Review Only. If a project only requires design review by the Architectural Board of Review pursuant to the provisions of this Chapter and does not require some form of discretionary land use approval, the Architectural Board of Review shall consider the criteria listed in Subsection (B) above during the course of its review of the project design prior to the issuance of a preliminary design approval for the project.

2. Projects with Design Review and Other Discretionary Approvals. If, in addition to design review by the Architectural Board of Review, a project requires a discretionary land use approval (either from the Staff Hearing Officer, the Planning Commission, or the City Council), the Architectural Board of Review shall review and discuss the criteria listed in Subsection (B) above during its conceptual review of the project and shall provide its comments on those criteria as part of the minutes of the Board decision forwarded to the Staff Hearing Officer, the Planning Commission, or the City Council (as the appropriate case may be) as deemed necessary by the Architectural Board of Review. (Ord. 5464, 2008.)

22.68.050 Architectural Board of Review Referral to Planning Commission.

A. **PLANNING COMMISSION COMMENTS**. When the Architectural Board of Review determines that a project is proposed for a site which is highly visible to the public, the Board may, prior to granting preliminary approval on the application, require presentation of the application to the Planning Commission solely for the purpose of obtaining comments from the Planning Commission regarding the application for use by the Architectural Board of Review in its deliberations.

B. **PLANNING COMMISSION NOTICE AND HEARING**. The Planning Commission shall hold a noticed hearing prior to making any comments on a project pursuant to this Section. Notice of the Planning Commission hearing shall be provided in accordance with the requirements of Section 22.68.040. (Ord. 5416, 2007; Ord. 5380, 2005; Ord. 4995, 1996; Ord. 4849, 1994; Ord. 4768, 1992; Ord. 4725, 1991.)

22.68.060 Special Design Districts.

The following areas are identified as City Special Design Districts:

A. **MISSION AREA SPECIAL DESIGN DISTRICT**. All real property located within one thousand feet (1000') of Part II of El Pueblo Viejo Landmark District, as legally described in Section 22.22.100(b).

B. **HILLSIDE DESIGN DISTRICT**. All real property within the Hillside Design District as delineated on the maps labeled "Hillside Design District" which are part of this Code and are shown at the end of this Chapter. All notations, references, and other information shown on said maps are incorporated herein and made a part hereof. The entirety of any annexation shall become a part of the Hillside Design District upon annexation, unless otherwise determined as part of the annexation.

C. **HIGHWAY 101 SANTA BARBARA COASTAL PARKWAY SPECIAL DESIGN DISTRICT**. All real property within the State owned or leased right-of-way of Highway 101 and all City owned or leased right-of-way which intersects Highway 101 within the S-D-3 Coastal Overlay Zone.

D. **LOWER RIVIERA SURVEY AREA - BUNGALOW DISTRICT**. All real property within "Lower Riviera Survey Area – Bungalow District" as shown on the map labeled as such and appended to the end of this Chapter – hereinafter referred to as the "Bungalow District." (Ord. 5416, 2007; Ord. 5380, 2005; Ord. 5333, 2004; Ord. 4940, 1996; Ord. 4768, 1992; Ord. 4725, 1991; Ord. 3646, 1974.)

22.68.070 Special Design District – Lower Riviera Survey Area (Bungalow District).

A. **SPECIAL DESIGN DISTRICT AREA MAP – LOWER RIVIERA SURVEY AREA - BUNGALOW DISTRICT**. Applications for building permits to construct, alter, or add to multi-family residential units or residential duplexes on lots located within the "Lower Riviera Survey Area - Bungalow District" established pursuant to SBMC Section 22.68.060 shall be subject to design review in accordance with the requirements of this Section 22.68.070 as follows:

B. **REVIEW OF BUILDING PERMIT APPLICATIONS**. Applications for building permits to construct, alter, or add to multi-family residential units or residential duplexes on lots located within the Bungalow District shall be referred to the Community Development Director for review to determine if the application constitutes a project to demolish the structure. For the purposes of this Section, a "demolition" shall be as defined in subparagraph (J) of Santa Barbara Municipal Code Section 22.22.020. Such a determination shall be made by the Community Development Director or the Director's designee in writing within thirty (30) days of the date of the original application. If the Community Development Director or the Director's designee determines that the property is eligible for listing on the City's Potential Historic Resources list, the demolition application shall be referred to the Historic Landmarks Commission for determination of the historical significance of the building or structure pursuant to Section 22.22.035.C.3. If it is determined that the property is not eligible for listing on the City's Potential Historic Resources list and the Community Development Director or the Director's designee determines that the application does constitute an application to demolish the structure, such application shall be referred to the City's Architectural Board of Review for review by the Board in accordance with the requirements of this Section. If the Community Development Director or the Director's designee determines that the application does not constitute a demolition under the terms of this Section, the building permit shall be issued upon compliance with the otherwise applicable requirements of this Code for appropriate and required design and development review.

C. **REVIEW OF BUNGALOW DISTRICT DEMOLITION APPLICATIONS BY THE ARCHITECTURAL BOARD OF REVIEW**. An application referred to the Architectural Board of Review pursuant to Subsection B above shall be reviewed by the Architectural Board of Review in accordance with the hearing, noticing, and appeal procedures established in SBMC Sections 22.68.040 and 22.68.100. An application referred to the Architectural Board of Review pursuant to Subsection B above shall not be approved unless the Architectural Board of Review makes all of the following findings with respect to that application:

1. That the demolition will not result in the loss of a structure containing a primary feature or features of Bungalow or Arts and Crafts style residential architecture, which features are worthy of or appropriate for historical preservation;
2. That the demolition will not result in the loss of a structure which, although not eligible as a City Historic Resource, is a prime example of the Bungalow or Arts and Crafts style residential building appropriate for historical preservation;
3. That the demolition will not result in the loss of a structure which is prominent or which is a prime example of the Bungalow or Arts and Crafts style residential architecture for which this neighborhood is characterized or known.

D. **ARCHITECTURAL BOARD OF REVIEW CONDITIONAL APPROVAL OF DEMOLITION WITHIN THE BUNGALOW DISTRICT**. Notwithstanding the above-stated requirement for appropriate demolition findings, the ABR may approve a demolition application within the Bungalow District if the ABR conditions the demolition permit such that any proposed future development of the real property upon which the structure or structures are located must comply with express conditions of approval designed to preserve certain existing architectural features or buildings, as determined appropriate by the ABR.

Such conditions may provide that any future development of the property involved must either incorporate the existing structures, in whole or in part, into the new development, or it must preserve certain features or aspects of the existing structures or of the site such that these features are incorporated into any future development of the real property, either through the preservation of the building or feature or its replication in the new development, as may be determined appropriate by the ABR.

Such conditions of approval shall be prepared in written form acceptable to the Community Development Director and the City Attorney and shall be recorded in the official records of Santa Barbara County with respect to the involved real property prior to issuance of any building permit for said demolition such that these conditions shall be binding on all future owners of the real property as conditions imposed on any new development for a period of twenty (20) years after the conditional approval of the original demolition application and the completion of the demolition.

E. **REVIEW OF NEW DEVELOPMENT WITHIN THE BUNGALOW DISTRICT BY ARCHITECTURAL BOARD OF REVIEW**. Applications for building permits to construct new multi-family residential buildings or residential duplexes on lots located within the Bungalow District shall be referred to the Architectural Board of Review for development plan review and approval in accordance with the public hearing, noticing and appeal requirements of SBMC Section 22.68.040 and 22.68.100, provided that the property owner/applicant may be required to submit those development plan materials deemed necessary for full and appropriate review by the ABR prior to the ABR hearing.

F. **BUNGALOW DISTRICT FINDINGS**. The ABR shall not approve a new development within the Bungalow District unless it makes both of the following findings:

1. Express conditions of approval have been imposed on the proposed development which appropriately incorporate the existing structures or architectural features or other aspects of these structures (or of the site involved) into the new development, or these structures, features or aspects will be appropriately replicated in the new development; and

2. The proposed development will not substantially diminish the unique architectural style and character of the Bungalow District as a residential neighborhood of the City.

G. **GUIDELINES FOR SPECIAL DESIGN DISTRICT**. The Lower Riviera Special Design District Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to the ABR, the Planning Commission and City staff in connection with the review of applications filed pursuant to this Section. (Ord. 5416, 2007; Ord. 5333, 2004.)

22.68.080 Signs.

Application for sign permits shall be considered by the Architectural Board of Review only upon an appeal filed pursuant to Section 22.70.050.9 of this Code. (Ord. 4101, 1981; Ord. 3646, 1974.)

22.68.090 Approval of Plans for Buildings or Structures on City Lands.

No building or structure shall be erected upon any land owned or leased by the City, or allowed to extend over or upon any street, or other public property, unless plans for the same and the location thereof shall first have been submitted to the Architectural Board of Review or the Historic Landmarks Commission, as applicable, for its approval. (Ord. 4849, 1994; Ord. 4701, 1991; Ord. 3646, 1974.)

22.68.100 Appeal to Council - Notice and Hearing.

A. **PROCEDURE FOR APPEAL**. Any action of the Architectural Board of Review on an application for preliminary or final approval taken pursuant to this Chapter 22.68 may be appealed to the City Council by the applicant or any interested person pursuant to Chapter 1.30 of this Code. In deciding such an appeal, the City Council shall make those findings required of the Board with respect to a determination made pursuant to this Chapter.

B. **NOTICE OF APPEAL**. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Architectural Board of Review made pursuant to this Chapter 22.68 shall be provided in the same manner as notice was provided for the hearing before the Architectural Board of Review. (Ord. 5416, 2007; Ord. 5380, 2005; Ord. 4995, 1996; Ord. 4701, 1991; Ord. 3944, 1978; Ord. 3646, 1974.)

22.68.110 Expiration of Project Design Approvals.

A. **PROJECT DESIGN APPROVAL**.

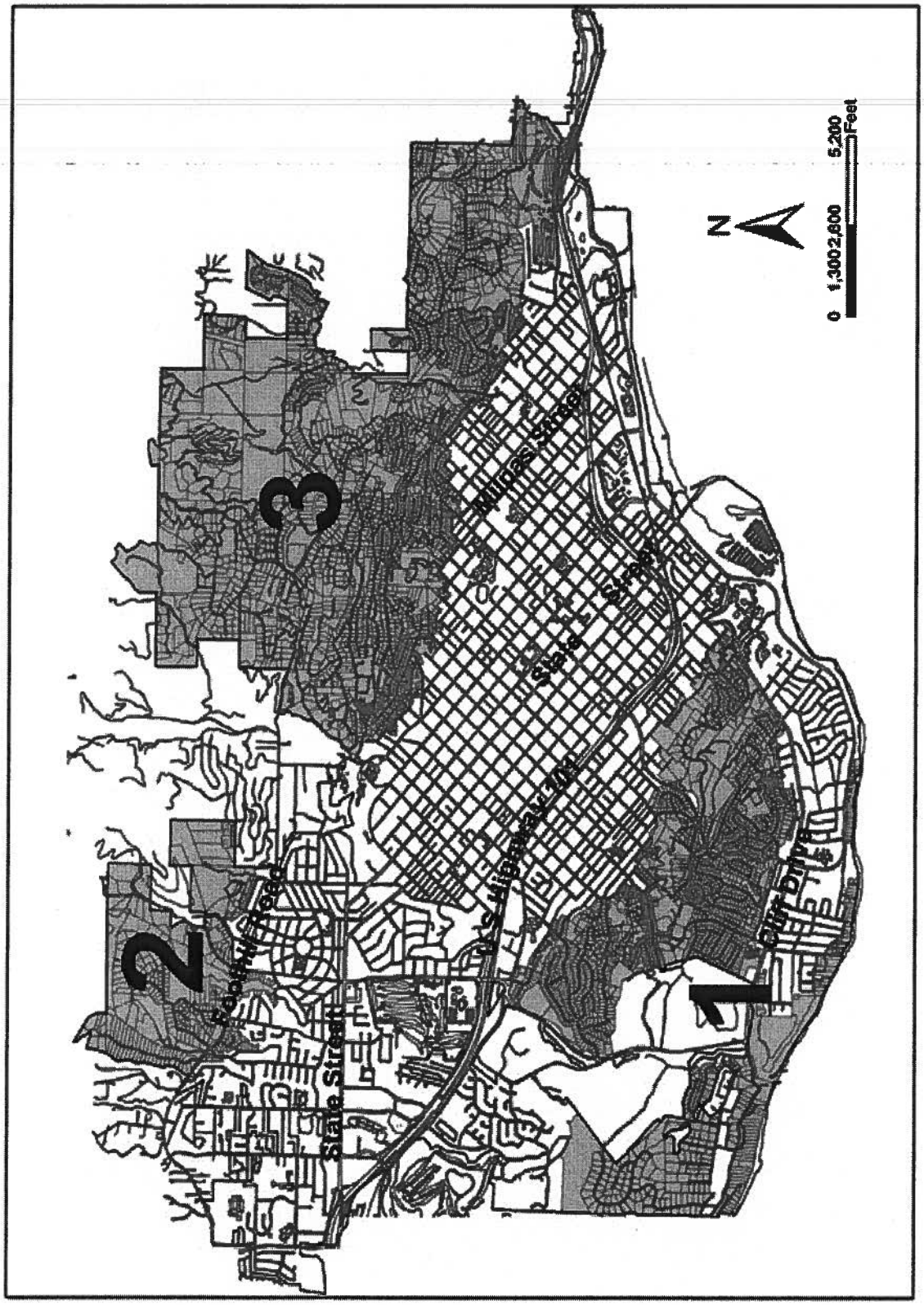
1. **Approval Valid for Three Years.** A Project Design Approval issued by the Architectural Board of Review or the City Council on appeal shall expire if a building permit for the project is not issued within three (3) years of the granting of the Project Design Approval by the Architectural Board of Review or the City Council on appeal.

2. **Extension of Project Design Approvals**. Upon a written request from the applicant submitted prior to the expiration of the Project Design Approval, the Community Development Director may grant one (1) two-year extension of a Project Design Approval.

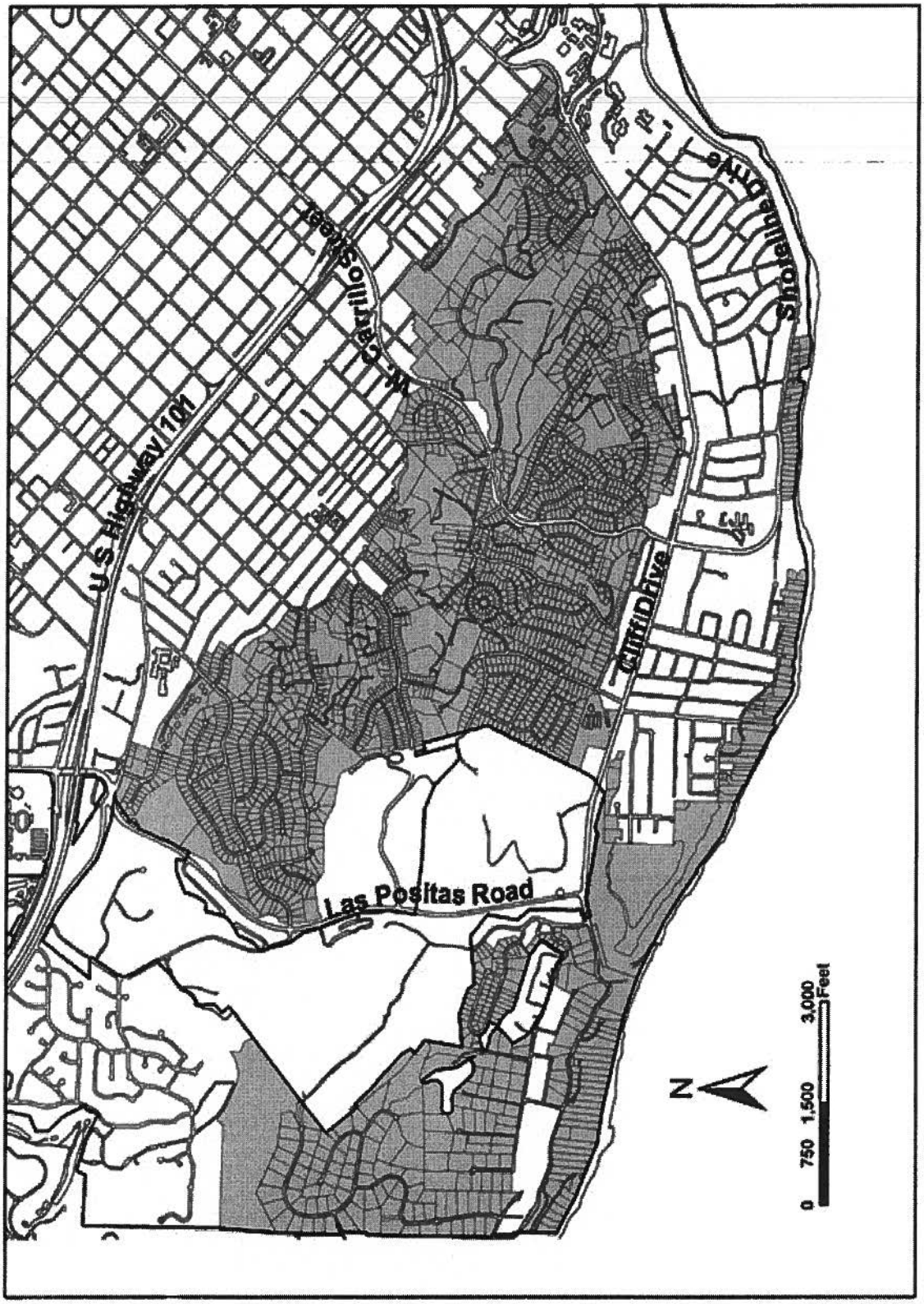
B. **EXCLUSIONS OF TIME**. The time period specified in this Chapter for the validity of a Project Design Approval shall not include any period of time during which either of the following applies:

1. a City moratorium ordinance on the issuance of building permits is in effect; or

2. a lawsuit challenging the validity of the Project's approval by the City is pending in a court of competent jurisdiction. (Ord. 5537, 2010; Ord. 5518, 2010.)

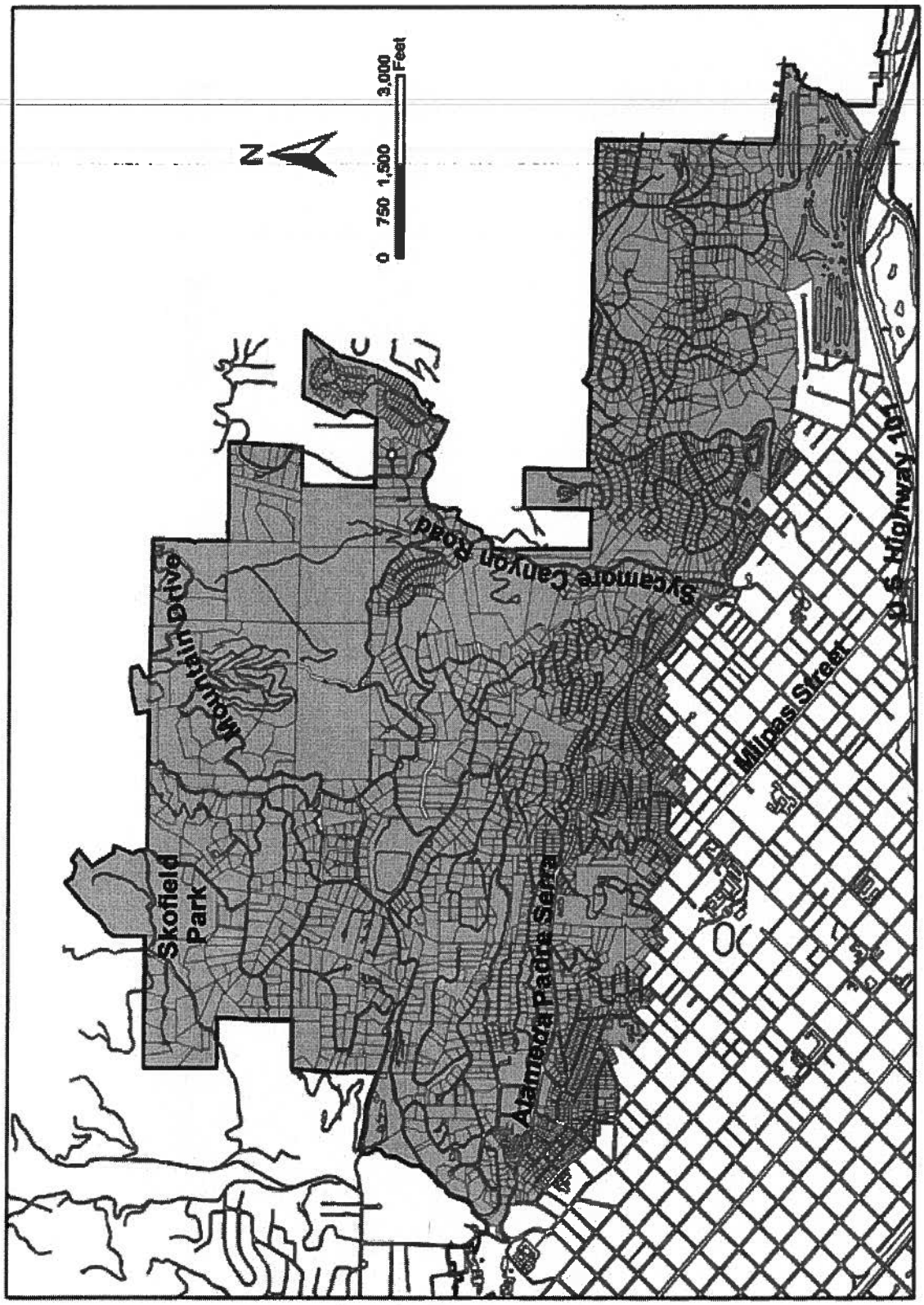


HILLSIDE DESIGN DISTRICT INDEX MAP



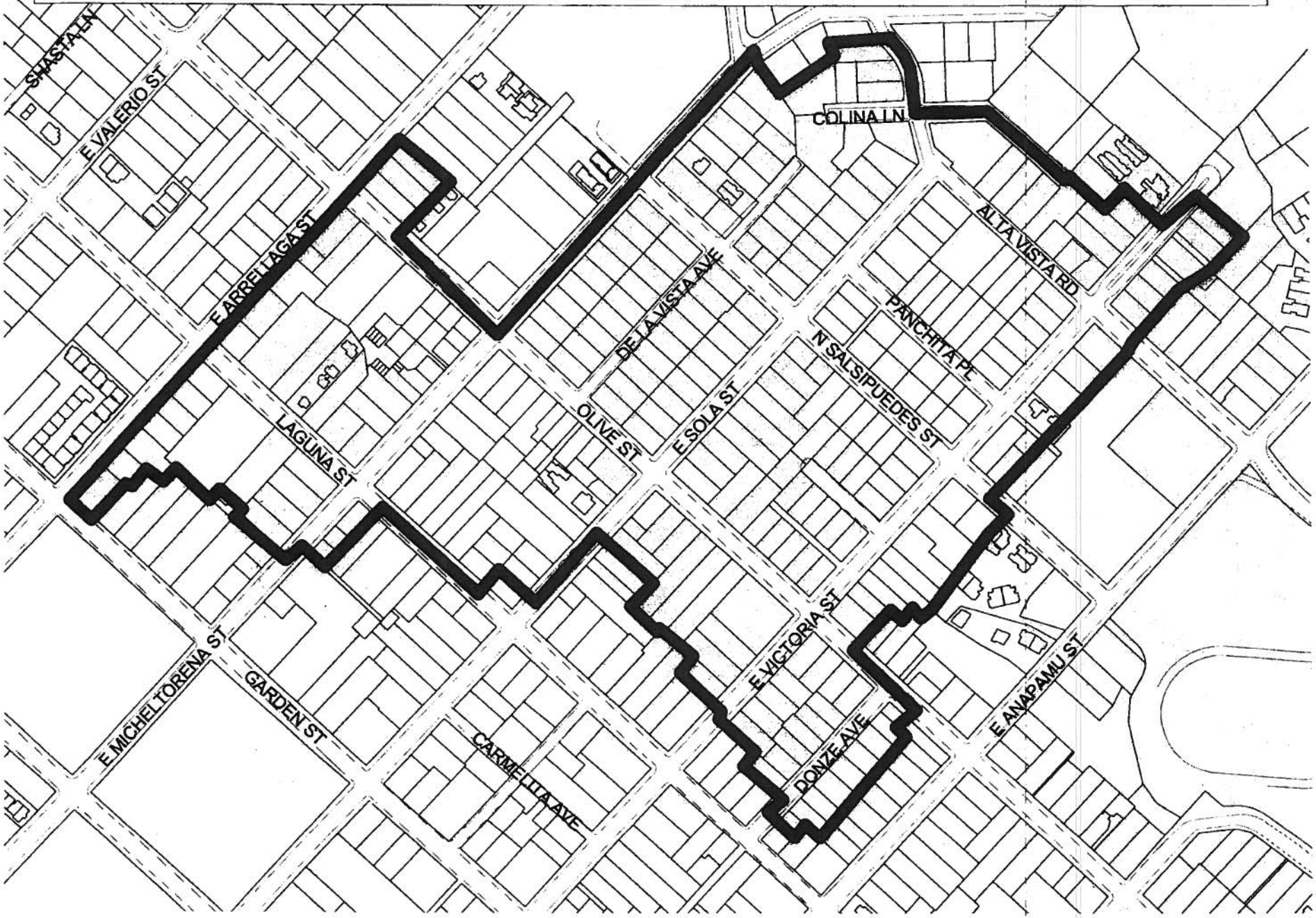
HILLSIDE DESIGN DISTRICT MAP – AREA 1

HILLSIDE DESIGN DISTRICT MAP – AREA 2



HILLSIDE DESIGN DISTRICT MAP – AREA 3

Lower Riviera Special Design District Area - Bungalow District



Chapter 22.69

SINGLE FAMILY DESIGN BOARD

Sections:

22.69.010 Single Family Design Board.
22.69.015 Definitions.
22.69.020 Neighborhood Preservation – Single Family Residential Unit Design Review.
22.69.030 Alternative Design Review by Historic Landmarks Commission.
22.69.040 Single Family Design Board Notice and Hearing.
22.69.050 Neighborhood Preservation, Grading and Vegetation Removal Ordinance Findings.
22.69.055 Green Building Standard for Large Residences.
22.69.060 Single Family Design Board Referral to Planning Commission for Comments.
22.69.070 Special Design District – Lower Riviera Survey Area (Bungalow District).
22.69.080 Appeals to Council – Notice and Hearing.
22.69.090 Expiration of Project Design Approvals.

22.69.010 Single Family Design Board.

A. **PURPOSE**. A Single Family Design Board is hereby created and established by the City to promote the general public welfare, protect and preserve the City's natural and historical charm, and enhance the City's aesthetic appeal and beauty. The goal of the Single Family Design Board shall be to ensure that single family residential unit projects are compatible with the surrounding neighborhood in size and design. The Single Family Design Board is also charged with the task of protecting public visual resources and promoting the ecological sustainability of the City's built environment through the design review process.

B. **MEMBERSHIP**. The Single Family Design Board shall be composed of seven (7) members appointed by the City Council. Two (2) members shall be licensed architects, one (1) member shall be a licensed landscape architect, (3) members shall possess professional qualifications in fields related to architecture, including, but not limited to, building design, structural engineering, industrial design, or landscape contracting, and one (1) member shall be appointed from the public at large. All members of the Board shall reside within Santa Barbara County and shall hold office at the pleasure of the City Council. A person may serve on the Architectural Board of Review or the Historic Landmarks Commission and the Single Family Design Board at the same time.

C. **CONDUCT OF MEETINGS**. The members of the Single Family Design Board shall elect from their own members a chair and vice-chair. The Community Development Director or his or her designee shall act as secretary and record Board actions and render written reports thereof for the Board as required by this Chapter. The rules of procedure for the Board shall be established and approved by resolution of the City Council. Four (4) members shall constitute a quorum, one (1) of whom shall be a licensed architect. (Ord. 5646, 2014; Ord. 5416, 2007.)

22.69.015 Definitions.

A. **DEFINED IN THIS CHAPTER**. If any word or phrase is defined in this Chapter 22.69, the definition given in this Chapter shall be operative for the purposes of this Chapter.

B. **DEFINED IN CHAPTER 28.04**. If a word or phrase used in this Chapter 22.69 is not defined in this Chapter, but is defined in Chapter 28.04 of this Code, the word or phrase shall have the same meaning in this Chapter as the meaning specified in Chapter 28.04.

C. **UNDEFINED WORDS AND PHRASES**. Any words or phrases used in this Chapter 22.69 that are not defined in this Chapter or Chapter 28.04 of this Code shall be construed according to the common meaning of the words and the context of their usage.

D. **PROJECT DESIGN APPROVAL.** With respect to design review by the Single Family Design Board, a "Project Design Approval" is as defined in SBMC Section 22.22.020. (Ord. 5537, 2010; Ord. 5416, 2007.)

22.69.020 Neighborhood Preservation - Single Family Residential Unit Design Review.

A. **APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT**. No building permit, grading permit, vegetation removal permit, or subdivision grading plan, the application for which is subject to the review of the Single Family Design Board pursuant to this Chapter 22.69, shall be issued without the approval of the Board or the City Council, on appeal.

B. **BUILDING PERMITS - SPECIAL DESIGN DISTRICTS**.

1. **Mission Area Special Design District and Lower Riviera Survey Area - Bungalow District**. Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on a lot or lots within the Mission Area Special Design District or the Lower Riviera Survey Area - Bungalow District identified in Section 22.68.060 shall be referred to the Single Family Design Board for design review in accordance with the requirements of this Chapter and the approved Single Family Design Board Guidelines.

2. **Hillside Design District**. Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on a lot or lots within the Hillside Design District identified in Section 22.68.060 shall be referred to the Single Family Design Board for design review in accordance with the requirements of this Chapter and the approved Single Family Design Board Guidelines if either:

a. The average slope of the lot or the building site is 20% or more as calculated pursuant to Section 28.15.080 of this Code; or

b. The application involves the replacement of an existing roof covering with a roof covering of different materials or colors.

C. **BUILDING PERMITS - SINGLE FAMILY RESIDENTIAL UNITS.** Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on any lot shall be referred to the Single Family Design Board for design review in accordance with the requirements of this Chapter and the Single Family Design Board Guidelines if the project for which the building permit is sought involves any of the following:

1. The construction of a new building or structure where any portion of the proposed construction is either: (i) two or more stories tall, or (ii) seventeen feet (17') or taller in building height (for purposes of this paragraph 1, building height shall be measured from natural grade or finished grade, whichever is lower), or

2. An alteration to an existing building or structure where any portion of the proposed alteration either: (i) alters the second or higher story of the building or structure, or (ii) alters a point on the existing building or structure that is seventeen feet (17') or higher in building height (for purposes of this paragraph 2, building height shall be measured from natural grade or finished grade, whichever is lower), or

3. An addition to an existing building or structure where any part of the proposed addition is either: (i) two or more stories tall, or (ii) seventeen feet (17') or taller in building height (for purposes of this paragraph 3, building height shall be measured from natural grade or finished grade, whichever is lower), or

4. The net floor area of all floors of all existing and new buildings on the lot will exceed four thousand (4,000) square feet as calculated pursuant to Section 28.15.083 of this Code, or

5. The project requires a net floor area modification pursuant to Section 28.92.110.A.6 of this Code, or

6. The construction, alteration, or addition of a deck on the second or higher floor (including roof decks) or a balcony on the second or higher floor of any building that will extend perpendicularly more than three feet (3') from the adjacent exterior wall or will be more than seven feet (7') in length in the dimension parallel to the adjacent exterior wall, or

7. The construction, alteration, or addition of a retaining wall that is six feet (6') or greater in height, or

8. The construction, alteration, or addition of a wall, fence or gate in the front yard of the lot that is greater than three and one half feet (3.5') in height, excluding walls, fences, or gates that are constructed along the interior lot lines of the lot, shall be referred to the Single Family Design Board for a review of the proposed wall, fence or gate, or

9. The installation of a manufactured home, mobile home or factory-built home (as those terms are defined in the California Health and Safety Code), subject to the limitations on review specified in Government Code section 65852.3 et seq., or

10. The installation of a single family residential unit that was, as a whole or in part, previously located on another lot, or

11. Grading outside the footprint of the main building on the lot that exceeds either: (i) fifty (50) cubic yards on a lot within the Hillside Design District identified in Section 22.68.060, or (ii) two hundred fifty (250) cubic yards on a lot that is not within the Hillside Design District. For purposes of this paragraph 11, soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the main building footprint, or

12. Projects involving an application for an exception to the parking requirements for a single family residential unit as specified in Section 28.90.100.G.1.c. of this Code.

D. **SUBDIVISION GRADING PLANS**. All subdivision grading plans involving grading on a lot or lots located in any of the single family zones listed in Chapter 28.15 of this Code shall be referred to the Single Family Design Board for a review of the proposed grading.

E. **GRADING PERMITS.** Applications for grading permits that propose grading on a vacant lot or lots located within a single family zone listed in Chapter 28.15 of this Code or on any lot that is developed exclusively with a single family residence and related accessory buildings, and which are not submitted in connection with an application for a building permit for the construction or alteration of a building or structure on the same lot or lots, shall be referred to the Single Family Design Board for a review of the proposed grading.

F. **VEGETATION REMOVAL PERMITS.** Applications for vegetation removal permits pursuant to Chapter 22.10 of this Code on a lot or lots located within a single family zone listed in Chapter 28.15 of this Code, or on any lot that is developed exclusively with a single family residence and related accessory buildings, shall be referred to the Single Family Design Board for a review of the proposed vegetation removal.

G. **RETAINING WALLS.** The following types of retaining wall improvements, if located on a lot or lots within a single family zone listed in Chapter 28.15 of this Code, or on any lot that is developed exclusively with a single family residence and related accessory buildings, shall be referred to the Single Family Design Board for design review of the proposed retaining walls in accordance with the requirements of this Chapter and the approved Single Family Design Board Guidelines:

1. The construction of a retaining wall on a lot or a building site with an average slope of 15% or more (as calculated pursuant to Section 28.15.080 of this Code), or

2. The construction of a retaining wall on a lot that is adjacent to or contains an ocean bluff, or

3. The construction of multiple terracing retaining walls that are not separated by a building or a horizontal distance of more than ten feet (10') where the combined height of the walls exceeds six feet (6').

H. **SUBSTANTIAL ALTERATIONS TO APPROVED LANDSCAPE PLANS**. The Single Family Design Board shall review any substantial alteration or deviation from the design, character, plant coverage at maturity, or other improvements specified on an approved landscape plan for any lot within the City of Santa Barbara that is developed with a single-family residence where the conditions of approval for the development on the lot require the installation and maintenance of trees or landscaping in accordance with an approved landscape plan, whether or not such alteration or deviation to the landscape plan is proposed in connection with an alteration to a building or structure on the lot that is subject to design review by the Single Family Design Board. Whether a proposed alteration or deviation is substantial shall be determined in accordance with the Single Family Design Guidelines.

I. **SUBMITTAL REQUIREMENTS**. Applications for review by the Single Family Design Board shall be made in writing in such form as is approved by the Director of Community Development. No application shall be considered complete unless accompanied by the application fee in the amount established by resolution of the City Council.

J. **ADMINISTRATIVE APPROVAL**. Minor design alterations, as specified in the Single Family Design Guidelines or the Single Family Design Board Guidelines approved by a resolution of the City Council, may be approved as a ministerial action by the Community Development Director or the Director's designee without review by the Single Family Design Board. The Community Development Director (or the Director's designee) shall have the authority and discretion to refer any minor design alteration to the Single Family Design Board if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the architectural or landscape integrity of the building, structure or surrounding property.

K. **PRESUMPTION REGARDING PRIOR GRADING, TREE REMOVAL, AND CONSTRUCTION**. There shall be a presumption that any grading, removal of trees, or construction that occurred on the lot within two years prior to the submittal of an application for a building permit to construct, alter, or add to a single family residential unit or a related accessory structure was done in anticipation of such application, and said activities will be included in determining whether the project is subject to review by the Single Family Design Board pursuant to this Chapter. For purposes of this presumption, if the prior work required a permit from the City, the prior work shall not be considered complete unless a final inspection has occurred or a certificate of occupancy has been issued. An applicant has the burden to rebut this presumption with substantial evidence sufficient to convince the Single Family Design Board that such work was not done in an effort to avoid review of the entirety of the project by the Single Family Design Board.

L. **SINGLE FAMILY DESIGN GUIDELINES**. The Single Family Design Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to decision makers and City staff in connection with applications reviewed pursuant to this Chapter. (Ord. 5518, 2010; Ord. 5505, 2009; Ord. 5444, 2008; Ord. 5416, 2007.)

22.69.030 Alternative Design Review by Historic Landmarks Commission.

A project that is otherwise subject to review by the Single Family Design Board in accordance with the requirements of this Chapter shall be referred to the Historic Landmarks Commission for review in accordance with the requirements of Chapter 22.22 of this Code if the project is proposed in any of the following locations:

A. A lot on which a City Landmark or City Structure of Merit is located,

B. A property on the City's Potential Historic Resources List, or

C. Any property located within El Pueblo Viejo Landmark District or another landmark district.

This referral to the Historic Landmarks Commission is supplemental to any other design review requirements required by Chapter 22.22 due to the status of any building or structure on the lot or the location of the lot within a landmark district. The fact that an application for a building permit, grading permit, or vegetation removal permit is not subject to design review pursuant to this Chapter 22.69 shall not excuse or exempt an application from review pursuant to Chapter 22.22 of this Code. (Ord. 5416, 2007.)

22.69.040 Single Family Design Board Notice and Hearing.

A. **PROJECTS THAT REQUIRE A NOTICED PUBLIC HEARING**. Single Family Design Board review of the following projects must be preceded by a noticed public hearing:

1. New single family residential unit,

2. The addition of over 500 square feet of net floor area to a single residential unit, including any related accessory structures,

3. An addition of a new second or higher story to a single residential unit or a related accessory structure,

4. An addition of over 150 square feet of net floor area to an existing second or higher story of a single residential unit or a related accessory structure,

5. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the building footprint),

6. Projects involving exterior lighting with the apparent potential to create significant glare on neighboring parcels, or

7. Projects involving an application for an exception to the parking requirements for a single family residential unit as specified in Section 28.90.100.G.1.c. of this Code.

B. **MAILED NOTICE.** Not less than ten calendar days before the date of the hearing required by Subsection A above, the City shall cause written notice of the project hearing to be sent by first class mail to the following persons: (1) the applicant, and (2) the current record owner (as shown on the latest equalized assessment roll) of any lot, or any portion of a lot, which is located not more than three hundred feet (300') from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Single Family Design Board, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. **ADDITIONAL NOTICING METHODS**. In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents of any of the ten (10) lots closest to the lot which is the subject of the action. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

D. **PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER**. Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice of the first hearing before the Single Family Design Board shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Single Family Design Board to be published in a newspaper, or 2. mailed notice of hearings before the Single Family Design Board after the first hearing conducted by the Single Family Design Board, except as otherwise provided in the Single Family Design Board Guidelines adopted by resolution of the City Council. (Ord. 5518, 2010; Ord. 5444, 2008; Ord. 5416, 2007.)

22.69.050 Neighborhood Preservation, Grading and Vegetation Removal Ordinance Findings.

If a project is referred to the Single Family Design Board for review pursuant to Section 22.69.020 and the Single Family Design Board Guidelines, the Single Family Design Board shall make the findings specified below prior to approving the project.

A. **NEIGHBORHOOD PRESERVATION FINDINGS**. Prior to approval of any project, the Single Family Design Board shall make each of the following findings:

1. **Consistency and Appearance**. The proposed development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood.

2. **Compatibility**. The proposed development is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood.

3. **Quality Architecture and Materials**. The proposed buildings and structures are designed with quality architectural details. The proposed materials and colors maintain the natural appearance of the ridgeline or hillside.

4. **Trees**. The proposed project does not include the removal of or significantly impact any designated Specimen Tree, Historic Tree or Landmark Tree. The proposed project, to the maximum extent feasible, preserves and protects healthy, non-invasive trees with a trunk diameter of four inches (4") or more measured four feet (4') above natural grade. If the project includes the removal of any healthy, non-invasive tree with a diameter of four inches (4") or more measured four feet (4') above natural grade, the project includes a plan to mitigate the impact of such removal by planting replacement trees in accordance with applicable tree replacement ratios.

5. **Health, Safety, and Welfare**. The public health, safety, and welfare are appropriately protected and preserved.

6. **Good Neighbor Guidelines**. The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting.

7. **Public Views**. The development, including proposed structures and grading, preserves significant public scenic views of and from the hillside.

B. **HILLSIDE DESIGN DISTRICT AND SLOPED LOT FINDINGS**. In addition to the findings specified in Subsection A above, prior to approval of any project on a lot within the Hillside Design District described in Section 22.68.060 or on a lot or a building site that has an average slope of 15% or more (as calculated pursuant to Section 28.15.080 of this Code), the Single Family Design Board shall make each of the following findings:

1. **Natural Topography Protection**. The development, including the proposed structures and grading, is appropriate to the site, is designed to avoid visible scarring, and does not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.

2. **Building Scale**. The development maintains a scale and form that blends with the hillside by minimizing the visual appearance of structures and the overall height of structures. (Ord. 5416, 2007.)

C. **GRADING FINDINGS.** In addition to any other applicable findings specified in this Section 22.69.050, prior to approval of any project that requires design review under either Paragraph 22.69.030.C.11 or Subsection 22.69.030.E of this Chapter, the Single Family Design Board shall make each of the following findings:

1. The proposed grading will not significantly increase siltation in or decrease the water quality of streams, drainages or water storage facilities to which the property drains; and
2. The proposed grading will not cause a substantial loss of southern oak woodland habitat.

D. **VEGETATION REMOVAL FINDINGS.** In addition to any other applicable findings specified in this Section 22.69.050, prior to approving a vegetation removal permit that requires design review under Subsection 22.69.030.F of this Chapter, the Single Family Design Board shall make each of the following findings:

1. The proposed vegetation removal will not significantly increase siltation in or decrease the water quality of streams, drainages or water storage facilities to which the property drains; and
2. The proposed vegetation removal will not cause a substantial loss of southern oak woodland habitat; and
3. The proposed vegetation removal will comply with all applicable provisions of Chapter 22.10, "Vegetation Removal," of this Code. (Ord. 5444, 2008; Ord. 5416, 2007.)

22.69.055 Green Building Standard for Large Residences.

If a project proposes more than 500 square feet of new net floor area (new construction, replacement construction, or additions), and the net floor area of all existing and new buildings on the lot resulting from the application will exceed four thousand (4,000) square feet of net floor area as calculated pursuant to Section 28.04.315, all new square footage (new construction, replacement construction, or additions) proposed as part of the project shall meet or exceed a three-star designation under the Santa Barbara Contractors' Association Built Green program or equivalent standards under another green construction program recognized by the City. (Ord. 5518, 2010.)

22.69.060 Single Family Design Board Referral to Planning Commission for Comments.

A. **PLANNING COMMISSION COMMENTS**. When the Single Family Design Board determines that a project is proposed for a site which is highly visible to the public, the Board may, prior to granting preliminary approval of the application, require presentation of the application to the Planning Commission solely for the purpose of obtaining comments from the Commission regarding the application for use by the Single Family Design Board in its deliberations.

B. **NOTICE AND HEARING**. Prior to making any comments regarding an application pursuant to this Section, the Planning Commission shall hold a noticed public hearing. Notice of the hearing shall be provided in accordance with the requirements of Section 22.69.040. (Ord. 5416, 2007.)

22.69.070 Special Design District – Lower Riviera Survey Area (Bungalow District).

A. **SPECIAL DESIGN DISTRICT AREA MAP – LOWER RIVIERA SURVEY AREA - BUNGALOW DISTRICT**. Applications for building permits to construct, alter, or add to single family residential units or related accessory buildings or structures on lots located within the "Lower Riviera Survey Area - Bungalow District" established pursuant to SBMC Section 22.68.060 shall be subject to design review in accordance with the requirements of this Section 22.69.070 as follows:

B. **REVIEW OF BUILDING PERMIT APPLICATIONS**. Applications for building permits to construct, alter, or add to single residential units on lots located within the Bungalow District shall be referred to the Community Development Director for review to determine if the application constitutes a project to demolish the structure. For the purposes of this Section, a "demolition" shall be as defined in subparagraph (J) of Santa Barbara Municipal Code Section 22.22.020. Such a determination shall be made by the Community Development Director or the Director's designee in writing within thirty (30) days of the date of the original permit application. If the Community Development Director or the Director's designee determines that the property is eligible for listing on the City's Potential Historic Resources list, the application shall be referred to the Historic Landmarks Commission for determination of the historical significance of the buildings or structures pursuant to Section 22.22.035.C.3. If it is determined that the property is not eligible for listing on the City's Potential Historic Resources list, and the Community Development Director or the Director's designee determines that the application does constitute an application to demolish the structure, such application shall be referred to the City's Single Family Design Board for review by the Board in accordance with the requirements of this Section. If the Community Development Director or the Director's designee determines that the application does not constitute a demolition under the terms of this Section, the building permit shall be issued upon compliance with the otherwise applicable requirements of this Code for appropriate and required design and development review.

C. **REVIEW OF BUNGALOW DISTRICT DEMOLITION APPLICATIONS BY THE SINGLE FAMILY DESIGN BOARD**. An application referred to the Single Family Design Board pursuant to Subsection B above shall be reviewed by the Board in accordance with the hearing, noticing, and appeal procedures established in SBMC Sections 22.69.040 and 22.69.080. An application referred to the Single Family Design Board pursuant to Subsection B above shall not be approved unless the Single Family Design Board makes all of the following findings with respect to that application:

1. That the demolition will not result in the loss of a structure containing a primary feature or features of Bungalow or Arts and Crafts style residential architecture, which features are worthy of or appropriate for historical preservation;

2. That the demolition will not result in the loss of a structure which, although not eligible as a City Historic Resource, is a prime example of the Bungalow or Arts and Crafts style residential building appropriate for historical preservation;

3. That the demolition will not result in the loss of a structure which is prominent or which is a prime example of the Bungalow or Arts and Crafts style residential architecture for which this neighborhood is characterized or known.

D. **SINGLE FAMILY DESIGN BOARD CONDITIONAL APPROVAL OF DEMOLITION WITHIN THE BUNGALOW DISTRICT**. Notwithstanding the above-stated requirement for appropriate demolition findings, the Single Family Design Board may approve a demolition application within the Bungalow District if the Board conditions the demolition permit such that any proposed future development of the real property upon which the structure or structures are located must comply with express conditions of approval designed to preserve certain existing architectural features or buildings, as determined appropriate by the Board.

Such conditions may provide that any future development of the property involved must either incorporate the existing structures, in whole or in part, into the new development, or it must preserve certain features or aspects of the existing structures or of the site such that these features are incorporated into any future development of the real property, either through the preservation of the building or feature or its replication in the new development, as may be determined appropriate by the Board.

Such conditions of approval shall be prepared in written format acceptable to the Community Development Director and the City Attorney and shall be recorded in the official records of Santa Barbara County with respect to the involved real property prior to issuance of any building permit for said demolition such that these conditions shall be binding on all future owners of the real property as conditions imposed on any new development for a period of twenty (20) years after the conditional approval of the original demolition application and the completion of the demolition.

E. **REVIEW OF NEW DEVELOPMENT WITHIN THE BUNGALOW DISTRICT BY SINGLE FAMILY DESIGN BOARD**. Applications for building permits to construct new single family residential units on lots located within the Bungalow District shall be referred to the Single Family Design Board for development plan review and approval in accordance with the public hearing, noticing and appeal requirements of SBMC Section 22.69.040 and 22.69.080.

F. **BUNGALOW DISTRICT FINDINGS**. The Single Family Design Board shall not approve a new single residential unit development within the Bungalow District unless it makes both of the following findings:

1. Express conditions of approval have been imposed on the proposed development which appropriately incorporate the existing structures or architectural features or other aspects of these structures (or of the site involved) into the new development, or these structures, features or aspects will be appropriately replicated in the new development; and

2. The proposed development will not substantially diminish the unique architectural style and character of the Bungalow District as a residential neighborhood of the City.

G. **GUIDELINES FOR SPECIAL DESIGN DISTRICT**. The Lower Riviera Special Design District Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to the decision makers and City staff in connection with the review of applications filed pursuant to this Section. (Ord. 5416, 2007.)

22.69.080 Appeals to Council – Notice and Hearing.

A. **PROCEDURE FOR APPEAL**. Any action of the Single Family Design Board on an application for preliminary or final approval taken pursuant to this Chapter 22.69 may be appealed to the City Council by the applicant or any interested person pursuant to Chapter 1.30 of this Code. In deciding such an appeal, the City Council shall make those findings required of the Board with respect to a determination made pursuant to this Chapter.

B. **NOTICE OF APPEAL**. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Single Family Design Board made pursuant to this Chapter 22.69 shall be provided in the same manner as notice was provided for the hearing before the Single Family Design Board. (Ord. 5416, 2007.)

22.69.090 Expiration of Project Design Approvals.

A. **PROJECT DESIGN APPROVAL**.

1. **Approval Valid for Three Years.** A Project Design Approval issued by the Single Family Design Board or the City Council on appeal shall expire if a building permit for the project is not issued within three (3) years of the granting of the Project Design Approval by the Single Family Design Board or the City Council on appeal.

2. **Extension of Project Design Approval.** Upon a written request from the applicant submitted prior to the expiration of the Project Design Approval, the Community Development Director may grant one (1) two-year extension of a Project Design Approval.

B. **EXCLUSIONS OF TIME.** The time period specified in this Chapter for the validity of a Project Design Approval shall not include any period of time during which either of the following applies:

1. a City moratorium ordinance on the issuance of building permits is in effect; or
2. a lawsuit challenging the validity of the Project's approval by the City is pending in a court of competent jurisdiction. (Ord. 5537, 2010; Ord. 5518, 2010; Ord. 5416, 2007.)

Chapter 22.70

SIGN REGULATIONS

Sections:

22.70.010 General Provisions.
22.70.020 Definitions.
22.70.030 Sign Regulations.
22.70.040 Sign Standards.
22.70.050 Sign Permits.
22.70.060 Revocation of Sign Permits.
22.70.070 Exceptions.
22.70.080 Nonconforming Signs.
22.70.090 Non-Current, Illegal or Unsafe Signs.
22.70.095 Vending Machines Readily Visible From a Public Right-of-Way.
22.70.100 Sign Enforcement and Penalties.

22.70.010 General Provisions.

A. TITLE. This Chapter shall be known and cited as the Sign Ordinance of the City of Santa Barbara.

B. PURPOSE AND INTENT. The City of Santa Barbara has a national and international reputation as a community of natural beauty, distinctive and historic architecture and historic tradition. Signs have a strong visual impact on the character and quality of the community. As a prominent part of the scenery, they attract or repel the viewing public, affect the safety of vehicular traffic, and their suitability or appropriateness helps to set the tone of the neighborhood. Since the City of Santa Barbara relies on its scenery and physical beauty to attract tourists and commerce, aesthetic considerations assume economic value. It is the intent of the City of Santa Barbara, through this ordinance, to protect and enhance the City's historic and residential character and its economic base through the provision of appropriate and aesthetic signing. In addition, it is the intent of the City to limit the size, type and location of signs in order to minimize their distracting effect on drivers and thereby improve traffic safety.

In view of these facts, the City of Santa Barbara adopts the policy that the sign should serve primarily to identify an establishment, organization or enterprise. As identification devices, signs must not subject the citizens of the City to excessive competition for their visual attention. As appropriate identification devices, signs must harmonize with the building, the neighborhood and other signs in the area.

C. COMPLIANCE WITH CHAPTER. It is unlawful for any person to construct, maintain, display or alter or cause to be constructed, maintained, displayed or altered, a sign within the City of Santa Barbara except in conformance with this chapter. (Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.020 Definitions.

As used in this Chapter, the following terms and phrases shall have the indicated meanings:

A. ACCESSORY SIGN. A separate unit displaying information related to the principal business conducted on the premises, which is not attached to or supported by any other sign, and not made a part thereof.

B. ARCHITECTURAL FEATURE. Any window frame, recessed area, door, detail or other feature that is part of any building, or is a specific element of a recognized style of architecture.

C. AWNING SIGN. Any sign or graphic attached to, painted on or applied to an awning or awning canopy.

D. BACK-LIT SIGN. Any internally illuminated sign with opaque, reverse pan channel, halo-lit letters and elements with concealed light sources in which the light projects away from the viewer.

E. BALLOON. A lighter-than-air or inflated object no larger than eighteen (18) inches in any dimension.

F. BANNER. A bunting or other flexible sign characteristically supported at two or more points and hung on a building or otherwise suspended down or along its face, or across any public street of the City. The banner may or may not include copy or other graphic symbols.

G. BENCH SIGN. Any sign painted on or otherwise attached to a bench or other seat placed in an exterior area.

H. BILLBOARD. A freestanding sign which exceeds the size limitations of a ground or wall sign. A billboard may be on-premises or off-premises.

I. CIVIC EVENT SIGN. A sign, other than a commercial sign, posted to advertise or provide direction to a civic event sponsored by a public agency, the City, a school, church, civic-fraternal organization or similar noncommercial organization.

J. COMMERCIAL, OFFICE OR INDUSTRIAL COMPLEX. A group of contiguous businesses which employs a homogeneous design theme as a common perimeter treatment.

K. COMMERCIAL SIGN. Any sign which is intended to attract attention to a commercial activity, business, commodity, service, entertainment or attraction sold or offered, and which is to be viewed from public streets or public parking areas.

L. DIGITAL DISPLAY. A sign that displays still images, scrolling images, or moving images, including video or animation, through a series of grid lights, including cathode ray, light emitting diode display, liquid crystal display, plasma screen, fiber optic, or other electronic media or technology, where the display can be changed through electronic means. The definition of digital display does not include time and temperature signs or electronic signs placed in the right-of-way that function as traffic control devices.

M. EAVE. That portion of the roofline extending beyond the building wall, a canopy attachment on the wall having the simulated appearance of an eave, or the lowest horizontal line on any roof.

N. ELECTION SIGN. A noncommercial sign pertaining to an election for public office or to a ballot measure to be placed before the voters in a federal, state or local election.

O. ERECT. To build, construct, attach, hang, place, suspend, affix, fabricate (which shall also include painting of wall signs and window signs or other graphics), or project light in a manner that creates a projected light sign.

P. FACADE. The front of a building or structure facing a street.

Q. FLAG. A piece of fabric of distinctive design (customarily rectangular) that is used as a symbol of a nation, state, city, agency, corporation or person, or as a signaling device, and is usually displayed hanging free from a staff or halyard to which it is attached by one edge.

R. FRONTAGE. The width of any face of a building.

1. Dominant building frontage. The principal frontage of the building where its main entrance is located or which faces the street upon which its address is located.

2. Subordinate building frontage. Any frontage other than the dominant frontage.

S. GROUND SIGN. Any sign advertising goods manufactured, produced or sold, or services rendered on the premises upon which the sign is placed, or identifying in any fashion the premises or any owner or occupant, and which is supported by one (1) or more uprights or braces on the ground, the overall total height of which does not exceed (i) six (6) feet above grade measured at the edge of the public right-of-way, or (ii) six feet above the base of the sign structure when the grade at the public right-of-way is at least three and one-half feet lower than the grade at the base of the sign, whichever is higher. In no case shall an artificial grade be established for the sole purpose of placing a sign at more than six (6) feet above the grade at the edge of the public right-of-way.

T. HANGING SIGN. A sign attached to and located below any eave, roof, canopy, awning, or wall bracket.

U. ILLUMINATED SIGN. A physical sign that is illuminated internally or from an exterior light source. An illuminated sign is distinguished from a projected light sign by the fact that a projected light sign uses light to create the sign rather than using light to illuminate a sign of physical material.

V. INFLATABLE SIGNS. A lighter-than-air or inflated object tethered or otherwise attached to the ground, structure or other object. This definition includes, but is not limited to, inflated representations of blimps, products, cartoon characters, animals and the like. Balloons are a distinct subset of inflatable signs.

W. KIOSK. A small, freestanding structure permanently affixed to the ground, requiring a building permit, which may have one or more surfaces used to display temporary advertising signs.

X. LETTER HEIGHT. The height of a letter from its bottom to its top, including any shadow line.

Y. LIGHTING STANDARD. A device for providing artificial light on the sign surface.

Z. LOGO SIGN WITH COURTESY PANELS. Prefabricated signs bearing a brand name, registered trademark or logo with space for the name of a local business or occupant or other items of information to be applied thereto or erected thereon.

AA. MARQUEE. A permanent roof structure attached to and entirely supported by a wall of a building, having no connection or relationship with the roof of the building to which it is attached.

BB. MARQUEE SIGN. Any sign attached to a marquee.

CC. MOBILE SIGN. A sign on a boat or on a vehicle, other than on a public transit vehicle designed to carry at least 19 passengers, advertising a good, service, or entity other than that for which the boat or vehicle is principally used.

DD. MURAL. A painting or picture applied to and made part of a wall or window which may be pictorial or abstract, and is characteristically visually set off or separated from the background color or architectural environment.

EE. NONCOMMERCIAL SIGN. Any sign which is intended to convey a noncommercial message of social, political, educational, religious or charitable commentary.

FF. OFF-PREMISES SIGN. A commercial sign not located on the premises of the business or entity indicated or advertised by said sign, or a commercial sign advertising a commodity, service or entertainment offered at a location other than the location of the sign.

GG. PARAPET. A low wall used to protect the edge of a roof from view, also called a parapet wall.

HH. PARAPET OR PERGOLA SIGN. Any sign or other graphic attached to a parapet, ramada, pergola, or other similar structure.

II. PENNANT. A small triangular or rectangular flag or multiples thereof, individually supported or attached to each other by means of a string, rope, or other material, and meant to be stretched across or fastened to buildings, or between poles and/or structures.

JJ. PERGOLA. A structure usually consisting of parallel colonnades supporting an open roof of girders and cross-rafters, also known as an arbor, trellis or ramada.

KK. POLE SIGN. Any sign, other than a ground sign, supported by one (1) or more uprights or braces on the ground, the height of which is greater than a ground sign, and which is not part of any building or structure other than a structure erected solely for the purpose of supporting a sign.

LL. PORTABLE SIGN. Any sign, other than a mobile sign, designated or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

MM. PROJECTED LIGHT SIGN. A projection of light onto a physical surface in a manner designed to communicate a message by creating a variable intensity of light on the physical surface in the form of letters, shapes, or symbols.

NN. PROJECTING SIGN. Any sign which projects from and is supported by a wall of a building with the display surface of the sign perpendicular to the building wall.

OO. ROOF. The cover of any building, including the eaves and similar projections. False roofs on store fronts, coverings on or over oriels, bay windows, canopies and horizontally projecting surfaces other than marquees shall be considered roofs.

PP. ROOF SIGN. Any sign any part of which is on or over any portion of any roof or eave of a building or structure and any sign which extends above a parapet of a building or structure.

QQ. SIGN. Any form of visual communication including any physical object, projection of light, digital display, or open flame (with or without lettering, a symbol, logo) used to announce, declare, demonstrate, display, or otherwise present a message to or attract the attention of the public. A sign may include a commercial or noncommercial sign. A sign includes all parts, portions, units and materials used in constructing the sign, together with the illumination, frame, background, structure, support and anchorage thereof. A mural is not a sign.

RR. TEMPORARY. A period of time not exceeding thirty (30) consecutive days, unless otherwise specified.

SS. VENDING MACHINE. A machine or other mechanical device or container that dispenses a product or service through a self-service method of payment, but not including an automatic bank teller machine incorporated within a wall or a façade of a building; a newsrack; a machine dispensing fuel, compressed air, or water at an automobile service station; or a public telephone.

TT. WALL SIGN. Any sign affixed directly to or painted on or otherwise inscribed on an exterior wall or solid fence, the principal face of which is parallel to said wall or fence and which projects from that surface no more than twelve (12) inches at all points.

UU. WINDOW SIGN. A sign that is attached to, affixed to, leaning against, or otherwise placed within six (6) feet of a window in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls or parking lots available for public use. (Ord. 5552, 2011; Ord. 5549, 2011; Ord. 5236, 2002; Ord. 4917, 1995; Ord. 4860, 1994; Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.030 Sign Regulations.

A. PERMIT REQUIRED. It is unlawful for any person to erect, repair, alter, relocate or maintain any sign within the City, or to direct or authorize another person to do so, except pursuant to a sign permit obtained as provided in this Chapter, unless the sign is specifically exempted from permit requirements by the provisions of this Chapter. No permit shall be required for repainting, cleaning, or other normal maintenance and repair of a sign unless the structure, design, color or character is altered.

B. EXEMPT SIGNS. The following signs shall be allowed without a sign permit and shall not be included in the determination of type, number, or area of signs allowed on a building or parcel:

1. Any official federal, state, or local government sign and notice issued by any court, person, or officer in performance of a public duty, or any sign erected or placed on park or beach property owned or controlled by the City and which (i) pertains to an event not exceeding five (5) days in duration and (ii) has been approved by the agency with authority over such property.

2. Any temporary sign warning of construction, excavation, or similar hazards so long as the hazard exists.

3. One temporary construction sign, provided the sign (i) does not exceed six (6) square feet in one- and two-family residence zones and does not exceed twenty-four (24) square feet in all other zones, (ii) is used only to indicate the name of the construction project and the names and locations (city or community and state name only) of the contractors, architects, engineers, landscape designers, project or leasing agent, and financing company, (iii) is displayed during construction only, (iv) does not exceed the height limitations of a ground sign, and (v) meets all other applicable restrictions of this Chapter.

4. Any temporary sign relating to Fiesta, Solstice, or any official City holiday except banners, blinking lights, or signs and any related lighting that require a building, electrical, or other permit. Any such decorations or displays and any related lighting must be removed within ten (10) days following the event for which they were erected.

5. A sign consisting of a display of no more than twelve (12) balloons for any single business or residence, displayed at a height which is not above the roof ridge line of the main building or fifteen (15) feet, whichever is lower.

6. A noncommercial sign not exceeding six (6) square feet total for each lot in residential zones and twenty-four (24) square feet total for each lot in nonresidential zones. Such a sign shall be erected only with the permission of property owner or tenant. An election sign shall not be displayed for more than ninety (90) days prior to the election or for more than ten (10) days following the election for which it is erected.

7. A temporary real estate sign which indicates that the property is for sale, rent, or lease. Only one such sign is allowed on each street frontage of the property. A temporary real estate sign may be displayed only for such time as the lot or any portion of the lot is actively offered for sale, rent, or lease. Such a sign may be single-faced or double-faced and is limited to a maximum area on each face of four (4) square feet or less on property in residential zones and twelve (12) square feet or less on property in nonresidential zones. Signs allowed pursuant to this exemption shall not exceed the height limitations of a ground sign (six feet (6')).

8. Any temporary sign located on a kiosk.

9. Any "No Trespassing" sign, prohibiting or restricting access to property, provided it is (i) not more than one (1) square foot in size, (ii) placed at each corner and each entrance to the property and (iii) at intervals of not less than fifty (50) feet or in compliance with the requirements of law.

10. One identification sign of no more than one (1) square foot for a residence.

11. Any parking lot or other private traffic directional sign not to exceed two (2) square feet in area having black letters on a white or building color background, and limited to guidance of pedestrian or vehicular traffic within the premises. There shall be erected no more than three (3) such signs in each parking lot or more than one (1) sign per entrance.

12. Any informational commercial signs provided the sign (i) is in a nonresidential zone, (ii) has an aggregate area (when combined with all other similar signs on the parcel) of not more than one-and-one-half (1½) square feet at each public entrance nor more than five (5) square feet total, (iii) indicates address, hours and days of operation, whether a business is open or closed, credit information, and emergency address and telephone numbers. Lettering shall not exceed two (2) inches in height except for street numbers. Neon or light-emitting diode (LED) signs with the text "open" may be erected under this exemption subject to the following conditions: (i) no more than one (1) such sign may be erected per business, ii) the letter height of any such sign shall not exceed six (6) inches and the overall height of the sign shall not exceed twelve (12) inches, and (iii) such signs are not allowed in El Pueblo Viejo, unless the sign is located inside the building and at least ten (10) feet back from any window or other opening in the façade of the building.

13. Any street name and address stamped or painted on a sidewalk or curb.

14. Any civic event sign, except a banner. Such a sign shall be removed within twenty-four (24) hours after the time of the event, shall not exceed twenty-four (24) square feet in size and may be erected for a period not to exceed five (5) days out of any thirty (30) day period. Only one (1) such sign shall be erected per lot.

15. Temporary open house signs. Open house signs erected pursuant to this exemption shall contain only the address of the property where the open house is being held and the name of the real estate agent and/or real estate agency or party holding the open house. Open house signs may be single-faced or double-faced. Open house signs shall be erected and removed on the day the open house is held. Open house signs shall not be fastened or attached in any way to a building façade or architectural element.

a. On-Site Open House Signs. Pursuant to this exemption, one (1) on-site open house sign may be erected on each street frontage of the property that is for sale. Each face of an on-site open house sign shall have an area of three (3) square feet or less, and the height of the on-site open house sign, including the supporting structure, shall not exceed four (4) feet.

b. Off-Site Open House Signs. In addition to the on-site open house sign(s) allowed pursuant to this exemption, a maximum of five (5) off-site open house signs may be erected. Each face of an off-site open house sign shall have an area of three (3) square feet or less, and the height of the off-site open house sign, including the supporting structure, shall not exceed three (3) feet. Off-site open house signs shall not be erected on private property without the permission of the property owner. In addition to complying with the requirements listed above applicable to off-site open house signs, off-site open house signs may be erected within the public right-of-way if such signs comply with all of the following standards:

i. Signs shall not be erected in a manner which obstructs the pedestrian path of travel or which constitutes a hazard to pedestrians or vehicular traffic;

ii. Signs shall not be placed on vehicles;

iii. Signs shall not be placed in street medians; and

iv. Decorative attachments (i.e., balloons, streamers, etc.) shall not be attached to any sign.

16. Any sign on a telephone booth or newsrack, provided the sign (i) identifies only the product contained therein or displays operating instructions, and (ii) the lettering does not exceed two inches in height.

17. Flags flown on a temporary basis for purposes of honoring national or civic holidays which do not exceed eight (8) feet long in largest dimension. No more than two (2) flags may be flown pursuant to this exemption on a single parcel.

18. The official flag of a government, governmental agency, public institution, religion, corporation, business, or other similar entity. Only one (l) flag pole with a maximum height of twenty-five (25) feet and with a maximum dimension on the flag of eight (8) feet and which is not attached to the building shall be exempt. No more than two (2) flags may be flown pursuant to this exemption on a single parcel. Corporate or business flags displaying the emblem, name, logo, or other information of a business shall be included in the calculation of the maximum allowable sign area for the business.

19. Signs, except banners, announcing the opening of a new business which, in the aggregate, do not exceed ten (10) square feet in area or twenty-five percent (25%) of the window area, whichever is greater. Such signs shall be erected no more than thirty (30) days prior to the scheduled opening of the business and shall be removed no later than thirty (30) days after the opening of the business, but in no case shall such a sign be erected for more than forty-five (45) days within this period. The business owner or manager shall provide proof of opening date upon request.

20. Temporary window signs, except banners, not exceeding four (4) square feet or fifteen percent (15%) of the window area of each facade, whichever is greater. For windows which are more than twenty-five (25) feet from the public right-of-way, such signs shall not exceed twenty-five percent (25%) of such window area. No temporary window signs on a building or parcel shall be displayed for more than thirty (30) consecutive days nor more than a total of sixty (60) days per calendar year. Signs erected pursuant to this exemption shall not be illuminated. Unless specifically exempt pursuant to this subsection B, any illuminated sign erected within ten (10) feet of a window, door, or other opening in the façade of a building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls, or parking lots available for public use shall require a permit.

21. Signs specifically required by federal, state, or City law, of the minimum size required.

22. Signs on the air operation side of the Santa Barbara Municipal Airport which are designed and oriented to provide information to aircraft.

23. A sign, such as a menu, which (i) shows prices of goods or services not on window display to the public, (ii) does not exceed twenty-four (24) inches by eighteen (18) inches, (iii) has letters and numbers not exceeding three-quarters (3/4) of an inch in height, and (iv) is located on a wall or in a window.

24. Signs on public transit vehicles designed to transport at least 19 passengers. No more than one sign may be displayed on each side of these vehicles, except as approved by the Sign Committee.

25. Temporary "Garage Sale" or other similar signs located only on the premises upon which the sale is occurring.

26. Digital displays on gasoline pumps, provided the digital displays conform to all of the following standards:

a. Each digital display shall not measure more than twenty-six (26) inches on the diagonal;

b. Each digital display is integrated into the face of the gasoline pump and is not a stand-alone display;

c. No more than one digital display is erected on each face of a gasoline pump.

d. The luminance of each digital display shall not exceed 1500 nits;

e. Any audio associated with a digital display shall not exceed 65 dB, measured at the nearest property line, between the hours of 7:00 a.m. and 10:00 p.m., and 55 dB, measured at the nearest property line, between the hours of 10:00 p.m. and 7:00 a.m.; and

f. No digital display shall be installed within twenty-five (25) feet of any property zoned exclusively for residential use.

27. Digital displays on automated teller machines (ATMs), provided, (i) the digital display only displays the name of the financial institution that operates the ATM and the instructions for operating the ATM and (ii) the lettering does not exceed two inches in height.

C. PROHIBITED SIGNS. In addition to any sign not conforming to the provisions of this Chapter, the following signs are prohibited:

1. Any sign which, by color, shape, working, or location, resembles or conflicts with any traffic control sign or device.

2. Signs attached or placed adjacent to any utility pole, traffic sign post, traffic signal, historical marker, or any other official traffic control device.

3. Any sign, except as may be required by other code or ordinance, placed or maintained so as to interfere with free ingress or egress from any door, window, or fire escape.

4. Signs erected on public or private property without the permission of the property owner.

5. Signs visible from the public street or parking lot attached to or placed on merchandise or materials stored or displayed outdoors except for parking lot sales of less than four (4) days in duration.

6. Signs that rotate, move, glare, flash, change, reflect, blink, or appear to do any of the foregoing, except time and temperature devices and digital displays otherwise exempted by this Chapter.

7. Off-premises signs, including billboards, except off-site open house signs erected in compliance with the standards specified in Section 22.70.030.B.15 and digital displays erected in compliance with the standards specified in Section 22.70.030.B.26.

8. Any sign displaying obscene, indecent, or immoral matter as defined under the California Penal Code.

9. Signs on awnings or canopies except on the valance.

10. Signs that create a hazard by obstructing clear views of pedestrian and vehicular traffic.

11. Portable signs.

12. Mobile signs.

13. Any sign (generally known as a "snipe sign") tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or the exterior of a building or other structure, where the information appearing thereon is not applicable to the present use of the premises upon which such sign is located. Whenever a sign is found so placed, the same shall constitute prima facie evidence that the person benefited by the sign placed or authorized the placement of the sign.

14. Bench signs.

15. Banners, including any banner inside a building that is attached to, leaning against, or otherwise placed within ten (10) feet of a window, door, or other opening in the façade of the building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls or parking lots available for public use.

16. Roof signs and any other graphics which extend, wholly or in part, above the eave line of the structure to which it is attached.

17. Any parapet or pergola sign placed above or partially above the parapet or pergola.

18. Logo signs with courtesy panels.

19. Pennants.

20. Signs which cover or interrupt architectural features.

21. Signs containing changeable copy, except theater marquee signs, business directories, church and museum signs, gas price signs and restaurant interior menu boards.

22. Historical markers placed on the structure, tree or other historical monument itself, except as approved by the Historic Landmarks Commission.

23. Pole signs.

24. Exposed cabinet/raceways behind channel letters.

25. Inflatable signs, except for balloon displays exempted by this Chapter.

26. Unless otherwise exempted by this Chapter, digital displays, including any digital display inside a building that is attached to, leaning against, or otherwise placed within ten (10) feet of a window, door, or other opening in the façade of the building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls or parking lots available for public use.

D. GENERAL REQUIREMENTS.

1. No sign, other than a sign installed by a public agency, shall be allowed to be erected, installed, placed or maintained in or on any public property, including sidewalks and parkways, except off-site open house signs erected in compliance with the standards specified in Section 22.70.030.B.15.

2. Churches, schools, and other public or semi-public facilities may have one (1) on-site sign not exceeding eighteen (18) square feet in any area, provided that, except for the name of the premises, the lettering shall not exceed three (3) inches in height, and such signs in residential zones shall not be internally illuminated.

3. Any sign which is supported by more than one means and therefore cannot be clearly defined as a ground, marquee, wall, roof, projecting or other sign shall be administratively assigned to the sign category most logically applicable and be subject to the corresponding standards.

4. Accessory signs will be considered only if they are designed in conjunction with or made an integral part of the signing existing on the subject building or project. Said signs shall not exceed twenty-five (25%) percent of the building's total signage.

5. A temporary window sign in excess of four (4) square feet, or fifteen percent (15%) of the window area of each facade, whichever is greater, requires a permit, unless the sign is otherwise exempt from the permit requirements of this chapter. For a window which is more than twenty-five (25) feet from the public right-of-way, such a sign shall not exceed twenty-five percent (25%) of the window area. Such signs shall not be displayed for more than thirty (30) consecutive days nor for more than a total of sixty (60) days per calendar year. Unless specifically exempted in subsection B above, all illuminated signs erected within ten (10) feet of a window, door, or other opening in the façade of a building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls, or parking lots available for public use shall require a permit.

6. Only one (1) face of a double-faced sign with parallel opposing faces, and bearing identical copy or language translation, shall be used in computing the area of a sign. Signing and illumination shall be on two opposing faces only.

7. In order to calculate the size of a sign, the following provisions apply:

a. If the sign is enclosed by a box or outline, the area of the sign includes that portion of the sign comprised of said box or outline.

b. If the sign consists of individual letters attached directly to the building or wall, the size is calculated by drawing a rectangle around each line of copy.

c. If the sign is a ground sign, the base or support structure shall be included in calculating the height of the sign.

8. If a building consists of two (2) or more above-ground stories, no sign shall be allowed more than five feet six inches (5'6") above the second floor line or in conformance with Subsection D.11 below, where applicable.

9. Prior to issuance of a sign permit, a ground sign shall be approved by the traffic engineer to ensure that placement of the sign would not adversely affect traffic or pedestrian safety.

10. A non-temporary window sign shall be not larger than twenty-five percent (25%) of the window area of the facade on which it is displayed.

11. A wall sign may be attached flat against or pinned away from the wall. A wall sign placed in the space between windows on the same story shall not exceed more than two-thirds (2/3) of the height of the window, or major architectural details related thereto. A wall sign placed between windows on adjacent stories shall not exceed two-thirds (2/3) the height of the space between said windows.

12. A projecting or hanging sign must clear the nearest sidewalk by a minimum of seven (7) feet and may project no more than four (4) feet into the public right-of-way. Such a sign for a business in the second story of a building is allowed only if the business has a separate street or public parking lot entrance and may be placed at the entrance only.

13. A device displaying time or temperature is permitted in all zones except residential zones and designated historic districts, subject to the provisions herein regulating various types of signs. Such devices are limited to one (1) per block. Only a logo is allowed to appear on the same structure as such a device.

14. A kiosk is permitted in all nonresidential zones, subject to approval by the Sign Committee and (i) the Historic Landmarks Commission if within El Pueblo Viejo Landmark District or another landmark district, or (ii) the Architectural Board of Review in other parts of the City.

15. A relocated sign shall be considered to be a new sign, unless the relocation is required by a public agency as a result of a public improvement, in which case approval shall be obtained only for the new location and base of the sign.

16. Except as otherwise stated in this Chapter, letter height shall be limited to a maximum of twelve (12) inches, except where it can be found that said letter size is inconsistent with building size, architecture and setback from the public right-of-way.

17. A ground sign which exceeds six (6) square feet in area shall not be located within seventy-five (75) feet of any other ground sign.

18. All signs on parcels immediately adjacent to El Pueblo Viejo Landmark District are subject to El Pueblo Viejo regulations. (Ord. 5552, 2011; Ord. 5549, 2011; Ord. 5236, 2002; Ord. 4917, 1995; Ord. 4860, 1994; Ord. 4850, 1994; Ord. 4484, 1987; Ord. 4382, 1986; Ord. 4338, 1985; Ord. 4259, 1984.)

22.70.040 Sign Standards.

A. GENERAL REQUIREMENT. All signs shall conform to the following standards.

1. Residential Uses. The following sign standards shall apply to any residential use in any zone in the City:

a. An apartment or condominium project identification sign identifying an apartment or condominium complex by name or address. One (1) such sign shall be allowed for each complex, shall not exceed ten (10) square feet in size if less than twenty-five (25) units, nor twenty-five (25) square feet if larger than twenty-five (25) units, and shall not be internally illuminated.

b. The Sign Committee may authorize one (1) ground sign or wall sign, not to exceed an area of twenty-four (24) square feet, to identify a neighborhood or subdivision, other than an apartment or condominium project, at the entrance to such subdivision or neighborhood. Such sign shall not be internally illuminated.

c. Any existing legal nonconforming use in a residential zone may have one-half (½) the number and size of signs as are allowed in commercial zones.

2. Office Uses. The following sign standards shall apply to office uses in any zone:

a. The aggregate area for all signs identifying a building or complex shall not exceed one-half (½) square foot of sign area per linear foot of building frontage or twenty (20) square feet, whichever is less.

b. Establishments within an office building or complex may collectively place a directory sign at each public entrance to said building listing establishments within.

c. An office complex which maintains a group identity shall submit to the Sign Committee a sign program for all signs proposed within the complex. Upon approval, the sign program shall apply to all tenants. This sign program shall be included as a provision in the lease for each individual tenant. Proof of said inclusion in the standard lease for the office complex shall be submitted to the Planning Division by the lessor.

3. Commercial and Industrial Uses. The following sign standards shall apply to commercial and industrial uses, including hotels and motels in any zone:

a. The total area for all signs identifying a business shall not exceed the following:

(1) For a dominant building frontage up to one hundred (100) linear feet, one (1) square foot of sign area per linear foot of building frontage, or sixty-five (65) square feet, whichever is less.

(2) For a dominant building frontage with more than one hundred (100) linear feet, three-quarters (3/4) square foot of sign area per linear foot of dominant building frontage or ninety (90) square feet, whichever is less.

(3) For a building occupied by more than one tenant, the dominant building frontage for each business is that portion of the building elevation adjacent to the business. For a business which is not on the ground floor, one-half (½) square foot of sign area per linear foot of dominant building frontage is permitted.

b. For a commercial or industrial complex containing four (4) or more occupants, the following sign standards apply:

(1) One (1) sign per frontage to identify the commercial or industrial complex, allowing one (1) square foot of sign area per linear foot of complex frontage or seventy-five (75) square feet, whichever is less, on the dominant facade.

(2) For each individual business with frontage on a public street or parking lot, one-half (½) square foot of sign area per linear foot or twenty-five (25) square feet, whichever is less.

(3) One (1) directory sign not exceeding ten (10) square feet in size may be allowed at each public entrance.

(4) A commercial or industrial complex which maintains a group identity shall submit to the Sign Committee a sign program for all signs proposed within the complex. Upon approval, the sign program shall apply to all tenants. This sign program shall be included in the lease for each individual tenant. Proof of said inclusion shall be submitted to the Planning Division by the lessor.

B. EL PUEBLO VIEJO LANDMARK DISTRICT. Signs in El Pueblo Viejo Landmark District (EPV) shall contribute to the retention or restoration of the historical character of the area. In addition to the other standards and restrictions in this Chapter, signs in EPV shall comply with the following:

1. Colors shall be consistent with the Hispanic styles specified in Chapter 22.22.
2. The typeface used on all signs in EPV shall be consistent with the Hispanic styles specified in Chapter 22.22, except that where the business logo or trademark uses a particular typeface, it may be used.
3. Letter height shall be limited to a maximum height of ten (10) inches, except where it can be found that said letter size is inconsistent with building size, architecture, and setback from the public right-of-way.
4. No internally illuminated signs, except back-lit signs, are allowed. Traditional materials and methods are to be used as defined in Section 22.22.104 and described in Subsection 5 below. Internally illuminated projecting cabinet signs are prohibited.
5. The choice of materials is left to the discretion of the applicant, subject to the approval of the Sign Committee; however, the following materials and/or methods are acceptable and desirable:
   a. Sign face, supports, and standards made of resawn or rough sawn wood and/or wrought iron with painted or stained backgrounds and lettering.
   b. Sign face, supports, and standards made of smooth wood trimmed with moldings of historically based design and lettering.
   c. Signs painted directly on the face of the building.
   d. Projecting signs.
   e. Use of wood cutouts, wrought iron, or other metal silhouettes further identifying the business.
   f. Glass.
   g. Lighting standards and style typical of the building's architecture and period.
   h. Flush or inset mounted signs of tile or stone.
6. The following materials and details are not acceptable:
   a. Contemporary finish materials such as plastics, aluminum, and stainless steel.
   b. Imitation wood or imitation marble.
   c. Fluorescent paint.
   d. Spot lights, neon tubing, and exposed electrical conduits on the exterior of any building or structure.
   e. Neon tubing, light rope, or similar illuminated displays located within ten (10) feet of any window (except “open” signs as provided in Section 22.70.030.B.12 and “no vacancy” signs as provided in subparagraph 7 below).
7. For hotels and motels in the El Pueblo Viejo Landmark District (EPV), a single neon "No Vacancy" sign shall be allowed if the following conditions are met:
   a. Only one (1) double-faced neon "No Vacancy" sign per property or business.
   b. Letter size to be three (3) inches maximum height.
   c. Tube size to be twelve (12) mm. maximum diameter.
   d. Neon color to be clear red.
8. Landscaping:
   a. Landscaping in EPV shall conform to the El Pueblo Viejo Guidelines’ list of preferred plants.
   b. Low shrubs or dense ground cover is required to conceal non-decorative lighting fixtures.
   c. Irrigation plans shall be included where applicable.

(Ord. 5549, 2011; Ord. 4917, 1995; Ord. 4860, 1994; Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.050 Sign Permits.

A. **APPLICATION.** Any person desiring to construct, maintain or display a sign for which a permit is required shall submit an application to the Planning Division of the Community Development Department. The application shall be made upon forms provided by the Community Development Department and shall be accompanied by the following materials:

1. Two copies of a plan showing:
   a. The position of each sign and its relation to adjacent buildings or structures.
   b. The proposed design, size, colors, and location on the premises of each sign including the type and intensity of any proposed lighting.
2. A statement showing the sizes and dimensions of all signs existing on the premises at the time of making such application.
3. Such other information as the Director of the Community Development Department may require to show full compliance with this and all other ordinances of the City of Santa Barbara.
4. A written authorization to submit the sign permit application signed by the property owner or lessee.

B. **FEES.** The sign permit application shall be accompanied by the appropriate fee established by the City Council by resolution. If installation of a sign is commenced before an application for a permit is made or before the plans are approved by the Sign Committee, the applicant shall be charged an additional field inspection fee equal to the permit fee.

C. **PROCESSING APPLICATIONS.**

1. Community Development Department staff shall review the application and accept it as complete or reject it as incomplete within three (3) working days from the date of filing.

2. No sign permit application will be accepted if:

a. The applicant has installed a sign in violation of the provisions of this Chapter and, at the time of the submission of the application, each illegal sign has not been legalized, removed or included in the application; or

b. Any sign under the control of the applicant on the premises of the proposed sign was installed in violation of this Chapter and at the time of submission of the application, each illegal sign has not been legalized, removed or included in the application; or

c. The sign permit application is substantially the same as an application previously denied by staff or the Sign Committee or, on appeal, by the Historic Landmarks Commission, the Architectural Board of Review, or the City Council, unless:

(i) Twelve (12) months have elapsed from the date of the final decision on the application; or

(ii) New evidence or proof of changed conditions is furnished in the new application.

3. Assignment of Level of Review. Community Development Staff will review each sign permit application and assign each complete application to one of three review categories: conforming review, consent review, or full board review. Sign permit applications will be assigned to conforming review based on the criteria found in Section 22.70.050.E. Most other sign permit applications will be assigned to consent review. Sign permit applications that involve multiple exception requests, a large number of signs, or a large volume of signage will be assigned to full board review. Prior to a hearing on Consent Review, any member of the Sign Committee, Architectural Board of Review, or the Historic Landmarks Commission may request that an application assigned for consent review be re-assigned for full board review.

D. **BUILDING AND ELECTRICAL PERMITS.** After a sign has been approved by the Sign Committee the applicant shall obtain all required building and electrical permits from the Building and Safety Division of the Community Development Department.

E. **CONFORMING AND CONSENT SIGN REVIEW.**

1. Sign Conformance Determination. Applications for signs conforming to the Sign Ordinance and Sign Review Guidelines may be eligible for review and approval by the Chair or Vice-Chair of the Sign Committee or their designated alternate. Conforming signs which meet the following criteria shall be referred by Staff for Conforming Sign Review:

a. Signs where the size, shape, color, placement, and any lighting of the sign are consistent with adopted guidelines;

b. Signs located within El Pueblo Viejo Landmark District that comply with the requirements of Section 22.70.040.B and would be compatible with the required architectural style described in Section 22.22.104;

c. Minor wording, name, color and/or face changes which do not affect the character or location of a sign;

d. Signs for a commercial or industrial complex where a previously approved sign program is in effect and the proposed sign conforms to the program;

e. Thirty (30) day extension of temporary signage;

f. Conceptually approved signs, if all Committee conditions are met; and

g. Awning signs.

Sign applications which do not meet these specific criteria may be referred by Staff or the Chair, Vice-Chair or their designated alternate for Conforming Sign Review, if deemed appropriate. In addition, the full Sign Committee may also direct some projects or portions of projects to Conforming Sign Review for approval.

2. Conforming Review. Conforming reviews are conducted by any one (1) member of the Sign Committee.

3. Consent Review. Consent reviews are conducted by any two (2) members of the City Committee.

4. Standard of Review and Findings. Conforming Review and Consent Review are conducted using the review criteria provided in Section 22.70.050.G and making the findings required in Section 22.70.050.H.

F. **FULL BOARD REVIEW.** Full Board Review is conducted by the ABR or, if the sign is located in El Pueblo Viejo Landmark District or the sign is proposed on a site that is a designated historic resource or potential historic resource, the HLC. When conducting a Full Board Review of a sign permit application, the ABR or HLC shall assume the role of the Sign Committee, as provided in Chapter 22.70 and amended by this ordinance. The ABR or HLC shall employ the current adopted Sign Review Guidelines and shall conduct its review using the review criteria provided in Section 22.70.050.G and making the findings required in Section 22.70.050.H.

G. **SIGN REVIEW CRITERIA.**

1. In reviewing a sign permit application, staff and the Sign Committee shall apply the following criteria as the basis for action:

a. The sign shall be in proportion with and visually consistent with the architectural character of the building.

b. The sign shall not constitute needless repetition, redundancy or proliferation of signing.

c. The location of the proposed sign and the design of its visual elements (lettering, colors, decorative motif, spacing and proportion) shall result in a sign which is legible under normal viewing conditions existing at the sign's proposed location.

d. The sign shall not obscure from view or unduly detract from existing signing.

e. If the proposed sign will be adjacent to, in or near a residential area, it shall be harmonious and compatible with the residential character of the area.

f. The size, shape, color and placement of the sign and any lighting shall be compatible to and harmonious with the building which it identifies and with the area in which it will be located.

g. If the sign is to be located in El Pueblo Viejo Landmark District, the sign shall comply with the requirements of Section 22.70.040.E and shall be compatible with the required architectural style described in Section 22.22.104.

2. If a sign permit application satisfies the above criteria and complies with the other provisions of this Chapter, it shall be approved.

H. **FINDINGS.** If a sign permit application is denied, specific and detailed findings setting forth the reasons why the proposed sign violates the criteria set forth above or other provisions of this Chapter shall be prepared in writing and mailed to the applicant or his agent and sign contractor within seven (7) days.

I. **APPEALS.** The applicant or any interested person may appeal decisions concerning sign permit applications as follows:

1. Appeals to the Architectural Board of Review or the Historic Landmarks Commission. Any action of the Sign Committee or of the Division staff may be appealed by the applicant or any interested party to the Architectural Board of Review or, if the sign is in El Pueblo Viejo Landmark District or if the sign is proposed on a site that is a designated historic resource or potential historic resource, to the Historic Landmarks Commission. Said appeal shall be in writing, shall state reasons for the appeal and shall be filed with the staff of the Architectural Board of Review or the Historic Landmarks Commission within ten (10) days of the meeting at which the decision being appealed was rendered. A hearing shall be held by the Architectural Board of Review or the Historic Landmarks Commission, as appropriate, at the first available meeting of the Architectural Board of Review or the Historic Landmarks Commission following the filing of the appeal. Notice of the time and place of the hearing shall be sent to the applicant and appellant no later than five (5) days prior to said hearing. The Board or Commission may affirm, reverse or modify the decision of the Sign Committee or staff concerning the sign permit application. Said action shall take place within twenty-eight (28) days from the date of the filing of the appeal. Failure to act within said period will result in the sign permit application being deemed approved to the extent that it complies with the provisions of this Chapter. Upon such an automatic approval, the Division of Land Use Controls shall issue the permit. No member of the Board or Commission who is also a member of the Sign Committee and who participated in the decision of the Sign Committee shall act on the appeal.

2. Appeal to the City Council. An appeal to the City Council from the decision of the Architectural Board of Review or the Historic Landmarks Commission shall be made pursuant to the provisions of Section 1.30.050 of this Code.

J. **EXPIRATION OF PENDING APPLICATION.** Signs must be installed within six months of the date of approval or the approval is void, unless the applicant has requested and received an extension not exceeding six (6) months from the Community Development Director. (Ord. 5537, 2010; Ord. 5444, 2008; Ord. 5136, 1999; Ord. 4917, 1995; Ord. 4850, 1994; Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.060 Revocation of Sign Permits.

A. GROUNDS. Any permit issued under this Chapter may be revoked by order of the City Council when it is shown by substantial evidence that:

1. The permit was issued without or in excess of the authority provided in this Chapter. Permittee shall be compensated for any and all costs incurred as a result of said revocation to the extent it occurs through no fault of the permittee.

2. The application for a permit contained any material misrepresentation of fact.

B. HEARING. Prior to revoking a sign permit, the City Council shall hold a hearing concerning said revocation. Written notice of said hearing shall be given to the permittee not less than ten (10) days prior to the date of said hearing. Following the hearing, if the City Council revokes the sign permit, it shall adopt findings setting forth the basis for its decision. The findings shall be mailed to the permittee. (Ord. 4484, 1987; Ord. 4259, 1984.)

22.70.070 Exceptions.

A. APPLICATION. When a person desires to erect a sign which does not comply with the provisions of this Chapter, he shall file an application for an exception. An application for an exception shall be filed with a sign permit application, shall be accompanied by a fee established by the City Council by resolution, shall state the specific section or sections of this Chapter which the applicant desires to have waived, and shall state the grounds for the exception.

B. GROUNDS. Before an exception may be granted, the following shall be shown:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity.

2. The granting of the exception will not be materially detrimental to the public welfare or injurious to the properties or improvements in the vicinity.

3. The proposed sign is in conformance with the stated purpose and intent of the Sign Ordinance.

C. HEARING. A hearing on the exception application shall be held by the Sign Committee prior to considering the sign permit application. The time limits for the Sign Committee's action shall be the same as those set forth in Section 22.70.050.F of this Chapter.

D. APPEAL. The provisions for the appeal of the decision of the Sign Committee concerning an exception application shall be the same as those set forth in Section 22.70.050.I. (Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.080 Nonconforming Signs.

A. DEFINITION. Every sign legally in existence on the effective date of (i) the ordinance adopting this Chapter, or (ii) any ordinance amending this Chapter, which violates or does not conform to the provisions of such ordinance or any such amendment, shall be a "nonconforming sign."

B. GENERAL PROVISIONS. A nonconforming sign may not be:

1. Changed to another nonconforming sign.
2. Structurally altered so as to extend its useful life.
3. Expanded.
4. Relocated.

C. REMOVAL.

1. A sign which does not conform to the provisions of this Chapter, but which legally existed and was maintained on January 1, 1976, and which did not conform to provisions of the Sign Ordinance in effect at that time shall be removed or made to conform within one-hundred eighty (180) days after written notice from the Community Development Department. Said one-hundred eighty (180) day period shall be extended in the following circumstances:

a. The owner of a nonconforming sign submits to the Community Development Department a declaration signed under penalty of perjury, on a form provided by the Community Development Department, stating that he intends to terminate the business identified by said sign within twelve (12) months of the date of the notice from the Community Development Department.

b. The owner agrees in writing, on a form provided by the Community Development Department, to voluntarily remove said sign upon the expiration of the twelve-month period described in Subsection C.1.a. above or the date he terminates his business, whichever occurs first, and further agrees as consideration for this further extension of time to remove said sign(s) to waive any and all rights he may have to challenge the validity of the provisions of this Section.

2. A sign which becomes nonconforming upon the effective date of (i) the ordinance by which this Chapter is adopted, or (ii) an ordinance amending this Chapter shall be removed or made to conform within sixty (60) days after written notice by the Community Development Department upon change of use of the premises.

3. Exceptions to the provisions of this Section shall be granted by the Sign Committee upon the application of any owner of an on-site sign who presents substantial evidence showing the following:

a. There are exceptional circumstances applicable to the property on which the nonconforming sign is located, including size, shape, topography, location, or surroundings which make it practically impossible to effectively identify the property to the public if strict application of all the provisions of this Chapter is required; or

b. The original cost of the sign has not been fully amortized for tax purposes under Section 167 of the Internal Revenue Code by the sign's original owner. Such exception shall only be granted until completion of amortization pursuant to Section 167. Request for such extension shall be supported by legal documents, sworn statements, affidavits or other documents clearly establishing the need for additional time to amortize the original cost of the sign; or

c. The sign possesses unique features which make it a significant part of the historical heritage of the area in which it is located.

4. Denial of a request for an exception may be appealed pursuant to the provisions of Section 22.70.050.I. (Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.090 Non-Current, Illegal or Unsafe Signs.

A. NON-CURRENT SIGNS. Any sign, including its supporting structure, which no longer identifies the current occupant or which otherwise fails to serve its original purpose after a lapse of three (3) months shall be deemed to be a public nuisance and shall be removed by the owner of the property on which it is located upon thirty (30) days written notice by the Community Development Department.

B. UNSAFE SIGNS. Any sign that, in the opinion of the City Building Official, is unsafe or insecure shall be deemed a public nuisance and shall be corrected or removed, together with any supporting structure, by the owner of the property on which the sign is located, within ten (10) days written notice by the Community Development Department.

C. ILLEGAL SIGNS. Any sign, including its supporting structure, which is installed or maintained on private property in violation of this Chapter shall be deemed to be a public nuisance and shall be removed by the owner of the property on which it is located upon thirty (30) days written notice by the Community Development Department.

D. FAILURE TO ABATE. In the event the property owner has not begun removal of the sign and its supporting structure within the time limits set forth in Subsections A, B and C above, Community Development Department Staff shall cause to be filed for record with the County Recorder a Notice of Intention to Record a Notice of Order to Abate describing the real property, naming the property owner thereof, describing the violation and giving notice of a City Council hearing. Community Development Department Staff shall give written notice by personal delivery or mail to the property owner that the City intends to carry out the removal of the sign and supporting structure and have the cost of said removal be made a charge against the property owner and lien against the property, unless the sign is removed, repaired or reconstructed so as to eliminate the condition that is violative of this Chapter. Community Development Department Staff shall also advise the property owner that he has a right to a scheduled hearing before the City Council of the City of Santa Barbara for the purpose of final determination that the sign is non-current, illegal or unsafe as defined under this Section. Said hearing shall begin no later than thirty (30) days after the date of the personal delivery or mailing of the notice and may be continued by the City Council.

E. FINDINGS. Upon completion of the hearing, the City Council shall find as to the fact that the sign is a non-current, illegal or unsafe sign and upon such fact being found shall determine that the sign shall be removed, repaired, or reconstructed by the property owner within a prescribed time or the City shall cause the sign and supporting structure to be removed. Said determination shall be made based upon the evidence presented and a report from the Community Development Director regarding the existing condition of the sign, the estimated costs of repair, reconstruction and/or removal. If the City Council makes such a determination, written findings and an order shall be approved. After said hearing, the City Clerk shall cause to be filed a Notice of Order to Abate with the County Recorder and shall give all parties who have a recorded interest in the property notice of such recordation by mail.

F. DUTIES OF PUBLIC WORKS DIRECTOR. The Public Works Director shall, after completion of the hearing and approval of the findings by the City Council that the sign is non-current, illegal or unsafe, and after the failure of property owner to remove, repair or reconstruct the sign within the prescribed time as set forth in the order, obtain the necessary services by contract or by using City forces to carry out the removal of the sign and its supporting structure as directed by the City Council. A record shall be kept of all costs incurred by the City including time spent for the preparation of plans and the supervision of the work to carry out the removal of the sign and supporting structure. Upon completion of said efforts, the Public Works Director shall file a report with the City Council as to the costs incurred. The property owner shall be provided a copy of said report, notice of a hearing before the City Council, and an opportunity to appear before the City Council to be heard regarding the reasonableness of the costs incurred by the City.

G. COSTS TO BE BORNE BY PROPERTY OWNER, PERSON BENEFITTED BY THE SIGN. Upon completion of the hearing before the City Council as to the reasonableness of the costs, the City Council shall determine the reasonable costs incurred by the City to remove the non-current, illegal or unsafe sign and in the case of private property, the property owner shall be advised of said amount which shall be due and payable to the City. Upon request of the property owner, the City may agree to a mutually acceptable payment schedule. In the case of signs on public property, the costs of removal shall be borne by the person benefited by the sign.

H. LIEN. In the event the amount determined to be due and payable to the City is not paid within thirty (30) days after the determination by the City Council or as otherwise agreed, said amount shall become a charge against the property involved. The City Administrator shall thereafter cause the amount of said charge to be recorded on the assessment roll as an assessment and lien against and upon the property. Any portion of said assessment remaining unpaid after the due date for payment thereof shall be subject to the penalties and proceedings then in effect for property taxes due within the City of Santa Barbara.

I. INTEREST CHARGES. The City shall be entitled to interest at the rate applicable for unpaid taxes on all costs incurred by the City as determined pursuant to Subsection F.

J. SIGNS ON PUBLIC PROPERTY. Any sign, including its supporting structure, which is installed, placed or maintained on public property, other than a sign installed by, or with the permission of a public agency, is illegal and subject to removal. The person benefited by the sign shall receive notice of the violation and must remove the sign within the time stated in the notice. If the sign remains at the end of the stated period, the sign will be removed in accordance with the provisions of Section 22.70.090.E. Costs for such removal shall be borne by the person benefited by the sign. (Ord. 4917, 1995; Ord. 4484, 1987; Ord. 4259, 1984; Ord. 4101, 1981.)

22.70.095 Vending Machines Readily Visible From a Public Right-of-Way.

A. VENDING MACHINES WITHIN THE PUBLIC RIGHTS-OF-WAY. No owner of real property shall install, operate, or maintain a vending machine which is located on or encroaches within or over a City public right-of-way, such as a City street, sidewalk, paseo, or alleyway except for those machines which encroach in the public right-of-way on the date of the enactment of this amendment to Chapter 22.70, provided that the owner or operator of such an encroaching vending machine obtains a vending machine license agreement pursuant to the requirements of Santa Barbara Municipal Code Chapter 9.48 within one year of the adoption of this amendment and provided that such machine dispenses drinking water only.

B. VENDING MACHINES IN A CITY LANDMARK DISTRICT. No owner of real property located within a City Landmark District (as such districts are designated by Santa Barbara Municipal Code Chapter 22.22) shall install, operate, or maintain a vending machine upon such real property under circumstances where the vending machine is readily visible from an area accessible to public.

C. VENDING MACHINES – NON-RESIDENTIAL USES.

1. Generally. No owner of real property located outside of a City Landmark District shall install, operate, or maintain a vending machine on such real property under circumstances where the machine is readily visible from an area accessible to the public unless and until the property owner or vending machine operator (or an authorized agent thereof) has obtained the permits required by this Section and has completed the design review and approval required by this Section, where applicable. No business shall be allowed or permitted to have more than four (4) vending machines at each business location.

2. Residential Properties. No owner of real property used exclusively for residential purposes shall install, operate, or maintain a vending machine upon such property.

D. REVIEW AND ISSUANCE OF VENDING MACHINE PERMITS.

1. Machine Locations with Not More Than Two (2) Vending Machines. A vending machine which is visible from an area readily accessible to the public may be installed, operated, and maintained on real property zoned or being used for non-residential purposes and located outside of a City Landmark District only under the following circumstances:

a. No More Than Two (2) Machines. The real property upon which the machine will be located will have no more than two (2) vending machines installed or operated upon the same location at any one time; and

b. Necessary Permits. The owner or operator of the vending machine has obtained a building permit from the City Building and Safety Division and a vending machine sign permit from the City Sign Committee in accordance with the procedures established for sign permits set forth herein; and

c. Size and Machine Panel Design. The size, design, and the use of illumination for the vending machine is installed in full compliance with the City's Outdoor Vending Machine Design Guideline requirements for unscreened vending machines.

d. Signage Illumination. A vending machine may not have signage which is internally illuminated.

2. Machine Locations with More Than Two (2) Vending Machines. A vending machine which is readily visible from an area accessible to the public may be installed, operated, and maintained on non-residential real property located outside of a City Landmark District where the real property will have more than two vending machines but less than five (5) machines only under the following circumstances:

a. ABR Design Review. The owner or operator of the vending machine has obtained design and screening review and approval from the City Architectural Board of Review and the machine is installed in full compliance with the City's Outdoor Vending Machine Design Guidelines; and

b. Required Permits. The owner or operator of the vending machine has obtained both a building permit from the City Division of Building and Safety and a sign permit in accordance with the procedures established for sign permits set forth herein from the City Sign Committee for the machine; and

c. Compliance with Conditions of Approval. The vending machine is installed and maintained in accordance with any conditions of approval issued by either the Sign Committee or the ABR in connection with the approved permits or design review.

d. Automobile Service Station Locations. The real property is not being used as a gasoline service or automobile service station.

3. Vending Machines in a Shopping, Office, or Industrial Center. Vending machines located on real property being used as a Commercial, Office, or Industrial Complex [as defined in Section 22.70.020(I)] may be permitted only pursuant to a Complex Vending Machine Program approved by the Sign Committee in a manner similar to the Sign Committee's review and approval of Complex Sign Programs pursuant to Subsection (A)(3)(b) of Section 22.70.040 hereof and where such machines are designed and located in accordance with the City's Outdoor Vending Machine Design Guidelines.

E. OUTDOOR VENDING MACHINE DESIGN GUIDELINES.

1. Adoption of Machine Design and Locational Guidelines. Within thirty (30) days of the adoption of the ordinance enacting this Section, the City Council shall approve Outdoor Vending Machine Design Guidelines which shall be approved pursuant to a resolution of the City Council.

2. Exceptions to Guideline Requirements. Upon the written request of an applicant for an outdoor vending machine permit, the Sign Committee, or, where applicable, the City's Architectural Board of Review may grant appropriate exceptions to the Outdoor Vending Machine Design Guidelines provided that all of the following grounds for the exception are determined to be applicable:

a. There are exceptional or extraordinary circumstances or conditions applicable to the real property involved which do not apply generally to other real properties in the vicinity.

b. The granting of the exception will not be materially detrimental to the public welfare or injurious to the properties or improvements in the vicinity.

c. The proposed vending machine installation is in conformance with the stated purpose and general intent of the Outdoor Vending Machine Design Guidelines and this Chapter.

d. A public benefit will be derived from the proposed outdoor vending machine location and a hardship otherwise exists due to the physical constraints of the site which make the strict application of City vending machine requirements impractical or not readily feasible.

F. COMPLIANCE ESTABLISHED BY VENDING MACHINE PERMIT STICKER. Compliance with the requirements of this Section shall be conclusively established by the City's issuance of an appropriate permit sticker which shall be posted or affixed to and maintained on the permitted vending machine by the operator thereof and which shall serve as conclusive proof of compliance with the requirements of this Section.

G. VENDING MACHINES INSTALLED PRIOR TO ADOPTION. Except with respect to the prohibition on internally illuminated signage contained in subparagraph (D)(1)(d) hereof, the requirements of this Section (including the Outdoor Vending Machine Design Guidelines) shall be applicable to any vending machines installed prior to the adoption of the ordinance enacting this Section upon the expiration of one year after the effective date of the Ordinance. Permit applicants may be granted additional time for compliance with the requirements of this Chapter (not to exceed one year) by the Community Development Director upon a showing by the applicant of due diligence in seeking to obtain the permits and design review required by this Chapter.

H. APPEALS. A decision of the Sign Committee or a decision of the Architectural Board of Review made pursuant to this Section may be appealed in accordance with the applicable appeal procedures of subsection (I) of Section 22.70.050.

I. DEFINITION OF "READILY VISIBLE TO THE PUBLIC." For the purposes of this Section, the phrase "readily visible to the public" shall mean that a majority of the face panel of a vending machine can typically, reasonably, and usually be observed by an average person standing or traveling upon a City public right-of-way or visible from a parking or other area generally open for public use, including those vending machines which are located indoors but visible and less than four (4) feet from a window. Where necessary whether a machine is "readily visible to the public" may be determined by the Community Development Director. (Ord. 5236, 2002.)

22.70.100 Sign Enforcement and Penalties.

A. ENFORCEMENT.

1. Every sign erected in the City shall be subject to inspection by the Community Development Director, or his deputy, to insure compliance with all provisions of the Sign Ordinance.

2. With respect to all signs existing on the effective date of this Chapter, and to all signs constructed, maintained, displayed, or altered after the effective date of this Chapter, it shall be the duty of the Community Development Director to enforce this Chapter.

3. It shall be the duty of the Community Development Director to enforce this Chapter for any signs installed contrary to the approved plans or to any conditions imposed by the Sign Committee.

4. The Community Development Director or any of his deputies shall have the right to enter upon any premises upon which any sign has been erected to enforce compliance with the provisions of this Chapter and to cause the removal of any sign maintained in violation of this Chapter. Whenever a sign is installed, erected or maintained in violation of this Chapter, the same shall constitute prima facie evidence that the person benefited by the sign placed or authorized the placement of the sign and shall be held responsible therefore.

B. PENALTIES. Any person who violates the provisions of this Chapter shall be subject to the penalties described on Chapter 1.28 of the Santa Barbara Municipal Code. (Ord. 4484, 1987; Ord. 4259, 1984.)

Chapter 22.75

OUTDOOR LIGHTING

Sections:

22.75.010 Purpose.
22.75.020 Definitions.
22.75.030 Certain Lighting Prohibited.
22.75.040 Certain Lighting Exempted.
22.75.050 Outdoor Lighting Review by the Architectural Board of Review, the Single Family Design Board, and the Historic Landmarks Commission.
22.75.060 Control of Nuisance Lighting In and Adjacent to Residential Zones.

22.75.010 Purpose.

In order to preserve and enhance the unique qualities of Santa Barbara's residential neighborhoods and its visual environment, it is essential to encourage the highest quality of outdoor night-time lighting through the adoption of lighting standards.

This ordinance is intended to reduce problems created by improperly designed and incorrectly installed outdoor lighting, particularly in the City's residential zones. It is intended to provide for safety and security concerns, without contributing to the problems associated with glare, light trespass, or skyglow, and to promote the efficient use of energy.

This ordinance establishes certain regulations and design review requirements intended to limit the uses of outdoor lighting to certain appropriate land uses and to prohibit the use of certain lighting fixtures.

This ordinance recognizes the benefits of outdoor night-time lighting and provides clear guidelines for its design and installation to help maintain and complement Santa Barbara's character.

22.75.020 Definitions.

For the purposes of this Title, the following words and phrases shall have the meanings set forth herein:

A. **ADJACENT.** Immediately next to.

B. **AMBIENT LIGHTING.** The general character and overall level of illumination in a particular area.

C. **DIRECT UPWARD LIGHT EMISSION.** Light rays that are emitted from a fixture that are above a horizontal plane intersecting that light source or fixture.

D. **GLARE.** Brightness in the field of view that is sufficiently greater than the amount to which the eye is adapted, causing annoyance, discomfort, or loss of visual performance and visibility.

E. **LASER LIGHTS.** A laser source light, or any similar high intensity light, used for outdoor advertising or entertainment, when projected above the horizontal.

F. **LIGHT SOURCE.** Any man-made light source, or collection of light sources that produce light by any means.

G. **LIGHT TRESPASS.** Light produced by a Lighting Fixture that illuminates a surface beyond the boundaries of the property on which it is located.

H. **LIGHTING FIXTURE.** A complete unit consisting of a Light Source together with a housing and parts designed to distribute and aim the light, located outside a building, including but not limited to, fixtures attached to any part of a structure, located on the surface of the ground, or located on free standing poles.

I. **LOW VOLTAGE.** Operating at 24 volts or less or as defined by Section 551-2 of the National Electrical Code (1993 edition) or as such Code is subsequently amended from time to time.

J. **NUISANCE LIGHTING.** Includes, but is not limited to, Glare, Light Trespass, and Skyglow.

K. **OUTDOOR LIGHTING.** The night time illumination of an outside area or object, or any man-made light emitting object located outdoors.

L. **OUTDOOR RECREATIONAL COURT.** Includes, but is not limited to, a field, court, or other area, whether permanent or temporary, designed or used for playing any sport or game, such as tennis, volleyball, basketball, or badminton, or similar outdoor game or sport, but not including lighting for a swimming pool which is located beneath the surface of the water.

M. **SEARCHLIGHT.** A mobile or fixed projector designed to produce an approximately parallel beam of light which is aimed above the horizontal plane, the use of which includes, but is not limited to, advertising for special events.

N. **SHIELDED.** A Lighting Fixture having a configuration of the housing or optics that prevents a direct view to the light source from normal viewing angles (i.e., less than 20° above the horizontal plane).

O. **SKYGLOW.** The adverse effect of brightening of the night sky due to man-made lighting.

22.75.030 Certain Lighting Prohibited.

A. **GENERAL PROHIBITIONS.** The use of the following Lighting Fixtures shall be prohibited in all zones of the City:

1. Mercury vapor and low-pressure sodium fixtures and lamps except when used for landscape lighting accent purposes.
2. Searchlights, Laser Lights, or similar high intensity outdoor lights except pursuant to a special lighting event permit granted pursuant to subsection C hereof.
3. Lighting Fixtures mounted in such a way as to illuminate a roof or an awning.
4. Lighting Fixtures mounted to aim light only towards a property line.
5. Lighting Fixtures mounted in a way that is distracting to motorists or in a way that interferes with the safe operation of a motor vehicle, as may be determined by the City Engineer.
6. Lighting that is blinking, moving, or which changes in intensity except small temporary lighting fixtures installed and used only during the period between the last week of November and first week of January of the following year.

B. **OUTDOOR RECREATIONAL COURT LIGHTING IN RESIDENTIAL AREAS.** The lighting of an Outdoor Recreational Court is prohibited in all residential zones of the City except where such a Court is located on a property used for non-residential purposes in accordance with the applicable provisions of Title 28 for non-residential uses in residential zones.

C. **SPECIAL LIGHTING EVENTS.** Upon the application of a property owner or a business within the City, the Community Development Director may grant a temporary permit for the use of a searchlight, laser light or other similar lighting fixture for a period not to exceed eight (8) consecutive hours, provided that no such permit shall be granted for any one property (or business location) within the City more often than five (5) times during any 180 day period and provided further that in no case shall a searchlight, laser light, or other similar lighting fixture be operated pursuant to such a permit between midnight and sunrise.

22.75.040 Certain Lighting Exempted.

The use of the following Lighting Fixtures and Light Sources are exempted from regulation pursuant to this Chapter:

A. **LOW VOLTAGE FIXTURES.** Low Voltage lighting except for those Fixtures regulated pursuant to subsection 22.75.030A(6) above.

B. **CONTROLLED FIXTURES.** A Lighting Fixture controlled by a motion detector in a residential zone provided the motion detector is predominantly in the off mode and it is installed to minimize Nuisance Lighting.

22.75.050 Outdoor Lighting Review by the Architectural Board of Review, the Single Family Design Board, and the Historic Landmarks Commission.

Those projects for which design review is required by the Architectural Board of Review pursuant to Chapter 22.68, the Single Family Design Board pursuant to Chapter 22.69, or the Historic Landmarks Commission pursuant to Chapter 22.22, shall also be reviewed for consistency with the City Outdoor Lighting Design Guidelines approved by resolution of the City Council. (Ord. 5416, 2007; Ord. 5035, 1997.)

22.75.060 Control of Nuisance Lighting In and Adjacent to Residential Zones.

A. **GENERALLY.** Outdoor lighting in residential zones and outdoor lighting on real properties adjacent to residential zones shall be designed, installed, and operated so that it is compatible with the ambient lighting of the neighborhood in which it is located. Such lighting shall be designed, installed, and operated to control glare, prevent light trespass onto adjacent areas, minimize direct upward light emission, promote effective security, avoid interference with safe operation of motor vehicles. The minimum intensity needed for the intended purpose shall be used.

B. **ENFORCEMENT.** The staff of the Community Development Department shall be responsible for the enforcement of this Section provided, however, that enforcement shall occur only upon a written complaint and upon a determination by City enforcement staff that the light or lights constitutes Nuisance Lighting which is unreasonably and negatively affecting a neighboring resident. Upon such a determination, the light or lights shall constitute a public nuisance which may be abated by the City and which, if necessary, may be enjoined by a court of competent jurisdiction.

C. **ENFORCEMENT MEASURES.** Prior to the initiation of legal measures for the enforcement of this Section, the staff of the Community Development Department shall attempt to remedy a reasonable complaint concerning Nuisance Lighting by recommending or, if necessary, by requiring the property owner of the property from which the light emanates to take appropriate steps to eliminate the Nuisance Lighting. Such steps may include, but are not limited to, each of the following (or any combination thereof) in the priority listed herein:

1. The use and application of appropriate lighting equipment, fixture locations, shielding, light sources and illumination intensities, and through the elimination of unnecessary lighting.

2. Nuisance Lighting control through the use of vegetation, landscaping, fences or similar screening methods and fixture aiming adjustments.

3. Restrictions on the hours of operation or by requiring the use of motion detector switches or timers to trigger the lights only on an as needed basis.

4. The preparation and implementation of a professional lighting plan designed to avoid Nuisance Lighting which plan is reviewed by and acceptable to the Architectural Board of Review or the Historic Landmarks Commission, as applicable.

D. **PRIVATE RIGHT OF ACTION.** Any aggrieved person may enforce the provisions of this Section by means of a civil action seeking injunctive relief in a court of competent jurisdiction.

(Ord. 5035, 1997.)

CHAPTER 22.76

VIEW DISPUTE RESOLUTION PROCESS

Sections:

22.76.010 Findings.
22.76.020 Intent and Purpose.
22.76.030 Definitions.
22.76.040 View or Sunlight Claim Limitations.
22.76.050 Private View or Sunlight Claim.
22.76.060 Initial Discussions.
22.76.070 Mediation.
22.76.080 Arbitration.
22.76.090 Private Cause of Action - View Restoration.
22.76.100 Restoration Action Limitations.
22.76.110 View or Sunlight Claim Evaluation Criteria.
22.76.120 Hierarchy of Restoration Actions.
22.76.130 Responsibility for Restoration Action and Subsequent Maintenance.
22.76.140 Liability.

22.76.010 Findings.

The City Council finds and declares as follows:

A. Both views and trees and vegetation contribute to the aesthetic value, quality of life, ambiance and economic value of properties within the City of Santa Barbara. Similarly, access to sunlight across property lines contributes to the health and well being of community members, enhances property values and provides an opportunity to utilize solar energy. Utilization of passive solar energy reduces air pollution, visual blight and promotes the general health and welfare of the residents of the City.

B. Views, whether of the Pacific Ocean, the Channel Islands, the City, the Santa Ynez Mountains, the surrounding hillsides and canyons, or other natural and man-made landmarks produce a variety of significant and tangible benefits for both residents and visitors. Views contribute to the aesthetic visual environment of the City of Santa Barbara by providing scenic vistas and inspiring distinctive architectural design.

C. Trees and vegetation produce a wide variety of significant psychological and tangible benefits for both residents and visitors to the community. Trees and vegetation provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, maintain soil moisture, mitigate soil erosion and provide wildlife habitat. Trees and vegetation contribute to the visual environment and aesthetics by blending, buffering and reducing the scale and mass of architecture. Trees and vegetation within the City provide botanical variety and a sense of history. Trees and vegetation also create shade and visual screens and provide a buffer between different land uses.

D. The benefits derived from views, trees and vegetation and sunlight may come into conflict. The planting of trees and other vegetation and their subsequent growth, particularly when such trees are not properly maintained, can produce unintended harmful effects both on the property on which they are planted or on neighboring properties. (Ord. 5220, 2002.)

22.76.020 Intent and Purpose.

The intent and purpose of this Chapter is to accomplish the following:

A. **Right to Scenic View and Sunlight Access.** Establish the right of a real property owner to preserve scenic views and access to sunlight free from unreasonable obstructions caused by the growth of trees under circumstances where such views and sunlight access existed prior to the growth of the unreasonable obstruction.

B. **Dispute Resolution Process.** Establish that real property owners are in need of a process to resolve disputes among themselves concerning view or sunlight access within the immediate vicinity of their property.

C. **Evaluation Procedures.** Establish procedures and evaluation criteria by which private real property owners may seek a mutually acceptable resolution of such views or sunlight access disputes.

D **Protect Trees.** Discourage ill-considered damage to trees and vegetation and promote proper use of trees and landscaping establishment and maintenance.

E. **Not a Covenant or Servitude.** It is not the intent and purpose of this Chapter for the City to create either a covenant running with the land or an equitable servitude.

F. **Right Exclusive to this Chapter.** Nothing herein shall be deemed to establish a general right of a homeowner to affect or restrict the lawful development or use (including the use and maintenance of landscaping) of a neighboring property under circumstances where such development or use is otherwise permitted, approved, or allowed under the provisions of the Santa Barbara Municipal Code. In addition, nothing herein shall be deemed or construed to provide a homeowner with any thing other than the rights specified in this Chapter for the restoration of a view or access to sunlight and a right to utilize the dispute resolution process for addressing unreasonable tree or vegetation view obstructions, as such claim process is established herein. (Ord. 5220, 2002.)

22.76.030 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings set forth herein:

A. **ALTER.** To take action that changes a tree or vegetation, including but not limited to extensive pruning of the canopy area, topping, cutting, girdling, interfering with the water supply, applying chemicals or re-grading around the feeder root zone of the tree or vegetation.

B. **ARBITRATION.** A voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted as set forth in California Code of Civil Procedure Section 1280 et. seq.

C. **ARBITRATOR.** A mutually agreed upon neutral third party professional intermediary who conducts a hearing process and who hears testimony, considers evidence, and makes a decision for the disputing parties. The arbitrator may be chosen from a list available from the City of qualified and professionally trained arbitrators, including but not limited to members of the American Association of Arbitrators.

D. **ARBORIST, CERTIFIED.** A person who has passed a series of tests by the International Society of Arboriculture (ISA), is governed by ISA's professional code of ethics and possesses the technical competence through experience and related education and training to provide for or supervise the management of trees and other woody plants.

E. **AUTHORIZED AGENT.** A person, as defined herein, who has been designated and approved in writing by a real property owner of record to act on his or her behalf in matters pertaining to the processing of a view or sunlight claim as outlined in this Chapter.

F. **CANOPY.** The umbrella-like structure created by the overhead leaves and branches of a tree which create a sheltered area below.

G. **CITY MAINTAINED TREES.** Trees which are specifically designated for maintenance by the City Council for City maintenance under SBMC Section 15.20.050 in the Master Street Tree Plan adopted pursuant to SBMC Section 15.20.030.

H. **CITY PROPERTY.** Real property of which the City is the fee simple owner of record.

I. **CLAIM. VIEW OR SUNLIGHT.** Documentation, as set forth in Section 22.76.050, that outlines the basis of view or sunlight access diminishment and the specific restoration action that is being sought which shall serve as the written basis for arbitration or a legal cause of action under the provisions of this Chapter.

J. **COMPLAINANT.** Any property owner, group of property owners (or an authorized agent thereof) who allege that tree(s)/vegetation located within the immediate vicinity of their property as set forth in Section 22.76.040 is causing unreasonable obstruction of the view or blocking the sunlight benefiting the real property of the Complainant.

K. **CROWN.** The rounded top of the tree.

L. **CROWN REDUCTION/SHAPING.** A method of comprehensive trimming that reduces a tree's height or spread. Crown reduction entails the reduction of the top, sides, or individual limbs of a tree by means of removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal.

M. **DESTROY.** To take action that endangers the health or vigor of a tree or vegetation, including but not limited to, cutting, girdling, interfering with the water supply, applying chemicals or re-grading around the base of the trunk of a tree.

N. **DIRECTOR.** The Director of the City Community Development Department.

O. **HEADING BACK.** The overall reduction of the mass of a tree by modification to its major limbs.

P. **HISTORIC or SPECIMEN TREE.** Any tree or stand of trees that have been designated as either an Historic Tree or a Specimen Tree pursuant to the authority of the Santa Barbara Municipal Code Chapters 15.20 and 15.24.

Q **LACING or THINNING.** A comprehensive method of trimming that systematically and sensitively removes excess foliage and improves the structure of a tree.

R. **LANDSCAPE CONSULTANT.** A landscape professional retained to provide advice and information regarding landscape plans, view or sunlight claims, and landscaping techniques and maintenance procedures.

S. **MAINTENANCE PRUNING.** Pruning with the primary objective of maintaining or improving tree health and structure; includes "crown reduction/shaping" or "lacing," but not ordinarily "topping" or "heading back".

T. **MEDIATOR.** A neutral, objective third party professional negotiator to help disputing parties reach a mutually satisfactory solution regarding a view or sunlight claim. The mediator may be chosen from a list available from the City of qualified and professionally trained (arbitrators/mediators), including but not limited to members of the American Association of Arbitrators.

U. **OBSTRUCTION.** The blocking or diminishment of a view or sunlight access attributable to growth, improper maintenance or location of trees or vegetation.

V. **PERSON.** Any individual, individuals, corporation, partnership, firm or other legal entity.

W. **PRUNING.** The removal of plant material from a tree or from vegetation.

X. **REAL PROPERTY.** Rights or interests of ownership of land and all appurtenances to the land including buildings, fixtures, vegetation and improvements erected upon, planted, or affixed to the land.

Y. **RESTORATION ACTION.** Any specific steps taken affecting trees or vegetation that would result in the restoration of a view or sunlight access across real property lines.

Z. **SEVERE PRUNING.** The cutting of branches or trunk of a tree in a manner which substantially reduces the overall size of the tree or destroys the existing symmetrical appearance or natural shape of the tree and which results in the removal of main lateral branches leaving the trunk and branches of the tree in a stub appearance. "Topping" and "heading back" as defined herein are considered to be severe pruning.

AA. **STAND THINNING.** The selective removal of a portion of trees from a grove of trees.

BB. **STREET.** The portion of a right-of-way easement used for public purposes, such as roadway improvements, curbs, gutters and sidewalks, dedicated to the City, and formally accepted by the City into the City public street system for maintenance purposes.

CC. **SUNLIGHT.** The availability or access to light from the sun across property lines.

DD. **TOPPING.** Eliminating the upper portion of the trunk or main leader of a tree.

EE. **TREE.** Any woody perennial vegetation that generally has a single trunk and reaches a height of at least eight feet at maturity.

FF. **TREE or VEGETATION OWNER.** Any person owning real property in the City whereon tree(s) or vegetation is located.

GG. **VIEW.** A vista of features, including but not limited to, bodies of water, beaches, coastline, islands, skylines, ridges, hillside terrain, canyons, geologic features, mountains, and landmarks. The term "view" does not necessarily include an unobstructed panorama of these features.

HH. **VISTA PRUNING.** The selective thinning of framework limbs or specific areas of the crown of a tree to allow a view from a specific point. (Ord. 5220, 2002.)

22.76.040 View or Sunlight Claim Limitations.

A. **PRIVATE VIEW DISPUTE RESOLUTION.** Subject to the other provisions of this Chapter, the owner or owners of real property within the City (as the “Complainant”) may initiate the private view dispute resolution process provided for in this Chapter. However, a request for view or sunlight access dispute resolution may only be made if such a claim has not been initiated against the same real property by the Complainant with respect to the same tree or vegetation obstruction within a two-year time period prior to the initiation of the most recent request.

B. **CITY OWNED AND MAINTAINED TREES.** Nothing herein shall provide any authority or process for the permitting of alterations to or the removal of City Maintained Trees or the alteration or removal of those trees regulated by SBMC Chapters 15.20 and 15.24. (Ord. 5220, 2002.)

22.76.050 Private View or Sunlight Claim.

A. **NOTICE TO CITY OF COMPLAINT.** A Complainant shall notify the City Community Development Department of any request for mediation or arbitration pursuant to the provisions of this Chapter and shall provide the City with the claim documentation materials described in subsection B hereof. Such notification and documentation shall be for the purposes of City record-keeping regarding the use of this Chapter only and shall not obligate the City to assist or advise a property owner or participate in the dispute resolution process in any way.

B. **CONTENTS OF CLAIM.** A view or sunlight restoration dispute resolution process claim shall consist of all of the following documentation and evidence:

1. **Evidence of Prior View.** A written description of the nature and extent of the alleged obstruction, including pertinent and corroborating photographic evidence. Evidence may include, but is not limited to, documented and dated photographic prints or slides as well as written testimony or declarations from residents living in the area. Such evidence should, if possible, show the extent to which the view or sunlight access has been diminished over time by the excessive growth of the trees or vegetation;

2. **Evidence Regarding Unreasonable Tree Blockage.** The location of all trees or vegetation alleged to cause the obstruction, the address of the property upon which the trees or vegetation are located, and the present tree/vegetation owner's name and address;

3. **Desired Action.** The specific view or sunlight access restoration actions being requested by the Complainant in order to resolve the allegedly unreasonable view obstruction;

4. **Evidence of Attempted Resolution.** Evidence that an initial discussion between the two property owners (as described in Section 22.76.060) has been made and has failed. Evidence may include, but is not limited to, copies of receipts for certified or registered mail correspondence;

5. **Evidence of Ownership.** Evidence confirming the ownership and the date of acquisition of the Complainant’s property.

(Ord. 5220, 2002.)

22.76.060 Initial Discussions.

A. **INITIAL CONTACT.** A Complainant who believes that a tree or some other vegetation which has grown on another person's real property has caused unreasonable obstruction of a view or sunlight access from the Complainant's property shall first advise the tree or vegetation property owner of such view or sunlight blockage concerns. This notification shall request personal discussions to enable the Complainant and tree/vegetation property owner to attempt to reach a mutually agreeable solution and shall be followed up with a written confirmation of any agreed-upon resolution and schedule for the required work of view restoration.

B. **NOTIFICATION REQUIREMENTS.** The initial notification from the Complainant to the owner of the tree/vegetation shall provide a copy of the View Preservation Ordinance (Santa Barbara Municipal Code Chapter 22.76). In the initial notification, the Complainant shall invite the tree/vegetation owner to view the alleged obstruction from the Complainant's property, and the tree/vegetation owner is urged to invite the Complainant to view the situation from the owner's property. Failure of the tree/vegetation owner to respond to the written request for initial discussion within thirty (30) days from the date of posting shall be deemed a refusal by the owner to participate in the initial discussion phase of the process.

C. **FAILURE TO AGREE.** After the initial discussion, if the parties do not agree as to the existence and nature of the Complainant's obstruction or to the appropriate restoration action or if the initial discussion is refused, the Complainant may proceed with the subsequent dispute resolution process outlined herein with respect to mediation, arbitration, and court action. (Ord. 5220, 2002.)

22.76.070 Mediation.

A. **MEDIATION REQUEST.** If initial discussion under Section 22.76.060 fails to achieve agreement between the tree/vegetation owner and Complainant, the Complainant may send to the tree/vegetation owner a request that the tree/vegetation owner accept participation in a mediation process in an effort to resolve the view or sunlight blockage claim. Acceptance of mediation by the tree/vegetation owner shall be voluntary. However, the request may inform the tree/vegetation owner that failure to participate in mediation may be brought to the court's attention in the event of subsequent legal action by the Complainant. Failure of the tree/vegetation owner to respond to the notice requesting mediation within thirty (30) days from the date of posting shall be deemed formal refusal of the mediation process by the tree/vegetation owner.

B. **SELECTION OF MEDIATOR.** If the tree/vegetation owner agrees to participate in a mediation process, the parties shall agree in writing to the selection of an individual mediator, which may be chosen from a list of professional mediators available from the City Community Development Department.

C. **AUTHORITY OF MEDIATOR.** The mediator is encouraged to be guided by the provisions of this Chapter, including the claim evaluation criteria and the hierarchy of restoration actions set forth in Sections 22.76.110 and 22.76.120, respectively, in attempting to mediate a resolution of the view or sunlight blockage claim. The mediator may request a consultation or information from a certified arborist (chosen from a list of such arborists made available by the Community Development Director) regarding any questions involving landscape techniques or maintenance procedures, with the expense of such consultation payable as a mediation expense in accordance with the provisions of this Chapter.

D. **ROLE OF THE MEDIATOR; COSTS; FAILURE TO RESPOND.** The role of the mediator shall be advisory in nature and shall not be binding in establishing view or sunlight restoration action. Any agreement reached between the two parties as a result of the mediation process described herein shall be reduced to writing by the mediator and signed by the mediator and all of the parties. The cost of mediation shall be paid by the Complainant or shared in a manner set by mutual agreement between the parties. The failure of the tree/vegetation owner to respond to implement (or allow the implementation of) a mediated resolution within thirty (30) days of the submission of the mediated resolution to the owner (as established by the posting date) shall be deemed a refusal by the tree/vegetation owner to accept mediation. (Ord. 5220, 2002.)

22.76.080 Arbitration.

A. **REQUEST FOR ARBITRATION.** If the initial discussion under Section 22.76.060 or a mediated resolution pursuant to Section 22.76.070 fails to achieve agreement between the tree/vegetation owner and the Complainant, the Complainant may advise the tree/vegetation owner in writing that the Complainant is requesting participation in a formal arbitration process. Acceptance of arbitration by the tree/vegetation owner shall be voluntary. However, the request may inform the tree/vegetation owner that failure to participate in the arbitration process may be brought to the court's attention in the event of subsequent legal action by the Complainant pursuant to Section 22.76.090.

The tree/vegetation owner shall have thirty (30) days from posting of the arbitration notice to either accept or decline arbitration. Failure to respond within thirty (30) days shall be deemed a formal refusal of arbitration. If accepted, the parties shall agree in writing to the selection of an individual arbitrator, who may be chosen from a list of professional arbitrators available from the City, within thirty (30) days of such acceptance. If the parties do not agree on a specific arbitrator within thirty days, either party may petition a court of competent jurisdiction to appoint an arbitrator.

B. **AUTHORITY OF ARBITRATOR.** The arbitrator is encouraged to be guided by the provisions of this Chapter, including the claim evaluation criteria and the hierarchy of restoration actions set forth in Sections 22.76.110 and 22.76.120, respectively, in attempting to help resolve the view or sunlight blockage claim and shall submit a complete written decision to the Complainant and the tree/vegetation owner. An arbitrator is encouraged to request a report from a certified arborist with respect to the view obstruction dispute. Any decision of the arbitrator shall not be binding and shall only be enforceable pursuant to the provisions of California Code of Civil Procedure Section 1285 et seq.

C. **ACCEPTANCE OF THE ARBITRATOR'S DECISION; COSTS OF ARBITRATION.** The failure of the tree/vegetation owner to implement the arbitrator's decision within thirty (30) days of the posting of the written decision shall be deemed a refusal to accept arbitration. The costs of arbitration shall be paid by the Complainant or shared by mutual agreement between the parties. (Ord. 5220, 2002.)

22.76.090 Private Cause of Action – View Restoration.

A. **INITIAL COMPLAINT.** If a Complainant has pursued and has been unsuccessful in attempting to obtain an acceptable restoration under Section 22.76.060 ("Initial Discussion"), Section 22.76.070 ("Mediation"), or Section 22.76.080 ("Arbitration"), the Complainant may initiate a civil action in Superior Court for the County of Santa Barbara for resolution of owner's view or sunlight claim under the provisions of this Chapter. The Complainant is encouraged to provide the Court the results of the view or sunlight claim resolution process, particularly any proposed mediator's or arbitrator's decision, as well as any report or study prepared by a certified arborist prepared in connection with the view obstruction dispute. At the discretion of the judge issuing a judgment pursuant to this section, the judgment may be recorded in the official records of Santa Barbara County.

B. **SUBSEQUENT COMPLAINTS.** A Complainant who has initiated a Complaint and obtained Restoration Action through mediation or arbitration under this Chapter with respect to a particular Obstruction within two (2) years of a subsequent Complaint shall not be required to seek mediation or arbitration on the subsequent Complaint for the same obstruction prior to initiating legal action pursuant to this Section. (Ord. 5220, 2002.)

22.76.100 Restoration Action Limitations.

Except as otherwise authorized by law, no tree or vegetation on real property owned or controlled by another person may be removed, destroyed, or otherwise altered unless the Complainant either enters into a written agreement with the tree/vegetation owner allowing the Complainant to enter the property to do so or the Complainant obtains a judicial determination specifying, in detail, the nature and timing of the restoration action, the Complainant's right to enter the property, and designating the parties responsible for performing such restoration action. In all cases, restoration actions shall be structured and implemented in accordance with the hierarchy established by Section 22.76.120. (Ord. 5220, 2002.)

22.76.110 View or Sunlight Claim Evaluation Criteria.

In evaluating and resolving a view or sunlight claim, the following unranked criteria shall be considered:

A. The vantage point(s) in the Complainant's home from which the view or sunlight is obtained or received;

B. The extent of the view or sunlight obstruction;

C. The quality of the view or sunlight access, including the existence of landmarks or other unique view features, or the extent to which these views or sunlight access are blocked by tree(s) or vegetation;

D. The extent to which the view or sunlight access is diminished by factors other than tree(s) or vegetation;

E. The extent to which the tree(s) or vegetation have grown to obscure the enjoyment of view or sunlight access from the Complainant's property compared with the view or sunlight access which was available at the time the Complainant acquired his or her home;

F. The number of existing trees or amount of vegetation in the area, the number of healthy trees that a given parcel of land will support, and the current effects of the tree(s) and their removal on the neighboring vegetation;

G. The extent to which the tree(s) or vegetation provide:

1. Screening or privacy;
2. Energy conservation or climate control;
3. Soil stability, as measured by soil structure, degree of slope, and extent of the tree's root system when a tree is proposed for removal;
4. Aesthetics;
5. Community or neighborhood quality or significance;
6. Shade;
7. Historical context due to the age of the tree/vegetation;
8. Rare and interesting botanical species;
9. Habitat value for wildlife; and
10. Blending, buffering or reduction in the scale and mass of adjacent architecture.

H. The date the Complainant purchased his or her property and circumstances which existed at that time with respect to the view;

I. The date the tree/vegetation owner purchased his or her property and circumstances which existed at that time with respect to the view;

J. The distance between the Complainant's home and the tree or vegetation Obstruction for which Restoration Action is sought;

K. Whether the tree or vegetation Obstruction is located within a City-designated "High Fire Hazard" zone and constitutes the type of trees or vegetation not generally encouraged for new residential construction within such zones;

L. The extent to which the City has an interest in the preservation of an affected tree in its present form due to its unique character, its historical importance, or other specific factors as may be identified by a certified arborist. (Ord. 5220, 2002.)

22.76.120 Hierarchy of Restoration Actions.

View or sunlight restoration actions must be consistent with all other provisions of this Chapter and SBMC Title 22 generally. Severe pruning should be avoided due to the damage such practice causes to the tree's form and health. Restoration actions may include, but are not limited to the following, in order of preference:

A. **Lacing or Thinning.** Lacing/thinning is the most preferable pruning technique that removes excess foliage and can improve the structure of the tree.

B. **Vista Pruning.** Vista pruning of branches may be utilized where possible, if it does not adversely affect the tree's growth pattern or health. Topping should not be done to accomplish vista pruning.

C. **Crown Reduction.** Crown reduction is preferable to topping or tree removal, if it is determined that the impact of crown reduction does not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.

D. **Stand Thinning.** The removal of a portion of the total number of trees from a grove of trees, without any replacement plantings.

E. **Topping.** Eliminating the upper portion of a tree's trunk or main leader. Topping is only to be permitted for trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if restoration actions (A) through (D) of this section will not accomplish the determined restoration and the subsequent growth characteristics will not create a future obstruction of greater proportions.

F. **Heading Back.** Eliminating the outer extent of the major branches throughout the tree. Heading back is only to be permitted for trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if restoration actions (A) through (E) of this section will not accomplish the determined restoration and the subsequent growth characteristics will not create a future obstruction of greater proportions.

G. **Tree/Vegetation Removal.** Tree or vegetation removal, which may be considered when the above-mentioned restoration actions are judged to be ineffective and may be accompanied by replacement plantings or appropriate plant materials to restore the maximum level of benefits lost due to tree removal. (Ord. 5220, 2002.)

22.76.130 Responsibility for Restoration Action and Subsequent Maintenance.

The costs of restoration action and subsequent maintenance shall be determined either by agreement between the tree or vegetation owner and the Complainant or as required pursuant to any final arbitration decision or court order. (Ord. 5220, 2002.)

22.76.140 Liability.

A. **NON-LIABILITY OF CITY.** The City shall not be liable or responsible for any damages, injury, costs or expenses which are the result of any recommendations or determinations made by City Staff or mediator, or decisions made by other persons (e.g., arbitrator or judge) concerning a view or sunlight claim or a Complainant's assertions pertaining to views or sunlight access granted or conferred herein.

B. **CITY ENFORCEMENT.** Under no circumstances shall the City have any responsibility or obligation to enforce or seek any legal redress, civil or criminal, for any decision made concerning a view or sunlight claim.

C. **NO CRIMINAL RESPONSIBILITY.** Notwithstanding Chapter 1.28 of the Santa Barbara Municipal Code, a failure to comply with the provisions of this Chapter is not a criminal offense, and the enforcement of this Chapter shall be only by the affected and interested private parties. (Ord. 5220, 2002.)

CHAPTER 22.80

WATER CONSERVATION STANDARDS

Sections:

22.80.010 Plumbing Standards for Water Conservation.

22.80.020 Landscape Design Standards for Water Conservation.

22.80.010 Plumbing Standards for Water Conservation.

Plumbing standards for water conservation shall be as contained in the Californai Plumbing Code as adopted and amended by the City of Santa Barbara in Chapter 22.04 of this Code. (Ord. 5460, 2008; Ord. 4558, 1989.)

22.80.020 Landscape Design Standards for Water Conservation.

Each development proposal that proposes new landscaping or alterations to existing landscaping and that is subject to review by the Architectural Board of Review, the Historic Landmarks Commission, or the Single Family Design Board shall be required to comply with the City's Landscape Design Standards for Water Conservation as adopted by resolution of the City Council. (Ord. 5460, 2008; Ord. 4847, 1994; Ord. 4558, 1989.)

Chapter 22.82

ENERGY EFFICIENCY STANDARDS

Sections:

22.82.010 Purpose.
22.82.020 Definitions.
22.82.030 Applicability.
22.82.040 Compliance.
22.82.050 Mandatory Energy Efficiency Requirements.
22.82.060 General Compliance Requirements.
22.82.070 Credit for Solar Photovoltaic Energy Systems.
22.82.080 Expiration.

22.82.010 Purpose.

This Chapter ("Energy Efficiency Standards") sets forth increased minimum energy efficiency standards within the City of Santa Barbara for all new construction of any size, additions to existing buildings or structures over a certain size threshold, and the installation of new heaters or circulation pumps for swimming pools, spas and water features. This Chapter is intended to supplement the 2005 California Building Energy Efficiency Standards, as specified in California Code of Regulations, Title 24, Parts 1 and 6 (Standards). Compliance with the 2005 California Building Energy Efficiency Standards is required even if the increased minimum energy efficiency standards specified in this Chapter do not apply. (Ord. 5446, 2008.)

22.82.020 Definitions.

For purposes of this Chapter 22.82, words or phrases used in this Chapter that are specifically defined in Parts 1, 2, or 6 of Title 24 of the California Code of Regulations shall have the same meaning as given in the Code of Regulations. In addition, the following words and phrases shall have the meanings indicated, unless context or usage clearly requires a different meaning:

A. **2005 BUILDING ENERGY EFFICIENCY STANDARDS.** The standards and regulations adopted by the California Energy Commission contained in Parts 1 and 6 of Title 24 of the California Code of Regulations as such standards and regulations may be amended from time to time.

B. **EXISTING + ADDITION + ALTERATION.** An approach to modeling the time dependent valuation energy use of an addition including the existing building and alterations as specified in the Residential Compliance Manual and Nonresidential Compliance Manual.

C. **NONRESIDENTIAL COMPLIANCE MANUAL.** The manual developed by the California Energy Commission, under Section 25402.1(e) of the Public Resources Code, to aid designers, builders, and contractors in meeting the requirements of the state's 2005 Building Energy Efficiency Standards for nonresidential, high-rise residential, and hotel/motel buildings.

D. **PHOTOVOLTAIC CREDIT.** A TDV Energy credit that may be used under certain conditions to demonstrate compliance with the City's general compliance requirements as specified in Section 22.82.070. This credit is available if the solar photovoltaic energy system is capable of generating electricity from sunlight, supplying the electricity directly to the building, and the system is connected, through a reversible meter, to the utility grid. The methodology used to calculate the time dependent valuation energy equivalent to the photovoltaic credit shall be the CECPV Calculator Version 2.1 or higher which may be found at the following web site: http://www.gosolarcalifornia.ca.gov/nshpcalculator/download_calculator.html

E. **RESIDENTIAL COMPLIANCE MANUAL.** The manual developed by the California Energy Commission, under Section 25402.1(e) of the Public Resources Code, to aid designers, builders, and contractors in meeting the requirements of the state's 2005 Building Energy Efficiency Standards for low-rise residential buildings.

F. **SOLAR PHOTOVOLTAIC ENERGY SYSTEM.** A photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of alternating current rated peak electricity. The installation of any solar photovoltaic energy system must meet all installation criteria of the current edition of the California Electrical Code and the California Energy Commission's Guidebook "Eligibility Criteria and Conditions for Incentives for Solar Energy Systems Senate Bill 1".

G. **SWIMMING POOL.** Any structure intended to contain water over 18 inches deep.

H. **TIME DEPENDENT VALUATION ENERGY or ("TDV ENERGY").** The time varying energy caused to be used by the building or addition to provide space conditioning and water heating and, for specified buildings, lighting. TDV energy accounts for the energy used at the building site and consumed in producing and in delivering energy to a site, including, but not limited to, power generation, transmission and distribution losses. TDV Energy is expressed in terms of thousands of British thermal units per square foot per year (kBtu/sq.ft.-yr).

I. **WATER FEATURE.** Any structure intended to contain water over 18 inches deep. Examples of water features include, but are not limited to, ponds and fountains. (Ord. 5446, 2008.)

22.82.030 Applicability.

A. The provisions of this Chapter apply to any of the following buildings or improvements for which a building permit is required by this Code:

1. Any new building or structure of any size,
2. Any addition to an existing building or structure where the addition is greater than 100 square feet of conditioned floor area,
3. Indoor lighting alterations in conditioned spaces greater than 100 square feet of floor area within nonresidential buildings,
4. All new mechanical heating or cooling systems, and
5. All new heaters or circulation pumps for swimming pools, spas, and water features.

B. Subject to the limitations specified in this section 22.82.030, the coverage of this Chapter shall be determined in accordance with the scope and application section of either the Residential Compliance Manual or Nonresidential Compliance Manual, as appropriate for the proposed occupancy. (Ord. 5446, 2008.)

22.82.040 Compliance.

A building permit application subject to the requirements of this Chapter will not be issued a building permit by the Building Official unless the energy compliance documentation submitted with the permit application complies with the requirements of this Chapter. A final inspection for a building permit subject to the requirements of this Chapter will not be approved unless the work authorized by the building permit has been constructed in accordance with the approved plans, conditions of approvals, and requirements of this Chapter. (Ord. 5446, 2008.)

22.82.050 Mandatory Energy Efficiency Requirements.

In addition to meeting all requirements of 2005 Building Energy Efficiency Standards, all applications for building permits that include buildings or improvements covered by this Chapter shall include the following mandatory energy efficiency measures as may be applicable to the proposed building or improvement:

A. **RESIDENTIAL BUILDINGS.** Any appliance (excluding HVAC equipment and water heaters) to be installed in a residential building shall be Energy Star rated, if the appliance installed is of a type that is Energy Star rated.

B. **SWIMMING POOL AND SPA HEATERS AND PUMPS.** Any heater or circulation pump to be installed for any swimming pool, spa, or water feature shall incorporate the following energy conservation features:

1. All natural gas heaters shall have an annual fuel utilization efficiency of 90% or higher; and
2. All circulating pump motors and filtration pump motors with a nominal rating of 0.75 horsepower or greater (except pump motors only serving spa jets) shall be two-speed or variable speed motors. The installation of all two-speed and variable speed motors shall include the installation of a controller which shall be time-based and shall be programmed to alternate the speed of the motor between low and high to make effective use of the energy savings potential of the unit's multi-speed capability.

C. **MECHANICAL HEATING OR COOLING SYSTEMS.** All fan motors and pump motors associated with mechanical heating or cooling systems that are single-speed, poly-phase, 1.0 nominal horsepower to 500 nominal horsepower, 2-, 4-, and 6-pole squirrel cage induction, NEMA Design A or B, continuous duty-rated motors must be NEMA Premium motors by the National Electrical Manufacturers Association. (Ord. 5446, 2008.)

22.82.060 General Compliance Requirements.

In addition to any applicable mandatory requirements specified in Section 22.82.050 and the requirements of the 2005 Building Energy Efficiency Standards, the following general compliance requirements shall apply to permit applications subject to this Chapter as follows:

A. **LOW-RISE RESIDENTIAL BUILDINGS.** Applications for building permits that involve new low-rise residential buildings or additions to existing low-rise residential buildings where the additions are greater than 100 square feet of conditioned floor area shall demonstrate compliance with the general compliance requirements as follows:

1. **New Low-Rise Residential Buildings.** When an application for a building permit involves a new low-rise residential building, the performance approach specified in Section 151 of the 2005 Building Energy Efficiency Standards must be used to demonstrate that the TDV Energy of the proposed building is at least 20.0% less than the TDV Energy of the standard building.
2. **Additions to Low-Rise Residential Buildings.** When an application for a building permit involves an addition to an existing low-rise residential building, this general compliance requirement may be met by either of the following methods:
   a. Using the performance approach specified in Section 151 of the 2005 Building Energy Efficiency Standards to demonstrate that the TDV Energy of the proposed addition is at least 20.0% less than the TDV Energy of the standard design, or

b. Using the "Existing+Addition +Alteration" calculation methodology to demonstrate that the TDV Energy of the proposed building is at least 20.0% less than the TDV Energy of the standard design, as calculated in accordance with the performance approach specified in Section 151 of the 2005 Building Energy Efficiency Standards. In modeling buildings under the Existing+Addition+Alteration method, domestic hot water energy use must be included in the calculation model unless the application does not involve a change to the building's existing water heater(s).

B. **HIGH-RISE RESIDENTIAL BUILDINGS.** Applications for building permits that involve new high-rise residential buildings or additions to existing high-rise residential buildings where the additions are greater than 100 square feet of conditioned floor area shall demonstrate compliance with the general compliance requirements as follows:

1. **New High-Rise Residential Buildings.** When an application for a building permit involves a new high-rise residential building, the applicant shall use either the Prescriptive Approach or the Performance Approach to demonstrate compliance as specified below:

a. **Prescriptive Approach.** If the building permit applicant chooses the prescriptive approach, the applicant shall use the Overall Envelope Approach in specified in Section 143(b) of the 2005 Building Energy Efficiency Standards to demonstrate that the Overall Heat Gain of the proposed building is at least 10.0% less than the Overall Heat Gain of the standard building; and the Overall Heat Loss of the proposed building is at least 10.0% less than the Overall Heat Loss of the standard building.

b. **Performance Approach.** If the applicant chooses the performance approach, the applicant shall select one of the following energy budget calculation methodologies to demonstrate compliance with the general compliance requirements:

(1) **Building Envelope Only.** Model the building envelope only using a state-approved energy compliance software program and demonstrate that the TDV Energy of the sum of the Space Heating, Space Cooling and Indoor Fans energy components of the proposed building is at least 15.0% less than the TDV Energy of the sum of the Space Heating, Space Cooling and Indoor Fans energy components of the standard building; or,

(2) **Building Envelope and Mechanical System.** Model the building envelope and mechanical system using a state-approved energy compliance software program and demonstrate that the TDV Energy of the sum of the Space Heating, Space Cooling, Indoor Fans, Pump and Heat Rejection energy components of the proposed building is at least 15.0% less than the TDV Energy of the sum of the Space Heating, Space Cooling, Indoor Fans, Pump and Heat Rejection energy components of the standard building.

2. **Additions to High-Rise Residential Buildings.** When an application for a building permit involves an addition to an existing high-rise residential building, this general compliance requirement may be met by either of the following methods:

a. Using the performance approach specified in Section 151 of the 2005 Building Energy Efficiency Standards to demonstrate that the TDV Energy of the proposed addition is at least 15.0% less than the TDV Energy of the standard design, or

b. Using the "Existing+Addition +Alteration" calculation method to demonstrate that the TDV Energy for the sum of the energy components for the proposed building specified in either b(1) or b(2) above is at least 15.0% less than the TDV Energy for the sum of the same energy components of the standard design.

C. **NONRESIDENTIAL AND HOTEL/MOTEL OCCUPANCIES.** Applications for building permits that involve new nonresidential buildings or hotel/motel occupancies or additions to existing nonresidential buildings or hotel/motel occupancies where the additions are greater than 100 square feet of conditioned floor area shall demonstrate compliance with the general compliance requirements as follows:

1. **New Nonresidential Buildings or Hotel/Motel Occupancies.** When an application for a building permit involves a new nonresidential building or a new building housing a hotel/motel occupancy, compliance with the general compliance requirements established by this Chapter may be demonstrated by using either the prescriptive approach or performance approach as specified below:

a. **Prescriptive Approach.** Subject to the exceptions listed below and the provisions of the 2005 Building Energy Efficiency Standards, the prescriptive approach requires compliance with the prescriptive envelope requirement and/or the prescriptive indoor lighting requirement, depending upon the work proposed in the permit application, as specified below:

(1) **Prescriptive Envelopment Requirement.** The Overall Envelope Approach in Section 143(b) of the 2005 Building Energy Efficiency Standards shall be used to demonstrate that the Overall Heat Gain of the proposed building is at least 10.0% less than the Overall Heat Gain of the standard building; and the Overall Heat Loss of the proposed building is at least 10.0% less than the Overall Heat Loss of the standard building, and

(2) **Prescriptive Indoor Lighting Requirement.** The "Prescriptive Requirements for Indoor Lighting" contained in Section 146 of the 2005 Building Energy Efficiency Standards that apply to conditioned spaces shall be used to demonstrate that the Adjusted Actual (Installed) Watts are at least 10.0% less than the Total Allowed Watts.

(i) **Tailored Method Exception.** When using the Tailored Method in retail stores to determine compliance with the prescriptive requirements for indoor lighting, Display Lighting watts may be omitted from the above calculation.

(ii) **Small Alterations Exception.** Lighting alterations which encompass a gross conditioned floor area equal to or less than 100 square feet are exempt from the prescriptive indoor lighting requirement.

b. **Performance Approach.** When using the performance approach to demonstrate compliance with the general compliance requirements, the permit applicant shall select one of the following calculation methodologies:

(1) **Building Envelope Only.** Model the building envelope only for compliance using a state-approved energy compliance software program and demonstrate that the TDV Energy of the sum of the Space Heating, Space Cooling and Indoor Fans energy components of the proposed building is at least 10.0% less than the TDV Energy of the sum of the Space Heating, Space Cooling and Indoor Fans energy components of the standard building; or,

(2) **Building Envelope and Mechanical System.** Model the building envelope and mechanical system for compliance using a state-approved energy compliance software program and demonstrate that the TDV Energy of the sum of the Space Heating, Space Cooling, Indoor Fans, Pump and Heat Rejection energy components of the proposed building is at least 10.0% less than the TDV Energy of the sum of the Space Heating, Space Cooling, Indoor Fans, Pump and Heat Rejection energy components for the standard building, or,

(3) **Building Envelope and Lighting.** Model the building envelope and lighting for compliance using a state-approved energy compliance software program and demonstrate that the TDV Energy of the sum of the Space Heating, Space Cooling, Indoor Fans and Lighting energy components of the proposed building is at least 10.0% less than the TDV Energy of the sum of the Space Heating, the Space Cooling, Indoor Fans and Lighting energy components of the standard building; or,

(4) **Building Envelope, Lighting, and Mechanical System.** Model the building envelope, lighting and mechanical system for compliance using a state-approved energy compliance software program and demonstrate that the TDV Energy of the sum of the Space Heating, Space Cooling, Lighting, Indoor Fans, Pump and Heat Rejection energy components of the proposed building is at least 10.0% less than the TDV Energy of the sum of the Space Heating, Space Cooling, Lighting, Indoor Fans, Pump and Heat Rejection energy components of the standard building.

2. **Additions to Existing Nonresidential Buildings or Hotel/Motel Occupancies.** When an application for a building permit involves an addition to an existing nonresidential building or an existing building housing a hotel/motel occupancy, this general compliance requirement may be met by either of the following methods:

a. Using one of the performance approach methodologies specified above in subparagraph 1.b above to demonstrate that the TDV Energy of the sum of the energy components for the proposed addition specified in any one of the paragraphs 1.b(1)-(4) above is at least 10.0% less than the sum of the same energy components of the standard design, or

b. Using the "Existing+Addition +Alteration" calculation method to demonstrate that the TDV Energy of the sum of the energy components for the proposed building specified in any one of the paragraphs 1.b.(1)-(4) above is at least 10.0% less than the sum of the same energy components of the standard design.

D. **DOCUMENTATION.** In order to demonstrate compliance with the requirements of this Section, a permit applicant may be required to submit supplementary forms and documentation in addition to the building drawings, specifications, and standard Title 24 report forms, as deemed appropriate by the Building Official. (Ord. 5446, 2008.)

22.82.070 Credit for Solar Photovoltaic Energy Systems.

A. **NOT ALLOWED TO DEMONSTRATE COMPLIANCE WITH STATE STANDARDS.** A photovoltaic TDV Energy credit shall not be used to demonstrate compliance with the 2005 Building Energy Efficiency Standards.

B. **CREDIT ALLOWED TO SATISFY A PORTION OF THE GENERAL COMPLIANCE REQUIREMENTS.** A photovoltaic credit may be used to reduce the TDV Energy use of a proposed building or addition in order to satisfy the general compliance requirements of this Chapter as follows:

1. **Low-Rise Residential Buildings.** An application for a new low-rise residential building or an addition to an existing low-rise residential building may use a photovoltaic credit in order to demonstrate compliance with the general compliance requirements of this Chapter only after the TDV Energy of the proposed building or addition, calculated without the photovoltaic credit, is at least 15.0% less than the TDV Energy of the standard building or design.

2. **High-Rise Residential Buildings.** An application for a new high-rise residential building or an addition to an existing high-rise residential building may use a photovoltaic credit in order to demonstrate compliance with the general compliance requirements of this Chapter only after the TDV Energy of the proposed building or addition, calculated without the photovoltaic credit, is at least 10.0% less than the TDV Energy of the standard building or design.

3. **Nonresidential Buildings and Hotel/Motel Occupancies.** An application for a new nonresidential building or a new hotel/motel occupancy or an addition to an existing nonresidential building or an existing hotel/motel occupancy may use a photovoltaic credit in order to demonstrate compliance with the general compliance requirements of this Chapter only after the TDV Energy of the proposed building or addition, calculated without the photovoltaic credit, is at least 5.0% less than the TDV Energy of the standard building or design.

C. **CALCULATION OF PHOTOVOLTAIC CREDIT.**

1. **Performance Approach Required.** In order to request a photovoltaic credit pursuant to this Section, an applicant for a building permit must use an applicable performance approach methodology specified in Section 22.82.050 to demonstrate compliance with the general compliance requirements of this Chapter.

2. **Calculation Inputs.** When using the CECPV Calculator to calculate a photovoltaic credit, the permit applicant shall input "Site-Specific Detailed Input" including roof pitch (or tilt), the azimuth and the site shading conditions.

3. **Documentation.** In order to receive a photovoltaic credit, an applicant for a building permit must include a copy of the CF-1R-PV form generated by the CECPV Calculator on the plans submitted for a building permit. (Ord. 5446, 2008.)

22.82.080 Expiration.

This Chapter 22.82 shall expire upon the date that the state's 2008 Building Energy Efficiency Standards take effect. (Ord. 5446, 2008.)

Chapter 22.85

EROSION AND SEDIMENTATION CONTROL STANDARDS FOR CONSTRUCTION

Sections:

22.85.010 Permit Required for Grading.
22.85.020 Erosion and Sedimentation Control Plan.
22.85.030 Installation of Erosion and Sedimentation Control Measures.
22.85.040 Maintenance of Erosion and Sedimentation Control Measures.
22.85.050 Additional Erosion and Sedimentation Control Measures.

22.85.010 Permit Required for Grading.

It shall be unlawful for any person to perform any grading or for any property owner to allow anyone to perform any grading on any lot within the City that requires a grading permit under the provisions of the California Building Code, as adopted and amended pursuant to Section 22.04.020 of this Code, without first obtaining a grading permit or building permit from the Building Official. (Ord. 5607, 2012.)

22.85.020 Erosion and Sedimentation Control Plan.

The Building Official shall not issue any grading permit or building permit unless the applicant has submitted an erosion and sedimentation control plan prepared in accordance with the City of Santa Barbara Erosion and Sedimentation Control Program adopted by resolution of the City Council, and the Building Official has approved the erosion and sedimentation control plan. (Ord. 5607, 2012.)

22.85.030 Installation of Erosion and Sedimentation Control Measures.

It shall be unlawful for any person to perform any work pursuant to a grading permit or building permit or for any property owner to allow anyone to perform any work pursuant to a grading permit or building permit on any lot within the City without installing or implementing the erosion and sedimentation control measures required for such work in accordance with the approved erosion and sedimentation control plan. (Ord. 5607, 2012.)

22.85.040 Maintenance of Erosion and Sedimentation Control Measures.

It shall be unlawful for any person to perform any work pursuant to a grading permit or building permit or for any property owner to allow anyone to perform any work pursuant to a grading permit or building permit on any lot within the City without maintaining the erosion and sedimentation control measures required for such work in accordance with the approved erosion and sedimentation control plan. No person shall be deemed to have satisfied the requirements of an approved erosion and sedimentation control plan until a final inspection of the work has been approved. (Ord. 5607, 2012.)

22.85.050 Additional Erosion and Sedimentation Control Measures.

The Building Official may require additional erosion and sedimentation control measures to be installed or implemented if an inspection of the lot demonstrates that the erosion and sedimentation control measures shown on the approved erosion and sedimentation control plan are insufficient to prevent sediment or other materials from leaving the lot, or the construction activities occurring on the lot differ from those indicated on the approved erosion and sedimentation control plan. Any additional erosion and sedimentation control measures required by the Building Official shall be incorporated into the approved erosion and sedimentation control plan. (Ord. 5607, 2012.)

Chapter 22.87

STORM WATER MANAGEMENT

Sections:

22.87.010	**Definitions.**	**22.87.050**	**Maintenance of Storm Water Runoff Requirements.**
22.87.020	**Storm Water Runoff Requirements.**	**22.87.060**	**Inspection and Monitoring.**
22.87.030	**Scope of Project Evaluation.**	**22.87.070**	**Enforcement.**
22.87.040	**Installation of Storm Water Runoff Requirements.**		

22.87.010 Definitions.

For the purposes of this Chapter 22.87, the following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. BEST MANAGEMENT PRACTICES (BMPs). Those activities, practices, and procedures to prevent, control, reduce, or remove the discharge of pollutants directly or indirectly to the storm drain system, surface waters, or waters of the State. BMPs include, but are not limited to, treatment practices and facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control site runoff, spillage, or leaks of non-storm water, water disposal, or drainage from raw materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures, and such other provisions as the City determines appropriate for the control of pollutants.

B. CREEKS DIVISION. The City of Santa Barbara Parks and Recreation Department Creeks Division.

C. GUIDANCE MANUAL. The City of Santa Barbara Storm Water Best Management Practices (BMP) Guidance Manual approved by resolution of the City Council dated as of July 2013 and on file with the Santa Barbara City Clerk's Office.

D. IMPERVIOUS SURFACE. A hard surface which either prevents or retards the entry of water into soil, as would occur under natural conditions, or which causes water to run off the surface in greater quantities or at an increased rate of flow than would occur under natural conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots, concrete or asphalt paving, gravel roads, compacted earthen materials, macadam, or other surfaces which impede the natural infiltration of storm water into the soil mantle. Open, uncovered retention/detention facilities (i.e., swimming pools, fountains, etc.) are not considered impervious surfaces.

E. MAINTENANCE OF PAVING. Maintenance of paving includes the following:

1. slurry sealing,
2. fog sealing,
3. crack sealing,
4. pothole and square cut patching,
5. overlaying existing asphalt or concrete paving with asphalt or concrete without expanding the size of the impervious area,
6. resurfacing with in-kind material without expanding the size of the impervious area,
7. shoulder grading,
8. practices to maintain the original line and grade, hydraulic capacity, and overall footprint of the road or parking lot, or
9. repair or reconstruction of a road or parking lot due to slope failures, natural disasters, acts of God or other man-made disaster.

F. NEW DEVELOPMENT. Any land disturbing activity that includes site alteration (e.g., paving, grading, excavating, filling, or clearing), or the construction or installation of new structures, roads, driveways, parking, storage facilities, or other impervious surfaces on a lot that requires a building permit under the provisions of the California Building Code, as adopted and amended pursuant to Section 22.04.020 of this Code. Maintenance of paving is not considered new development or redevelopment of impervious area, even if a building permit is required.

G. POLLUTANT. An elemental or physical material that can be mobilized or dissolved by water or air and creates a negative impact to human health or the environment. Pollutants include suspended solids (sediment), heavy metals (such as lead, copper, zinc, and cadmium), nutrients (such as nitrogen and phosphorus), bacteria and viruses, organics (such as oil, grease, hydrocarbons, pesticides, and fertilizers), floatable debris, and increased temperature.

H. PROJECT SITE. For new development or redevelopment on private property, the project site is determined by the boundaries of the parcel. For new development or redevelopment on public property or the public right-of-way, the project site is determined on a case-by-case basis.

I. PROJECT TIER. The designation assigned to a development or redevelopment project based upon the scope and nature of the project pursuant to Section 1.4 and Appendix J of the City of Santa Barbara Storm Water Best Management Practices (BMP) Guidance Manual.

J. REDEVELOPMENT. Any land disturbing activity that includes the construction or installation of structures, parking, or other impervious surfaces that replaces or adds to existing structures, parking, or other impervious surfaces on a lot that requires a building permit under the provisions of the California Building Code, as adopted and amended pursuant to Section 22.04.020 of this Code. Maintenance of paving is not considered new development or redevelopment of impervious area, even if a building permit is required.

K. STORM WATER MANAGEMENT PROGRAM. The storm water management program is the City of Santa Barbara Storm Water Management Program dated as of January 2009 and approved by the Central Coast Regional Water Quality Control Board in satisfaction of the City's obligations under the statewide permit for California under the National Pollutant Discharge Elimination System (NPDES) Phase II Regulations.

L. STORM WATER RUNOFF REQUIREMENTS. Storm water runoff requirements are site design elements and best management practices that are determined by the Community Development Department or the Public Works Department (in consultation with the Creeks Division) to satisfy the Storm Water Management Program's standards for: 1) peak runoff discharge management, 2) runoff volume reduction, and 3) water quality treatment as specified in Chapter 6 of the Storm Water Best Management Practices (BMP) Guidance Manual and Section 4.5 of the Storm Water Management Program. (Ord. 5628, 2013.)

22.87.020 Storm Water Runoff Requirements.

New development or redevelopment within the City of Santa Barbara shall comply with the Storm Water Runoff Requirements applicable to the Project Tier to which the development or redevelopment project is assigned. The Storm Water Runoff Requirements for a particular new development or redevelopment will depend upon the Project Tier to which the new development or redevelopment is assigned pursuant to Section 1.4 and Appendix J of the Guidance Manual. (Ord. 5628, 2013.)

22.87.030 Scope of Project Evaluation.

A. MAINTAINING OR REDUCING PEAK RUNOFF DISCHARGE RATE. If the new development or redevelopment is subject to the requirement to maintain or reduce peak runoff discharge rates, then the discharge rate of the entire lot is considered when determining the pre-development and post-development runoff discharge rate.

B. VOLUME REDUCTION REQUIREMENTS. If the development or redevelopment is subject to the requirement for runoff volume reduction, the calculation of the runoff volume includes the change in discharge volume pre-development and post-development for the entire parcel.

C. WATER QUALITY TREATMENT. If the development or redevelopment is subject to the Storm Water Management Program water quality treatment requirement, the project site includes all impervious surfaces on the lot, not just the area of the new development or the redevelopment. (Ord. 5628, 2013.)

22.87.040 Installation of Storm Water Runoff Requirements.

The owner of a lot on which new development or redevelopment triggers Storm Water Runoff Requirements shall install the site-specific Storm Water Runoff Requirements in accordance with the approved plans for the new development or redevelopment. (Ord. 5628, 2013.)

22.87.050 Maintenance of Storm Water Runoff Requirements.

The owner of any lot shall maintain and operate all Storm Water Runoff Requirements approved for the new development or redevelopment of the lot in accordance with their approved specifications. (Ord. 5628, 2013.)

22.87.060 Inspection and Monitoring.

A. Whenever the City Code Enforcement Officer has reasonable cause to believe that there exists, potentially exists, or has occurred in or upon any premises any condition which constitutes a violation of this Chapter 22.87, the City Code Enforcement Officer may seek consent from the responsible party to enter such premises to inspect the same to determine compliance with this Chapter.

B. If the City Code Enforcement Officer has been refused consent from the responsible party to enter any part of the premises, the City Code Enforcement Officer may seek issuance of an inspection warrant in accordance with California Code of Civil Procedure Section 1822.50, set eq., from any court of competent jurisdiction.

C. The City Code Enforcement Officer may require by written notice that any responsible party engaged in any activity or owning or operating any facility that may cause or contribute to pollution or illegal discharges to the storm drain system or waters of the State to undertake monitoring and analysis and to furnish reports regarding such monitoring and analysis to the City, at the responsible party's expense, as deemed necessary by the City Code Enforcement Officer to determine compliance with this Chapter.

D. The City Code Enforcement Officer may, in accordance with this section, take any samples and perform any testing deemed necessary by the City Code Enforcement Officer to determine compliance with this Chapter. (Ord. 5628, 2013.)

22.87.070 Enforcement.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Violations of this Chapter may be enforced in the methods specified in Chapters 1.25 and 1.28 of this Code. (Ord. 5628, 2013.)

Chapter 22.90

CONSTRUCTION PROHIBITED IN THE VICINITY OF THE CONEJO ROAD LANDSLIDE

Sections:

22.90.010	**Purpose.**	**22.90.050**	**Parcels Within Slide Mass C.**
22.90.020	**Definitions.**	**22.90.060**	**Septic Tanks Prohibited.**
22.90.030	**New Construction Prohibited; Exceptions.**	**22.90.065**	**Map of Conejo Slide Drainage Area.**
22.90.040	**Exception: Designs by Engineering Geologist.**	**22.90.070**	**Parcels Within Conejo Slide Drainage Area.**
22.90.045	**Map of the Conejo Slide Area.**	**22.90.080**	**Special Geological Provisions.**

22.90.010 Purpose.

By reason of special geologic hazard, unstable soils condition, and lack of suitable support, new construction must be prohibited within the area known as the "Conejo Slide." A landslide that occurred in the vicinity of Conejo Road within the City of Santa Barbara revealed unstable conditions in the area depicted on the Map of the Conejo Slide Area adopted as part of this Chapter. The area was the subject of a report (dated April, 1984) by Geotechnical Consultants, Inc. and has been under observation since. Three separate landslide masses were identified as being subject to special geologic hazard, designated as Slide Mass A, Slide Mass B, and Slide Mass C, all located within Slide Mass C on the Map of the Conejo Slide Area adopted as part of this Chapter. The earth within the boundary of Slide Mass C is unstable; structures and other property on Slide Mass A, Slide Mass B, and Slide Mass C have been damaged because of that instability; and further damage to structures and property within the boundary of Slide Mass C is highly probable. Excessive groundwater has been identified as a major cause of instability. Septic tanks have contributed sewage effluent to that excessive groundwater. The provisions of this Chapter are necessary to maintain the public safety and welfare and to protect against hazardous local geologic and soils conditions. (Ord. 5030, 1997.)

22.90.020 Definitions.

For the purposes of this title, the following words and phrases shall have the meanings indicated, unless the context or usage clearly requires a different meaning:

A. "CESSPOOL" means an excavation in the ground which receives discharge from any sanitation plumbing facilities.

B. "CONEJO SLIDE DRAINAGE AREA" means the area within the boundary depicted on the map identified as the Map of the Conejo Slide Drainage Area adopted by Section 22.90.065 of this Chapter.

C. "NEW CONSTRUCTION" means any man-made change to improved or unimproved real property after June 11, 1991, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, which requires a building permit.

D. "SEPTIC TANK" means a structure for private treatment of sewage before disposal into a cesspool, seepage hole or leaching system.

E. "SLIDE MASS C" means the landslide mass so described in the report by Geotechnical Consultants, Inc. (dated April, 1984) concerning geotechnical investigations of the Conejo Road Landslide, the boundary to which is depicted on the Map of the Conejo Slide Area adopted by Section 22.90.045 of this Chapter. (Ord. 5030, 1997.)

22.90.030 New Construction Prohibited; Exceptions.

A. All new construction is prohibited on the parcels which are located entirely or partially within the boundary of Slide Mass C, except as provided in this Chapter 22.90. The existing parcels located entirely or partially within Slide Mass C are identified in Section 22.90.050, Parcels Within Slide Mass C.

B. It shall be unlawful to erect, produce, permit, maintain or keep any new construction on a parcel which is located entirely or partially within the boundary of Slide Mass C, in violation of the provisions of this Chapter.

C. The following new construction is excepted from the prohibitions of this section:

(i) routine repairs and maintenance to residential structures and to road, drive, and utilities improvements,

(ii) remodeling of the interior of an existing residential structure, and

(iii) additions to an existing building which do not exceed one hundred and fifty (150) square feet of enclosed area during any twenty-four (24) month period.

D. As used in this section, the term “new construction” shall not include the construction of a home on any legal parcel located entirely within Slide Mass C where the parcel contained a home which was destroyed by fire or other casualty after November 12, 2008. (Ord. 5582, 2012; Ord. 5030, 1997.)

22.90.040 Exception: Designs by Engineering Geologist.

A. The Chief of Building and Safety may approve, or approve with conditions, new construction on any portion of such affected parcels which is located at least 25 feet outside of the boundary of Slide Mass C, upon plans that incorporate the accepted findings and recommendations of a licensed engineering geologist, based upon adequate site investigations, borings, soil samples, laboratory tests and a review of all record data for the parcel and slide area, to the satisfaction of the Chief of Building and Safety and in compliance with all other applicable codes and regulations.

B. A preliminary evaluation of the engineering geologist for the suitability of improvements on such area shall be submitted for review by the Chief of Building and Safety before the preparation of plans pursuant to this section. The Chief of Building and Safety may employ expert peer review in reaching a decision as to whether to accept or reject the findings of the evaluation.

C. The decision of the Chief of Building and Safety may be appealed to the Building and Fire Code Board of Appeals, whose decisions shall be final.

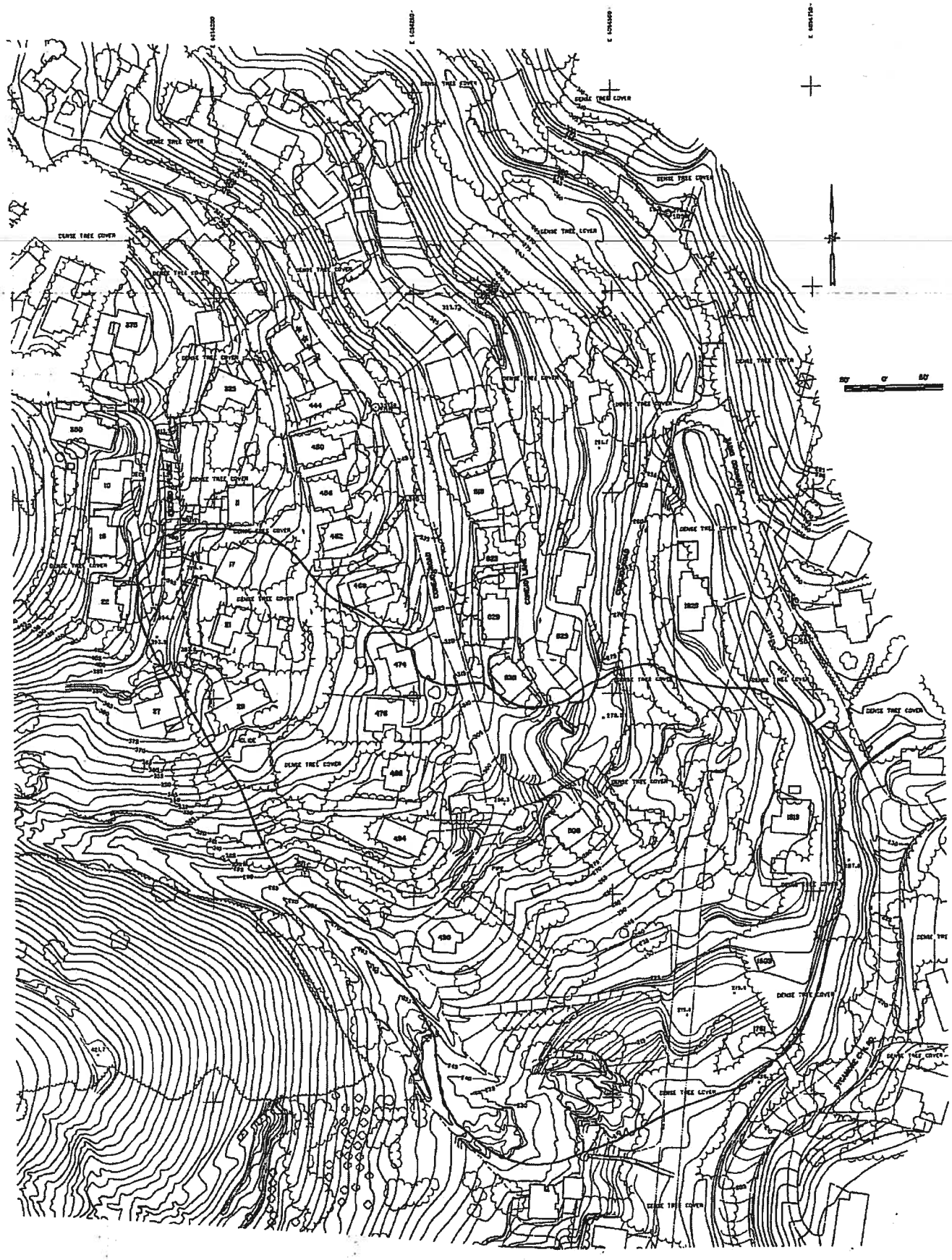
D. Such approval may require submission and/or recording of a release and agreement, approved by the City Attorney, to indemnify the City, its officers and employees, from liability related to such new construction.

E. New construction in accordance with such approved plans shall not be unlawful under the provisions of this Chapter.

F. **NON-HABITABLE IMPROVEMENTS**. Non-habitable building improvements may be constructed within twenty-five (25) feet of the Slide Mass C boundary but not closer than ten (10) feet. For the purposes of this subparagraph, non-habitable improvements shall include walkways, retaining and non-retaining walls, driveway paving, portable storage sheds, and other non-habitable improvements as deemed appropriate by the Chief Building Official. However, septic systems, building sewers, sewer laterals, water piping, and landscaping sprinklers remain prohibited when within the 25 feet of the boundary of Slide Mass C. (Ord. 5522, 2010; Ord. 5030, 1997.)

22.90.045 Map of the Conejo Slide Area.

The Map of the Conejo Slide Area, as depicted in the Grover-Hollinsworth Geotechnical Report dated May 29, 2009, and depicting the parcels of real property that are located entirely or partially within the boundary of Slide Mass C of the Conejo Slide Area is hereby amended to be consistent with the boundaries described in above-referenced Report. The City Clerk and the Chief Building Official shall each keep a copy of the Map of the Conejo Slide Area and a full copy of the May 29, 2009, Grover-Hollinsworth Geotechnical Report on file as received by the City. A facsimile example of such map shall be reproduced and codified with this section as an exhibit to this section. (Ord. 5522, 2010; Ord. 5030, 1997.)



REVISED CONEJO LANDSLIDE MAP
MARCH 1, 2010

rev. 6/30/10

22.90.050 Parcels Within Slide Mass C.

The parcels of real property that are entirely or partially within the Conejo Slide Area, Slide Mass C, are as follows:

Assessor's Parcel No.	Address	Assessor's Parcel No.	Address
19-061-34	11 Ealand Place	19-061-25	530 Conejo Road
19-061-27	16 Ealand Place	19-062-06	481 Conejo Road
19-061-35	17 Ealand Place	19-062-07	529 Conejo Road
19-061-07	21 Ealand Place	19-062-04	525 Conejo Road
19-061-03	22 Ealand Place	19-062-05	535 Conejo Road
19-061-33	27 Ealand Place	21-143-05	1761 Sycamore Canyon Road
19-061-06	29 Ealand Place	21-143-07	1815 Stanwood Drive
19-061-17	468 Conejo Road	21-143-01	1825 Stanwood Drive
19-061-18	474 Conejo Road	13-161-04	1761 Sycamore Canyon Road
19-061-19	478 Conejo Road	21-143-06	(Edison property)
19-061-20	486 Conejo Road	21-143-04 & 13-161-03	1761 Sycamore Canyon Road
19-061-21	494 Conejo Road		
19-150-03	498 Conejo Road	19-150-05	1709 Sycamore Canyon Road
19-061-23	502 Conejo Road	19-150-10	1705 Sycamore Canyon Road
19-061-24	508 Conejo Road		

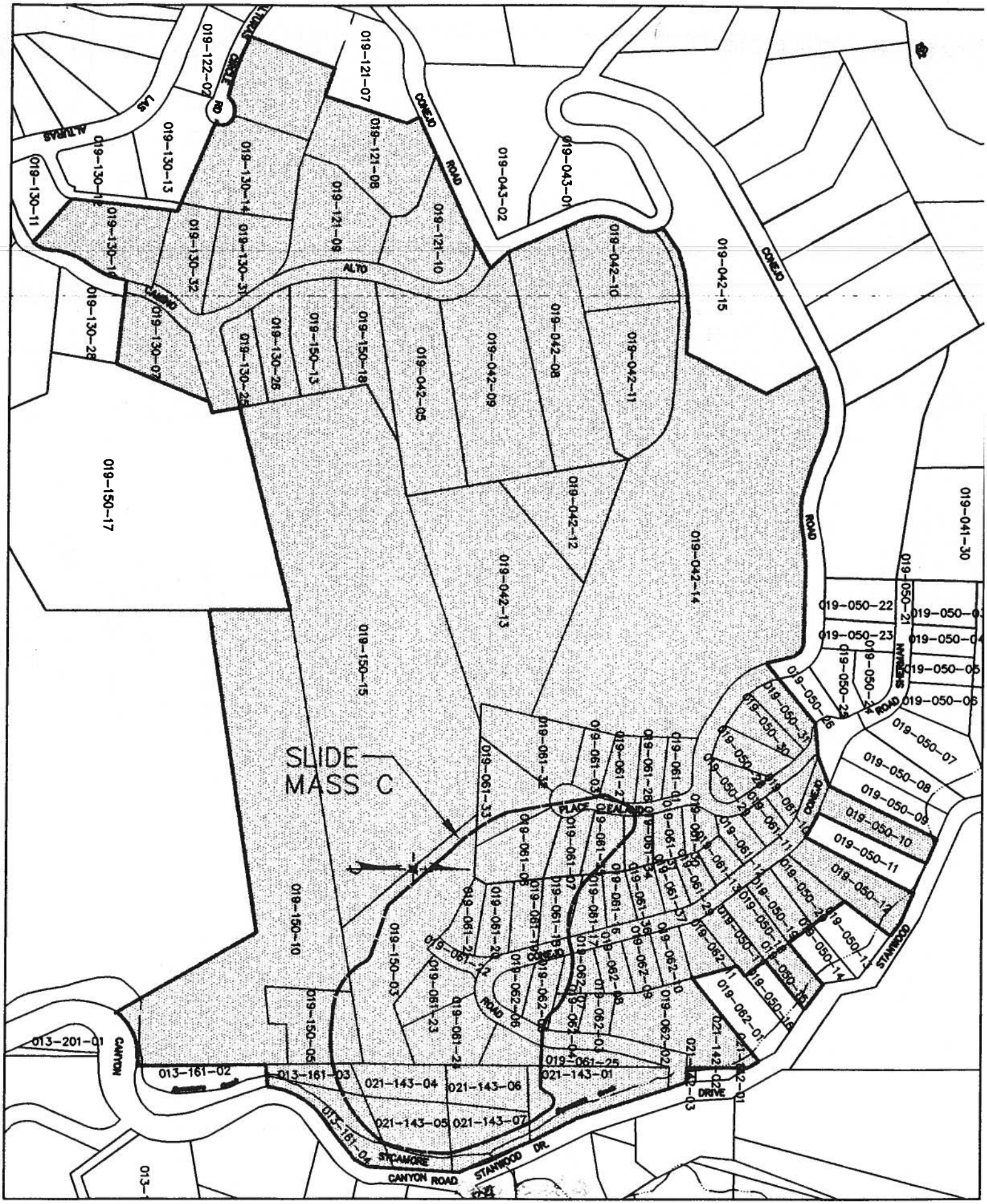
(Ord. 5030, 1997.)

22.90.060 Septic Tanks Prohibited.

No person shall construct or install a septic tank or increase the use of a septic tank on any parcel located entirely or partially within the Conejo Slide Drainage Area. Such parcels are identified in the listing of parcels adopted as Section 22.90.070 of this Chapter, entitled "Parcels Within Conejo Slide Drainage Area". (Ord. 5030, 1997.)

22.90.065 Map of Conejo Slide Drainage Area.

The Map of the Conejo Slide Drainage Area, dated November 6, 1997 and depicting the limits of the Conejo Slide Drainage Area and the parcels located entirely or partially within the Conejo Slide Drainage Area, is hereby adopted. The City Clerk and the Chief of Building and Safety shall each keep a copy of the Map of the Conejo Slide Drainage Area on file as adopted. An example of such map shall be reproduced and codified with this section. (Ord. 5030, 1997.)



11/6/97

MAP OF THE
CONEJO SLIDE DRAINAGE AREA

22.90.070 Parcels Within Conejo Slide Drainage Area.

The parcels of real property that are either entirely or partially within the Conejo Slide Drainage Area are as follows:

Assessor's Parcel No.	Address
19-061-26	10 Ealand Place
19-061-34	11 Ealand Place
19-061-27	16 Ealand Place
19-061-35	17 Ealand Place
19-061-07	21 Ealand Place
19-061-03	22 Ealand Place
19-061-32	24 Ealand Place
19-061-33	27 Ealand Place
19-061-06	29 Ealand Place
19-121-08	80 Conejo Road
19-042-08	114 Conejo Road
19-042-11	116 Conejo Road
19-042-10	134 Conejo Road
19-050-31	331 Conejo Road
19-050-30	333 Conejo Road
19-050-28	345 Conejo Road
19-061-30	352 Conejo Road
19-061-01	350 Conejo Road
19-050-29	357 Conejo Road
19-050-10	413 Conejo Road
19-061-10	418 Conejo Road
19-050-12	425 Conejo Road
19-050-20	427 Conejo Road
19-061-11	428 Conejo Road
19-061-12	434 Conejo Road
19-050-19	435 Conejo Road
19-061-13	438 Conejo Road
19-050-18	441 Conejo Road
19-061-29	444 Conejo Road
19-050-17	447 Conejo Road
19-061-37	450 Conejo Road
19-061-36	456 Conejo Road
19-061-16	462 Conejo Road
19-061-17	468 Conejo Road
19-061-18	474 Conejo Road
19-061-19	478 Conejo Road
19-062-06	481 Conejo Road
19-061-20	486 Conejo Road

Assessor's Parcel No.	Address
19-061-21	494 Conejo Road
19-061-31	3512 Conejo Road
19-150-03	498 Conejo Road
19-062-11	501 Conejo Road
19-061-23	502 Conejo Road
19-062-10	507 Conejo Road
19-061-24	508 Conejo Road
19-062-09	515 Conejo Road
19-062-08	523 Conejo Road
19-062-07	529 Conejo Road
19-061-25	530 Conejo Road
19-062-04	525 Conejo Road
19-062-03	533 Conejo Road
19-062-05	535 Conejo Road
19-062-02	545 Conejo Road
21-143-07	1815 Stanwood Drive
21-143-01	1825 Stanwood Drive
13-161-04	1761 Sycamore Canyon Road
21-143-06	(Edison property)
21-143-05 & 13-161-03	1761 Sycamore Canyon Road
19-150-05	1709 Sycamore Canyon Road
19-150-10	1705 Sycamore Canyon Road
21-143-04	1761 Sycamore Canyon Road
19-130-10	1048 Las Alturas Road
19-150-15	46 Camino Alto
19-130-25	100 Camino Alto
19-130-26	110 Camino Alto
19-150-13	120 Camino Alto
19-121-09	121 Camino Alto
19-050-13	430 Conejo Road
19-042-05	140 Camino Alto
19-042-09	150 Camino Alto
19-044-02	155 Camino Alto
19-130-32	1050 Las Alturas Road
19-130-31	1052 Las Alturas Road
19-121-06	33 Las Alturas Circle
19-031-14	45 Las Alturas Circle

Assessor's Parcel No.	Address	Assessor's Parcel No.	Address
19-050-05	318 Sherman Road	19-042-14	140 Conejo Road
19-042-13	124 Conejo Road	19-050-15	6547 Coronita Street, Carlsbad, CA 92009 (OWNER)
19-042-12	140 Conejo Road		

Upon the date of taking effect, this ordinance repeals Ordinance 4698, Ordinance 4344, and Ordinance 4293. (Ord. 5030, 1997.)

22.90.080 Special Geological Provisions.

Those residential structures identified in the report dated December 17, 2009, prepared by Frank J. Kenton for the City's Chief Building Official (hereinafter the "2009 Kenton Report"), which are listed as being appropriate for reconstruction, may be reconstructed by their owners in the manner consistent with the recommendations contained with the 2009 Kenton Report, including, specifically, the applicable construction recommendations contained in the Grover Hollinsworth and Associates, Inc., report dated May 29, 2009, both of which reports shall be on file with the City Clerk. (Ord. 5522, 2010.)

Chapter 22.91

SOLAR ENERGY SYSTEM REVIEW PROCESS

Sections:

22.91.010 Definitions.
22.91.020 Administrative Approval Process.
22.91.030 Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Energy Systems.

22.91.010 Definitions.

The following words and phrases as used in this Chapter 22.91 are defined as follows:

A. "Electronic submittal" means the utilization of one or more of the following:

1. e-mail, or
2. the internet, or
3. facsimile.

B. "Feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

C. "Small residential rooftop solar energy system" is a solar energy system that satisfies all of the following elements:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time;
3. A solar energy system that is installed on a single residential unit or two-residential unit (as defined in Chapter 28.04 of this Code); and
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

D. "Solar energy system" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

E. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health and safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Ord. 5713, 2015.)

22.91.020 Administrative Approval Process.

The City shall administratively approve applications to install solar energy systems pursuant to the provisions of this Chapter 22.91. If an application for a solar energy system satisfies all of the requirements of the Small Residential Rooftop Solar Energy System checklist, the application shall receive expedited review pursuant to Section 22.91.030. Otherwise, all applications to install solar energy systems shall be processed pursuant to this Section 22.91.020.

A. Application. Prior to submitting a solar energy system permit application and checklist to the City, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and
2. Verify that the existing electrical system's current or proposed configuration will accommodate all new photovoltaic electrical loads in accordance with the edition of the California Electrical Code in effect at the time the solar energy system permit application is submitted; and
3. Verify that the proposal is exempt from, or otherwise complies with, the coastal development permit requirements pursuant to Public Resources Code 30610, Sections 13250 to 13253 of Title 14 of the California Administrative Code, and Chapter 28.44 of the Santa Barbara Municipal Code.

B. Extent of Review. The review of all applications to install a solar energy system shall be limited to the Building Official's review of whether the proposed solar energy system meets all health and safety requirements of local, state, and federal law, and the City Planner's review of applicable building height, open yard requirements, and zoning setbacks pursuant to Title 28 of the Santa Barbara Municipal Code. If the Building Official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the City shall require the applicant to obtain a Performance Standard Permit.

C. Standards for Solar Energy Systems. All solar energy systems proposed for installation within the City of Santa Barbara shall meet the following standards, as applicable:

1. All solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, including building height, zoning setback, minimum open yard, and permitted construction standards.

2. Solar energy systems for heating water in single-family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

3. A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

4. Solar energy systems may be installed on a property with outstanding violations of the City's Municipal Code so long as both of the following requirements are satisfied:

a. The proposed solar energy system installation will not rely upon prior construction that was identified as a violation in an unresolved City notice or document; and

b. In the course of conducting the building inspection for a solar energy system, a health or life-safety hazard is not observed. Examples of such hazards include, but are not limited to, conditions that could lead to structural failure, electrical shock, and sanitary sewer failures.

D. Performance Standard Permit. In the case where the Building Official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the solar energy system shall not be installed until a Performance Standard Permit has been issued for the solar energy system pursuant to Chapter 28.93 of this Code. The Performance Standard Permit shall require the installation or incorporation of methods or conditions necessary to minimize or avoid the specific, adverse impact.

E. Appeal. The Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety is appealable in accordance with the following procedures:

1. Who May Appeal. The decision of the Building Official may be appealed to the Planning Commission by the applicant. No other persons can appeal.

2. Timing for Appeal. The applicant must file a written appeal with the Community Development Director no more than 10 calendar days following the Building Official's decision. The appeal shall include the grounds for appeal.

3. Grounds for Appeal. The decision of the Building Official may be appealed on the grounds that the Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety is not supported by substantial evidence.

4. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

5. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety in accordance with the following:

a. A decision to affirm the decision of the Building Official shall require a finding based on substantial evidence in the record that the proposed solar energy system could have a specific, adverse impact upon the public health and safety.

b. If the Planning Commission determines that there is not substantial evidence that the solar energy system could have a specific adverse impact upon the public health and safety, then the decision of the Building Official shall be reversed and the project shall be approved.

c. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Building Official shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

6. The decision of the City Planning Commission is final. (Ord. 5713, 2015.)

22.91.030 Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Energy Systems.

In compliance with Government Code Section 65850.5, the City has developed an expedited and streamlined permitting process for qualifying Small Residential Rooftop Solar Energy Systems. The submittal requirements and review procedures for applications of Small Residential Rooftop Solar Energy Systems are as follows:

A. Application Checklist. In order to be eligible for expedited review, prior to submitting a solar energy system permit application and checklist to the City, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

2. Verify that the existing electrical system's current or proposed configuration will accommodate all new photovoltaic electrical loads in accordance with the edition of the California Electrical Code in effect at the time the solar energy system permit application is submitted; and

3. Verify that the proposal is exempt from, or otherwise complies with, the coastal development permit requirements pursuant to Public Resources Code 30610, Sections 13250 to 13253 of Title 14 of the California Administrative Code, and Chapter 28.44 of the Santa Barbara Municipal Code.

B. Application Submission. The City accepts the submission of applications for Small Residential Rooftop Solar Energy Systems and the associated checklist and documentation in person at the Building Permit counter or by electronic submittal. The City shall accept signatures electronically for electronic submittals.

C. Standards for Solar Energy Systems. All solar energy systems proposed for installation within the City of Santa Barbara shall meet the following standards, as applicable:

1. All solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, including building height, zoning setback, minimum open yard, and permitted construction standards.

2. Solar energy systems for heating water in single-family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

3. A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

4. Solar energy systems may be installed on a property with outstanding violations of the City's Municipal Code so long as both of the following requirements are satisfied:

a. The proposed solar energy system installation will not rely upon prior construction that was identified as a violation in an unresolved City notice or document; and

b. In the course of conducting the building inspection for a solar energy system, a health or life-safety hazard is not observed. Examples of such hazards include, but are not limited to, conditions that could lead to structural failure, electrical shock, and sanitary sewer failures.

D. Application Review. The Building and Safety Division shall confirm whether the application and supporting documents are complete and meet the requirements of the City's Small Residential Rooftop Solar Energy System checklist. The Building and Safety Division shall review applications for Small Residential Rooftop Solar Energy Systems within 24 working hours (3 working days) of submission. Mounting the solar panels on the plane of the roof with the California Solar Permitting Guide "Flush Mount" standards, will eliminate the need for confirmation of maximum building height.

E. Complete Application. An application that satisfies the information requirements specified in the City's Small Residential Rooftop Solar Energy System checklist shall be deemed complete.

F. Incomplete Application. If the Building and Safety Division determines that an application for a Small Residential Rooftop Solar Energy System is incomplete, the Building and Safety Division shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance. Alternatively, if the Building and Safety Division determines that the proposed solar energy system, as proposed, will not qualify as a Small Residential Rooftop Solar Energy System, the Building and Safety Division may recommend that the applicant resubmit his or her application pursuant to Section 22.91.020.

G. Permit Approval. Upon confirmation by the Building and Safety Division that the application and supporting documents are complete and meet the requirements of the Small Residential Rooftop Solar Energy System checklist, the Building Official shall approve the application and issue all required permits or authorizations electronically.

H. Inspections. The installation of a Small Residential Rooftop Solar Energy System shall only require one building inspection which, if a fire inspection is required, shall be consolidated with the fire inspection. If the installation of the Small Residential Rooftop Solar Energy System fails the inspection, a subsequent inspection or inspections shall be required, at the applicant's expense, until the installation passes inspection or is cancelled and the solar energy system is removed to the satisfaction of the Building Official. (Ord. 5713, 2015.)

Chapter 22.92

OIL DRILLING PROHIBITED

Sections:

22.92.010 Penalty for Violation.
22.92.020 Drilling, Etc., Declared Nuisance - Abatement.
22.92.030 Nonconforming Uses.

22.92.010 Penalty for Violation.

It shall be unlawful for any person, firm or corporation, whether as principal, agent, employee or otherwise, to explore for, prospect for, or drill for, or to permit or to commence the exploration, prospecting or drilling for, oil, gas or other hydrocarbon substances within the corporate limits of the City. Any such activity shall be deemed to constitute a nuisance.

The violation of any provision of this section, or of any provision of Section 1500 of the Charter prohibiting drilling for oil, gas, or other hydrocarbon substances within the corporate limits of the City shall be deemed a misdemeanor and shall be punished by a fine of not exceeding five hundred dollars ($500.00) or imprisonment for a term of not exceeding six (6) months, or by both such fine and imprisonment.

Every day on which any violation of this section or of such section of the Charter occurs shall constitute a separate offense for any day upon which the same occurs. (Ord. 3077 §1, 1965; prior Code §33.1.)

22.92.020 Drilling, Etc., Declared Nuisance - Abatement.

Any use of property within the corporate limits of the City for the exploration, prospecting or drilling for oil, gas or other hydrocarbon substances, and any equipment or structure set up, erected, built or maintained or used thereon or therein, for the exploration, prospecting or drilling for oil, gas or other hydrocarbon substances, is declared to be a public nuisance, and the City Attorney shall, upon order of the City Council, immediately commence action proceedings for the abatement and removal and enjoinment thereof in the manner provided by law and shall take such other steps and shall apply to such court as may have jurisdiction to grant such relief as will abate, remove, restrain and enjoin the use of any such property within the corporate limits of the City and the erection, maintenance or use of any such equipment or structure for any such purposes contrary to the provisions of this chapter. (Prior Code §33.2.)

22.92.030 Nonconforming Uses.

The lawful use of land existing on June 27, 1953, although such use does not conform to the provisions of this chapter may be continued, but if such nonconforming use is abandoned any future use of the land shall be in conformity with the provisions of this chapter. (Prior Code §33.3)

Chapter 22.96

MAINTENANCE OF ABANDONED AUTOMOBILE SERVICE STATIONS

Sections:

22.96.010 Legislative Intent.
22.96.020 Definitions.
22.96.030 Maintenance Requirements.
22.96.040 Public Nuisance.
22.96.050 Abatement Procedure.
22.96.060 Effect of Voluntary Abatement.
22.96.070 Extension of Abatement Period.
22.96.080 Abatement Hearing; Setting and Notice.
22.96.090 Abatement Hearing by City Council.
22.96.100 Service on Owner of Resolution to Abate.
22.96.110 Abatement by City.
22.96.120 Record of Cost for Abatement.
22.96.130 Report - Hearing and Proceedings.
22.96.140 Assessment of Costs Against Property; Lien.
22.96.150 Alternate Enforcement Measures.
22.96.160 Limitation of Action.

22.96.010 Legislative Intent.

The City Council, having found that the existence of closed, vacant and inoperative automobile service stations which are not properly maintained constitutes a danger to public health, safety, comfort and welfare in that such conditions lead to unsightliness, blight, vandalism, trespass, and decreasing values to surrounding properties, and that such abuses entitle this City to exercise its Police powers to protect the health, safety, comfort and welfare of the community, intends the following regulations to provide for the property maintenance of closed, vacant and inoperative automobile service stations. (Ord. 3765 §1, 1975.)

22.96.020 Definitions.

A. "Abandoned service station" means an automobile service station where the owner or lessee has failed to operate such station for the retail sale of gasoline and other petroleum products to the general public for at least ninety (90) consecutive days and where the property has not been converted to another commercial use permitted by Title 28 of this Code.

An automobile service station which is used only as a storage facility for gasoline and other petroleum products is an abandoned service station for the purposes of this chapter.

B. "Automobile service station" means any site where the buildings are designed, built and operated for the purpose of dispensing and selling fuels for internal combustion engines of any automotive vehicles. (Ord. 3765 §1, 1975.)

22.96.030 Maintenance Requirements.

All abandoned service stations in the City of Santa Barbara shall be maintained in compliance with the following requirements:

A. The windows, doors and any and all openings in all buildings on the site shall be securely covered with plywood or other comparable material at least 3/4 inches in thickness which shall be painted to match the color of the building;

B. Vehicular access to the site shall be prevented by the installation of chain barriers firmly affixed to the ground;

C. All trees, shrubs, bushes and other landscaping on the site shall be properly watered and otherwise maintained. (Ord. 3765 §1, 1975.)

22.96.040 Public Nuisance.

Any abandoned service station which is not maintained in compliance with the requirements set forth in Section 22.96.030 is hereby declared to be a public nuisance. (Ord. 3765 §1, 1975.)

22.96.050 Abatement Procedure.

Upon discovery of conditions constituting a public nuisance as defined in Section 22.96.040, the Chief of Building and Zoning shall give notice to cause abatement of the public nuisance. Notification shall be personally served or sent by certified mail to all persons, firms, corporations and other entities which the records of the Recorder of the County of Santa Barbara disclose a claim or interest in the automobile service station. The notification shall be in the

following form:

NOTICE OF VIOLATION

DECLARATION OF VIOLATION OF TITLE 22, CHAPTER 22.96 OF THE SANTA BARBARA MUNICIPAL CODE RELATING TO MAINTENANCE OF ABANDONED SERVICE STATIONS.

NOTICE IS HEREBY GIVEN that as of _____ day of _____, 19____, the Chief of Building and Zoning of the City of Santa Barbara has found and determined that conditions exist on the real property described as County Assessor's Parcel No. _____ , located at _____ in the City of Santa Barbara, which constitute a public nuisance and a violation of Title 22, Chapter 22.96, of the Santa Barbara Municipal Code, in that an abandoned service station is located thereon and is not being maintained pursuant to the requirements of §22.96.030 of Chapter 22.96 of Title 22 of the Santa Barbara Municipal Code.

Notwithstanding any other provisions of this Code, if the nuisance is not abated by properly maintaining the abandoned service station in accordance with the provisions of §22.96.030 within thirty (30) days from the date of delivery of this notice, enforcement proceedings for the abatement of said public nuisance shall be commenced pursuant to the provisions of §22.96.080.

DATED: _____

_____
Chief of Building and Zoning

(Ord. 3765 §1, 1975.)

22.96.060 Effect of Voluntary Abatement.

If the public nuisance is abated by the owner or lessee of any abandoned service station within the thirty (30) day period allowed in the Notice of Violation, further abatement proceedings shall be terminated. (Ord. 3765 §1, 1975.)

22.96.070 Extension of Abatement Period.

If the abatement of the public nuisance is commenced within the thirty (30) day period provided in §22.96.050, but not completed, the Chief of Building and Zoning may grant a single extension of fifteen (15) days for good cause shown, such as delays beyond the control of the affected party or parties. (Ord. 3765 §1, 1975.)

22.96.080 Abatement Hearing; Setting and Notice.

A. In the event the owner of an abandoned service station which is not maintained in compliance with this chapter fails to abate the public nuisance within the time allowed, the City Council shall set a public hearing to consider its abatement.

B. The Chief of Building and Zoning shall cause notification of the hearing to be personally served or sent by certified mail to the persons, firms, corporations and other entities which the records of the Recorder of the County of Santa Barbara disclose claim an interest in the automobile service station. The notification shall be in the following form:

NOTICE OF HEARING

ABATEMENT OF PUBLIC NUISANCE

NOTICE IS HEREBY GIVEN that on _____ day of _____, 19____, at the hour of _____, of said day, the City Council of the City of Santa Barbara will hold a public hearing at Council Chambers, City Hall, to ascertain whether the maintenance of an abandoned service station in the City of Santa Barbara at _____ constitutes a public nuisance as defined in §22.96.040 of Chapter 22.96 of the Santa Barbara Municipal Code and requires abatement as prescribed in said chapter.

The conditions which shall be the subject of the public hearing are as follows:

That if the condition of maintenance is found to constitute a public nuisance as defined in Section 22.96.040 of said Code, and the public nuisance has not been abated by the owner or owners of such service station, such public nuisance may be ordered by the City Council to be abated by such owner or owners, or may be ordered to be abated by the duly constituted authorities of this City and the cost thereof charged to such owner or owners or placed as a lien against the property;

That all persons having any objection to or interest in said matters are hereby notified to attend the meeting stated in this Notice, when their testimony and evidence will be heard and given consideration.

DATED: _____

_____
(Title and Address of Enforcement Authority)

(c) A copy of the Notice of Hearing shall be posted conspicuously on each of the premises and buildings affected.

(d) A copy of said Notice of Hearing shall be served personally or by certified mail and posted at least fifteen (15) days before the time fixed for the hearing. Proof of service and posting of such notice shall be made by written declaration under penalty of perjury and be filed with the City Council. (Ord. 3675 §1, 1975.)

22.96.090 Abatement Hearing by City Council.

A. At the time stated in the notices, the City Council shall hear and consider all relevant evidence, objections or protests, and shall receive testimony from owners, witnesses, City personnel and interested persons relative to such alleged public nuisance. Said hearing may be continued from time to time.

B. Upon the conclusion of said hearing, the City Council shall, based upon such hearing, determine whether the premises, or any part thereof, as maintained constitutes a public nuisance as defined in §22.96.040. If the City Council finds that such public nuisance does exist, the City Council shall adopt a resolution declaring such premises to be a public nuisance and ordering the abatement of the same within a reasonable period of time to be determined by Council, by having such premises, buildings or structures maintained in compliance with §22.96.030. (Ord. 3765 §1, 1975.)

22.96.100 Service on Owner of Resolution to Abate.

A copy of the resolution of the City Council ordering the abatement of said nuisance shall be served upon the owners of said property in accordance with the provisions of Section 22.06.050 and shall contain a list of needed corrections and abatement methods. Any property owner shall have the right to have any such premises maintained in accordance with said resolution and at his own expense provided the same is done prior to the expiration of the designated abatement period. Upon such abatement in full by the owner, then proceedings hereunder shall terminate. (Ord. 3765 §1, 1975.)

22.96.110 Abatement by City.

If such nuisance is not completely abated by the owner as directed within the designated abatement period, then the Chief of Building and Zoning may cause the same to be abated by City forces or private contract and the Chief (or his designated agents) is expressly authorized to enter upon said premises for such purpose. (Ord. 3765 §1, 1975.)

22.96.120 Record of Cost for Abatement.

The Chief of Building and Zoning shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot, or parcel of land where the work is done and shall render an itemized report in writing to the said City Council showing the cost of abatement, provided, that before said report is submitted to said City Council, a copy of the same shall be posted for at least five (5) days upon such premises, together with a notice of the time when said report shall be heard by the City Council for confirmation; a copy of said report and notice shall be mailed to the owners of said property, in accordance with the provisions of Section 22.96.050 at least five (5) days prior to submitting the same to the City Council. The term "incidental expenses" shall include, but not be limited to, the actual and overhead expenses and costs of the City in the preparation of notices, specifications and contracts, and in inspecting the work, and the costs of printing and mailing required hereunder. (Ord. 3765 §1, 1975.)

22.96.130 Report - Hearing and Proceedings.

At the time and place fixed for receiving and considering said report, the City Council shall hear and pass upon the report of the Chief of Building and Zoning together with any objections or protests. Thereupon the City Council may make such revision, correction or modification in the report as it may deem just, after which the report, as submitted or revised, corrected or modified, shall be confirmed. The decision of the City Council on all protests and objections which may be made shall be final and conclusive. (Ord. 3765 §1, 1975.)

22.96.140 Assessment of Costs Against Property; Lien.

The total cost of abating such nuisance, as so confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the Office of the County Recorder of a Notice of Lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

A. After such confirmation and recordation, a copy may be turned over to the Tax Collector for the County, whereupon it shall be the duty of said Tax Collector to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or

B. After such recordation such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

C. Such Notice of Lien for recordation shall be in form substantially as follows:

NOTICE OF LIEN

(Claim of City of Santa Barbara)

Pursuant to the authority vested by the provisions of Section 22.96.110 et seq. of the Santa Barbara Municipal Code, the Chief of Building and Zoning did on or about the _____ day of _____, 19____, cause the premises hereinafter described to be maintained in compliance with §22.96.030, in order to abate a public nuisance on said real property; and the City Council of the City of Santa Barbara did on the _____ day of _____, 19____, assess the cost of such maintenance upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said City of Santa Barbara does hereby claim a lien on such maintenance in the amount of said assessment, to wit: the sum of $ _____; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Santa Barbara, County of Santa Barbara, State of California, and particularly described as follows:

(DESCRIPTION)

DATED: This _____ day of _____, 19____.

_____
Chief of Building and Zoning
of the City of Santa Barbara, California

(Ord. 3765 §1, 1975.)

22.96.150 Alternate Enforcement Measures.

Nothing in the foregoing sections shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable Civil or Penal Code provisions as an alternative to the proceedings set forth herein. (Ord. 3765 §1, 1975.)

22.96.160 Limitation of Action.

Any party aggrieved with the proceedings, decision, or action taken by the City Council or the Chief of Building and Zoning under this chapter in ordering the abatement of a public nuisance or other order, must bring an action to contest such proceeding, decision, action or order within thirty (30) days after the date of the proceeding, decision, action or order of the City Council or Chief of Building and Zoning. (Ord. 3765 §1, 1975.)

TITLE 26
Housing Regulations

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5459	Zoning Setbacks and Standards	September 11, 2008	Sections 26.08.030, 26.20.020, and 26.30.020

TITLE 26

HOUSING REGULATIONS

Chapter: 26.04 Mobilehome and Recreational Vehicle Parks - Residents' Rights
Chapter: 26.08 Mobilehome and Recreational Vehicle Park Lease Regulations
Chapter: 26.20 Report of Notice to Quit
Chapter: 26.30 Housing Discrimination

Chapter 26.04

MOBILEHOME AND RECREATIONAL VEHICLE PARKS - RESIDENTS' RIGHTS

Sections:

26.04.010 Mobilehome and Recreational Vehicle Parks - Residents' Rights.

26.04.010 Mobilehome and Recreational Vehicle Parks - Residents' Rights.

All tenancies in any mobilehome or permanent recreational vehicle park (as defined in Title 28) within the City of Santa Barbara existing on the effective date of the ordinance adopting this Section or created thereafter shall be protected by the provisions of Chapter 2.5 (Sections 798 through 799.6) of the California Civil Code regardless of whether said park is registered with the State of California as a "mobilehome park" or a "recreational vehicle park." (Ord. 4269, 1984.)

Chapter 26.08

MOBILEHOME AND RECREATIONAL VEHICLE PARK LEASE REGULATIONS

Sections:

26.08.010 Short Title.
26.08.020 Findings and Purpose.
26.08.030 Definitions.
26.08.035 Exemptions.
26.08.040 Lease Provisions.
26.08.050 Lease Negotiation; Arbitration.
26.08.060 Rent Increase Upon Transfer of Ownership.
26.08.070 Notices by Park Owner.
26.08.080 Enforcement.

26.08.010 Short Title.

Chapter 26.08 of Title 26 of the Santa Barbara Municipal Code may be cited as the "Mobilehome and Recreational Vehicle Park Lease Ordinance of the City of Santa Barbara." (Ord. 4285, 1984.)

26.08.020 Findings and Purpose.

A. The City Council finds and determines that there is a critical shortage of low and moderate income housing within the City and on the south coast of Santa Barbara County.

B. The City Council further finds and determines that mobilehome parks and recreational vehicle parks (also known as trailer parks) are a significant part of the remaining supply of low and moderate income housing in the City, and are frequently occupied by residents on a permanent basis. Many of the residents of these facilities are senior citizens on fixed incomes or other persons with limited economic means.

C. The City Council further finds and determines that rent increases in mobilehome and recreational vehicle parks represent a significant threat to the continued ability of park residents to afford to maintain residency in such parks. The economic impact of unaffordable rent increases on park residents is much more severe than rent increases on other tenants inasmuch as many park residents own their mobilehomes, recreational vehicles or trailers and, if forced to move because of rent increases, must bear the additional and substantial burden of paying to move those

vehicles or mobilehomes to another site. There are very few places on the south coast of Santa Barbara County to which such mobilehomes or vehicles can be moved.

D. The purpose of this ordinance is therefore to regulate the rent charged for mobilehome and recreational vehicle spaces used on a permanent basis to prevent severe and inordinate rent increases, to protect certain persons of limited economic means from the disruption and expense of relocation and to provide increased certainty to park residents of their ability to maintain their current status while at the same time providing park owners with a fair return on their investment and the continuing ability to maintain their parks. (Ord. 4285, 1984.)

26.08.030 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning.

A. CAPITAL IMPROVEMENT. Any addition or betterment made to a mobilehome or recreational vehicle park which consists of more than a mere repair or replacement of an existing facility or improvement and which has a useful life of five or more years.

B. CONSUMER PRICE INDEX. The Urban Wage Earners and Clerical Workers Index, Los Angeles-Long Beach-Anaheim average, all items, as published by the United States Bureau of Labor Statistics, or such other index as may be approved by resolution of the City Council.

C. DEPARTMENT. The Community Development Department of the City of Santa Barbara.

D. MOBILEHOME. As defined in Section 28.04.465 of this Code.

E. MOBILEHOME PARK. As defined in Section 28.04.470 of this Code.

F. MOBILEHOME PARK SPACE. As defined in Section 28.04.475 of this Code.

G. MOBILEHOME RESIDENT. A person who rents a space in a mobilehome park.

H. PARK OWNER. The owner or operator of a mobilehome or recreational vehicle park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of the park.

I. RECREATIONAL VEHICLE. As defined in Section 28.04.555 of this Code.

J. RECREATIONAL VEHICLE PARK. As defined in Section 28.04.560 of this Code.

K. RECREATIONAL VEHICLE SPACE. As defined in Section 28.04.575 of this Code.

L. RECREATIONAL VEHICLE RESIDENT. A person who rents a space in a recreational vehicle park.

M. REHABILITATION WORK. Any renovation or repair work completed on or in a mobilehome or recreational vehicle park which was performed in order to comply with an order of a public agency, or to repair damage resulting from fire, earthquake, or other casualty.

N. RENT. The consideration, including any bonus, benefits or gratuity, demanded or received by a park owner for or in connection with the use or occupancy of a space, including but not limited to monies demanded or paid for the following: meals where required by the park owner as a condition of the tenancy, parking, furnishings, other housing services of any kind, subletting, or security deposits. (Housing services are defined as those services connected with the use or occupancy of a space including, but not limited to, utilities (light, heat, water and telephone), utility connections, ordinary repairs or replacement and maintenance, including painting. This term shall also include the provision of laundry facilities and privileges, common recreational facilities, janitor service, resident manager, refuse removal, storage facilities and any other benefits, privileges or facilities.)

O. RESIDENT. A mobilehome resident and a recreational vehicle resident.

P. SPACE. A mobilehome park space and a recreational vehicle park space.

Q. TENANCY. The right of a resident to use or occupy a space.

(Ord. 5459, Section 3, 2008; Ord. 4285, 1984.)

26.08.035 Exemptions.

This Chapter shall apply as of its effective date to all tenancies in mobilehome and recreational vehicle parks located in the City of Santa Barbara, except:

A. Tenancies used primarily for commercial purposes.

B. Tenancies in parks of four spaces or fewer, where one space is occupied by the park owner.

C. Tenancies in parks placed in operation after the effective date of this ordinance; provided, however, that such exemption shall continue in effect for only four (4) years after such creation.

D. Tenancies in spaces which a government agency owns, manages or operates.

E. Tenancies which both the park owner and the resident do not expect to exceed thirty (30) days. (Ord. 4285, 1984.)

26.08.040 Lease Provisions.

A lease shall include, at a minimum, the following provisions:

A. TERM; TERMINATION. No term shall be specified. The lease may be terminated only for one of the following reasons:

1. Failure of the resident to comply with a local ordinance or state law or regulation relating to mobilehomes or recreational vehicles within a reasonable time after the resident received a notice of noncompliance

from the appropriate governmental agency.

2. Conduct by the resident, upon the park premises, which constitutes a substantial annoyance to other residents.

3. Failure of the resident to comply with a lease provision or reasonable rule or regulation of the park. No act or omission of the resident shall constitute such a failure to comply unless and until the park owner has given the resident written notice of the alleged violation and the resident has failed to adhere to the lease provision or rule or regulation within seven (7) days.

4. Nonpayment of rent, utility charges, or reasonable incidental service charges.

5. Condemnation of the park.

6. Change of use of the park, provided that the provisions of subsection f of Section 798.56 of the California Civil Code and any applicable local ordinances are followed.

7. Cessation of occupancy by the tenant with (i) sixty (60) days prior notice to the park owner, or (ii) waiver of such notice by the park owner.

B. NOTICE. Notice of termination must be given in writing in the manner prescribed by Section 1162 of the Code of Civil Procedure at least sixty (60) days prior to the termination date of the tenancy. Said notice shall state the date the lease terminates, the reason for the termination or refusal to renew, and the specific facts upon which the park owner is relying.

C. RENT INCREASES. A provision placing the following restrictions on a park owner's ability to increase the rent most recently and lawfully charged:

1. Rent for a space shall not be increased more frequently than once per year and all increases within any particular park shall occur at the same time each year.

2. Except as provided in Paragraph 3 of this Subsection C, a rent increase may not exceed the greater of (i) three-quarters of the percentage increase in the Consumers Price Index since the date of the last rent increase, or (ii) three (3) percent times the number of complete months since the date of the last rent increase divided by twelve.

3. A rent increase in excess of that allowed under Paragraph 2 of this Subsection C shall be allowed only to the extent it is approved by (i) the resident or (ii) an arbitrator acting pursuant to the provisions of Subsection D of this Section.

D. ARBITRATION. A provision establishing an arbitration mechanism for resolving disputes over (i) rent increase under Paragraph 3 of Subsection C of this Section, and (ii) any other issues which the parties agree to subject to arbitration. At a minimum, this provision shall specify as follows:

1. An impartial arbitrator shall be authorized to make final and binding decisions on disputed matters.

2. Arbitration shall be as expeditious as feasible and, whenever possible, should not exceed sixty (60) days from the date the arbitrator is selected to the date of the arbitrator's decision.

3. In the case of rent increase disputes:

a. The Department shall select a qualified arbitrator and shall prepare a contract to be executed by the arbitrator and park owner; and

b. The costs of the arbitrator shall be (i) paid by the park owner, and (ii) considered a reasonable operating expense within the meaning of clause (9) of Subparagraph d of this Paragraph 3 if the arbitrator approves the requested increase or any portion thereof; and

c. The arbitrator shall be authorized to examine all financial data relating to the park which is relevant to the dispute, and receive testimony (oral and written) from any affected resident of the park, the park owner or their representatives at a meeting open to all park residents affected by the proposed increase; and

d. The arbitrator shall approve such rent increase, if any at all, as is determined to be fair, just and reasonable within five days of the close of the arbitration hearing. The arbitrator's decision shall be mailed by the Department to the park owner and the affected residents or their designated representatives. In reaching that determination, the arbitrator shall consider the following factors, in addition to any other factors he or she considers relevant:

(1) Changes in the Consumer Price Index.

(2) The Voluntary Pay and Price Standards promulgated by the President of the United States or any other lawfully established state or federal government wage and price guidelines.

(3) The rent lawfully charged for comparable spaces in the County of Santa Barbara.

(4) The length of time since the last rent increase for the space or spaces specified in the rent increase proposal and the length of time necessary to receive consideration by the arbitrator.

(5) Any proposed capital improvements or rehabilitation work related to the space or spaces specified in the rent increase application, and the cost thereof, including such items as materials, labor, construction interest, permit fees and other items as the arbitrator deems appropriate.

(6) Changes in property taxes or other taxes related to the subject park.

(7) Changes in the rent paid by the park owner for the lease of the land on which the subject park is located.

(8) Changes in the utility charges for the subject park paid by the park owner and the extent, if any, of reimbursement from the residents.

(9) Changes in reasonable operating and maintenance expenses, including interest and other expenses relating to the acquisition of the land and improvements of the park.

(10) The need for repairs caused by circumstances other than ordinary wear and tear.

(11) A change in the amount and quality of services provided by the park owner to the affected residents.

e. The arbitrator shall not consider changes in operating or other expenses caused by the park owner's refinancing of the park occurring after the date of adoption of this ordinance, except where the refinancing is both reasonable and necessary to make capital improvements to the park or is the result of prior financial commitments specific to the park becoming due.

f. The arbitrator may provide that an increase in rent or a portion of an increase in rent granted by the arbitrator be limited to the length of time necessary to allow the park owner to reasonably amortize the cost of a capital improvement, including interest and a reasonable profit.

E. NO ASSIGNMENT. A provision stating that the lease is not assignable to a successor of the tenant in the absence of mutual consent of the parties. (Ord. 4285, 1984.)

26.08.050 Lease Negotiation; Arbitration.

A. MANDATORY PROVISIONS. The park owner shall offer each resident a lease which contains each of the provisions specified in Section 26.08.040, except to the extent that the parties have voluntarily agreed to modify or waive any such provision. The parties shall bargain in good faith to reach agreement on the language used to express the mandatory provisions, and shall submit any dispute which remains after such bargaining to arbitration as set forth in Paragraph C. These provisions shall be identified in the lease as "mandatory provisions."

B. OPTIONAL PROVISIONS. The lease may contain any additional provisions to which the parties agree. Either party may propose inclusion of optional provisions. The parties shall bargain in good faith with respect to the inclusion of any such optional provisions and shall submit any dispute which remains after such bargaining to arbitration as set forth in Paragraph C. The arbitrator may impose on the parties any optional provisions which the arbitrator finds will render the lease reasonable, equitable and consistent with other leases commonly used in similar facilities. These provisions shall be identified in the lease as "optional provisions."

C. ARBITRATION. Any disputes arising between a park owner and resident under this Section shall be deemed submitted to arbitration upon the expiration of sixty (60) days after commencement of negotiations. Either party may request arbitration. The arbitrator shall be selected as set forth in Section 26.08.040,D. The costs of the arbitrator shall be paid by the park owner. One half of such costs shall be considered a reasonable operating expense under clause (9) of subparagraph d of Paragraph 3 of subsection D of Section 26.08.040. The arbitrator shall render a decision within thirty (30) days, and the decision shall be final and binding upon the parties. (Ord. 4285, 1984.)

26.08.060 Rent Increase Upon Transfer of Ownership.

If a space is voluntarily vacated by all the existing tenants as a result of a transfer of legal ownership of the mobilehome or recreational vehicle, and it is not removed from the space, then the rent may be increased. (Ord. 4592, 1989; Ord. 4285, 1984.)

26.08.070 Notices by Park Owner.

Within thirty days of the adoption of this ordinance, and upon the renting of each park space thereafter, a park owner shall give each resident a written statement advising the resident of the existence of this ordinance. The park owner shall also maintain a current copy of the ordinance available for review at the manager's premises or other convenient location within the park. (Ord. 4285, 1984.)

26.08.080 Enforcement.

A. RENT INCREASES. A park owner may not collect rent in excess of the rent most recently and lawfully charged for a park space until (i) a lease is executed by both parties with respect to that space, or (ii) a resident fails to execute a lease in a form approved by the arbitrator within thirty (30) days of the arbitrator's decision, which failure shall constitute a waiver by the resident of his or her rights under this Chapter.

B. COURT ORDER. Either party may bring an action in the Superior Court compelling the other party or the arbitrator to comply with the terms of this Chapter. Violation of this Chapter shall not be a misdemeanor, nor punishable by the imposition of civil penalties. (Ord. 4285, 1984.)

Chapter 26.20

REPORT OF NOTICE TO QUIT

Sections:

26.20.010 Findings and Purposes.
26.20.020 Definitions.
26.20.030 Notices to Quit.
26.20.040 Enforcement.

26.20.010 Findings and Purposes.

The City Council finds and determines that, in order to effectively study the number of notices to quit which are given to tenants in the City of Santa Barbara, it is necessary that landlords who issue a notice to quit to a tenant send a report of the notice to quit to the City. The City Council finds that the requirement for such a report would not materially affect a landlord's ability to regain possession of the leased property pursuant to California law. (Ord. 4291, 1984; Ord. 4244, 1983.)

26.20.020 Definitions.

"Landlord and rental unit," when used in this Chapter, shall be construed as defined herein. Other words and phrases used herein shall have the meaning stated elsewhere in this Code.

A. LANDLORD. An owner, lessor, or sublessor (including any person, firm, corporation, partner-ship, or other entity) who receives or is entitled to receive rent for the use of any rental unit, or the agent, representative or successor of any of the foregoing.

B. RENTAL UNIT. A dwelling unit, as defined in Section 28.04.260 of this Code, rented or offered for rent for living or dwelling purposes, the land and buildings appurtenant thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. This term shall include a dwelling unit in a condominium or similar project. The term shall not include:

1. A dwelling unit on a lot with four or fewer dwelling units, provided one such dwelling unit is occupied by a record owner of the property.
2. A single family residential structure where there is only one such structure on the lot.
3. Housing accommodations in hotels and boarding houses, provided that at such time as an accommodation has been occupied by one or more of the same tenants for sixty (60) days or more, such accommodation shall become a rental unit subject to the provisions of this chapter.
4. A dwelling unit in a nonprofit or limited equity stock cooperative while occupied by a share-holder tenant of the stock cooperative.
5. Housing accommodations in any hospital; state licensed community care facility; convent, monastery, extended medical care facility; asylum; fraternity or sorority house; or housing accommodations owned, operated or managed by an institution of higher education, a high school, or an elementary school for occupancy by its students or teachers.
6. Housing accommodations which a governmental agency, or authority owns, operates, or manages, or as to which rental or mortgage assistance is paid pursuant to 24 C.F.R. 882 ("HUD Section 8 Federal Rent Subsidy Program") or a similar federal rental assistance program.
7. Housing accommodations operated by an organization exempt from federal income tax is under section 501(c)(3) of the Internal Revenue Code provided that the gross income derived therefrom does not constitute unrelated business income as defined in Section 512 of the Internal Revenue Code, or a nonprofit public benefit corporation under California Corporations Code Section 5110 et seq., whose principal purpose is to provide low or moderate income housing. (Ord. 5459, Section 3, 2008; Ord. 4291, 1984; Ord. 4244, 1983.)

26.20.030 Notices to Quit.

Prior to or at the same time as the written notice of the landlord's intention to terminate the tenancy required by Code of Civil Procedure §1161 is served on the tenant of a rental unit, the landlord shall file with the City Clerk an executed statement in the form provided by resolution of the City Council. (Ord. 4291, 1984; Ord. 4244, 1983.)

26.20.040 Enforcement.

In any action by a landlord to recover possession of a rental unit, the tenant may raise as an affirmative defense any failure by the landlord to comply with the requirements of Section 26.20.030.

The affirmative defense provided for by this Section shall be null and void upon the execution and filing with the City Clerk of a Rental Housing Data Collection Form regarding the unit which is the subject of the action. (Ord. 4291, 1984; Ord. 4244, 1983.)

Chapter 26.30

HOUSING DISCRIMINATION

Sections:

26.30.010 Findings and Purpose.
26.30.020 Definitions.
26.30.030 Prohibited Activities.
26.30.035 Occupancy Standards Permitted; Limitations.
26.30.040 Exemptions.
26.30.050 Penalties/Remedies.

26.30.010 Findings and Purpose.

The City Council finds and declares that:

A. Arbitrary discrimination in rental housing exists in the city.

B. The existence of such discrimination poses a substantial threat to the public health and welfare of a large segment of the community.

C. Such discrimination cuts across all racial, ethnic, and economic lines, but falls most heavily on minority and single-parent families with children.

D. It is consistent with the Housing Element of the General Plan to promote and ensure open and free choice of housing without discrimination.

E. Because housing is a fundamental necessity of life, it is against the public policy of the city to discriminate in rental housing on any arbitrary basis. (Ord. 4446, 1987; Formerly §9.150.010, Ord. 4268, 1984).

26.30.020 Definitions.

For the purposes of this chapter, certain terms are defined as follows:

A. BEDROOM. As defined in Title 28 of this Code.

B. INFANT. A child less than one year of age.

C. LANDLORD. An owner, lessor, or sublessor (including any person, firm, corporation, partner-ship, association, trust, estate or other entity) who receives or is entitled to receive rent for the use of any rental unit, or the authorized agent, representative or successor of any of the foregoing.

D. MINOR CHILD. A natural person under the age of sixteen years.

E. PERSON. An individual, firm, partnership, joint venture, association, corporation, estate or trust.

F. RENTAL UNIT. A dwelling unit, as defined in Section 28.04.260 of this Code, rented or offered for rent for living or dwelling purposes, the land and buildings appurtenant thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. This term shall include a dwelling unit in a condominium or similar project.

G. SENIOR ADULT. A person sixty-two years of age or older.

H. UNRUH ACT. The Unruh Civil Rights Act, California Civil Code Sections 51 et seq., as construed by the California Supreme Court and courts of appeal. (Ord. 5459, Section 3, 2008; Ord.4446, 1987; formerly §9.150.020, Ord. 4268, 1984).

26.30.030 Prohibited Activities.

It is unlawful for a person to do or attempt to do any of the following acts, where the act constitutes discrimination on a basis prohibited by the Unruh Act:

A. Refuse to rent or lease a rental unit, refuse to negotiate for the rental or lease of a rental unit, or otherwise deny to or withhold from any person or persons a rental unit.

B. Discriminate against any person in the terms, conditions, or privileges of the rental or lease of a rental unit, or in the provision of services, facilities or benefits in connection therewith. However, nothing in this chapter shall preclude any person from imposing reasonable restrictions on the use of common areas, facilities, and services which are necessary to protect the health and safety of a tenant.

C. Represent to any person that a rental unit is not available for inspection, rental, or lease when such is, in fact, available.

D. Make, print, or publish, or cause to be made, printed, or published any notice, statement, sign, advertisement, application, or contract with regard to a rental unit offered by that person that indicates any preference, limitation, or discrimination.

E. Include in any rental agreement or lease for a rental unit, a clause or condition providing that as a condition of continued tenancy, the tenants shall remain childless or shall not bear children or otherwise not maintain a household with a person of a certain age.

F. Refuse to rent after making a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make

unavailable or deny, rental unit to any person.

G. Discriminate by means of arbitrary occupancy standards. This subsection shall not prohibit enforcement of an occupancy standard in compliance with Section 26.30.035 of this Code.

I. Charge additional rent for persons living in a rental unit.

J. Discriminate by means of arbitrary income restrictions. There is a rebuttable presumption of discrimination where a landlord refuses to rent to a person who can demonstrate by prior rental history or by other means that he or she is able to pay the required rent. (Ord. 4446, 1987; formerly §9.150.030, Ord. 4268, 1984).

26.30.035 Occupancy Standards Permitted; Limitations.

It is unlawful for a person to enforce an occupancy limit unless it satisfies all of the following criteria:

A. It is uniformly imposed on all comparably-sized rental units on the premises.

B. It is conspicuously posted on the premises or contained in a written policy, rule or notice which is given to each tenant and prospective tenant.

C. Minor children are not counted in enforcing the occupancy standard, except that:

1. No provision of this chapter shall be construed to require a landlord to accept occupancy of a rental unit by more than two persons (including minor children) per bedroom; and

2. No provision of this Chapter shall be construed to authorize occupancies in violation of the floor-area standards of Section 503(b) of the Uniform Housing Code.

D. It does not apply to infants. (Ord. 4446, 1987.)

26.30.040 Exemptions.

Nothing contained in this Chapter shall apply to or be construed to apply to or affect:

A. SENIOR FACILITIES.

1. A housing project or development where the landlord has publicly established and implemented a policy of renting exclusively to senior adults and their spouses. Deviance from or abandonment of that policy shall automatically terminate this exemption and subject the owner to all the provisions of this Chapter.

2. A state-licensed residential care facility for the elderly.

B. NURSING HOMES. A state licensed nursing home, convalescent home, or community care facility.

C. OWNER-OCCUPIED UNIT. A rental unit occupied by the owner.

D. SUBLEASES. A rental unit occupied by a tenant who subleases any portion of that accommodation to another tenant.

E. GOVERNMENT HOUSING. A rental unit owned, operated or managed by a governmental agency. (Ord. 4446, 1987; formerly §9.15.0.040; Ord. 4268, 1984).

26.30.050 Penalties/Remedies.

A. CRIMINAL. A violation of this Chapter shall constitute an infraction.

B. CIVIL. Any person who violates the provisions of this Chapter shall be liable (i) to each party injured by such violation for actual damages sustained by such person, costs and reasonable attorneys' fees; and (ii) for civil penalties pursuant to §1.28.050 of this Code. In addition, the court may award punitive damages.

C. INJUNCTIVE RELIEF.

1. Any person who commits, or proposes to commit, an action in violation of this Chapter may be enjoined therefrom by any court of competent jurisdiction.

2. Any action for injunctive relief under this Chapter may be brought by the City Attorney, by an aggrieved person, by other law enforcement agencies, by the District Attorney or by any person or entity which will fairly and adequately represent the interests of the protected class. (Ord. 4446, 1987; formerly §9.150.050; Ord. 4268, 1984).

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TITLE 27
Subdivisions

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5537	Approved Subdivision Maps	December 23, 2010	Section 27.07.110

TITLE 27

SUBDIVISIONS

Chapter: 27.01 General Provisions
Chapter: 27.02 Definitions
Chapter: 27.03 General Procedural Provisions
Chapter: 27.04 Special Provisions
Chapter: 27.05 Dedications and Reservations
Chapter: 27.06 Public Facilities Fees
Chapter: 27.07 Tentative Maps
Chapter: 27.08 Improvement Requirements
Chapter: 27.09 Final and Parcel Maps
Chapter: 27.10 Monuments
Chapter: 27.11 Securities to Secure Subdivider's Performance
Chapter: 27.12 Reversions to Acreage
Chapter: 27.13 Residential Condominium Development
Chapter: 27.20 Vesting Tentative Maps
Chapter: 27.30 Merger of Parcels
Chapter: 27.40 Lot Line Adjustments

Chapter 27.01

GENERAL PROVISIONS

Sections:

27.01.010 Title.
27.01.020 Authority.
27.01.030 Coverage.
27.01.040 Enforcement.
27.01.050 Severability.

27.01.010 Title.

This title shall be known as the "Subdivision Ordinance of the City of Santa Barbara". (Ord. 3790 §1, 1975.)

27.01.020 Authority.

(a) This ordinance is adopted pursuant to the Subdivision Map Act of the State of California, Title 7, Division 2 of the Government Code, commencing with Section 66410 (hereinafter referred to as the Subdivision Map Act).

(b) Any amendments to the Subdivision Map Act, adopted subsequent to the effective date of this ordinance, shall not invalidate any provisions of this ordinance. Any amendments to the Subdivision Map Act that may be inconsistent with this ordinance shall govern.

(c) This ordinance shall govern in relation to all other ordinances of the City of Santa Barbara and rules and regulations pursuant thereto. In the event of any inconsistency or conflict between the provisions of this ordinance and other provisions of the Municipal Code, the most restrictive shall prevail. (Ord. 3790 §1, 1975.)

27.01.030 Coverage.

(a) This ordinance supplements the Subdivision Map Act, prescribing rules, regulations and procedures authorized therein.

(b) The necessity for tentative maps, final maps and parcel maps shall be governed by this section and the Subdivision Map Act.

(c) For subdivisions creating five (5) or more parcels or units, a tentative map and a final map or parcel map shall be required pursuant to this ordinance and the Subdivision Map Act.

(1) A tentative map and a final map shall be required for all such subdivisions except those coming within the exceptions set forth in Section 66426 of the Subdivision Map Act.

(2) A tentative map and a parcel map shall be required for all such subdivisions coming within the exceptions set forth in Section 66426 of the Subdivision Map Act.

(d) For subdivisions creating fewer than five (5) parcels or units, a tentative map and a parcel map shall be required containing the information specified by this ordinance and the Subdivision Map Act. Said parcel map shall be filed and recorded according to the procedure set forth in this ordinance.

(e) No tentative map, final map or parcel map shall be required for those specific types of subdivisions exempted by Sections 66412 and 66428 of the Subdivision Map Act.

(f) No tentative map, final map or parcel map shall be required for land conveyed to a public agency or public utility when such conveyance is for public use. (Ord. 3790 §1, 1975.)

27.01.040 Enforcement.

(a) It is unlawful for any person, firm, corporation, partnership or association to offer to sell or lease, contract to sell or lease any subdivision or any part thereof until a final map or a parcel map thereof, in full compliance with the provisions of this ordinance and the Subdivision Map Act, has been duly recorded in the Office of the County Recorder.

(b) Any person, firm, corporation, partnership or association who violates the provisions of this ordinance or any conditions imposed by this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned for a period not exceeding six (6) months or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall be punishable as such hereunder.

(c) The Public Works Director shall have the authority to enforce the provisions of this ordinance and the Subdivision Map Act in the City of Santa Barbara.

(d) The City Attorney is authorized to maintain an action to restrain or enjoin any action in violation of this ordinance or the Subdivision Map Act or any of the terms and conditions imposed on the approval of any tentative, final or parcel map.

(e) All departments, officials and public employees of the City, vested with the duty or authority to approve or issue permits, shall conform to the provisions of this ordinance and shall neither approve nor issue any permit or license for use, construction, or purpose in conflict with the provisions of this ordinance. Any such permit or license issued in conflict with the provisions of this ordinance shall be null and void.

(f) Pursuant to Section 66499.35 of the Subdivision Map Act, any person owning real property, or a vendee of that person pursuant to a contract of sale of the real property, may request a certificate of compliance to determine whether such real property complies with this ordinance and the Subdivision Map Act. Applications for certificates shall be filed with the City Engineer who shall be responsible for the issuance and recordation of same. The form of the application shall be prescribed by the City Engineer. A non-refundable fee in an amount established by resolution of the City Council shall accompany the application for each lot or parcel for which a certificate is sought. Applications for certificates of compliance shall be processed in accordance with the provisions of section 66499.35 of the Subdivision Map Act.

(g) Any officer or employee of the City who has knowledge that real property has been divided in violation of the Subdivision Map Act or this ordinance shall immediately notify the City Engineer. Upon receipt of said information, the City Engineer shall file with the County Recorder the notice of violation required by Chapter 7 of the Subdivision Map Act.

(h) Illegal subdivisions: No board, commission, officer or employee of the City shall issue any certificate, permit or grant any approval necessary to develop any real property within the City which has been divided, or which resulted from a division, in violation of the provisions of the Subdivision Map Act or of this ordinance. Any such certificate, permit or grant issued in conflict with the provisions of this ordinance or the Subdivision Map Act shall be null and void.

(i) To the extent permissible by the Subdivision Map Act, the aforementioned provisions of this ordinance shall not apply to any subdivision for which a tentative map has been filed with the Community Development Department prior to the effective date of this ordinance when either of the following conditions exists on said effective date:

(1) The tentative map is under consideration by the Advisory Agency or City Council and has not been acted upon by the Council; or

(2) The tentative map has been approved by the City Council, no final map or parcel map thereof has been filed, and said approval, or any extension thereof, has not expired by lapse of time.

As to any such subdivision, the final map or parcel map shall be filed and processed as provided herein, but in all other respects said subdivision, to the extent permitted by the Subdivision Map Act, shall be governed by the provisions of this ordinance as it read on the day immediately preceding the effective date of this ordinance; provided, that the approval or conditional approval given to maps described in (1) above after the effective date of this ordinance shall expire eighteen (18) months after said approval and shall not thereafter be extended, and the approval given to maps described in (2) above shall not hereafter be extended. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.01.050 Severability.

(a) If any article, section, subsection, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, or other competent agency, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each article, section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more articles, sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

(b) If the application of any provision or provisions of this ordinance to any person, property or circumstances is found to be unconstitutional or invalid or ineffective in whole or in part by any court of competent jurisdiction, or other competent agency, the effect of such decision shall be limited to the person, property or circumstances immediately involved in the controversy, and the application of any such provision to other persons, properties and circumstances shall not be affected.

(c) This section shall apply to this ordinance as it now exists and as it may exist in the future, including all modifications thereof and additions and amendments thereto. (Ord. 3790 §1, 1975.)

Chapter 27.02

DEFINITIONS

Sections:

27.02.010 General.
27.02.015 Advisory Agency.
27.02.020 Agent.
27.02.025 Appeal Board.
27.02.030 Association.
27.02.036 Common Area.
27.02.038 Common Interest Development.
27.02.040 Community Apartment.
27.02.050 Condominium.
27.02.080 Condominium Unit.
27.02.090 General Plan.
27.02.100 Lot.
27.02.103 Lot Line Adjustment.
27.02.105 Organizational Documents.
27.02.110 Owner.
27.02.120 Parcel.
27.02.140 Project.
27.02.150 Public Utilities.
27.02.155 Public Works Director.
27.02.165 Recreational Open Space.
27.02.168 Staff Hearing Officer.
27.02.170 Stock Cooperative.
27.02.180 Tree.

27.02.010 General.

In addition to the terms defined in Article 2, Chapter 1 of the Subdivision Map Act, the following definitions shall apply. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.015 Advisory Agency.

Advisory Agency is the designated official or the official body charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, or having the authority by local ordinance to approve, conditionally approve or disapprove maps. As specified in Chapter 27.03, the Planning Commission and the Staff Hearing Officer shall serve as the Advisory Agency for the City of Santa Barbara. (Ord. 5380, 2005.)

27.02.020 Agent.

Any person, firm, partnership, association, joint venture, corporation or any other entity or combination of entities who represent or act for or on behalf of a developer in selling or offering to sell any subdivision unit. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.025 Appeal Board.

The Appeal Board is the offical body charged with the duty of hearing and making determinations upon appeals with respect to divisions of real property, the imposition of requirements or conditions thereon, or the kinds, nature and extent of the design or improvements, or both, recommended or decided by the Advisory Agency. As specified in Chapter 27.03, the Planning Commission and the City Council shall serve as the Appeal Board for the City of Santa Barbara. (Ord. 5380, 2005.)

27.02.030 Association.

Association means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development. (Ord. 5380, 2005; Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.036 Common Area.

Common Area means the entire common interest development except the separate interests therein. (Ord. 5380, 2005; Ord. 3952 §1, 1978.)

27.02.038 Common Interest Development.

Common interest development means any of the following: (1) a community apartment project, (2) a condominium project, (3) a planned development, or (4) a stock cooperative. (Ord. 5380, 2005.)

27.02.040 Community Apartment.

As defined in Section 11004 of the Business and Professions Code. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.050 Condominium.

As defined in Sections 783 and 1351 of the Civil Code. (Ord. 5380, 2005; Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.080 Condominium Unit.

The elements of a condominium which are not owned in common with the owners of other condominiums in the project. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.090 General Plan.

The comprehensive General Plan of the City of Santa Barbara together with all specific plans adopted by the City Council. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.100 Lot.

A parcel of land created in conformance with the provisions of the Subdivision Map Act and this Title 27, or that was created in compliance with or exempt from any law, including any City ordinance, regulating the design and improvement of subdivisions in effect at the time the subdivision was established. All newly created lots shall contain at least one building site that complies with the requirements of the Zoning Ordinance and the General Plan. Any parcel hereafter created by lot line adjustment or by division or sale of property not in conformance with the provisions of the Subdivision Map Act and this Title 27 shall not be deemed a lot. (Ord. 5380, 2005; Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.103 Lot Line Adjustment.

A lot line adjustment is the adjustment of the boundary of existing parcels where the number of parcels existing after the adjustment is the same as the number of parcels that existed prior to the adjustment. (Ord. 5380, 2005.)

27.02.105 Organizational Documents.

Organizational Documents are the Declaration of Covenants, Conditions, and Restrictions, articles of incorporation, by-laws, and any contracts for the maintenance, management, or operation of all or any part of a project. (Ord. 3952 §1, 1978.)

27.02.110 Owner.

Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence, maintain and complete proceedings to subdivide the same under this ordinance. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.120 Parcel.

A general term including all plots of land shown with separate identification on the latest Equalized County Assessment Roll. Parcels may or may not be lots, depending upon whether or not such parcels are created as herein provided. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.140 Project.

For purposes of this Title 27, project means a common interest development or a subdivision. (Ord. 5380, 2005; Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.150 Public Utilities.

The general classification for public water, gas, sewer, electrical, cable television and telephone lines and facilities; does not include natural or improved drainage facilities. (Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.155 Public Works Director.

Public Works Director means the Public Works Director or any of his deputies or assistants. (Ord. 3952 §1, 1978.)

27.02.165 Recreational Open Space.

Recreational Open Space is open space on the project (exclusive of the required front setback area and driveway), which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their visitors) of units on the project and to which such occupants (and their visitors) shall have the right of use and enjoyment. Accessory structures such as swimming pools, recreational buildings, and landscaped areas may be included as open space. (Ord. 3952 §1, 1978.)

27.02.168 Staff Hearing Officer.

The Staff Hearing Officer means the Community Development Director or his or her designee. For purposes of this Title 27, the Staff Hearing Officer shall serve as the Advisory Agency for the City as specified in Chapter 27.03. (Ord. 5380, 2005.)

27.02.170 Stock Cooperative.

Stock cooperative means a development in which a corporation is formed or availed of, primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. (Ord. 5380, 2005; Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

27.02.180 Tree.

A woody, self-supporting, main trunk, perennial plant. (Ord. 5380, 2005; Ord. 3952 §1, 1978; Ord. 3790 §1, 1975.)

Chapter 27.03

GENERAL PROCEDURAL PROVISIONS

Sections:

27.03.010 Advisory Agency.
27.03.020 Appeal Board.
27.03.030 Public Hearing Procedures.
27.03.040 Fees.

27.03.010 Advisory Agency.

The Planning Commission or the Staff Hearing Officer shall serve as the Advisory Agency for the City of Santa Barbara as designated below:

A. THE PLANNING COMMISSION. The Planning Commission is hereby designated as the Advisory Agency for the purposes of this Title 27 and the Subdivision Map Act, except as such duties are assigned to the Staff Hearing Officer pursuant to Subsection B below.

B. THE STAFF HEARING OFFICER. The Staff Hearing Officer is hereby designated as the Advisory Agency for the purposes of this Title 27 and the Subdivision Map Act for the following types of applications, unless the application requires another discretionary approval from the Planning Commission under any other provision of this Code:

1. Lot line adjustments between four (4) or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created.

2. Subdivisions that will result in four (4) or fewer parcels or condominium units, unless any of the following conditions apply to the application:

a. Any portion of the real property within the proposed subdivision is located in a Hillside Design District, as defined in Chapter 22.68 of this Code;

b. The proposed subdivision requires a public street waiver pursuant to Section 22.60.300 of this Code; or

c. Any of the following creeks traverse or are immediately adjacent to the proposed subdivision: Arroyo Burro Creek, Arroyo Hondo Creek, Cieneguitas Creek, Laguna Creek/Channel, Lighthouse Creek, Mission Creek or Sycamore Creek, or their tributaries as shown on the City of Santa Barbara Creek and Tributaries Map for Tentative Subdivision Maps that require Planning Commission action adopted by resolution of the City Council.

3. Residential condominium conversions pursuant to Chapter 28.88 of this Code involving four (4) or fewer residential units.

4. New commercial condominiums of up to 3,000 square feet of floor area.

5. Non-residential condominium conversions.

6. Requests for extensions of the time at which an approved tentative map expires for all approved tentative maps. (Ord. 5380, 2005.)

27.03.020 Appeal Board.

The Planning Commission or the City Council shall serve as the Appeal Board for the City of Santa Barbara as designated below:

A. THE PLANNING COMMISSION. The Planning Commission is hereby designated as the Appeal Board charged with the duty of hearing and making determinations upon appeals from decisions of the Staff Hearing Officer serving as the Advisory Agency. Decisions of the Planning Commission acting as the Appeal Board may be appealed to the City Council.

B. THE CITY COUNCIL. The City Council is hereby designated as the Appeal Board charged with the duty of hearing and making determinations upon appeals from decisions of the Planning Commission serving as the Advisory Agency or the Appeal Board. (Ord. 5380, 2005.)

27.03.030 Public Hearing Procedures.

Whenever a provision of this Title 27 or the Subdivision Map Act requires a public hearing, notice of such public hearing shall comply with the following provisions:

A. REQUIRED METHODS OF NOTICE. Notice shall be given in each of the following ways:

1. Notice of the hearing shall be sent by first class mail at least 10 calendar days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant; and

2. Notice of the hearing shall be sent by first class mail at least 10 calendar days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. If the number of owners to whom notice would be mailed pursuant to this paragraph is greater than 1,000, the City, in lieu of mailed notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 calendar days prior to the hearing; and

3. Notice of the hearing shall be published once in a newspaper of general circulation within the City at least 10 calendar days prior to the hearing.

B. SUPPLEMENTAL METHODS OF NOTICE. In addition to the required methods of notice specified in Subsection A above, the City may also require notice of the hearing in any other manner it deems necessary or desirable, including, but not limited to, posted notice on the project site. Such additional noticing methods are only intended to supplement the required methods of notice specified in Subsection A above, and the claim of any person or entity that they did not receive such supplemental notice or that supplemental notice was not given pursuant to this Subsection B shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

C. CONTENT OF NOTICE. The notice shall include all of the following information:

1. The date, time, and place of the public hearing;

2. The identity of the hearing body or officer;

3. A general explanation of the matter to be considered; and

4. A general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

D. REQUEST FOR NOTICE. When a provision of this Chapter or the Subdivision Map Act requires a public hearing, notice of such public hearing shall also be mailed at least 10 days prior to the hearing to any person who has filed a written request for notice with either the City Clerk or with any other person designated to receive such requests. The City may charge a fee for providing this service as set by resolution of the City Council. Any request to receive such notice shall be renewed annually. The members of the Planning Commission shall receive notice of all public hearings scheduled before the Staff Hearing Officer.

E. CONTINUANCES. Any public hearing noticed pursuant to this Section may be continued to a time certain without further notice. (Ord. 5380, 2005.)

27.03.040 Fees.

A processing fee in an amount established by resolution of the City Council shall be paid for every application filed pursuant to this Title 27. Such fee will be due and payable at the time the application is filed unless another time is specified by this Code or by resolution of the City Council. This processing fee shall be charged in addition to any other fees required by any other provision of this Code. (Ord. 5380, 2005.)

Chapter 27.04

SPECIAL PROVISIONS

Sections:
27.04.010 Special Treatment Areas.

27.04.010 Special Treatment Areas.

The City Council has recognized that the general provisions, definitions, procedures, improvements and design requirements, standards and principles set out in this ordinance, although adequate for most subdivisions, need modification and supplementation to protect and preserve the public health, safety, welfare and/or wildlife in regard to certain areas. The Council further recognized that when many areas are subdivided or developed such features as hillside terrain, special soil and geologic conditions, water frontage, highly combustible native vegetation and other conditions may cause one or more serious consequences such as increased fire, flood and erosion hazards, traffic circulation problems, property damage from expansive soil, slippage, subsidence, or seismic disturbance, and adverse effects on the economy of the community from destruction of the natural scenic beauty. Therefore, upon a finding of Council that any of the aforementioned conditions do exist, a parcel or parcels may be designated a special treatment area subject to the special terms, requirements and conditions established by the City Council or the Advisory Agency. Determination of special treatment consideration shall occur prior to the filing date for the tentative map. (Ord. 3790 §1, 1975.)

Chapter 27.05

DEDICATIONS AND RESERVATIONS

Sections:
27.05.010 Public Easements.
27.05.020 School Site Dedication.
27.05.030 Reservations.

27.05.010 Public Easements.

(a) Public Easements. As a condition of approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land within the subdivision or development that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements. The subdivider shall improve or agree to improve all streets, alleys, including access rights and abutters' rights, drainage, public utility easements and other public easements.

(b) Bicycle Paths. As a condition of approval of a map containing two hundred (200) or more parcels, whenever the subdivider is required to dedicate roadways to the public pursuant to §27.05.010(a), he may also be required to dedicate such additional land as may be necessary and feasible to provide bicycle paths for the use and safety of the residents of the subdivision.

(c) Waiver of Direct Access to Streets. A condition of approval of a map may impose a requirement that any dedication or offer of dedication of a street shall include a waiver of direct access rights to such street from any property shown on a final map as abutting thereon, and that if the dedication is accepted such waiver shall become effective in accordance with the provisions of the waiver of direct access. (Ord. 3790 §1, 1975.)

27.05.020 School Site Dedication.

As a condition of approval of a map, the subdivider may be required to dedicate to the school district, or districts, within which the subdivision is to be located, such land as the City Council shall deem to be necessary for the purpose of constructing thereon such elementary schools as are necessary to assure the residents of the subdivision adequate public school service. The procedures and conditions of such dedication shall be in accordance with Article 3 of Chapter 4 of the Subdivision Map Act. (Ord. 3790 §1, 1975.)

27.05.030 Reservations.

(a) Requirements. As a condition of approval of a map, the subdivider shall reserve sites, appropriate in area and location, for parks, recreational facilities, fire stations, libraries or other public uses according to the standards and formula contained in this section.

(b) Standards and Formula for Reservation of Land. Where a park, recreational facility, fire station, library, or other public use is shown on an adopted specific plan or adopted General Plan containing a community facilities element, recreation and parks element and/or a public building element, the subdivider may be required by the City to reserve sites as so determined by the City in accordance with the definite principles and standards contained in the above specific plan or General Plan. The reserved area must be of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient manner. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The reserved area shall conform to the adopted specific plan or General Plan and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.

(c) Procedure. The public agency for whose benefit an area has been reserved shall at the time of approval of the final map or parcel map enter into a binding agreement to acquire such reserved area within two (2) years after the completion and acceptance of all improvements, unless such period of time is extended by mutual agreement.

(d) Payment. The purchase price shall be the market value thereof at the time of the filing of the tentative map plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including interest costs incurred on any loan covering such reserved area.

(e) Termination. If the public agency for whose benefit an area has been reserved does not enter into such a binding agreement, the reservation of such area shall automatically terminate. (Ord. 3790 §1, 1975.)

Chapter 27.06

PUBLIC FACILITIES FEES

Sections:

27.06.010 Drainage and Sewer Facilities.
27.06.020 Bridge Crossings and Major Thoroughfares.

27.06.010 Drainage and Sewer Facilities.

(a) Payment of Fees Required. Prior to filing of any final map or parcel map, the subdivider shall pay or cause to be paid any fees for defraying the actual or estimated costs of constructing planned drainage facilities for the removal of surface and storm waters from local or neighborhood drainage areas or sanitary sewer facilities for local sanitary sewer areas established pursuant to Section 66483 of the Government Code. (Ord. 3790 §1, 1975.)

27.06.020 Bridge Crossings and Major Thoroughfares.

(a) Purpose. The purpose of this section is to make provision for assessing and collecting fees as a condition of approval of a final map or as a condition of issuing a building permit for the purpose of defraying the actual or estimated costs of constructing bridges or major thoroughfares pursuant to Section 66484 of the Government Code.

(b) Payment of Fees Required. Prior to filing any final map or parcel map, the subdivider shall pay or cause to be paid any fees established by the City pursuant to Section 66484 of the Government Code to defray the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares. (Ord. 3790 §1, 1975.)

Chapter 27.07

TENTATIVE MAPS

Sections:

27.07.010 General.
27.07.020 Pre-Application Conference.
27.07.030 Tentative Map Requirements.
27.07.040 Non-Compliance.
27.07.050 Optional Report.
27.07.070 Staff Review and Referral.
27.07.080 Advisory Agency Action.
27.07.090 Appeals and Suspensions.
27.07.100 Requirements for Approval.
27.07.110 Expiration and Extensions of Tentative Maps.

27.07.010 General.

All divisions of land that require a final or parcel map pursuant to any provision of this Title 27 or the Subdivision Map Act shall require the submission of a tentative map. The procedures set forth in this chapter shall govern the filing, processing, approval, conditional approval or disapproval of tentative maps for all divisions of land. (Ord. 5380, 2005; Ord. 4494, 1988; Ord. 3790, 1975.)

27.07.020 Pre-Application Conference.

Prior to the filing of a tentative map for a project where the Planning Commission is designated as the Advisory Agency pursuant to Section 27.03.010, the subdivider shall apply to the Community Development Department for conceptual evaluation by the Pre-Application Review Team of a preliminary map, plan or other data concerning a proposed subdivision. This conceptual review does not constitute a filing. The Pre-Application Review Team, whose membership is outlined in Section 27.07.070(b), sits at such time only to advise the developer in proceeding with his project. (Ord. 5380, 2005; Ord. 4494, 1988; Ord. 3790, 1975.)

27.07.030 Tentative Map Requirements.

(a) Tentative maps shall be prepared by a registered civil engineer, or licensed surveyor, or by a licensed architect insofar as such maps fall within the practice of architecture.

(b) The tentative map shall be clearly and legibly drawn. The dimensions of the map shall be eighteen inches (18") by twenty-six inches (26") or multiples thereof. The scale of the map shall be large enough (not smaller than one inch (1") equals one hundred feet (100')) to show clearly all details thereof, and shall contain the following information:

(1) Total acreage of the subdivision; subdivision number; north point; basis of elevation (using the City datum) and the basis of bearing used in survey; scale; date; boundary lines; existing and proposed lot lines; approximate dimensions and areas of proposed lots; proposed land use; land use zone district; identification of adjoining subdivisions or parcels.

(2) Name, address, telephone number and signature of the owner and subdivider; name, address, telephone number and registration or license number of the preparer of the map.

(3) Contours at five foot (5') intervals, smaller intervals may be required by the Chief of Building and Zoning. Contours shall extend one hundred feet (100') beyond the boundary of the subdivision when necessary to determine the adequacy of the proposed subdivision design.

(4) Location, name, width, approximate grades, cross sections of improvements, and approximate radii of curves of existing and proposed streets and alleys, including adjacent streets; location of street lights to be installed; proposed bikeways and trails.

(5) Existing culverts and drain pipes in subdivision and contiguous areas; approximate boundaries of land subject to overflow, inundation or flood hazard; the location, width, and direction of flow of all watercourses in the subdivision and contiguous area; proposed drainage facilities.

(6) Proposed water system and source of water supply; proposed sewer system including elevations at proposed connections; proposed fire protection system.

(7) Location, width and purpose of all existing and proposed rights-of-way and easements; railroads; land for park and recreational areas and other public uses to be dedicated or reserved for public use.

(8) Existing structures within the proposed subdivision; those setback lines that are different from or in addition to those required by the Zoning Ordinance; existing trees larger than four inches (4") in diameter measured two feet (2') above the base.

(9) Location of all existing public utility facilities; location of any proposed above ground collective public utility facilities. (Ord. 3790 §1, 1975.)

27.07.040 Non-Compliance.

The subdivider shall list on the tentative map any proposed noncompliance with the Municipal Code, the General Plan, and any applicable specific plans. Failure to do so shall be evidence that full compliance with the provisions of this ordinance is intended and no variance or waiver of any provisions of the Municipal Code, General Plan or specific plans is contemplated as a condition of approval. (Ord. 3790 §1, 1975.)

27.07.050 Optional Report.

In addition to the tentative map, the subdivider may submit a supplemental report containing any additional information pertinent to the consideration by the Advisory Agency. Such reports may include: covenants to be recorded, special land uses proposed, or an explanation of noncompliance as listed on the tentative map. (Ord. 3790 §1, 1975.)

27.07.070 Staff Review and Referral.

A. The Pre-Application Review Team shall meet to review the project and associated reports and advise applicants of City standards for subdivisions.

B. The following City officials shall be members of the Pre-Application Review Team: Chief Building Official, Water Resources Manager, City Engineer, City Planner, Transportation Engineer, and Fire Chief. Other City officers and their assistants or deputies may sit as advisory members.

C. Applicants and their representatives shall be entitled to adequate notice of the meetings, to be present at meetings, and to discuss with the Team its recommendations and proposed reports. The Pre-Application Review Team is hereby authorized to establish such additional rules of procedure as it deems necessary and appropriate to carry on its business. (Ord. 5380, 2005; Ord. 4494, 1988; Ord. 3790, 1975.)

27.07.080 Advisory Agency Action.

A. PUBLIC HEARING. Prior to taking any action on an application for a tentative map, the Advisory Agency shall conduct a public hearing at which time the Advisory Agency shall: (1) receive a report on the design and improvement of the proposed subdivision from the Community Development Department with staff recommendations, (2) at the election of the applicant, receive a presentation regarding the proposed subdivision, and (3) receive public comment from interested persons. Following the close of the public hearing, the Advisory Agency shall approve, conditionally approve or disapprove the tentative map for the proposed subdivision.

B. COMPATIBILITY CRITERIA. In the course of taking action on an application for a tentative map, the Advisory Agency shall take into consideration the comments of the Architectural Board of Review provided pursuant to the requirements of Section 22.68.045 or the comments of the Historic Landmarks Commission provided pursuant to Section 22.22.145 (as the appropriate case may be) and, in issuing a decision on the application for a tentative map, the Advisory Agency shall provide a written indication on how the ABR or HLC comments affected the Advisory Agency's decision.

C. TIME FOR CONSIDERATION. The time limits for reporting and acting on tentative maps shall be consistent with the Subdivision Map Act and any other pertinent state law. The time limits specified in this Section for reporting and acting on tentative maps may be extended by mutual consent of the subdivider and the Advisory Agency. In the event the Advisory Agency continues its consideration of a map beyond such time limit, the consent of the subdivider to such extension shall be presumed when the subdivider has notice of the continuance and fails to file a timely protest.

D. AUTHORITY. The Advisory Agency is authorized to require dedications or reservations of land within the subdivision for public uses such as streets, highways, parks, schools, drainage, flood control, access easements or other uses as a condition for the approval of the tentative map. (Ord. 5464, 2008; Ord. 5380, 2005; Ord. 4494, 1988; Ord. 4066, 1980; Ord. 3790, 1975.)

27.07.090 Appeals and Suspensions.

A. FROM DECISIONS OF THE STAFF HEARING OFFICER.

1. Suspensions. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer serving as the Advisory Agency and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. In the case of such suspension and review of the Staff Hearing Officer's decision, the Planning Commission shall serve as the Advisory Agency. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer.

2. Appeals. The decisions of the Staff Hearing Officer serving as the Advisory Agency may be appealed to the Planning Commission serving as the Appeal Board by the applicant or any interested party adversely affected by the decision of the Advisory Agency. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal how the decision of the Staff Hearing Officer is not in accord with the provisions of this Title or the Subdivision Map Act or how it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer following a public hearing. When acting as the Appeal Board, the Planning Commission shall comply with the requirements of Subsection B of Section 27.07.080 of this Code regarding the consideration of compatibility criteria in the course of its action on the application. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

B. FROM DECISIONS OF THE PLANNING COMMISSION. The decisions of the Planning Commission, including decisions on suspensions or appeals from decisions of the Staff Hearing Officer, may be appealed to the City Council serving as the Appeal Board by the applicant or any interested party adversely affected by the decision of the Planning Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal how the decision of the Planning Commission is not in accord with the provisions of this Title or the Subdivision Map Act or how it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed thereon, and the Community Development Department shall prepare a report to the City Council with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission following a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Planning Commission; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

C. TIME FOR CONSIDERATION. The time limits for acting on appeals from decisions of the Advisory Agency regarding tentative maps shall be consistent with the Subdivision Map Act and any other pertinent state law. The time limits for acting on suspensions shall conform with the time limits for appeals. The time limits specified in this Section for reporting and acting on tentative maps may be extended by mutual consent of the subdivider and the Appeal Board.

D. FEES. Each appeal shall be accompanied by the appeal fee in the amount established by resolution of the City Council. No fee shall be charged for a suspension of a Staff Hearing Officer action by the Chairperson, Vice Chairperson or other designated member of the Planning Commission. (Ord. 5464, 2008; Ord. 5380, 2005; Ord. 4494, 1988; Ord. 4195, 1983; Ord. 4066, 1980; Ord. 3955, 1978; Ord. 3790, 1975.)

27.07.100 Requirements for Approval.

A. COMPLIANCE WITH STATE AND LOCAL REQUIREMENTS AND CONDITIONS. Approval shall be denied to any map for failure to meet or comply with any requirement or condition imposed by the Subdivision Map Act or this Code. Approval shall be denied to any map for which the required information, reports, plans or agreement has not been submitted.

B. CONSISTENCY WITH GENERAL AND SPECIFIC PLANS. Approval shall be denied to any map which is not consistent with the General Plan or a specific plan adopted thereunder or which depicts a land division or land use which is not compatible with the objectives, policies, general land uses and programs specified in the General Plan.

C. DENIAL ON SPECIFIC FINDING; EXCEPTIONS.

1. Approval or recommendation thereof shall be denied to any map by the Advisory Agency and, in the event of an appeal, by the Appeal Board, if said body finds:

a. The proposed map is not consistent with applicable General and specific plans.

b. The design or improvement of the proposed development is not consistent with applicable general and specific plans.

c. The site is not physically suitable for the type of development.

d. The site is not physically suitable for the proposed density of development.

e. The design of the development or the proposed improvements are likely to cause substantial environmental damage or to substantially and avoidably injure fish or wildlife or their habitat.

f. The design of the development or the type of improvement is likely to cause serious public health problems.

g. The design of the development or the type of improvement will conflict with easements, acquired by the public at large, for access through or use of property within the proposed development; provided however, approval may be granted if it is found that alternative easements, for access of or use, will be provided, and that these will be substantially equivalent to the ones previously acquired by the public.

D. ACCESS TO PUBLIC RESOURCES. Approval shall be denied to any map which does not provide for, have available, or offer dedication of reasonable public access to public natural resources as required by Article 3.5 of Chapter 4 of the Subdivision Map Act.

E. WATER QUALITY REQUIREMENTS. Approval may be denied to any map if discharge of waste from the proposed development into an existing community sewer system would result in violation of existing requirements prescribed by a California regional water quality control board. The determination of water quality control requirements relating to every subdivision shall be made at the time of map approval consideration. (Ord. 5380, 2005; Ord. 4494, 1988; Ord. 3790, 1975.)

27.07.110 Expiration and Extensions of Tentative Maps.

A. **EXPIRATION.** The approval or conditional approval of a tentative map shall expire twenty-four (24) months from the date the map was approved or conditionally approved.

B. **EXTENSION.** The subdivider may request an extension of the tentative map approval or conditional approval by written application to the Staff Hearing Officer filed with the Community Development Department, such application to be filed before the expiration of the tentative map. The application shall state the reasons for requesting the extension. The Staff Hearing Officer shall grant or deny the request for an extension. In granting an extension, the Staff Hearing Officer may impose new conditions or revise existing conditions.

C. **APPEAL.** If the Staff Hearing Officer denies the subdivider's application for an extension, the subdivider may appeal said denial to the City Council within fifteen (15) days after the Staff Hearing Officer action.

D. **TIME LIMIT ON EXTENSIONS.** An extension or extensions of tentative map approval or conditional approval shall not exceed an aggregate of three (3) years beyond the expiration of the twenty-four (24) month period provided in Subsection A above.

E. **EFFECT OF MAP MODIFICATION ON EXTENSION.** Modification of a tentative map after approval or conditional approval shall not extend the time limits imposed by this section.

F. **LITIGATION TOLLING PURSUANT TO THE SUBDIVISION MAP ACT.** The period of time specified in this section for the validity of a tentative map, including any extension thereof, granted pursuant to the state Subdivision Map Act, shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, provided that such litigation tolling does not exceed a period of five (5) years.

For the purposes of compliance with subsection (c) of Government Code Section 66452.6 (a part of the state Subdivision Map Act), this subsection shall be deemed the local agency's express approval of the tolling of the period of time during which a tentative map's approval is subject to litigation. The Community Development Director may adopt administrative procedures for requiring an applicant to advise the City of litigation challenging the validity of a tentative map's approval or conditional approval and for documenting the period of time involved in such litigation. (Ord. 5537, 2010; Ord. 5380, 2005; Ord. 4494, 1988; Ord. 4135, 1982; Ord. 3790, 1975.)

Chapter 27.08

IMPROVEMENT REQUIREMENTS

Sections:

27.08.010	**General.**	**27.08.030**	**Construction.**
27.08.020	**Improvement Plans.**	**27.08.040**	**Improvement Reimbursement.**
27.08.025	**Underground Utilities Required.**	**27.08.050**	**Maintenance of Improvements.**

27.08.010 General.

(a) The subdivider shall provide for the construction and installation of all improvements in the subdivision.
(b) The improvements shall be constructed and installed in compliance with the Subdivision Design and Improvement Standards prescribed by resolution of the City Council which standards are incorporated herein by reference. Said standards have been prepared in booklet form and are available for public use and examination in the Office of the City Clerk. (Ord. 3790 §1, 1975.)

27.08.020 Improvement Plans.

(a) Prior to filing the final or parcel map, the subdivider shall submit to the City Engineer for approval improvement plans for all improvements required as a condition of the approval of the tentative map.
(b) Improvement plans shall be prepared under the direction of a registered civil engineer.
(c) Improvement plans shall conform to the Subdivision Design and Improvement Standards.
(d) Within twenty (20) days after submittal by the subdivider's engineer the City Engineer shall return to the subdivider a set of the submittal improvement plans noting thereon his approval, disapproval or conditional approval of said plans. This time limit may be extended by mutual agreement. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.08.025 Underground Utilities Required.

All service connections, new distribution facilities and related facilities for electrical, telephone, street lighting, communication, and cable television to serve newly created subdivisions shall be located underground and this requirement shall be a condition of approval for all such subdivisions except for utility wires, poles and related facilities if (i) said utility wires, poles and related facilities exist at the time of approval of a tentative subdivision map by the Advisory Agency or the Appeal Board on appeal, (ii) the property owner obtains a hardship waiver pursuant to Chapter 22.38 of the Code or relief under Section 22.38.065 and (iii) there is compliance with all conditions of the waiver, including but not limited to payment of fees. (Ord. 5380, 2005; Ord. 4907, 1995; Ord. 4399, 1986; Ord. 4318, 1985.)

27.08.030 Construction.

(a) No construction shall commence until the improvement plans have been submitted to the City Engineer and have been approved by him.
(b) Construction of improvements which are to be accepted by the City for maintenance shall be subject to inspection by the City Engineer.
(c) Any work done by the subdivider prior to approval of the improvement plans, including changes thereto, or without the inspection and testing required by the City Engineer is subject to rejection. Such work shall be deemed to have been done at the risk and peril of the subdivider.
(d) Installation of underground facilities. All underground facilities including sewerage and drainage facilities and excepting survey monuments installed in streets, alleys or pedestrian ways shall be constructed prior to the surfacing of such streets, alleys or pedestrian ways. Service connections for all underground utilities and sewers shall be laid to such lengths as will obviate the necessity for disturbing the street, alley or pedestrian way when service connections are completed to properties in the subdivision. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.08.040 Improvement Reimbursement.

As a condition of approval of a tentative map, it may be required that improvements installed by the subdivider for the benefit of the subdivision be of a supplemental size, capacity or number for the benefit of property not within the subdivision, and that said improvement be dedicated to the public. If such a condition is imposed, provisions shall be made for reimbursement to the subdivider in the manner provided by Article 6 of Chapter 4 of the Subdivision Map Act. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.08.050 Maintenance of Improvements.

All improvements required to be constructed and installed pursuant to this ordinance shall be maintained in a manner satisfactory to the City Engineer until all lots in the subdivision have been sold. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

Chapter 27.09

FINAL AND PARCEL MAPS

Sections:

27.09.010 General.
27.09.020 Preparation of Final and Parcel Maps.
27.09.030 Contents.
27.09.040 Accompanying Data.
27.09.050 Review by City Engineer.
27.09.060 City Council Action.
27.09.070 Agreement to Complete Required Improvements.
27.09.080 Transmittal of Map.

27.09.010 General.

In accordance with Article 1 of Chapter 2 of the Subdivision Map Act, a final map shall be required for all subdivisions creating five (5) or more parcels, five (5) or more condominiums, or a community apartment project containing five (5) or more parcels except under those circumstances listed in Section 66426 of the Subdivision Map Act. Parcel maps are required for all divisions of land not requiring a final map except as exempted by Sections 66412 and 66428 of the Subdivision Map Act. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.09.020 Preparation of Final and Parcel Maps.

Subsequent to the approval or conditional approval of a tentative map by the Advisory Agency or the Appeal Board, the subdivider shall cause a final or parcel map and all other maps and plans in connection therewith to be prepared by a registered civil engineer or licensed land surveyor in accordance with a completed survey of the subdivision, in substantial compliance with the approved tentative map, and in full compliance with State law and the Municipal Code. For parcel maps, in lieu of a completed survey of the subdivision, the map may be compiled from recorded or filed data when sufficient survey information exists on filed maps to locate and retrace the exterior boundary lines of the parcel map if the location of at least one (1) of these boundary lines can be established from an existing monumented line. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.09.030 Contents.

The contents and form of final maps shall be governed by Article 2 of Chapter 2 of the Subdivision Map Act. The contents and form of parcel maps shall be governed by Article 3 of Chapter 2 of the Subdivision Map Act. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.09.040 Accompanying Data.

(a) The final or parcel map and construction plans shall be accompanied by such certifications, test results, reports, and other data required to establish compliance with conditions of approval of the tentative map and all provisions of the Municipal Code and applicable State law.

(b) In addition to the requirements described in the Subdivision Map Act, the final or parcel map shall contain or be accompanied by the following information:

(1) A title sheet. Below the title shall be a subtitle consisting of a general description of all the property being subdivided, by reference to deeds, subdivisions, or sectional surveys. References to tracts and subdivisions shall be identical to the original records, with proper notation as to the book and page of the record. The map shall give the basis of bearing, north point, scale, graphic scale and location of setback lines different from or in addition to those required by the Zoning Ordinance. Maps filed for the purpose of reverting subdivided land to acreage shall be conspicuously so marked.

(2) Easements and rights-of-way. The final or parcel map shall show all easements to which the lots are subject. The easements shall be clearly identified and proper reference to the records given. Easements being dedicated shall be so indicated in the certificate of dedication. If the easement is not definitely located of record, a statement as to the easement shall appear on the title sheet.

(3) Accompanying data. The final or parcel map shall be accompanied by:

A. Where applicable, traverse sheets and work sheets showing the closure, within allowable limits of error, of the exterior boundaries and of each block and lot of the subdivision.

B. A final grading plan, where required by the Advisory Agency or Appeal Board, including slope protection specifications.

C. A copy of the protective covenants, if any, to be recorded.

D. All fees, bonds or guarantees required by the provisions of the Subdivision Map Act and this ordinance.

E. A letter from each of the various utility companies stating that service is available to the subdivision.

(4) Fees. All fees for map checking, plan checking and inspection shall be established by resolution of the City Council. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.09.050 Review by City Engineer.

Prior to the submission of a final or parcel map to the City Council for approval, the final or parcel map and accompanying data which satisfy the Subdivision Map Act and the Municipal Code shall be submitted to the City Engineer. Once all required fees have been paid and all required maps, plans, calculations, and other data have been filed with the Public Works Department, the City Engineer shall examine the final or parcel map and the accompanying data as to correctness of surveying data and computations, and such other matters as require checking to insure compliance with the provisions of State law and the Municipal Code. Within twenty (20) days of receipt of the final or parcel map and all required accompanying data, the City Engineer shall either (1) endorse his approval and transmit one (1) copy to the City Council and one (1) copy to the Community Development Department, together with such other matters as are required to enable the City Council to consider the map, or (2) return the map to the subdivider, together with a statement setting forth the grounds for its return. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.09.060 City Council Action.

(a) The City Council shall, within a period of ten (10) days after its receipt of the final or parcel map for approval or at its next regular meeting after the meeting at which it receives the map, whichever is later, approve the map if it conforms to all the requirements of the Subdivision Map Act and the Municipal Code applicable at the time of approval or conditional approval of the tentative map and any rulings made thereunder or, if it does not so conform, disapprove the map. The City Council shall not deny approval of a final or parcel map if there is a previously approved tentative map for the proposed subdivision and if it finds that the final or parcel map is in substantial compliance with the previously approved tentative map.

(b) If the City Council does not approve or disapprove the map within the prescribed time, or any authorized extension thereof, and the map conforms to all said requirements and rulings, it shall be deemed approved, and the Clerk of the City Council shall certify its approval thereon. (Ord. 3790 §1, 1975.)

27.09.070 Agreement to Complete Required Improvements.

If, at the time of approval of the final or parcel map by the City Council, any public improvements required by the City pursuant to the provisions of the Subdivision Map Act or the Municipal Code have not been completed and accepted in accordance with standards established by the City and applicable at the time of approval or conditional approval of the tentative map, the City Council, as a condition precedent to the approval of the final or parcel map, shall require the subdivider to enter into one (1) of the following agreements:

(a) An agreement with the City upon mutually agreeable terms to thereafter complete such improvements at the subdivider's expense.

(b) An agreement with the City to thereafter (1) initiate and consummate proceedings under an appropriate special assessment act for the financing and completion of all such improvements, or (2) if not completed under such special assessment act, to complete such improvements at the subdivider's expense.

Performance of such agreements described herein shall be guaranteed by a security specified in Chapter 5 of the Subdivision Map Act and Section 27.11.030 of this ordinance. (Ord. 3790 §1, 1975.)

27.09.080 Transmittal of Map.

Subsequent to the approval of the final or parcel map by the City Council and the execution of required agreements, the City Clerk shall transmit the map to the Clerk of the County Board of Supervisors or County Recorder in accordance with Article 6 of Chapter 3 of the Subdivision Map Act. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

Chapter 27.10

MONUMENTS

Sections:

27.10.010 General.
27.10.020 Boundary Monuments.
27.10.030 Interior Monuments.
27.10.040 Deferred Monuments.
27.10.050 Monument Type and Positioning.
27.10.060 Replacement of Destroyed Monuments.
27.10.070 Survey Data and Information to be Shown on Final or Parcel Map.
27.10.080 Survey Control Network.

27.10.010 General.

(a) The provisions in this chapter shall govern the monumentation required for final and parcel maps.

(b) In making the survey of a subdivision for a final or parcel map, the engineer or surveyor shall set sufficient permanent monuments so that the survey, or any part thereof, may be readily retraced. The survey shall include measured connections (ties) into the City's Survey Control Network approved by the City Engineer, in accord with the provisions of Section 27.10.080 of this Code. (Ord. 5120, 1999; Ord. 3790 §1, 1975.)

27.10.020 Boundary Monuments.

(a) Monuments shall be set on the exterior boundary of the subdivision at all corners, angle points, beginnings and ends of curves and at intermediate points approximately one thousand feet (1,000') apart. The locations of inaccessible points may be established by ties and shall be so noted on the final map or parcel map.

(b) All exterior boundary monuments shall be set prior to recordation of the final or parcel map unless extensive grading operations or improvement work makes it impractical to set such monuments. In the event any or all of the boundary monuments are to be set after recordation of the final map or parcel map, prior to the submission of such map to the City Engineer for filing, the engineer or surveyor making the survey shall, in addition to furnishing field notes showing the boundary survey, furnish evidence acceptable to the City Engineer to substantiate his reasons for deferring the setting of such monuments until after recordation of such map. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.10.030 Interior Monuments.

Monuments shall be set at all block and lot corners and angle points and at the beginnings and ends of curves, and along street and alley centerlines at the beginnings and ends of curves, at points of intersection with centerlines of other existing and proposed streets and alleys, and at the points of intersection with the exterior boundary lines. Interior property line and centerline monuments and ties may be set after the final map or parcel map is recorded. (Ord. 3790 §1, 1975.)

27.10.040 Deferred Monuments.

(a) In the event any or all of the required monuments are to be set after recordation of the final map or parcel map, the engineer's or surveyor's certificate shall specify the date, established by the City Engineer, by which the monuments will be set and the field notes thereon furnished, and the subdivider shall, prior to the submission of such map to the City Engineer for filing, furnish to the City Engineer a security as required by Section 27.11.020. In lieu thereof, provision for the setting of said monuments may be included in the agreement prepared in accordance with Section 66462 of the Subdivision Map Act.

(b) In the event the deferred monuments are not set within the period of time specified on the engineer's or surveyor's certificate, or within any approved extended period of time, and provided that all improvement work has been completed, the City Engineer shall by written notice forthwith direct the engineer or surveyor of record to within sixty (60) days of the date of such directive set such monuments and furnish such field notes as were agreed to be set and furnished on said certificate. If the engineer or surveyor fails to comply with said directive within the specified time, and if no request for an extension of time has been submitted in writing and granted within such time, the City Engineer shall without further notice submit a written complaint and request for disciplinary action against said engineer or surveyor to the State Board of Registration for Civil and Professional Engineers. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.10.050 Monument Type and Positioning.

All monuments set as required herein shall be permanently and visibly marked or tagged with the registration or license number of the engineer or surveyor who signs the engineer's or surveyor's certificate and under whose supervision the survey was made. (Ord. 3790 §1, 1975.)

27.10.060 Replacement of Destroyed Monuments.

Any monument set as required herein which is disturbed or destroyed before acceptance of all improvements by the City shall be replaced by the subdivider's engineer or surveyor. (Ord. 3790 §1, 1975.)

27.10.070 Survey Data and Information to be Shown on Final or Parcel Map.

The following survey data and information shall be shown on each final or parcel map for which a field survey was made pursuant to the provisions of these regulations:

(a) Stakes, monuments (together with their precise position) or other evidence found on the ground to determine the boundaries of the subdivision.

(b) Corners of all adjoining properties identified by lot and block numbers, subdivision names, numbers and page of record or by section, township and range or other proper designation.

(c) All information and data necessary to locate and retrace any point or line without unreasonable difficulty.

(d) The location and description of any required monuments to be set after recordation of the final map, and the statement that they are "to be set".

(e) Bearing and length of each lot line, block line and boundary line and each required bearing and distance.

(f) The centerlines of any street or alley in or adjoining the subdivision which have been established by the City Engineer together with reference to a field book or map showing such centerline and the monuments which determine its position. If determined by ties, that fact shall be stated.

(g) Such other survey data or information as may be required to be shown by the City Engineer or by the provisions of this section. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

27.10.080 Survey Control Network.

The following standards shall apply to each final map and each parcel map for which a field survey is made pursuant to these regulations:

(a) The engineer or surveyor shall be required to tie the boundary of a final map or parcel map into the City of Santa Barbara 1995 Survey Control Network, filed with the Santa Barbara County Surveyor and recorded in the office of the Santa Barbara County Recorder in Book 147, Pages 70, 71, 72, 73 and 74, or other Survey Control Network approved by the City Engineer and recorded in the office of the Santa Barbara County Recorder. The map shall include measured connections (ties) to no less than two recorded locations, on opposite sides of the boundary, or as otherwise approved by the City Engineer.

(b) The provisions of this section are satisfied if the boundary of the parcel map or final map being submitted is a parcel or lot of a map which is already tied, in accord with professional surveying practice, to the City of Santa Barbara 1995 Survey Control Network or Survey Control Network approved by the City Engineer and recorded with the office of the Santa Barbara County Recorder. (Ord. 5120, 1999.)

Chapter 27.11

SECURITIES TO SECURE SUBDIVIDER'S PERFORMANCE

Sections:

27.11.010 Improvement Security.
27.11.020 Monument Security.
27.11.030 Types of Security.

27.11.010 Improvement Security.

(a) As a guarantee to secure faithful performance of any agreement with City to construct or install required improvements after the approval of the final or parcel map, subdivider shall furnish to City prior to the approval of the final or parcel map one (1) of the types of securities described in §27.11.030, as approved by City, in an amount equal to one hundred percent (100%) of the total estimated costs of the improvements.

(b) As a guarantee securing payment to the contractor, its subcontractors or persons furnishing the labor, materials, equipment or services required to install and construct said improvements, the subdivider shall furnish one (1) of the securities described in §27.11.030, as approved by City, in an amount equal to not less than fifty percent (50%) of the total estimated costs of said improvements.

(c) The subdivider may request a partial release of the improvement security to guarantee faithful performance of the agreement based upon its partial completion of the improvements. The subdivider is allowed to request three partial releases. No single partial release shall be for less than twenty-five percent (25%) of the total estimated cost of the improvements nor shall the aggregate of such partial releases exceed seventy-five percent (75%) of the total estimated cost of the improvements. The determination of the amount of the improvement security to be partially released shall be made by the City Engineer, his determination shall be final and conclusive and any such release shall not reduce the obligations of the subdivider to the City under the agreement. (Ord. 4017, 1979; Ord. 3790 §1, 1975.)

27.11.020 Monument Security.

As a guarantee of good faith to furnish and install the required survey monuments and to pay the subdivider's engineer or surveyor for said work, the subdivider shall furnish one (1) of the securities described in §27.11.030 or combination thereof, as approved by City, in an amount equal to one hundred percent (100%) of the estimated cost of such work. Such work shall consist of satisfactorily furnishing and installing the said survey monuments and of accurately fixing exact survey points thereon. (Ord. 3790 §1, 1975.)

27.11.030 Types of Security.

Whenever any provision of this Title 27 or the Subdivision Map Act authorizes or secures the furnishing of security in connection with the performance of any act or agreement, such security shall be one (1) of the following at the option of and subject to the approval of the City:

(a) Bond or bonds by one (1) or more duly authorized corporate sureties. Said bond or bonds shall be in substantially the same form as provided in §66499.1 and §66499.2 of the Subdivision Map Act.

(b) A deposit, either with the City or a responsible escrow agent or trust company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public moneys.

(c) An instrument of credit from one (1) or more financial institutions subject to regulating by the State or Federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment. (Ord. 5380, 2005; Ord. 3790 §1, 1975.)

Chapter 27.12

REVERSIONS TO ACREAGE

Sections:

27.12.010 Authority.
27.12.020 Initiation.
27.12.030 Reversion of Contiguous Parcels Under the Same Ownership.

27.12.010 Authority.

Subdivided land may be reverted to acreage pursuant to the provisions of Article 1, Chapter 6 of the Subdivision Map Act. (Ord. 3790 §1, 1975.)

27.12.020 Initiation.

Proceedings for reversion to acreage may be initiated by the City Council on its own motion or by petition of all the owners of record of the real property within the subdivision. (Ord. 3790 §1, 1975.)

27.12.030 Reversion of Contiguous Parcels Under the Same Ownership.

A. PARCEL MAP, WAIVER OF TENTATIVE MAP PROCEDURE. Four (4) or less contiguous parcels under the same ownership may be reverted to acreage by the submission of a parcel map to the City Council for approval. Any map so submitted shall be accompanied by evidence of title and non-use or lack of necessity of any streets or easements which are to be vacated or abandoned. Any streets or easements to be left in effect after the reversion shall be adequately delineated on the map. Any tentative map procedures or requirements for a parcel map used solely to complete a reversion to acreage are waived automatically upon approval of the reversion by the City Council unless the City Council expressly conditions the reversion upon compliance with all or a part of those procedures and requirements.

B. RECORDATION OF PARCEL MAP. After approval of the reversion by the City Council, the map shall be delivered to the County Recorder. The recording of the map shall constitute legal reversion to acreage of the land affected thereby, and shall constitute abandonment of all streets and easements not shown on the map. The recording of the map shall also constitute a merger of the separate parcels into one (1) parcel for the purposes of this Title and the Subdivision Map Act. (Ord. 4412, 1986; Ord. 3790 §1, 1975.)

Chapter 27.13

RESIDENTIAL CONDOMINIUM DEVELOPMENT

Sections:

27.13.010 Scope.
27.13.020 Definition - Residential Condominium.
27.13.030 Purpose and Intent.
27.13.040 Where Permitted.
27.13.050 Requirements.
27.13.060 Physical Standards for Condominiums.
27.13.070 Application.
27.13.080 Findings.

27.13.010 Scope.

This Chapter shall apply to common interest developments that have at least one residential unit. (Ord. 5380, 2005; Ord. 4058, 1980.)

27.13.020 Definition - Residential Condominium.

For the purposes of this Chapter, condominium shall include any residential condominium, community apartment or stock cooperative. (Ord. 4058, 1980.)

27.13.030 Purpose and Intent.

The City Council finds and determines that residential condominiums differ from apartments in numerous respects and, for the benefit of public health, safety and welfare, such projects, which are subject to the subdivision regulations of the State of California, should be treated differently from apartments. The City Council, therefore, declares its express intent to treat such projects differently from apartment and like structures and to adopt development standards for the protection of the community and the purchasers of condominiums to:

(a) insure that condominium developments achieve a high quality appearance and safety, and are consistent with the goals of the City's General Plan and conform with the density requirements of the General Plan's Land Use Element; and

(b) attempt to provide a reasonable variety of choice for type and location of housing in Santa Barbara; and

(c) establish criteria for development of condominiums. (Ord. 4058, 1980.)

27.13.040 Where Permitted.

A. **GENERALLY.** Condominium projects may be permitted in the single-family residential zones subject to the issuance of a Conditional Use Permit as set forth in Chapter 28.36 of this Code. Condominium projects may be permitted in the R-2, R-3 and R-4 zones subject to the requirements and standards set forth in this Chapter. In addition, condominium projects may be permitted in all other zones where appropriate and generally permitted except in the C-X and M-1 zones.

B. **ACCESSORY DWELLING UNITS ON CERTAIN R-2 LOTS.** Notwithstanding subsection (A) above, dwelling units constructed or permitted pursuant to the authority of Subsection (E) of Santa Barbara Municipal Code Section 28.18.075 may not be subdivided as a condominium project due to the lack of consistency with General Plan requirements as mandated by Section 27.13.080 of this Chapter and the state Subdivision Map Act, Government Code Sections 66410-66499.58. (Ord. 5271, 2003; Ord. 4058, 1980.)

27.13.050 Requirements.

No condominium project or portion thereof shall be approved in whole or in part, unless it complies with all requirements of Title 27 of this Code and has been reviewed and approved by the Advisory Agency. Prior to approval and recordation of the final map, the required conditions, covenants and restrictions shall be submitted to, be reviewed by and approved by the City Attorney. These conditions, covenants and restrictions shall contain the following:

(a) allocation of parking spaces within the project;

(b) restrictions regarding the storage of recreation vehicles;

(c) provision for the Homeowners Association to maintain all open spaces and/or common areas within the project;

(d) waiver to protest formation of public improvement districts. (Ord. 4058, 1980.)

27.13.060 Physical Standards for Condominiums.

In addition to the requirements of the zone in which a project is located, the following standards shall be required for all condominium projects:

1. Parking. The off-street parking requirements for a condominium development shall be in accordance with Chapter 28.90.100 of this Code.

2. Private Storage Space. Each unit shall have at least 300 cubic feet of enclosed, weatherproofed and lockable private storage space provided in one location in addition to the guest, linen, pantry, and clothes closets that are customarily provided. This requirement may be waived for a unit if an enclosed garage is provided for that unit.

3. Utility Metering.

(a) The consumption of gas and electricity within each unit shall be separately metered so that the unit's owner can be separately billed for each utility.

(b) A water shut-off valve shall be provided for each unit or for each plumbing fixture.

(c) Each unit having individual meter(s) or heater(s) shall have access to its meter(s) and heater(s) which shall not require entry through another unit.

(d) Each unit shall have its own panel, or access thereto, for all electrical circuits which serve the unit.

(e) An exception may be granted to the above restrictions when heat or power is provided by means of solar energy.

4. Laundry Facilities. A laundry shall be provided in each unit; or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and one dryer for each five (5) units or a fraction thereof.

5. Public Improvement Districts. The applicant shall waive the right, through deed restriction, to protest the formation of public improvement districts as deemed appropriate by the Advisory Agency.

6. Density. The maximum number of dwellings may not exceed the zone in which the project is located (including slope density requirements where applicable).

7. Unit Size. The enclosed living or habitable area of each unit shall be not less than 400 square feet.

8. Outdoor Living Space. Outdoor living space shall be provided as set forth in Section 28.18.060 for R-2 zoned lots and Section 28.21.081 for R-3 or less restrictive zoned lots of this Code pertaining to outdoor living space.

9. Storage of Recreational Vehicles. The provision for storage space of recreational vehicles shall be determined by the Advisory Agency at the time of the approval of the tentative map. (Ord. 5380, 2005; Ord. 4912, 1995; Ord. 4085, 1980; Ord. 4058, 1980.)

27.13.070 Application.

The Community Development Department shall prepare a listing of required information that must be contained in applications for a condominium development as the Department deems necessary to comply with the intent of this Chapter and other parts of this Code. This listing of required information that must be contained in applications for condominium developments, shall be made available to architects, developers, engineers, property owners and other interested individuals. No application for development need be processed until the required information is submitted. (Ord. 5380, 2005; Ord. 4058, 1980.)

27.13.080 Findings.

The Advisory Agency shall review each condominium development as to its effect upon sound community planning, the ecological, cultural, and aesthetic qualities of the community, on the community's public health, safety, and welfare. The Advisory Agency shall not approve a condominium development unless it finds that:

(a) There is compliance with all provisions of this Chapter; and

(b) The proposed development is consistent with the General Plan of the City of Santa Barbara; and

(c) The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources. (Ord. 5380, 2005; Ord. 4498, 1988; Ord. 4058, 1980.)

Chapter 27.20

VESTING TENTATIVE MAPS

Sections:

27.20.010 Citation and Authority.
27.20.020 Purpose and Intent.
27.20.030 Definitions.
27.20.040 Application.
27.20.050 Filing and Processing.
27.20.060 Fees.
27.20.070 Expiration.
27.20.080 Vesting on Approval of Vesting Tentative Map.
27.20.090 Development Inconsistent With Zoning--Conditional Approval.
27.20.100 Applications Inconsistent with Current Policies.

27.20.010 Citation and Authority.

This Chapter is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the Government Code of the State of California (hereinafter referred to as the Vesting Tentative Map Statute), and may be cited as the Vesting Tentative Map Ordinance. (Ord. 4371, 1985.)

27.20.020 Purpose and Intent.

It is the purpose of this Chapter to establish procedures necessary for the implementation of the Vesting Tentative Map Statute, and to supplement the provisions of the California Subdivision Map Act and this Title 27. Except as otherwise set forth in this Chapter, the provisions of Title 27 shall apply to vesting tentative maps.

The regulations outlined in this Chapter are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development. (Ord. 5380, 2005; Ord. 4371, 1985.)

27.20.030 Definitions.

The following words and phrases shall have the meaning indicated, unless context or usage clearly requires a different meaning:

A. VESTING TENTATIVE MAP. A tentative map for a residential subdivision that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is submitted for approval in accordance with Section 27.20.060.

B. All other definitions set forth in Title 27 are applicable. (Ord. 4371, 1985.)

27.20.040 Application.

A. Whenever a provision of the Subdivision Map Act or this Title 27 requires approval of a tentative map, a vesting tentative map may instead be submitted for approval in accordance with the provisions hereof.

B. If a subdivider does not seek the rights conferred by the Vesting Tentative Map Statute, the submission of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction. (Ord. 5380, 2005; Ord. 4371, 1985.)

27.20.050 Filing and Processing.

A vesting tentative map shall (i) be submitted for approval in the same form, (ii) have the same contents and accompanying data and reports, and (iii) shall be processed in the same manner as a tentative map except as hereinafter provided:

A. VESTING TENTATIVE MAP - IDENTIFICATION. At the time a vesting tentative map is submitted for approval, it shall have printed conspicuously on its face the words "Vesting Tentative Map."

B. SPECIAL REQUIREMENTS FOR VESTING TENTATIVE MAP. At the time a vesting tentative map is submitted for approval, the subdivider shall also supply the following information:

1. A preliminary plot plan of the proposed development, drawn to scale, showing, as a minimum:

a. Boundaries of the property;

b. The location, dimensions, and uses of all existing and proposed buildings and structures on the subject property;

c. Location, size and number of parking spaces and loading spaces;

d. All interior circulation patterns including streets, walkways, bikeways, and connections to existing or proposed arterial or connector roads and other major roads;

e. Location and use of all buildings and structures within 50 feet of the property's boundaries;

f. Location, height, and material of all existing and proposed walls and fences;

g. Location of areas of geologic, seismic, flood and other hazards;

h. Location of areas of prime scenic quality, habitat resources, archaeological sites, water bodies, and significant existing vegetation;

i. Location and amount of land devoted to public purposes, open space, landscaping and recreation.

2. Preliminary Soils Report.

3. Improvement plans for construction of public improvements as required by the Public Works Department. The improvement plans shall be prepared by a registered civil engineer and shall include but not be limited to:

a. Street improvements, including but not limited to curb, gutter, sidewalk, sewer system, water system, street lighting, traffic controls and undergrounding of utilities;

b. Existing and proposed drainage;

c. Right of way and other dedications;

d. Existing contours and proposed grading;

4. Preliminary building elevations;

5. Preliminary landscaping and irrigation plans indicating proposed trees, shrubs, and ground cover; and delineating species, size, and placement;

6. Statistical Data:

a. Net and gross acreage and square footage of the property;

b. Height, ground floor area, and total floor area of each building;

c. Number and type of dwelling units in each building, i.e., single-family dwelling, condominium, apartment, etc., and number of bedrooms in each dwelling, where applicable;

d. Building coverage expressed as a percent of the total net area of the property;

e. Percentage of the net or gross land area of the property devoted to landscaping, open space and/or recreation, whichever is appropriate;

f. Parking requirements for the entire development with a computation showing the requirements for each dwelling, unit in the development and total parking requirements;

g. Estimated number of potential residents in each residential category;

h. Number of employees and potential new employees, if applicable;

i. Average slopes, if parcel contains any slope in excess of 20 percent;

7. Three-dimensional perspective drawings and renderings to scale sufficient to show the architectural design, including colors and materials, of buildings and structures proposed to be constructed;

8. The off-site circulation pattern, including right-of-way dedication, street improvements, traffic control measures and acceleration and deceleration lanes;

9. A statement of intent as to the establishment of utilities, services, and facilities including water, sewage disposal, fire protection, police protection, schools, transportation, i.e., proximity to transit or provision of bike lanes;

10. A statement of energy and water conservation measures and/or devices incorporated into the construction and occupancy phases of the development;

11. The on-site illumination plan emphasizing access, walkways, buildings, parking, landscaping, and signs; illumination intensity shall be subject to approval from the Advisory Agency after on-site inspection;

12. Any signs, including size and location, if applicable;

13. Measures to be used to prevent a reduced nuisance effect such as noise, dust, odor, smoke, fumes, vibration, glare, traffic congestion, and to prevent danger to life and property;

14. If development is to occur in stages, the sequence and timing of construction of the various phases;

15. Proposed homeowners association (if applicable) indicating CC & R's, deeds, restrictions, and methods of open-space maintenance;

16. Any other data requested by the Community Development or Public Works Departments.

C. PRIOR APPROVALS NECESSARY. Where a vesting tentative map application is submitted for approval in conjunction with a development plan, conditional use permit, modification, or variance for the same property, the vesting tentative map shall be processed concurrently with such discretionary approvals. If the applicant is seeking a modification, variance, or conditional use permit, a vesting tentative map shall not be approved or conditionally approved until all other discretionary approvals have been granted or conditionally granted. A vesting tentative map processed in conjunction with a development plan shall not be approved or conditionally approved until the preliminary development plan has been approved or conditionally approved by City.

D. DEVELOPMENT ALLOCATION SYSTEM. Every vesting tentative map shall contain a statement that the issuance of any building or grading permit for the real property shown on the vesting tentative map is subject to the requirements and restrictions of the City's Development Allocation System existing at the time of any such issuance. (Ord. 5380, 2005; Ord. 4371, 1985.)

27.20.060 Fees.

Upon filing a vesting tentative map, the subdivider shall pay the fees required for filing and processing a tentative map and any other reviews, plan checks or permits necessary to be completed or approved prior to or at the time of the approval of the vesting tentative map. The City Council may, by resolution, establish fees for filing, processing and other matters pertaining to vesting tentative maps. (Ord. 4371, 1985.)

27.20.070 Expiration.

The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions, established by Section 27.07.110 of this Code for the expiration of the approval or conditional approval of a tentative map. (Ord. 5380, 2005; Ord. 4371, 1985.)

27.20.080 Vesting on Approval of Vesting Tentative Map.

A. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2, subject to compliance with requirements and restrictions of the City's Development Allocation System in effect at the time any building or grading permit is sought for the property.

However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

B. Notwithstanding Subsection A of this Section, a permit, approval, extension, or entitlement may be made conditional or denied if the Advisory Agency or Appeal Board on appeal determines that any of the following exist:

1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or

2. The condition or denial is required, in order to comply with state or federal law.

C. The rights referred to herein shall expire if a final or parcel map is not approved prior to the expiration of the vesting tentative map as provided in Section 27.20.070. If the final or parcel map is approved, these rights shall last for the following periods of time:

1. An initial time period of one (1) year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded. This initial time period shall be automatically extended by any time used by the City for processing a complete application for a grading permit or for design or architectural review, if the time used by the City to process the application exceeds 30 days from the date that a complete application is filed.

2. A subdivider may apply to the Advisory Agency for a one-year extension at any time before the initial time period set forth in Subsection C.1 expires. If the extension is denied, the subdivider may appeal that denial to the City Council within 15 days subject to timely filing with the City Clerk and payment of the required fees.

3. If the subdivider submits a complete application for a building permit during the periods of time specified in Subsections C.1 and C.2, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit. (Ord. 5380, 2005; Ord. 4371, 1985.)

27.20.090 Development Inconsistent With Zoning--Conditional Approval.

A. Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the Zoning Ordinance in existence at that time, that inconsistency shall be noted on the map. The Advisory Agency or Appeal Board may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the Zoning Ordinance to eliminate the inconsistency. If the change in the Zoning Ordinance is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding Subsection 27.20.080A, confer the vested right to proceed with the development in substantial compliance with the change in the Zoning Ordinance and the map, as approved.

B. The rights conferred by this section shall be for the time periods set forth in Subsection 27.20.080.C. (Ord. 5380, 2005; Ord. 4371, 1985.)

27.20.100 Applications Inconsistent with Current Policies.

Notwithstanding any provision of this Chapter, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in Subsection 27.20.080.A and Section 27.20.090 and the City may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law. (Ord. 5380, 2005; Ord. 4371, 1985.)

Chapter 27.30

MERGER OF PARCELS

Sections:

27.30.010 Voluntary Merger.
27.30.020 Concurrent Filing of Record of Survey.
27.30.030 Merger of Parcels.
27.30.040 Recording of Merger Without Approval Prohibited.
27.30.050 Fees.

27.30.010 Voluntary Merger.

Pursuant to the provisions of California Government Code Section 66499.20-3/4, a merger and certificate of merger of existing contiguous parcels of real property may be approved by the Director of the Department of Public Works and a certificate of merger filed for record by the County Recorder only where the Director of the Department of Public Works makes all of the following findings:

A. The merger will not affect any fees, grants, easements, agreements, conditions, dedications, offers to dedicate or security provided in connection with any approvals of divisions of real property or lot line adjustments.

B. The boundaries of the merged parcel are well-defined with adequate monumentation in existing recorded documents or filed maps.

C. The document used to effect the merger contains an accurate description of the boundaries of the resulting parcel.

D. All parties having any record title interest in the real property affected have consented to the merger upon a form and in a manner approved by the Director of the Department of Public Works of the City of Santa Barbara according to the terms, provisions, reservations and restrictions provided in Government Code Section 66436 for such consent, excepting those interests that are excepted by statute from the consent requirement.

E. There has been compliance with all requirements and all fees have been paid, including a fee for recording the certificate of merger. (Ord. 4412, 1986.)

27.30.020 Concurrent Filing of Record of Survey.

Where determined to be necessary by the Director of the Department of Public Works in order to monument and define the boundaries of the merged parcel, a record of survey in compliance with all legal requirements shall be filed at the same time as the certificate of merger. The City standard for such record of survey shall include measured connections (ties) of the monuments and boundaries of such record of survey to the approved City Survey Control Network in the same manner as is provided for maps under Section 27.10.080 of this Code. (Ord. 5120, 1999; Ord. 4412, 1986.)

27.30.030 Merger of Parcels.

The recordation of a certificate of merger shall constitute a merger of the separate parcels shown thereon into one parcel for the purpose of the Subdivision Map Act and this Title 27, and the parcels shall thereafter be treated in all respects as a single parcel. (Ord. 5380, 2005; Ord. 4412, 1986.)

27.30.040 Recording of Merger Without Approval Prohibited.

No person shall record a document merging separate legal parcels into a single legal parcel for the purposes of the Subdivision Map Act and this Title 27 except in conformity with the provisions of this Chapter. (Ord. 5380, 2005; Ord. 4412, 1986.)

27.30.050 Fees.

The City Council may establish by resolution such fees as may be required for the review and processing of a proposal for voluntary merger. (Ord. 4412, 1986.)

Chapter 27.40

LOT LINE ADJUSTMENTS

Sections:

27.40.010	**Scope.**	**27.04.070**	**Agreement to Complete Required Improvements.**
27.40.020	**Application.**	**27.40.080**	**Documentation of Lot Line Adjustment.**
27.40.030	**Public Hearing.**	**27.04.090**	**Review by City Engineer.**
27.40.040	**Findings.**	**27.40.100**	**Expiration and Extension.**
27.40.050	**Time for Consideration.**		
27.40.060	**Appeals and Suspensions.**		

27.40.010 Scope.

The procedure set forth in this Chapter shall govern the processing of and requirements for approval and recordation of lot line adjustments between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created. All other lot line adjustments shall require a tentative map pursuant to Chapter 27.07 and a final or parcel map pursuant to Chapter 27.09. (Ord. 5380, 2005.)

27.40.020 Application.

An application for a lot line adjustment pursuant to this Chapter 27.40 shall be filed with the Community Development Department. The application shall be on a form prescribed by the Community Development Director and accompanied by a fee established by resolution of the City Council. The Community Development Director shall prepare a listing of required information that must be contained in applications for lot line adjustments as the Director deems necessary to comply with the intent of this Chapter and other parts of this Code. This listing of required information that must be contained in applications for lot line adjustments shall be made available to architects, developers, engineers, property owners and other interested individuals. (Ord. 5380, 2005.)

27.40.030 Public Hearing.

The Advisory Agency shall conduct a public hearing regarding the application for a lot line adjustment at which time the Advisory Agency shall: (1) receive a report on the design and improvement of the proposed lot line adjustment from the Community Development Department with staff recommendations, (2) at the election of the applicant, receive a presentation regarding the proposed lot line adjustment, and (3) receive public comment from interested persons. Following the close of the public hearing, the Advisory Agency shall approve, conditionally approve or disapprove the lot line adjustment. (Ord. 5380, 2005.)

27.40.040 Findings.

The Advisory Agency shall limit its review of the lot line adjustment to a determination of whether or not the parcels resulting from the proposed lot line adjustment will conform to the general plan, any applicable coastal plan, and the zoning and building ordinances. The Advisory Agency shall not approve a lot line adjustment unless it finds that the resulting lots will conform with the general plan, any applicable coastal plan, and the zoning and building ordinances. The Advisory Agency shall not impose conditions or exactions on its approval of a lot line adjustment except as necessary to conform to the general plan, any applicable coastal plan, and zoning and building ordinances, or to facilitate the relocation of existing utilities, infrastructure, or easements. (Ord. 5380, 2005.)

27.40.050 Time for Consideration.

The time limits for acting on lot line adjustments shall be consistent with the time limits for acting on tentative maps pursuant to the Subdivision Map Act and any other pertinent state law. The time limits specified in this Section for acting on lot line adjustments may be extended by mutual consent of the applicant and the Advisory Agency. (Ord. 5380, 2005.)

27.40.060 Appeals and Suspensions.

A. FROM DECISIONS OF THE STAFF HEARING OFFICER.

1. Suspensions. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer serving as the Advisory Agency and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. In the case of such suspension and review of the Staff Hearing Officer's decision, the Planning Commission shall serve as the Advisory Agency. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer.

2. Appeals. The decisions of the Staff Hearing Officer serving as the Advisory Agency may be appealed to the Planning Commission serving as the Appeal Board by the applicant or any interested party adversely affected by the decision of the Advisory Agency. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal how the decision of the Staff Hearing Officer is not in accord with the provisions of this Title or the Subdivision Map Act or how it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer following a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

B. FROM DECISIONS OF THE PLANNING COMMISSION. The decisions of the Planning Commission on suspensions or appeals from decisions of the Staff Hearing Officer may be appealed to the City Council serving as the Appeal Board by the applicant or any interested party adversely affected by the decision of the Planning Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal how the decision of the Planning Commission is not in accord with the provisions of this Title or the Subdivision Map Act or how it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed, and the Community Development Department shall prepare a report to the City Council with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission following a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Planning Commission; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

C. TIME FOR CONSIDERATION. The time limits for acting on suspensions or appeals of decisions concerning lot line adjustments shall be consistent with the time limits set for acting on appeals of decisions concerning tentative maps pursuant to the Subdivision Map Act and any other pertinent state law. The time limits specified in this Section for acting on lot line adjustments may be extended by mutual consent of the applicant and the Appeal Board.

D. FEES. Each appeal shall be accompanied by the appeal fee in the amount established by resolution of the City Council. No fee shall be charged for a suspension of a Staff Hearing Officer action by the Chairperson, Vice Chairperson or other designated member of the Planning Commission. (Ord. 5380, 2005.)

27.40.070 Agreement to Complete Required Improvements.

If any public improvements are required by the Advisory Agency or Appeal Board as a condition of approval for the lot line adjustment, the applicant shall enter into one (1) of the following agreements:

A. An agreement with the City upon mutually agreeable terms to thereafter complete such improvements at the applicant's expense.

B. An agreement with the City to thereafter (1) initiate and consummate proceedings under an appropriate special assessment act for the financing and completion of all such improvements, or (2) if not completed under such special assessment act, to complete such improvements at the applicant's expense. Performance of such agreements described herein shall be guaranteed by a security specified in Chapter 5 of the Subdivision Map Act and Section 27.11.030 of this ordinance. (Ord. 5380, 2005.)

27.40.080 Documentation of Lot Line Adjustment.

A. Following the approval or conditional approval of a lot line adjustment by the Advisory Agency or the Appeal Board, and prior to the recording of documents accomplishing or implementing the lot line adjustment, the applicant shall submit the following to the City Engineer:

1. Documents necessary to convey each and every property interest required to accomplish or implement the lot line adjustment, such as: agreement relating to the lot line adjustment, quitclaim deeds and acceptance thereof, or a declaration of lot line adjustment.

2. Legal descriptions of each lot before and after the lot line adjustment, prepared by a licensed surveyor.

3. Copies of all documents pertinent to the lot line adjustment (i.e., easements, deeds of trust, leases, agreements, etc.).

B. At the time the documentation of the lot line adjustment is submitted to the City Engineer, the applicant shall pay all fees for the review and processing of the documents in accordance with the current City Council fee resolution.

C. No record of survey map shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. However, a record of survey map, prepared by a registered civil engineer or land surveyor, is strongly recommended. (Ord. 5380, 2005.)

27.40.090 Review by City Engineer.

Once all required fees have been paid and all required documentation has been submitted, the City Engineer shall examine the documentation and accompanying data as to correctness of surveying data and computations, and such other matters as require checking to insure compliance with the provisions of State law and the Municipal Code. Within twenty (20) days of receipt of the documentation and all required accompanying data, the City Engineer shall either: 1. endorse his approval and transmit one (1) copy to the applicant and one (1) copy to the Community Development Department, or 2. return the documentation to the applicant together with a statement setting forth the grounds for its return. (Ord. 5380, 2005.)

27.40.100 Expiration and Extension.

A. EXPIRATION. The approval or conditional approval of a lot line adjustment shall expire twenty-four (24) months from the date on which final action is taken approving or conditionally approving the lot line adjustment.

B. EXTENSION. The applicant may request an extension of the approval or conditional approval of a lot line adjustment by written application to the Staff Hearing Officer filed with the Community Development Department, such application to be filed before the expiration of the lot line adjustment. The application shall state the reasons for requesting the extension. An extension or extensions of a lot line adjustment approval shall not exceed an aggregate of three (3) years beyond the expiration of the 24-month period provided in Section 27.40.100.A.

C. APPEAL. If the Staff Hearing Officer denies the applicant's application for an extension, the applicant may appeal said denial to the City Council within fifteen (15) days after the Staff Hearing Officer action.
(Ord. 5380, 2005.)

TITLE 28
The Zoning Ordinance

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5713	Solar Energy System Review Process	September 3, 2015	Section 28.93.030
5730	Minor Zoning Exceptions for Errors in Zoning Information Reports	February 11, 2016	Section 28.92.130
5733	Regulation of Cannabis Cultivation	February 25, 2016	Section 28.87.300
5750	Waterfront Hotel Development Agreement	June 16, 2016	Section 28.95.115

TITLE 28
THE ZONING ORDINANCE

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Chapter: 28.05 Staff Hearing Officer
Chapter: 28.06 Planning Commission
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Chapter 28.01

TITLE

Section:

28.01.001 Title.

28.01.001 Title.

A Zoning Ordinance establishing classifications and districts or zones and regulating therein the use of property within the City of Santa Barbara, California, defining terms used in said ordinance, adopting a zoning map, providing for the adjustment, enforcement, and amendment thereof, and prescribing penalties for its violation.

The Council of the City of Santa Barbara, California, does ordain as follows:

An Official Land Use Zoning Ordinance for the City of Santa Barbara is hereby adopted and established to serve the public health, safety, comfort, convenience and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources, and to encourage, guide and provide a definite plan for the future growth and development of said City. This ordinance shall be known as "The Zoning Ordinance". (Ord. 3710 §1, 1974.)

Chapter 28.04

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(Cont'd)

Chapter 28.04

DEFINITIONS

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28.04.005 Definitions Generally.

Words used in the present tense include the future, except where the natural construction of this title otherwise indicates; words in the singular number include the plural and words in the plural include the singular; the word "building" includes the word "structure" and the word "shall" is mandatory and not directory. The word "Council" when used herein shall mean the Council of the City of Santa Barbara and "Planning Commission" shall mean the City Planning Commission of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.010 Accessory Building.

A subordinate building or portion of the main building, the use of which is incidental to that of the main building on the same lot. Where an accessory building is attached to and made a part of the main building, not less than eight feet (8') in length of one (1) of the walls or roof of such accessory building, or not less than one hundred percent (100%) of any wall of such accessory building less than eight feet (8') in length, shall be an integral part of the main building and such accessory building shall comply in all respects with the requirements of this ordinance applicable to a main building. An accessory building, unless attached to and made a part of the main building, as above provided for, shall be not closer than five feet (5') to the main building. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.015 Accessory Use.

A use customarily incidental and accessory to the principal use of a lot or of a main building or structure located upon the same lot as the accessory use. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.020 Addition.

An extension of or increase in the floor area of a building or structure. (Ord. 5416, 2007.)

28.04.025 Agent.

Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities who represent or act for or on behalf of a applicant in selling or offering to sell any dwelling unit. (Ord. 4000 §1, 1979.)

28.04.030 Agriculture.

The tilling of the soil, the raising of crops, horticulture and the harvesting, sorting, cleaning, packing and shipping of agricultural products produced on the premises preparatory to sale or shipment in their natural form including all activities or uses customarily incidental thereto, but not including a slaughter house, fertilizer works, commercial dairying, pasturage agriculture, commercial viticulture, commercial animal and poultry husbandry, retail sales, the commercial packing or processing of products not grown on the premises or operations for the reduction of animal matter or any other use which is similarly objectionable because of odor, smoke, dust, fumes, vibration or danger to life or property. (Ord. 4878, 1994.)

28.04.035 Alley.

A public or private way 25 feet or less in width that is primarily used for vehicular access to the back or side of properties. Alleys typically do not meet standard requirements for City streets, which include curbs, gutters, sidewalks, or similar improvements. Typically, alleys are separated from adjacent parcels by a lot line. An alley may have an official name and may be shown on the official street map of the City of Santa Barbara. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.040 Alteration.

An exterior change or modification. For the purposes of this title, an alteration shall include, but not be limited to, exterior changes to or modification of a structure, including the architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, a structural addition, cutting or removal of trees and other natural features, disturbance of archaeological or paleontological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property. (Ord. 5416, 2007.)

28.04.045 Antenna.

Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves, including devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and arranged from a generally horizontal boom. It may be mounted upon and rotatable through a vertical mast interconnecting the boom and a support for the antenna. (Ord. 4147, 1982.)

28.04.050 Antenna, Cellular Telephone, and Two-Way and One-Way Paging Systems.

Any radio or microwave repeating structure, and associated equipment and structures including microcells, used for transmitting or receiving radio signals for cellular telephones and pagers. (Ord. 4891, 1994.)

28.04.055 Antenna, Height Above Grade.

The vertical distance from the ground to the point to be measured through the axis of the antenna, antenna support, or antenna tower. (Ord. 4147, 1982.)

28.04.060 Antenna, Radio or Television.

Any antenna, and associated equipment and structures, used for transmission of commercial television and broadcast radio. (Ord. 4891, 1994.)

28.04.065 Antenna Support.

Any devices for supporting an antenna which is other than a tower. (Ord. 4147, 1982.)

28.04.070 Antenna Tower.

Any substantial wood or metal structure used to support one or more antennas and which is affixed to the ground or an existing structure. A tower may be self-supporting or supported by an existing structure or by guy wires. (Ord. 4147, 1982.)

28.04.075 Antennas, Emergency Service.

Any antenna, and associated equipment and structures, used principally for communications related to government provided emergency services, including but not limited to, police, fire, and paramedic services. (Ord. 4891, 1994.)

28.04.080 As-Graded.

The extent of surface conditions on completion of grading. (Ord. 5416, 2007.)

28.04.085 Association.

The organization of persons who own a lot, parcel, area, condominium or right of exclusive occupancy in a project. (Ord. 4000 §1, 1979.)

28.04.090 Automated Teller Machine (ATM).

An electronic device from which a person is able to withdraw cash, make a deposit, or undertake other financial transactions. (Ord. 5072, 1998.)

28.04.095 Automobile Service Station.

A retail business establishment primarily supplying gasoline, other types of fuel, oil, minor accessories and services for motor vehicles, excluding painting, body work and steam cleaning. (Ord. 4033 §1, 1980; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.100 Automobile Service Station/Mini-Market.

A retail business establishment supplying gasoline, other types of fuel, oil and services for motor vehicles which also sells other products, merchandise or services that are not directly related to the operation of motor vehicles where such sale is by means other than vending machines. (Ord. 4033 §2, 1980.)

28.04.105 Balcony.

A cantilevered platform that projects from the wall of a building above the ground and is surrounded by a railing, balustrade, or parapet. (Ord. 5459, 2008.)

28.04.110 Basement.

That portion of a building between floor and ceiling which is partly below and partly above grade (as defined in this chapter), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. A basement shall be counted as a story. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.115 Bed and Breakfast Inn.

The definitions of "Bed and Breakfast Inn" and "Hotel" are synonymous. See Section 28.04.395. (Ord. 5459, 2008; Ord. 4199, 1983.)

28.04.120 Bedroom.

Any habitable room in a dwelling other than a bathroom, a kitchen or a living room (except in studios, where a living room is considered a habitable room). (Ord. 3950 §2, 1978.)

28.04.125 Birth Center.

A structure that contains facilities to assist in human births, but is not licensed as a hospital. (Ord. 4152, 1982.)

28.04.130 Boarding House.

A building, group of buildings or a portion of a building which is designed for or occupied as sleeping quarters for five (5) or more paying guests and where meal service is included in the price of the lodging. A boarding house is not considered a single residential unit. (Ord. 5459, 2008; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.135 Building.

Any structure having a roof supported by columns or walls for the shelter, housing or enclosure of persons, animals, chattels or property of any kind. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.140 Building Height.

The maximum vertical height of a building or structure at all points measured from natural or finished grade, whichever is lower. Architectural elements that do not add floor area to a building, such as chimneys, vents, antennae, and towers, are not considered a part of the height of a building, but all portions of the roof are included. (Ord. 5416, 2007; Ord. 4641, 1990; Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.145 Building, Main.

A building in which the principal use of the lot is conducted. (Ord. 5459, 2008.)

28.04.150 Bungalow Court.

Three (3) or more detached single or duplex dwellings located upon a single lot under one (1) ownership, together with all open spaces as required by this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.155 Car Wash.

Any business whose activity involves washing, steam cleaning, or detailing motor vehicles. (Ord. 5459, 2008.)

28.04.160 Carport.

A building with a solid weatherproof roof that is permanently open on at least two sides and is designed to shelter one or more vehicles. A carport may be freestanding or attached to another structure. A trellis or other similar structure is not considered a carport. (Ord. 5459, 2008.)

28.04.165 Cellar.

That portion of a building between floor and ceiling which is wholly or partly below grade (as defined in this chapter) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. A cellar shall not be counted as a story if the vertical distance from grade to ceiling is four feet (4') or less on all sides. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.170 Child Care Center.

Any State-licensed child care facility other than a family day care home in which less than 24-hour per day non-medical care and supervision is provided in a group setting for children under 18 years of age. (Ord. 4858, 1994.)

28.04.175 Club.

Any organization, group or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests, but shall not include any organization, group or association, the chief activity of which is to render a service customarily carried on as a business. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.180 Commercial.

Managed on a business basis for profit derived from the promise or delivery of compensation, money, rent, or other bargained-for consideration in exchange for: (a) goods; (b) services; (c) rights or interests in property; or (d) any other valuable consideration. (Ord. 4924, 1995.)

28.04.185 Common Area.

Common area is an entire project excepting all units therein granted or reserved. (Ord. 4000 §1, 1979.)

28.04.190 Community Apartment.

As defined in Section 11004 of the Business and Professions Code. (Ord. 4000 §1, 1979.)

28.04.195 Community Care Facility.

A State-licensed facility, place or building which is maintained and operated to provide non-medical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, as further defined in Chapter 3 of Division 2 of the California Health and Safety Code; but not including a group home. (Ord. 4924, 1995; Ord. 4858, 1994.)

28.04.200 Compaction.

The act of increasing the density of a fill by mechanical means. (Ord. 5416, 2007.)

28.04.205 Condominium.

As defined in Sections 783 and 1350 of the Civil Code. (Ord. 4000 §1, 1979.)

28.04.210 Condominium, Community Apartment.

The development of land and attached structures as a condominium or community apartment project, regardless of the present or prior use of such land and structures, and regardless of whether substantial improvements have been made to such structures. (Ord. 4000 §1, 1979.)

28.04.215 Condominium or Community Apartment Project.

A plan by a developer to sell residential condominium or community apartment units in a building through conversion to condominium or community apartment status. (Ord. 4000 §1, 1979.)

28.04.220 Condominium Unit.

The elements of a condominium which are not owned in common with the owners of other condominiums in the project. (Ord. 4000 §1, 1979.)

28.04.225 Congregate Dining Facility.

A room or rooms which contain suitable space for group dining to feed all the residents of the facility in one or two sittings, accessible to and for the primary use of the residents of a State licensed residential facility for the elderly or similar residential facility. Such a facility shall provide full meal service for the residents which shall include at least two meals per day for seven days per week. (Ord. 4413, 1986.)

28.04.230 Court.

An area open to the sky that is enclosed on at least three sides by walls, sometimes referred to as a courtyard. (Ord. 5459, 2008; Ord. 5416, 2007.)

28.04.235 Deck.

An outdoor platform wholly or partially supported from the ground below, which may be surrounded by a railing, balustrade, or parapet. A deck can be freestanding or attached to a building. (Ord. 5459, 2008.)

28.04.240 Deck, Roof.

A deck constructed above any top plate of a structure and which is designed to function as useable outdoor area. (Ord. 5459, 2008.)

28.04.245 Distance Between Buildings.

The shortest distance measured from the exterior wall or supporting post(s) of a building to the nearest exterior wall or supporting post(s) of another building. (Ord. 5459, 2008.)

28.04.250 Drive-Through Facility.

Drive-through facility means a motor vehicle drive-through facility which is a commercial building or structure or portion thereof which is designed or used to provide goods or services to the occupants of motor vehicles. It includes, but is not limited to, banks and other financial institutions, fast food establishments, and film deposit/pick-up establishments, but shall not include drive-in movies, gasoline stations, or car-wash operations. (Ord. 4001, 1979.)

28.04.255 Driveway.

A minor private way that provides vehicular access from a street or alley to an on-site parking facility. Driveways may provide vehicular access for up to four lots or to multiple buildings on the same lot. Driveways are usually differentiated from private streets by shorter lengths, narrower widths, and the lack of curbs, gutters, sidewalks, street lights, and similar improvements. Driveways are usually differentiated from alleys in that they are located on the lots to which they provide vehicular access, while alleys are normally separated from adjacent real property by a lot line. Except as otherwise specified in this Title, setbacks do not apply to driveways. (Ord. 5459, 2008.)

28.04.260 Dwelling Unit.

As used in this title, the terms dwelling unit and residential unit are synonymous. (Ord. 5459, 2008; Ord. 4858, 1994; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.265 Earth Material.

Any rock, natural soil or fill or any combination thereof. (Ord. 5416, 2007.)

28.04.270 Educational Institution.

An institution of learning giving general academic instruction equivalent to the standards prescribed by the State Board of Education; or, a non-profit institution or center of advanced study and research in the field of learning equivalent to or higher than the level of standards prescribed by the State Board of Education. An educational institution may include administrative offices, classrooms, technical and other support services directly related to the operations of the institution. (Ord. 4181, 1982; Ord. 3710, 1974; Ord. 2729, 1959.)

28.04.273 Emergency Shelter.

Housing for homeless persons with minimal supportive services that is limited to a length of occupancy of not more than six months. Minimal supportive services shall mean administrative offices, intake and waiting areas, kitchen and dining facilities, and laundry facilities as long as the facilities are directly related to the operation of the emergency shelter or for the exclusive use of the residents of the emergency shelter. Homeless shelters providing more than minimal supportive services or supportive services to persons other than the residents of the shelter shall require a conditional use permit pursuant to Section 28.94.030.W of this Title. (Ord. 5662, 2014.)

28.04.275 Erosion.

The wearing away of the ground surface as a result of the movement of wind, water or ice. (Ord. 5416, 2007.)

28.04.280 Excavation.

The mechanical removal of earth material. (Ord. 5416, 2007.)

28.04.285 Existing Grade.

The grade prior to grading. (Ord. 5416, 2007.)

28.04.290 Family.

A single residential unit or a person or group of persons living together as a domestic unit in a single residential unit. (Ord. 4858, 1994; Ord. 3710, 1974; Ord. 3648, 1974.)

28.04.295 Family Day Care Home.

A State-licensed home which regularly provides care, protection, and supervision of children under 18 years of age in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, as further defined and permitted pursuant to the California Health and Safety Code and other applicable State Regulations. The term "Family Day Care Home" includes the terms “Large Family Day Care Home” and “Small Family Day Care Home” as such terms are defined in Sections 1597.465 and 1597.44 of the California Health and Safety Code. (Ord. 5459, 2008; Ord. 4858, 1994.)

28.04.300 Fast Food Restaurant.

Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes foods, frozen desserts, or beverages that are usually served in edible containers or in paper, plastic, or other disposable containers. (Ord. 4063, 1980.)

28.04.305 Fill.

A deposit of earth material placed by artificial means. (Ord. 5416, 2007.)

28.04.310 Finished Grade.

The final grade of the site that conforms to the approved plan. (Ord. 5416, 2007.)

28.04.315 Floor Area, Net.

The net floor area of a building shall be calculated in accordance with the following general rule and any applicable special rules:

A. **GENERAL RULE.** Net floor area shall be defined as the area in square feet of all floors confined within the exterior walls of a building, but not including the area of the following: exterior walls, vent shafts, courts, and any areas with a ceiling height of less than five (5) feet above the finished floor.

B. **SPECIAL RULES.**

1. The area occupied by stairs or an elevator shaft within the exterior walls of a building shall be counted only on one floor of the building.

2. Freestanding accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation. (Ord. 5459, 2008; Ord. 5416, 2007.)

28.04.320 Frontage of Block.

That dimension along one (1) side of a street between two (2) intersecting streets, or between an intersecting street and the end of a street where such frontage is not between two (2) intersecting streets. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.325 Garage, Private.

A building or portion of a building in which motor vehicles used by the occupants or tenants of the main building or buildings on the premises are stored or kept. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.330 Garden Apartment Development.

A multiple-family residence development of four (4) or more dwelling units of high quality designed to provide greater amenities than are normally provided in R-3 apartment developments, the plans and specifications, site development plans, landscaping plans and general appearance of which meet the approval of the Board of Land Use Controls. (Ord. 3710, 1974; Ord. 3117, 1966.)

28.04.335 Gazebo.

A freestanding, open-sided, roofed structure. (Ord. 5459, 2008.)

28.04.340 General Plan.

The comprehensive General Plan of the City of Santa Barbara together with all Specific Plans adopted by the City Council. (Ord. 4000 §1, 1979.)

28.04.345 Grade.

The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet (5’) from the building, between the building and a line five feet (5’) from the building. In case walls are parallel to and within five feet (5') of a public sidewalk, alley or public way, the grade shall be the elevation of the sidewalk, alley or public way. The term exterior wall shall include columns or other supporting members, whether free-standing or connected to a wall. (Ord. 5416, 2007; Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.350 Grading.

Any excavating or filling or combination thereof. (Ord. 5416, 2007.)

28.04.355 Group Home.

The residence of a group of persons with mental or other handicaps, or otherwise disabled, which is organized as a single, relatively stable, bonafide housekeeping unit. Residents of a group home are a "household" for purposes of this Code, and a group home is one residential unit.

The term "group home" does not include any center for the medical treatment of non-handicapped persons, halfway house, club, fraternity or sorority house, boarding house, dormitory, or the commercial use of property as a bed and breakfast, hostel, hotel, inn, lodging, motel, resort, timeshare project or other temporary lodging where the term of occupancy, possession, or tenancy is fewer than thirty (30) days. (Ord. 4924, 1995.)

28.04.360 Guest Room.

Any habitable room, except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit. (Ord. 4199, 1983.)

28.04.365 Hazardous Waste.

A waste, or combination of wastes, which because of the quantity, concentration or physical and chemical characteristics may either a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. Hazardous waste also includes those materials described in Title 22, Division 4.5, Chapter 11, California Code of Regulations (CCR). (Ord. 4825, 1993.)

28.04.370 Hazardous Waste Management Facility, Off-Site.

An "Off-site Hazardous Waste Management Facility" means a facility that accepts hazardous wastes from more than one generator, and may also be referred to as a Commercial or Specified Hazardous Waste Facility.

An Off-site Hazardous Waste Management Facility shall include the following:

A. Hazardous Waste Transfer Station. "Hazardous Waste Transfer Station" means a facility where hazardous waste from more than one source is collected and consolidated for shipment to a treatment, recycling and/or disposal facility or facilities. Transfer stations which handle only latex paint, used oil, antifreeze, spent lead acid batteries and/or small household batteries in accordance with provisions of California Health and Safety Code Section 25201(c) and meet all conditions for exemption outlined in California Health and Safety Code Section 25201(c), and are known as a household hazardous waste collection facility, are specifically excluded from this definition.

B. Hazardous Waste Storage Facility. "Hazardous Waste Storage Facility" means a hazardous waste facility at which hazardous waste is contained for a period greater than 96 hours at an off-site facility with specified exceptions provided in the California Health and Safety Code, Section 25123.3. On-site facilities which store hazardous wastes for periods of greater than 90 days shall be considered to be an Off-site Hazardous Waste Storage Facility.

C. Hazardous Waste Treatment Facility. "Hazardous Waste Treatment Facility" means a facility where the toxicity, chemical form and/or volume of a hazardous waste is altered to render the waste less toxic, less chemically active, or of a reduced volume.

D. Hazardous Waste Recycling Facility. "Hazardous Waste Recycling Facility" means a facility engaged in the process of reclaiming, using or reusing hazardous wastes.

E. Hazardous Waste Residuals Repository. "Hazardous Waste Residuals Repository" means a disposal facility for the long-term storage of the byproducts of treated hazardous waste for which there is no further means of practical treatment to render them less toxic or less chemically reactive. (Ord. 4825, 1993.)

28.04.375 Hazardous Waste Management Facility, On-Site.

A facility that stores, treats, recycles and/or disposes of hazardous waste generated only within the facility's boundaries. (Ord. 4825, 1993.)

28.04.380 Hazardous Waste Management Plan.

A plan prepared, adopted and amended from time to time, pursuant to Section 25135 of the California Health and Safety Code by Santa Barbara County to direct the management of hazardous wastes within the boundaries of the County. It is also known as the Hazardous Waste Element of the Santa Barbara County Comprehensive Plan. (Ord. 4825, 1993.)

28.04.385 Home Occupation.

Any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof or adversely affect the use or uses permitted in the zone in which the dwelling is located, and in connection with which there shall be no exterior display, no display windows, no stock in trade or commodity stored or sold upon the premises, no persons employed, and no mechanical, electrical or other specialized equipment used except such as is necessary for ordinary housekeeping purposes. Clinics, hospitals, barber shops, beauty parlors, tea rooms, tourist courts, rest homes, insurance and real estate offices, dancing schools, retail stores, commercial manufacturing, animal hospitals, kennels, among others, and any business which requires a City permit or license, except licenses issued for revenue purposes only, shall not be deemed home occupations. (Ord. 3710, 1974; Ord. 2938, 1963.)

28.04.390 Hospice.

A State-licensed facility which provides 24-hour nursing and supportive care and other services in a home-like setting to persons who have a medical diagnosis of terminal illness. (Ord. 4858, 1994.)

28.04.395 Hotel.

A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses. (Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.400 Household.

A person, or a group of persons living together as a single, relatively permanent, bonafide housekeeping unit in a residential unit. Any reference in this Code to "family" means "household".

The term "Household" does not include any center for the medical treatment of non-handicapped persons, halfway house, club, fraternity or sorority house, boarding house, dormitory, or the commercial use of property as a bed and breakfast, hostel, hotel, inn, lodging, motel, resort, timeshare project or other temporary lodging where the term of occupancy, possession, or tenancy is fewer than thirty (30) consecutive calendar days. (Ord. 4924, 1995.)

28.04.405 Household Hazardous Waste Collection Facility.

A facility run by, or under contract to, a public agency which only accepts certain types of hazardous materials and then only for transport to an authorized recycling facility or to a permitted hazardous waste collection facility. The types of wastes that can be accepted are latex paint, used oil, antifreeze, spent lead-acid batteries and small household batteries in accordance with all provisions of California Health and Safety Code Section 25201(c). The materials cannot be stored for more than 180 days. Such facilities shall be accessible to individuals, households or small businesses. (Ord. 4825, 1993.)

28.04.410 Junk Yard.

The term junk yard includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for the storage, keeping or abandonment of junk including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, or machinery or parts thereof. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.415 Kitchen.

Any room used or intended or designed to be used for cooking and/or preparation of food. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.420 Lot.

A parcel of land shown with a separate and distinct number on a plot or map recorded or filed with the Recorder of the County or a parcel of land held under separate ownership on the effective date of this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.425 Lot, Corner.

A lot situated at the intersection of two (2) or more streets having an angle of intersection of not more than one hundred thirty-five degrees (135º). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.430 Lot, Interior.

A lot other than a corner lot. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.435 Lot Line, Front.

The line or lines dividing a lot from a public or private street. The line or lines that divide a lot from an alley or a driveway shall not be considered front lot lines. On lots that abut multiple streets, all lines that divide the lot from a street shall be considered front lot lines. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3444, 1970; Ord. 2763, 1963.)

28.04.440 Lot Line, Interior.

Any lot lines other than front lot lines. (Ord. 3710, 1974; Ord. 3587, 1973.)

28.04.445 Lot, Through.

A lot having frontage on two (2) parallel or approximately parallel streets. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.450 Mezzanine.

Mezzanine or mezzanine floor is an intermediate floor placed in any story or room. When the total area of any such mezzanine floor exceeds thirty-three and one-third percent (33-1/3%) of the total floor area in that room, it shall be considered as constituting an additional story. The clear height above or below a mezzanine floor construction shall be not less than seven feet (7'). (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.455 Microcell.

A small cellular transceiver facility installed at or below ground level and comprised of a utility cabinet, one or more small antennas mounted on a steel pipe, an existing public utility pole or existing structure, and transmitters with an effective radiated power not exceeding five watts per channel and not to exceed a total of 200 watts per facility. (Ord. 4891, 1994.)

28.04.460 Mixed Use Development.

A development in which both nonresidential and residential uses are permitted on the same lot. (Ord. 4946, 1996.)

28.04.465 Mobilehome.

A structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the California Vehicle Code. Mobilehome includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code, and a mobilehome as defined in Section 18008 of the California Health and Safety Code, but does not include a recreational vehicle as defined in Section 28.04.555 of this Code and Section 18010 of the California Health and Safety Code, or a commercial coach as defined in Section 18001.8 of the California Health and Safety Code. (Ord. 5459, 2008; Ord. 4269, 1984; Ord. 4113, 1981.)

28.04.470 Mobilehome Park.

An area of land where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes for more than thirty (30) days. (Ord. 4269, 1984.)

28.04.475 Mobilehome Park Space.

That portion of a mobilehome park set aside and designated for the occupancy of one (1) mobilehome, including any contiguous area designed or used for automobile parking, carport, storage, awning, cabana or other use which is clearly incidental and accessory to the primary use of the space. (Ord. 4269, 1984.)

28.04.480 Modular Cooking Unit.

A self-contained cooking and food preparation area shall be permitted when located in a state-licensed residential care facility for the elderly, community care facility, or hospice after a performance standard permit or conditional use permit is obtained pursuant to either Chapter 28.93 or Chapter 28.94 of this Code. The modular cooking unit shall contain no more than a two-burner stove, oven or microwave oven, single compartment sink, refrigerator, utensil drawer(s), and cabinet(s) in one detachable module. The modular cooking unit shall not be larger than eighteen (18) square feet. Dishwashers and garbage disposals shall not be allowed. The modular cooking unit shall not be located in a room separated from other living areas, but could be located in a small recessed opening off other living areas. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.04.485 Motel.

The definitions of "Motel" and "Hotel" are synonymous. See Section 28.04.395. (Ord. 5459, 2008; Ord. 4199, 1983.)

28.04.490 Multiple Residential Unit.

A building, or portion thereof, configured and/or occupied as three (3) or more residential units and including apartment houses, but not including hotels. (Ord. 4858, 1994.)

28.04.495 Nonconforming Building.

A building, structure or portion thereof which does not conform to the regulations of this ordinance and which lawfully existed at the time the regulations with which it does not conform became effective. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.500 Nonconforming Use.

A use of a building or land which does not conform to the regulations of this ordinance and which lawfully existed at the time the regulations with which it does not conform became effective. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.505 Non-Transient Tenant.

A person who has resided in a residential hotel for a period of more than 30 days as of the time a development application is submitted for that residential hotel. (Ord. 4984, 1996.)

28.04.510 Owner.

Any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be converted to commence, maintain, and complete proceedings to convert the same under this ordinance. (Ord. 4000 §1, 1979.)

28.04.515 Parcel.

A general term including all plots of land shown with separate identification on the latest equalized county assessment roll. Parcels may or may not be separate lots, depending upon whether or not such parcels are created as required by the Subdivision Ordinance. (Ord. 4000 §1, 1979.)

28.04.520 Patio.

A hardscaped (e.g., concrete, tile, brick, stone, etc.) space, constructed on the ground, usually adjoining a building and intended for indoor-outdoor living and recreation. A patio may be surrounded by walls or roofed, but not both. (Ord. 5459, 2008.)

28.04.525 Planned Residence Development.

One (1) or more contiguous parcels of land in a single ownership or planning control which shall be planned and developed as a single unit, under provisions of this ordinance, in a manner which shall be in harmony with the basic characteristics of the land use zone district in which it is located. (Ord. 3710, 1974; Ord. 2892, 1962.)

28.04.530 Porch.

A raised platform, usually roofed and sometimes partly enclosed with low walls, that extends along an outside wall of a building, usually at an entrance to a dwelling. A porch may also be referred to as a veranda. (Ord. 5459, 2008.)

28.04.535 Public Facility.

A facility open to the public and owned or operated by a governmental entity. (Ord. 4152, 1982.)

28.04.540 Public Utilities.

The general classification for public water, gas, sewer, electrical, cable television and telephone lines and facilities; does not include natural or improved drainage facilities. (Ord. 4000 §1, 1979.)

28.04.545 Public Works Director.

The Public Works Director or any of his deputies or assistants. (Ord. 4000 §1, 1979.)

28.04.550 Quasi-Public Facility.

A facility that is open to the public and has a public purpose but is not owned or operated by a governmental entity. A community center, a public museum, and an art gallery are examples of a quasi-public facility. (Ord. 4152, 1982.)

28.04.555 Recreational Vehicle.

A. RECREATIONAL VEHICLE. A motor home, slide-in camper, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy.

B. CAMPING TRAILER. A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite and designed for human habitation for recreational or emergency occupancy.

C. MOTOR HOME. A vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

D. SLIDE-IN CAMPER. A portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for human habitation for recreational or emergency occupancy and shall include a truck camper.

E. TRAVEL TRAILER. A portable unit, mounted on wheels, of such a size and weight as not to require special highway movement permits when drawn by a motor vehicle and for human habitation for recreational or emergency occupancy. (Ord. 4269, 1984.)

28.04.560 Recreational Vehicle Park.

Recreational vehicle park includes a permanent recreational vehicle park and overnight recreational vehicle park as defined in this Chapter. (Ord. 4269, 1984.)

28.04.565 Recreational Vehicle Park (Overnight).

Any area of land where two (2) or more recreational vehicle spaces are rented, or held out for rent, to owners or users of recreational vehicles used for travel or recreational purposes for less than thirty (30) days. (Ord. 4269, 1984.)

28.04.570 Recreational Vehicle Park (Permanent).

An area of land where two (2) or more recreational vehicle spaces are rented, or held out for rent, to accommodate recreational vehicles for residential purposes for thirty (30) or more days. (Ord. 4269, 1984.)

28.04.575 Recreational Vehicle Space.

That portion of a recreational vehicle park set aside and designated for the occupancy of one (1) recreational vehicle, including any contiguous area designed or used for automobile parking, carport, storage, awning, cabana or other use which is clearly incidental and accessory to the primary use of the space. (Ord. 4269, 1984.)

28.04.580 Residential Care Facility for the Elderly.

A housing arrangement where the residents are at least sixty years of age and where varying levels of care, supervision, or health-related services are provided to the residents based on their varying needs. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in such a facility, not to exceed 25 percent of the residents, as further defined in Chapter 3.2 of Division 2 of the California Health and Safety Code. (Ord. 4858, 1994.)

28.04.585 Residential Hotel.

A hotel or boarding house or similar residential facility where, on the date of the adoption of this ordinance, the average duration of stay for the residents thereof exceeds thirty (30) days. (Ord. 4984, 1996.)

28.04.590 Residential Unit.

A. A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses.

B. A residential unit may be declared by the Community Development Director when a building or portion thereof is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:

1. Sink or bar sink;
2. Garbage disposal;
3. Dishwasher;
4. Toilet;
5. Bathing facility;
6. Interior locking doors;
7. Exterior entrance;
8. Exterior staircase;
9. Separate yard, patio, deck or balcony;
10. Separate phone line, cable line, or utility line;
11. Separate garage or parking area (covered or uncovered) or carport;
12. Countertops or cupboards;
13. Sleeping loft; or

14. Separate address/mail box designation.

Issuance of a building permit or other approvals does not, of itself, establish that a building or portion thereof is not a residential unit.

C. Notwithstanding this Section, a building or portion thereof configured or occupied for residential purposes, whether permanent or temporary, containing a modular cooking unit shall not be deemed a residential unit providing:

1. A performance standard permit or conditional use permit has been issued pursuant to either Chapter 28.93 or Chapter 28.94 of this Code; and

2. The facility has current, valid state licenses to operate a residential care facility for the elderly, community care facility or hospice; and

3. There is a staffed congregate kitchen and dining facility on-site providing regular meals to all residents. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.04.595 Rough Grade.

The stage at which the grade approximately conforms to the approved plan. (Ord. 5416, 2007.)

28.04.600 School, Elementary or High.

An institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California. High schools include junior and senior, parochial and private. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.605 Secondary Dwelling Unit.

A separate, complete housekeeping unit consisting of two (2) or more rooms for living and sleeping purposes, one of which is a kitchen, and having a maximum square footage of six hundred (600) square feet, that is substantially contained within the structure of a one-family dwelling. (Ord. 4225, 1983.)

28.04.610 Self-Service Laundry.

Any establishment for laundering where there is no pick-up or delivery service and no steam or hand laundry of any type; provided, however, that all washing machines and accessory extractors and dryers shall be installed on a single floor and there shall be no intermingling of customers' laundry. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.615 Service Station.

Service station includes both automobile service stations and automobile service station/mini-markets. (Ord. 4033 §3, 1980.)

28.04.620 Setback, Front.

An area between the front lot line and a line parallel to the front lot line bounded by the interior lot lines of the lot that are roughly perpendicular to the front lot line, the depth of such area being the distance required by this zoning ordinance. The front setback is to be provided and maintained as an open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 5459, 2008.)

28.04.625 Setback, Interior.

An area between an interior lot line and a line parallel to the interior lot line bounded by the two lot lines adjacent to the interior lot line from which the setback is measured, the depth of such area being the distance required by this zoning ordinance. The interior setback is to be provided and maintained as an open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 5459, 2008.)

28.04.630 Single Residential Unit.

A residential building configured as not more than one (1) residential unit and occupied by not more than one household. (Ord. 4924, 1995; Ord. 4858, 1994.)

28.04.635 Skilled Nursing Facility.

A State-licensed health facility or a distinct part of a hospital which provides continuous skilled nursing care and supportive care to patients whose primary need is for the availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes physician, nursing, dietary, pharmaceutical services and an activity program. Intermediate care programs which provide skilled nursing and supportive care for patients on a less than continuous basis shall be considered skilled nursing facilities for the purposes of this Ordinance. "Skilled Nursing Facility" and "Intermediate Care Facilities" are further defined in Chapter 2, Division 2 of the California Health and Safety Code. (Ord. 4858, 1994.)

28.04.640 Stock Cooperative.

As defined in Section 11003.2 of the Business and Professions Code. (Ord. 4000 §1, 1979.)

28.04.645 Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between such floor and the ceiling next above it. The number of stories in a building shall be construed to be the maximum number of stories through which any one (1) of an unlimited number of possible vertical lines can pass, without passing through a wall, excluding certain mezzanines as provided in Section 28.04.410. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.650 Street.

A public or private way constructed for the primary purpose of vehicular travel. An alley or a driveway is not a street. The term "street" describes the entire legal right-of-way or easement (public or private), including, but not limited to, the traffic lanes, bike lanes, curbs, gutters, sidewalk whether paved or unpaved, parkways, and any other grounds found within the legal street right-of-way. The name given to the right-of-way (avenue, court, road, etc.) is not determinative of whether the right-of-way is a street. (Ord. 5459, 2008.)

28.04.655 Street Frontage.

The length of the front lot line along an adjacent street. For the purpose of computing the street frontage of an irregularly shaped lot which is narrower at the front than at the rear, said measurement shall be along a straight line approximately parallel to the street and at a distance from the front property line equal to the front setback. (Ord. 5459, 2008.)

28.04.660 Street, Private.

A street that is privately owned. Private streets do not appear on the official dedicated street map of the City of Santa Barbara. Private streets generally provide access to multiple lots or units and are usually named, unlike driveways. Private streets may be constructed to public street standards. Private streets are generally differentiated from driveways by larger widths, longer lengths, and may include public or private utilities. A private street may also be referred to as private road, lane, or drive. (Ord. 5459, 2008.)

28.04.665 Street, Public.

Any street shown on the official dedicated street map of the City of Santa Barbara, as such map may be amended from time to time. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.670 Structural Alterations.

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, floor joists or roof joists. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.675 Structure.

Anything constructed or erected and the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.680 Time Share Project; Time Share Estate; Time Share Use.

(a) A "time-share project" is one in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

(b) A "time-share estate" is a right of occupancy in a time-share project which is coupled with an estate in the real property.

(c) A "time-share use" is a license or contractual or membership right of use in a time-share project which is not coupled with an estate in the real property. (Ord. 4199, 1983.)

28.04.685 Tourist Court.

The definitions of "Tourist Court" and "Hotel" are synonymous. See Section 28.04.395. (Ord. 5459, 2008; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.690 Trellis.

A structure or frame supporting open latticework, sometimes referred to as a pergola or arbor. A trellis is not considered an accessory building. (Ord. 5459, 2008.)

28.04.695 Two-Residential Unit.

A building configured and/or occupied as not more than two (2) residential units. (Ord. 4858, 1994.)

28.04.700 Vertical.

Perpendicular to the plane of the horizon. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.705 Yard.

A yard is an open space, on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

It is the intent of this ordinance to require yard area in all residential zones, which shall be adequate to provide light and air, separation of buildings, privacy of occupancy, reduction of fire hazards, control of building density, enjoyment of occupants, and preservation of residential amenities.

For the purpose of this title, open parking of automotive vehicles, trailers and boats shall be considered as an obstruction. (Ord. 3710, 1974; Ord. 3587, 1973; Ord. 2763, 1960.)

28.04.710 Yard, Front.

A yard extending across the full width of the lot between the front lot line and the nearest wall of any main building on the lot. This yard shall be measured by extending perpendicular lines from each point of the front lot line to the nearest wall of any main building on the lot. Where there is no wall of any main building on the lot which intercepts said perpendicular lines, said yard will terminate at a point determined by extending a line parallel to the front lot line from the corner of the front elevation of the main building to the nearest lot line. The front elevation of a building is any elevation that faces a street. If the corner of the front elevation is rounded (i.e., a tower), the corner of the elevation shall be established by drawing the smallest square or rectangle that will enclose the round element and extend the line from the corner of the superimposed square or rectangle that is closest to the front lot line. (Ord. 5459, 2008; Ord. 3806, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.715 Yard, Open.

A required yard, the purpose of which is to provide usable outdoor living space and/or visual open space. (Ord. 5459, 2008.)

28.04.720 Yard, Primary Front.

A front yard, on a lot with multiple front yards, designated by the property owner and approved by the Community Development Director or the Director's designee as the primary front yard. All other front yards on the lot shall be secondary front yards. (Ord. 5459, 2008.)

28.04.725 Yard, Remaining Front.

The area of the front yard outside the required front setback. (Ord. 5459, 2008.)

28.04.730 Yard, Secondary Front.

Any front yard on a lot with multiple front yards that is not designated as the primary front yard. (Ord. 5459, 2008.)

Chapter 28.05

STAFF HEARING OFFICER

Sections:

28.05.010 Staff Hearing Officer; Project Compatibility Criteria.
28.05.020 Suspensions and Appeals of Decisions of the Staff Hearing Officer to the Planning Commission.

28.05.010 Staff Hearing Officer; Project Compatibility Criteria.

A. STAFF HEARING OFFICER AUTHORITY. The Staff Hearing Officer means the Community Development Director or his or her designee. For purposes of this Title 28, the Staff Hearing Officer shall have the authority to investigate, approve, approve with conditions, or deny applications for development as specified in this Title 28. Notwithstanding any provision of this Code designating the Staff Hearing Officer as the reviewing body, if an application requires review by the Planning Commission under any provision of this Code, then all discretionary review of the application shall be conducted by the Planning Commission.

B. COMPATIBILITY CRITERIA. In making those land use decisions authorized for the Staff Hearing Officer by Title 28 of the Municipal Code, the Staff Hearing Officer shall take into consideration the comments of the Architectural Board of Review provided pursuant to the requirements of Section 22.68.045 or the comments of the Historic Landmarks Commission pursuant to Section 22.22.145 (as the appropriate case may be) and, in issuing a project approval or a project denial, the Staff Hearing Officer shall provide written comments on how the ABR or HLC comments affected the Staff Hearing Officer's land use decision. (Ord. 5464, 2008; Ord. 5380, 2005.)

28.05.020 Suspensions and Appeals of Decisions of the Staff Hearing Officer to the Planning Commission.

Where authorized by this Title 28, decisions of the Staff Hearing Officer may be suspended or appealed in accordance with the following procedures:

A. SUSPENSIONS. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer. Any review of a decision of the Staff Hearing Officer pursuant to this Subsection A shall be consolidated with and heard at the same time as any timely appeal of said decision.

B. APPEALS. The decisions of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant or any aggrieved person. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The appellant shall state specifically in the appeal how the decision of the Staff Hearing Officer is not in accord with the provisions of this Title or how it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. Except for appeals of actions taken pursuant to Chapter 28.44, the appellant shall pay at the time the appeal is filed a fee for such appeal as provided by resolution of the City Council. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

C. APPEALS OF DECISIONS OF PLANNING COMMISSION ON SUSPENSIONS OR APPEALS FROM THE STAFF HEARING OFFICER. The decisions of the Planning Commission on suspensions or appeals from decisions of the Staff Hearing Officer may be appealed to the City Council by the applicant or any aggrieved person pursuant to the provisions of Chapter 1.30. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5380, 2005.)

Chapter 28.06

PLANNING COMMISSION

Section:
28.06.010 Powers and Duties.

28.06.010 Powers and Duties.

The Planning Commission of the City shall exercise the following functions:

1. All actions provided by the Zoning Ordinance to be performed by the Planning Commission in connection with applications for modifications, variances, special use permits, conditional use permits, site plans, plot plans, development plans and planned residence developments.
2. Make recommendations to the City Council for amendments to the text of the Zoning Ordinance.
3. Act as Advisory Agency for subdivisions as provided for in Title 27 of this Code.
4. In making those land use decisions authorized for the Planning Commission by Title 28 of the Municipal Code, the Commission shall take into consideration the comments of the Architectural Board of Review provided pursuant to the requirements of Section 22.68.045 or the Historic Landmarks Commission pursuant to Section 22.22.145 (as the appropriate case may be) and, in issuing a project approval or a project denial, the Commission shall provide written comments on how the ABR or HLC comments affected the Commission's decision.
5. Such other functions as may be assigned by the City Council. (Ord. 5464, 2008; Ord. 5380, 2005; Ord. 3904 §10, 1977.)

Chapter 28.07

GENERAL PLAN AMENDMENT

Section:
28.07.010 General Plan Amendment Fee.

28.07.010 General Plan Amendment Fee.

In the event that the Planning Commission agrees to hold a hearing on a General Plan amendment, other than upon its own initiative or upon request of the City Council, the person seeking the General Plan amendment shall pay to the City the fee established by resolution of the City Council. Said fee shall be paid within five (5) days of the Planning Commission decision to hold the public hearing. (Ord. 3955, 1978.)

Chapter 28.08

SPECIFIC PLANS

Sections:
28.08.010 Procedures.
28.08.020 Issuance of Building Permits.

28.08.010 Procedures.

The procedure for the preparation, adoption and administration of specific plans shall be as provided by Articles 8, 9, and 10 of Chapter 3 of Division 1 of Title 7 of the California Government Code (commencing with Section 65450 et seq.), as most recently amended, except that a specific plan may only be approved or amended in the same manner that the general plan may be approved or amended pursuant to Section 1507 of the City Charter. (Ord. 4279, 1984.)

28.08.020 Issuance of Building Permits.

A building permit shall not be issued for any structure, alteration or use that is inconsistent with an adopted specific plan unless an exception is granted by the Community Development Director upon finding that the project allowed by the building permit would not impair the City's ability to complete or implement the Specific Plan. (Ord. 4279, 1984.)

Chapter 28.10

ZONES

Sections:

28.10.001 Establishing and Naming Zones.
28.10.010 Boundaries of Zones.
28.10.030 Uses Permitted in Zones.

28.10.001 Establishing and Naming Zones.

In order to classify, regulate, restrict and segregate the uses of land, buildings and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of setbacks, open yards, courts and other open spaces about buildings; and to regulate the density of population; the territory of the City of Santa Barbara is hereby divided into the following zone classifications:

ZONE		CHAPTER
A-1, A-2, E-1, E-2, E-3 & R-1	One-Family Residence Zones	28.15
R-2	Two-Family Residence Zone	28.18
R-3	Limited Multiple-Family Residence Zone	28.21
R-4	Hotel-Motel Multiple Residence Zone	28.21
HRC-1 & HRC-2	Hotel and Related Commerce Zones	28.22
R-H	Resort-Residential Hotel Zone	28.27
	Garden Apartment Developments	28.30
	Planned Residence Developments	28.33
PUD	Planned Unit Development Zone	28.36
PR	Park and Recreation Zone	28.37
P-D	Planned Development Zone	28.39
S-H	Senior Housing Zone	28.42
S-D-3	Coastal Overlay Zone	28.44
S-D	Special District Zone	28.45
SP-5	Westmont Faculty Housing Specific Plan	28.46
SP-7	Riviera Campus Specific Plan	28.47
R-O	Restricted Office Zone	28.48
SP-8	Hospital Zone	28.49
C-O	Medical Office Zone	28.51
C-P	Restricted Commercial Zone	28.54
C-L	Limited Commercial Zone	28.57
C-X	Research and Development and Administrative Office Zone	28.60
C-1	Limited Commercial Zone	28.63
C-2	Commercial Zone	28.66
C-M	Commercial Manufacturing Zone	28.69
H-C	Harbor Commercial Zone	28.70
OC	Ocean-Oriented Commercial Zone	28.71
M-1	Light Manufacturing Zone	28.72
OM-1	Ocean-Oriented Light Manufacturing Zone	28.73
HWMF	Hazardous Waste Management Facility Overlay Zone	28.75

(Ord. 5459, 2008; Ord. 5417, 2007; Ord. 5343, 2005; Ord. 5319, 2004; Ord. 4900, 1995; Ord. 4825, 1993; Ord. 4172, 1982; Ord. 4171, 1982; Ord. 4169, 1982; Ord. 3710, 1974; Ord. 2585, 1957.)

28.10.010 Boundaries of Zones.

Upon the effective date of amendment, boundaries of all areas to be zoned or rezoned, whether by application or initiated by the City, including zoning in areas to be annexed to the City shall be described and documented as follows:

1. a. Metes and bounds (bearings and distances in feet) covering all courses and distances around the boundaries of each area to be zoned or rezoned; or

b. Where the proposed boundary lines are coincident with existing parcel lines, the legal description of the property to be zoned or rezoned may be done by referencing the current assessor's block and parcel numbers or

c. Combination of the above as determined by the Community Development Director; or

d. When the preferred methods indicated above are determined to be impractical by the Community Development Director, a map which is drawn to scale may be used.

2. The description of subject boundary shall also include, but not be limited to, references to contiguous lines of public alleys, public streets, highways, freeways, and railroad property existing at the time of said zoning or rezoning.

3. The zone boundary description shall be prepared by the applicant and shall be made part of the application submitted to the Planning Commission. In the event that the rezoning is initiated by the City, the zone boundary description shall be prepared by the Public Works Director immediately following approval of zoning or rezoning by the City Council and shall be submitted to the City Attorney for preparation of the Zoning Ordinance amendment.

4. Said zoning and rezoning boundary descriptions shall hereafter be incorporated in each ordinance authorizing each zoning or rezoning classification including land use zones resulting within areas to be annexed to the City.

5. Applications for zoning or rezoning shall be submitted to the Planning Commission as required in Chapter 28.92, on standard forms prepared therefor and shall include one (1) copy of the current City parceling map showing all property involved and currently zoned in said application with the boundary of the portion requested to be rezoned outlined in red color.

6. In addition to documenting zone boundary descriptions, the zoning maps of the City of Santa Barbara, drawn to scale, shall also show the current boundaries of all zoned areas, including such zones documented by descriptions. Dimensions, if shown on the zoning map, shall concur with the dimensions (distances) cited in the corresponding documented zone descriptions.

7. Where uncertainty exists as to the boundary of any zone created and shown on the zoning map after the effective date of this amendment, the corresponding documented zoning description shall govern.

8. In the case of uncertainty as to interpretation of a zone boundary either documented by description or by the zone map in the absence of a documented boundary description, the City Council shall, after recommendation of the Planning Commission, determine the location of the boundary in question.

9. Where a zone boundary, not documented by description as set forth herein, crosses unsubdivided property or any lot and unless the location of such boundary is specified by dimensions shown on the zoning map, said boundary shall be determined by reference to City parceling maps maintained by the Chief of Building and Zoning and on which, in this instance, specific boundary locations shall be shown.

10. Where any public street, alley, or thoroughfare is officially vacated or abandoned and use of the land therein is conveyed to the contiguous property, the zoning regulations applicable to the contiguous property shall apply to the areas so vacated or abandoned.

11. Where any private right-of-way or easement of any railroad, railway, canal, transportation or public utility company is vacated or abandoned, the zoning regulations applicable to the contiguous property shall apply to such vacated or abandoned property.

12. All property in the City of Santa Barbara not otherwise classified, and all property hereafter annexed and not zoned upon annexation, is hereby classified as A-1 Zone.

13. At the time of any zoning or rezoning, the new zone boundary shall follow existing lot lines as shown on the Official Parceling Maps of the City of Santa Barbara, unless otherwise recommended by the Planning Commission. (Ord. 5380, 2005; Ord. 4190, 1982; Ord. 3632, 1974; Ord. 3020, 1965.)

28.10.030 Uses Permitted in Zones.

Except as hereinafter provided:

A. No building or structure shall be erected, moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed, or intended to be used, for any purpose or in any manner other than is permitted in the zones in which such land, building, structure or premises are located.

B. No building or structure shall be erected, moved, reconstructed or structurally altered to exceed in height the limit established for the zone in which such building or structure is located.

C. No building or structure shall be erected nor shall any existing building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the lot area, setback, and open yard regulations established for the zone in which such building or structure is located, except as otherwise provided in this title.

D. No setback, open yard, or other open space provided about any building or structure for the purpose of complying with these regulations shall, by reason of change in ownership or otherwise, be considered as providing a setback, open yard, or open space for any other building or structure. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.11

PROTECTION AND ENHANCEMENT OF SOLAR ACCESS

Sections:

28.11.010 Definitions.
28.11.020 Height Limitation.
28.11.030 Exemptions.
28.11.040 Rules and Regulations.

28.11.010 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. BASE ELEVATION. The elevation of the highest point of contact of a structure with the adjacent ground. For the purposes of this determination, all fences, covered and uncovered walkways, driveways, patio covers and other similar elements shall be considered separate structures.

B. NORTHERLY LOT LINE. Any lot line, of which there may be more than one per lot, that forms a generally north facing boundary of a lot and has a bearing greater than or equal to forty degrees from either true north or true south. For curved lot lines, the bearing of the lot line at any point shall be the bearing of the tangent to the curve at that point.

C. PLAN VIEW. A plot plan of the parcel which shows the horizontal dimensions of a parcel and each structure on the parcel.

D. RESIDENTIAL ZONE. An A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3 or R-4 zone as defined in Title 28 of the Santa Barbara Municipal Code.

E. SHADOW PLAN. A plot plan which shows the extent of shading caused by a proposed structure and is in compliance with the Rules and Regulations approved pursuant to Section 28.11.040 of this Chapter.

F. SOLAR ACCESS. The ability of a location to receive direct sunlight as provided by the height limitations of Section 28.11.020 of this Chapter. (Ord. 4426, 1986.)

28.11.020 Height Limitation.

The maximum elevation of each point on a structure in a residential zone as measured from the base elevation shall not exceed the sum of (i) eighteen (18) feet in an R-3 or R-4 zone or twelve (12) feet in all other residential zones and (ii) fifty-eight percent (58%) of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure. Any height limitation imposed by this Section shall be in addition to any other height limitation imposed in the Charter or this Code, such that the more restrictive height limitation shall apply. (Ord. 4426, 1986.)

28.11.030 Exemptions.

The following shall be exempt from the height limitations of Section 28.11.020:

A. Any portion of a structure in existence, or for which a valid building permit was issued, prior to the effective date of the ordinance first enacting this Chapter.

B. Any portion of a structure which received Preliminary Approval by the Architectural Board of Review prior to the effective date of the ordinance first enacting this Chapter.

C. Any flagpole, antenna, ornamental spire, chimney, or other building element less than four (4) feet along each horizontal dimension.

D. A utility pole and line.

E. Any portion of a structure for which a shadow plan is prepared and submitted by the applicant demonstrating that shadows cast by that portion of the structure at 9:00 a.m., noon, and 3:00 p.m., Pacific Standard Time on December 21 will:

1. Not exceed the boundaries of a simultaneous shadow cast by a legally existing structure, or by a hill or other topographical feature other than trees or other vegetation; or

2. Not shade that portion of any adjacent residentially-zoned lot which is occupied by a dwelling or which could legally and without modification of required setbacks be occupied in the future by a dwelling; or

3. Fall entirely within the boundaries of an existing covered or uncovered paved off street parking area, or paved driveway leading thereto. (Ord. 5459, 2008; Ord. 4426, 1986.)

28.11.040 Rules and Regulations.

The Community Development Director may promulgate and administer rules and regulations necessary for the administration and interpretation of this Chapter, subject to approval by the City Council. (Ord. 4426, 1986.)

Chapter 28.12

ZONE MAP

Section:

28.12.001 Title.

28.12.001 Title.

The boundaries of the zones provided in Chapter 28.10 are shown upon the zone map which is entitled as follows: "Sectional Zoning Map of the City of Santa Barbara". All notations, references and other information shown on said map are incorporated by reference herein and made a part hereof. (See end of this title.) (Ords. 5625 and 2626, 2013; Ord. 5138, 1999; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.15

A-1, A-2, E-1, E-2, E-3 and R-1 ONE-FAMILY RESIDENCE ZONES

Sections:

28.15.001 In General.
28.15.005 Legislative Intent.
28.15.030 Uses Permitted.
28.15.035 Uses Permitted Upon Issuance of Conditional Use Permit or Performance Standard Permit.
28.15.040 Locations Allowed for Mobilehomes.
28.15.045 Prohibition of Shiny Roofing and Siding.
28.15.050 Building Height.
28.15.055 Design Review of Residential Buildings.
28.15.060 Setback and Open Yard Requirements.
28.15.065 Reduction of Setback Requirements.
28.15.070 Distance Between Buildings on the Same Lot.
28.15.080 Lot Area and Frontage Requirements.
28.15.083 Maximum Net Floor Area (Floor to Lot Area Ratio).
28.15.085 Regulations for Non-Residential Buildings, Structures and Uses.
28.15.100 Off-street Parking.
28.15.110 Signs.

28.15.001 In General.

The following regulations shall apply in A-1, A-2, E-1, E-2, E-3 and R-1 One-Family Residence Zones unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.005 Legislative Intent.

These zones are restricted residential districts of low density in which the principal use of land is for single residential units; together with recreation, assembly and education facilities required to serve the community. The regulations for these districts are designed and intended to establish, maintain and protect the essential characteristics of the districts, to develop and sustain a suitable environment for domestic life including the raising of children, and to prohibit all activities which would tend to be inharmonious with or injurious to the preservation of a residential environment. Commercial uses are strictly limited because commercial uses may result in adverse impacts on surrounding residential uses including, but not limited to, increased levels of commercial and residential vehicle traffic, parking demand, light and glare, and noise.

The City Council intends that buildings within these residential districts may be used for housing a person or persons with disabilities, as defined in the Federal Fair Housing Act of 1989 and State Housing Law. Group Home residences of persons with disabilities or handicaps are an allowed use in all residential districts, and are not required to obtain a variance or a conditional use permit in order to operate unless a variance or conditional use permit would be required for a residential unit under the same circumstances. (Ord. 4924, 1995; Ord. 3710, 1974; Ord. 2868, 1962;

Ord. 2585, 1957.)

28.15.030 Uses Permitted.

A. A single residential unit occupying a single lot, or a group home.

B. Accessory buildings or uses as follows:

1. A private garage, carport or parking spaces.

2. Work or storage sheds for any non-commercial use or equipment.

3. The keeping of horses and necessary outbuildings in conjunction with the residential use of a lot and subject to the following conditions:

a. The keeping of horses shall be permitted only on lots having an area of twenty thousand (20,000) square feet or more, but in no event for commercial purposes, and provided that the number of animals on any one (1) lot shall be limited to one (1) for every ten thousand (10,000) square feet of lot area, but not more than five (5) per lot.

b. The keeping of such animals shall conform to all other provisions of law governing same, and no such animals nor any pen, stable, barn or corral shall be kept or maintained within thirty-five feet (35') of any dwelling or other building used for human habitation, or within seventy-five feet (75') of the front lot line of the lot upon which it is located, or within seventy-five feet (75') of any public park, school, hospital or similar institution.

c. The keeping of any other animal is only permitted pursuant to the provisions of Title 6 of the Santa Barbara Municipal Code.

C. A Home Occupation.

D. A State-licensed Small Family Day Care Home.

E. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93 of this Title.

F. State authorized, licensed or certified use to the extent it is required by State Law to be an allowed use in residential zones.

G. A Mobilehome which has been certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), as amended from time to time, on an approved permanent foundation.

H. Agriculture, as defined in Section 28.04.030 of this Title, subject to administrative guidelines necessary to monitor and carry out these standards which may be adopted and amended from time to time by resolution of the City Council and subject to the following performance standards:

1. Accessory Buildings. Accessory buildings for agricultural purposes shall not exceed five hundred (500) square feet in aggregate and shall be located a minimum of one hundred (100) feet from any property line. Accessory buildings used for agricultural purposes may be placed on a parcel without a main building. Accessory buildings shall not be placed on ridgelines or in such a manner that the peak of the roof exceeds the ridgeline elevation by more than six (6) feet. All accessory buildings shall be placed outside of the 100-year floodplain of any creeks or drainages on the property. Building siding and roof colors shall be in earth or vegetation tones to minimize visibility unless otherwise approved by the Architectural Board of Review or the Historic Landmarks Commission. If an applicant proposes an agricultural accessory building in excess of five hundred (500) square feet in area, the applicant may apply for a modification under Chapter 28.92 of this Title.

2. Storage Requirements. All flammables, pesticides and fertilizers shall be stored in accordance with the regulations of the California Fire Code and Santa Barbara County Department of Health Services or successor agency. At a minimum, any area where such materials are stored shall have a continuous concrete floor and lip which is tall enough to contain one hundred and ten percent (110%) of the volume of all the materials stored in the area. No pesticides, chemical fertilizers or other hazardous materials shall be stored outside of buildings.

3. Large Vehicles. No vehicles in excess of five (5) tons shall be kept, stored or parked on the property, except that such vehicles may be on the property as necessary for completion of grading performed in accordance with a grading permit issued by the City of Santa Barbara.

4. Sanitation. Sanitary facilities shall be provided for agricultural workers as required by the Santa Barbara County Division of Environmental Health and the California Occupational Safety and Health Administration.

5. Water Meters. All agricultural operations involving an area of one-half (½) acre or greater shall be placed on "Irrigation" water meters, as defined by authorization of Title 14 of this Code.

6. Irrigation Systems. All new or retrofitted agricultural irrigation systems for agricultural uses other than those carried out in greenhouses, shall be designed in accordance with the standards of the Soil Conservation Service for water conserving irrigation.

I. Improvements and additions of 500 square feet or less to existing Public Works Facilities including, but not limited to, sewer lift stations, pump stations, water wells, pressure reducing stations, generator enclosures, minor improvements to existing water storage reservoirs and other miscellaneous structures incidental to or improving the existing use. Standard construction conditions may be imposed on the building permit as deemed appropriate by the Community Development Director. (Ord. 5459, Section 3, 2008; Ord. 5380, 2005; Ord. 4924, 1995; Ord. 4878, 1994; Ord. 4858, 1994; Ord. 4346, 1985; Ord. 4269, 1984; Ord. 4113, 1981; Ord. 3710, 1974; Ord. 3613, 1974; Ord. 2868, 1962.)

28.15.035 Uses Permitted Upon Issuance of Conditional Use Permit or Performance Standard Permit.

As provided in Chapters 28.93 and 28.94 of this Code. (Ord. 5380, 2005; Ord. 2585, 1957.)

28.15.040 Locations Allowed for Mobilehomes.

A. **USE OF MOBILEHOMES GENERALLY.** Mobilehomes installed in accordance with Section 28.15.030.G may be only allowed on lots located in One-Family Residence Zones, except where the lot is located within:

1. City-designated high fire hazard area (as designated in Chapter 22.04 of this Code).
2. Any landmark district established in accordance with Chapter 22.22 of this Code.

B. **INTERIM USE OF A MOBILEHOME TO PROVIDE FIRE SERVICE.** Notwithstanding Subsection A hereof, a mobilehome may be used at City Fire Station No. 7 (Sheffield/Stanwood Station) in accordance with Santa Barbara Municipal Code Section 28.15.030.G for the purposes of providing fire protection services, provided the following conditions apply: 1. that such use does not continue for a period of time in excess of five (5) years from its initiation; 2. that the mobilehome is not installed on a permanent foundation; 3. that the requirements of Santa Barbara Municipal Code Section 28.15.085.A and B regarding the required setback and lot coverage regulations are observed to the greatest extent feasible. (Ord. 5459, 2008; Ord. 5275, 2003; Ord. 4269, 1984; Ord. 4134, 1982; Ord. 4113, 1981.)

28.15.045 Prohibition of Shiny Roofing and Siding.

The materials used for roofing and siding on single-family dwellings shall be of a nonreflective nature. A shiny, mirrorlike or glossy metallic finish for such materials is prohibited. (Ord. 4113, 1981.)

28.15.050 Building Height.

No building in these zones shall exceed a height of thirty feet (30') nor exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 3540, 1972.)

28.15.055 Design Review of Residential Buildings.

Residential buildings and structures shall be subject to design review and approval, disapproval or conditional approval as required in Chapter 22.69 of this Code. (Ord. 5416, 2007; Ord. 4726, 1991.)

28.15.060 Setback and Open Yard Requirements.

The following setbacks and open yard requirements shall be observed on all lots within these zones:

A. Front Setback. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on every lot within the indicated zones as follows:

1. A-1 Zone (All buildings, structures, and parking): 35 feet
2. A-2 Zone (All buildings, structures, and parking): 30 feet
3. E-1 Zone (All buildings, structures, and parking): 30 feet
4. E-2 Zone (All buildings, structures, and parking): 25 feet
5. E-3 Zone (All buildings, structures, and parking): 20 feet
6. R-1 Zone:
   a. Ground floor of any building or structure: 15 feet
   b. Upper story portion of a building or structure: 20 feet
   c. Garage or carport with an opening that does not face an adjacent street or uncovered parking that does not back out onto the street : 15 feet
   d. Garage or carport with an opening that faces an adjacent street or uncovered parking that backs out onto the street: 20 feet

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between any interior lot line and all buildings, structures, and parking on every lot within the indicated zones as follows:

1. A-1 Zone: 15 feet
2. A-2 Zone: 10 feet
3. E-1 Zone: 10 feet
4. E-2 Zone: 8 feet
5. E-3 Zone: 6 feet
6. R-1 Zone: 5 feet

C. Open Yard. An open yard shall be provided on every lot within the A-1, A-2, E-1, E-2, E-3, and R-1 zones. The required open yard shall observe the following general rules regarding dimension, location, and configuration, except as such general rules may be altered by any applicable additional rules or exceptions specified within this Subsection C:

1. General Rules.
   a. Minimum size: One area of at least 1,250 square feet of lot area.
   b. Minimum dimensions: At least 20 feet long and 20 feet wide measured in perpendicular directions.

c. Location and Configuration. The open yard may consist of any combination of ground level areas such as patios, ground floor decks, pathways, landscaped areas, natural areas, flat areas, or hillsides, so long as the overall size and dimensions of the open yard area meet the requirements specified in these general rules and the open yard is not located in any of the following locations:

(1) Any portion of the front yard,

(2) Any areas designated for use by motor vehicles, including, but not limited to, driveways and parking areas, or

(3) On decks, patios, terraces, or similar improvements where the maximum height of the improvement above existing or finished grade, whichever is lower, is greater than 36 inches.

2. Additional Rules for Sloped Open Yards. If the average slope of the open yard is greater than 20% (as calculated pursuant to Section 28.15.080), the lot shall contain at least one flat area (which may be provided on grade or on a deck or patio) that observes the following dimensions and configurations:

a. Minimum Size: 160 square feet of area.

b. Minimum dimensions: At least 10 feet long and 10 feet wide measured in perpendicular directions.

c. Maximum slope: 2%.

3. Exception for Lots with Multiple Front Yards. On lots with multiple front yards, the following exception to the location requirement is available: an open yard may include area in a secondary front yard as long as the open yard observes a 10 foot setback from the front lot line.

4. Exceptions for Lots of Less than 6,000 Square Feet of Net Lot Area. On lots of less than 6,000 square feet of net lot area and which are sloped less than 20% (as calculated pursuant to Section 28.15.080), the following exceptions to the general rules regarding size and location shall apply:

a. Size. The 1,250 square feet of open yard area may be provided in one area or in multiple areas; however, each area of open yard shall be at least 20 feet long and 20 feet wide measured in perpendicular directions.

b. Location. Up to 850 square feet of open yard area may be provided in the remaining front yard of the lot. (Ord. 5459, 2008.)

28.15.065 Reduction of Setback Requirements.

It is hereby declared that under the following conditions a physical hardship exists on all E-1, E-2, E-3 and R-1 single-family residence zone lots, and that the listed exceptions are hereby granted where the stated conditions exist:

Where the average natural slope of the front half of a lot is more than one foot (1') rise or fall in five feet (5') horizontal, the front setback required by Section 28.15.060 is reduced by five feet (5').

Other provisions of this chapter notwithstanding, a conforming addition may be made to an existing non-conforming single-family dwelling where such non-conformance is due to inadequate front setback or interior setback, providing said single-family dwelling complied with the setbacks required by ordinance at the time of construction. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3587, 1973.)

28.15.070 Distance Between Buildings on the Same Lot.

No main building shall be closer than twenty feet (20') to any other main building on the same lot. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.080 Lot Area and Frontage Requirements.

A-1 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having a net area of not less than one (1) acre (43,560 square feet) and not less than one hundred feet (100') of frontage on a public street, except that where the zone designation A-1 is preceded by a number, such as 2-A-1, 5-A-1, 10-A-1, etc., the minimum lot area, in acres, shall be equal to the preceding number, and the minimum frontage on a public street shall be equal to one hundred feet (100') times the preceding number, except that street frontage in excess of 300 feet shall not be required for any lot.

Every lot hereafter created in an A-1 Zone, or in an A-1 Zone preceded by a number, shall have an average width which is not less than the number of feet of public street frontage required nor less than one-third (1/3) the depth of the lot.

A-2 Zone. Each single-family dwelling with its accessory building hereafter erected shall be located upon a lot having an area of not less than twenty-five thousand (25,000) square feet, and not less than one hundred feet (100') of frontage on a public street.

E-1 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than fifteen thousand (15,000) square feet, and not less than ninety feet (90') of frontage on a public street.

E-2 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than ten thousand (10,000) square feet, and not less than seventy-five feet (75') of frontage on a public street.

E-3 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than seven thousand five hundred (7,500) square feet, and not less than sixty feet (60') of frontage on a public street.

R-1 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than six thousand (6,000) square feet, and not less than sixty feet (60') of frontage on a public street.

Any lot of less than the required area or frontage for the district in which such lot is located at the time this ordinance becomes effective may be used as a building site by such owner or his successors in interest, provided all other regulations of the zone prescribed by this ordinance are observed.

With the exception of those parcels having frontage on the Pacific Ocean, the minimum lot areas and densities specified in this section shall be increased by the following factors where the average slope of the parcels falls within the percent of average slope ranges given:

Factor	Percent of Average Slope
1.5 times minimum lot area	10% up to and including 20%
2.0 times minimum lot area	over 20% up to & including 30%
3.0 times minimum lot area	over 30%

"Average slope" of a parcel of land or any portion thereof shall be computed by applying the formula (S=.00229 IL divided by A) to the natural slope of the land, before grading is commenced as determined from a topographic map conforming to National Mapping Standards and having a scale of not less than 1 inch equals 200 feet and a contour interval of not less than five feet (5'). The letters in this formula shall have the following significance:

S = The average slope of the land in percent.

I = The contour interval in feet.

L = The combined length of all contours in feet, excluding the length of contours in drainage channels and in natural water courses below the 25 year flood level.

A = The net area of parcel or portion thereof, in acres, after deducting all areas in drainage channels below the 25 year flood level, for which the slope is to be determined. (Ord. 4726, 1991; Ord. 3753, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.083 Maximum Net Floor Area (Floor to Lot Area Ratio).

A. **APPLICATION.** The provisions of this Section shall only apply to lots within these zones that have less than 15,000 square feet of net lot area and which are, or are proposed to be, developed with a main or accessory building that is either: (1) two or more stories tall, or (2) has a building height of seventeen feet (17') or more.

B. **DEFINITIONS**. For purposes of this Section, the following definitions shall apply:

1. **Net Floor Area of a Building**. The net floor area of a building shall be calculated in accordance with the following general rule and any applicable special rules:

a. General Rule: Net floor area is the area in square feet of all floors confined within the exterior walls of a building, but not including the area of the following: exterior walls, vent shafts, courts, and any areas with a ceiling height of less than five (5) feet above the finished floor.

b. Special Rules: (i) Stairs and Elevators. The area occupied by stairs or an elevator shaft within the exterior walls of a building shall be counted only on one floor of the building. (ii) Small Accessory Buildings. Freestanding accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation. (iii) Basements and Cellars. The net floor area calculation for a basement or cellar shall be reduced by 50% if the vertical distance from grade to ceiling is four feet (4') or less for at least one-half of the length of the perimeter of the basement or cellar. The floor area of a basement or cellar shall be excluded from the calculation of net floor area if the vertical distance from grade to the ceiling is four feet (4') or less for the entire length of the perimeter of the basement or cellar. For purposes of the exclusion of floor area, one (1) section of the basement or cellar perimeter length, not exceeding five (5) feet in length, may have a distance from grade to ceiling greater than four feet in order to allow for an exterior door, and the basement or cellar may still qualify for the exclusion if the door is located outside the required front setback. (iv) Secondary Dwelling Units. Net floor area within a portion of a building that is designed and permitted as a secondary dwelling unit pursuant to Section 28.94.030.Z of this Code shall be excluded from the net floor area calculation. (v) Carports. The area within the exterior walls or supporting columns of a carport shall be included in the calculation of net floor area.

2. **Net Floor Area on a Lot**. The net floor area on a lot shall be the sum of the net floor area of all existing and proposed buildings on the lot.

3. **Net Lot Area**. The total horizontal area within the lot lines of a lot subtracting the horizontal area within any public rights-of-way on the lot.

C. **MAXIMUM NET FLOOR AREA (Floor to Lot Area Ratio)**. For purposes of this Section, the maximum net floor area of a lot shall be calculated according to the following formulae:

NET LOT AREA (SQ. FT.)	MAXIMUM NET FLOOR AREA (SQ. FT.)
Less than 4,000	2,200
4,000 to 9,999	1,200 + (.25 multiplied by the net lot area)
10,000 to 14,999	2,500 + (.125 multiplied by the net lot area)

D. **PRECLUDED DEVELOPMENT**. No application for a building permit may be approved for any project that will: (1) result in an increase of the net floor area on the lot, (2) change the location of any floor area on the second or higher story of any building on the lot, or (3) increase the height of any portion of a building on the lot to a building height of seventeen feet (17') or higher if either of the following is true regarding the project:

1. The net floor area on the lot will exceed the maximum net floor area for the lot as calculated pursuant to this Section, or

2. The net floor area on the lot will exceed eighty-five percent (85%) of the maximum net floor area for the lot as calculated pursuant to this Section and any of the following conditions apply to the lot:

a. The average slope of the lot or the building site (as calculated pursuant to Section 28.15.080 of this Code) is thirty percent (30%) or greater, or

b. The building height of any new or existing building or structure on the lot is in excess of twenty-five feet (25'), or

c. The lot is located in the Hillside Design District established in Section 22.68.080 of this Code and the application proposes five hundred (500) or more cubic yards of grading outside the footprint of the main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the building footprint). (Ord. 5518, 2010; Ord. 5444, 2008; Ord. 5416, 2007.)

28.15.085 Regulations for Non-Residential Buildings, Structures and Uses.

A. SETBACKS. Setbacks for all buildings and structures used for nonresidential purposes shall be double the setback requirements for a dwelling as required for the zone in which such building or structure is located.

B. LOT COVERAGE. Not more than twenty-five percent (25%) of the area of a lot may be covered by buildings used for nonresidential purposes.

C. ARCHITECTURAL APPROVAL. All buildings used for nonresidential purposes shall be subject to the approval of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark.

D. OTHER REQUIREMENTS. The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood, including the mailing of notices to property owners and the holding of a public hearing. (Ord. 5459, 2008; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3753, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3116, 1966.)

Chapter 28.18

R-2 TWO-FAMILY RESIDENCE ZONE

Sections:

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28.18.030 Uses Permitted Upon Issuance of a Conditional Use Permit or Performance Standard Permit.
28.18.050 Building Height.
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28.18.075 Lot Area and Frontage Requirements.
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28.18.010 R-2 Zone - In General.

The regulations described in this Chapter shall apply in the R-2 Two-Family Residence Zone of the City unless otherwise expressly provided in this Title.

The R-2 Zone is a restricted residential district of medium density in which the principal use of the land is for two-family dwellings, together with recreational, religious and educational facilities required to serve the community. The regulations for this zone are designed and intended to establish, maintain and protect the essential characteristics of the zone, to develop and sustain a suitable environment for family life, and to prohibit activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

For the purposes of this Chapter, the term "lot" shall be used as defined in Santa Barbara Municipal Code Section 27.02.100. (Ord. 5271, 2003; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.020 Uses Permitted.

The land uses permitted in the R-2 Zone shall be as follows:

1. One and two family dwellings;
2. Any use permitted in the R-1 Zone and subject to the restrictions, limitations and conditions contained therein as an expressly permitted land use in the R-2 Zone except that the construction and use of a parcel for more than one dwelling unit (including buildings and uses accessory thereto) shall be subject to the specific restrictions of the R-2 Zone as established in this Chapter.
3. Buildings and uses accessory to the residential uses allowed under subparagraphs (1) and (2) above.

(Ord. 5271, 2003; Ord. 4912, 1995; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.030 Uses Permitted Upon Issuance of a Conditional Use Permit or Performance Standard Permit.

The land uses which are conditionally allowed in the R-2 Zone shall be as provided in Chapters 28.93 and 28.94 of this Title. (Ord. 5380, 2005; Ord. 5271, 2003; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.050 Building Height.

No building in the R-2 Zone shall exceed a height of thirty feet (30') nor exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 3587, 1973.)

28.18.060 Setback, Open Yard, and Private Outdoor Living Space Requirements.

The following setback, open yard, and private outdoor living space requirements shall be observed on all lots within the R-2 zone:

A. Front Setback. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot as follows:

1. Ground floor of any building or structure: 15 feet
2. Upper story portion of a multiple story building or structure: 20 feet
3. Garage or carport with an opening that does not face an adjacent street or uncovered parking that does not back out onto the street: 15 feet

4. Garage or carport with an opening that faces an adjacent street or uncovered parking that backs out onto the street: 20 feet

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

1. Buildings and structures other than covered parking: 6 feet
2. Covered or uncovered parking: 3 feet

C. Open Yard and Private Outdoor Living Space. An open yard shall be provided on all lots within this zone. The required open yard shall observe the following general rules regarding dimension, location, and configuration, except as such general rules may be altered by any applicable additional rules or exceptions specified within this Subsection C:

1. General Rules. In this zone, open yards shall conform to the following dimension, location, and configuration requirements:

a. Minimum size: Total area of at least 1,250 square feet of lot area.

b. Minimum dimensions: The open yard may be provided in one area or in multiple areas; however, each area of open yard shall be at least 20 feet long and 20 feet wide measured in perpendicular directions.

c. Common Area or Assigned. The open yard may be provided as a common open yard or as private open yard assigned to individual units.

d. Location and Configuration. The open yard may consist of any combination of ground level areas such as patios, ground floor decks, pathways, landscaped areas, natural areas, flat areas, or hillsides, so long as the overall size and dimensions of the open yard area meet the requirements specified in these general rules and the open yard is not located in any of the following locations:

(1) Any portion of the front setback; however, up to 850 square feet of the open yard may be provided in the remaining front yard,

(2) Any areas designated for use by motor vehicles, including, but not limited to, driveways and parking areas, or

(3) On decks, patios, terraces, or similar improvements where the maximum height of the improvement above existing or finished grade, whichever is lower, is greater than 36 inches.

2. Additional Open Yard and Private Outdoor Living Space Requirements for Lots Developed with Four or More Dwelling Units.

a. Common Open Yard. On lots developed with four or more dwelling units, a common open yard shall be provided that meets the size, dimensional, and location requirements specified in the general rules.

b. Private Outdoor Living Space. In addition to the required common open yard, lots developed with four or more dwelling units shall provide private outdoor living space for each dwelling unit of not less than the size specified below based on the number of bedrooms in the dwelling unit:

(1) Studio Unit: 100 square feet
(2) 1 Bedroom Unit: 120 square feet
(3) 2 Bedroom Unit: 140 square feet
(4) 3+ Bedroom Unit: 160 square feet.

The minimum dimensions of the private outdoor living space shall be at least 10 feet long and 10 feet wide measured in perpendicular directions. In addition, private outdoor living space provided pursuant to this paragraph shall observe the requirements specified in subparagraphs (c), (e), (f), (g), and (h) of paragraph 28.21.081.A.1 of this Code.

3. Alternative Open Yard and Private Outdoor Living Space Requirements for Lots Developed with Accessory Dwelling Units Pursuant to Section 28.18.075.E.

a. Common Open Yard. On any lot developed with an Accessory Dwelling Unit pursuant to Section 28.18.075.E, a common open yard shall be provided that meets the following size, dimension, and location and configuration requirements:

(1) Minimum size: The open yard may be provided in one area of at least 600 square feet, or two areas, each of which must be at least 300 square feet.

(2) Minimum dimensions: Each area of open yard shall be at least 10 feet long and 10 feet wide measured in perpendicular directions.

(3) Location and configuration: The common open yard shall observe the location and configuration requirements specified in the general rules, except that any amount of the common open yard may be located in the remaining front yard.

b. Private Outdoor Living Space. In addition to the required common open yard, any lot developed with an Accessory Dwelling Unit pursuant to Section 28.18.075.E shall provide private outdoor living space for each dwelling unit of not less than the size specified below, based on the number of bedrooms in the dwelling unit:

(1) Studio Unit 60 square feet
(2) 1 Bedroom Unit 72 square feet
(3) 2 Bedroom Unit 84 square feet
(4) 3+ Bedroom Unit 96 square feet

The minimum dimensions of the private outdoor living space shall be at least 6 feet long and 6 feet wide measured in perpendicular directions. The private outdoor living space may be provided by a patio, balcony, porch, deck, or similar improvement on the ground or on any upper floor. The private outdoor living space may be provided in the primary or secondary front setback, provided that it observes a setback of at least 9 feet from the front lot line. In addition, private outdoor living space provided pursuant to this paragraph shall observe the requirements specified in subparagraphs (c), (e), (f), (g), and (h) of paragraph 28.21.081.A.1 of this Code.

4. Exception to Location Requirement for Lots with Multiple Front Yards. On lots with multiple front yards, the following exception to the location requirement specified in the general rules or any applicable additional requirements is available: an open yard may include area in a secondary front yard as long as the open yard observes a 10 foot setback from the front lot line. (Ord. 5459, 2008.)

28.18.065 Reduction of Yard Requirements.

It is hereby declared that, under the following conditions, a physical hardship exists on all R-2 Two-Family Residence Zone lots, and that the modifications described below are hereby granted where the stated conditions exist:

A. **REDUCTION OF FRONT SETBACK.** Where the average natural slope of the front half of a lot is more than one foot (1') rise or fall in five feet (5') horizontal, the required front setback may be reduced to ten feet (10').

B. **CONFORMING ADDITIONS.** Other provisions of this title notwithstanding, a conforming addition may be made to an existing nonconforming single-family or two-family dwelling where such nonconformity is due to inadequate front setback or interior setback, providing the existing dwelling complied with the setbacks required by this Code at the time of its construction.

C. **NONCONFORMING ADDITIONS.** Other provisions of this Title notwithstanding, where an existing building has been constructed five (5) feet from an interior property line, a ground level addition to the building may be made or constructed so long as the addition is also constructed no less than five (5) feet from the same interior property line. (Ord. 5459, 2008; Ord. 5271, 2003; Ord. 3710, 1974; Ord. 3587, 1973.)

28.18.070 Distance Between Buildings on the Same Lot.

A. **GENERAL SEPARATION REQUIREMENTS.** No main building shall be closer than fifteen feet (15') to any other main building on the same lot, except that a one (1) story building shall be no closer than ten feet (10') to another one (1) story building.

B. **ACCESSORY DWELLING UNIT SEPARATION.** Notwithstanding subsection (A) above, no portion of a one story accessory dwelling unit constructed pursuant to subsection (E) of SBMC Section 28.18.075 may be closer than five (5) feet to another one story main building nor may a two story accessory dwelling unit or a main building be closer than ten (10) feet to another two story accessory or main building. (Ord. 5271, 2003; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.075 Lot Area and Frontage Requirements.

A. **NEWLY-CREATED LOTS.** Every lot hereafter created in an R-2 Zone shall contain at least seven thousand (7,000) square feet and sixty feet (60') of frontage on a public street.

B. **LOTS BETWEEN 6,000 AND 6,999 SQUARE FEET.** Existing lots between 6,000 and 6,999 square feet of net lot area, inclusive, may be used as if it had seven thousand (7,000) square feet of lot area.

C. **LOTS WITH LESS THAN 6,000 SQUARE FEET.** Existing lots of less than six thousand (6,000) square feet of net lot area may be used as a building site for a one-family dwelling, provided that all other regulations of the zone prescribed by this ordinance are observed.

D. **MINIMUM AREA PER DWELLING UNIT FOR STANDARD LOTS.** For lots of seven thousand (7,000) square feet or more, there shall be provided a lot area of three thousand five hundred (3,500) square feet or more for each dwelling unit hereafter erected.

E. **ACCESSORY DWELLING UNITS ON CERTAIN R-2 LOTS.** Notwithstanding other requirements of this Chapter, for an R-2 lot with a total lot area of between 5,000 and 6,000 square feet, two dwelling units on such lot may be allowed subject to the following requirements:

1. **Unit Size.** One dwelling unit may have no more than three (3) bedrooms and no more than 1,200 square feet of Habitable Dwelling Space and the other dwelling unit may have no more than one (1) bedroom and no more than 600 square feet of Habitable Dwelling Space, provided that where appropriate in the determination of the Community Development Director, such maximum Habitable Dwelling Space square footage may be allocated differently between the two units provided the amount of Habitable Dwelling Space on one lot in no case exceeds a total of 1,800 square feet;

2. **Private Storage Space.** Each dwelling unit shall have at least 200 cubic feet of enclosed, weatherproof, lockable, and separate storage space in addition to the guest, linen, pantry, and clothes closets customarily provided exclusively for the use of the occupants of the dwelling unit. Such storage space shall be accessible from the exterior of the unit for which it is provided.

3. **Accessory Unit Parking Requirements.** Notwithstanding the parking requirements established for Two-Family Dwelling units on standard-sized lots in excess of 6,000 square feet as provided in Paragraph (2) of Subsection (G) of Section 28.90.100, a two dwelling unit development that meets the criteria delineated in this subsection shall provide not less than two (2) covered and one (1) uncovered parking spaces. Two of such parking spaces shall be allocated to the larger unit and the remaining space shall be allocated to the smaller unit through the use of appropriate signage on the site. Any such uncovered parking space may be provided in a tandem parking arrangement provided that both of the tandem parking spaces are allocated to the larger dwelling unit. Tandem parking spaces may be constructed within a non-conforming interior setback area under circumstances where the setback of the parking area remains consistent with the setback of a pre-existing non-conforming garage structure. The Community Development Director may require the recordation of a parking site plan in the official records of Santa Barbara County with respect to the lot involved for the purposes of memorializing the permanent use and availability of the required parking spaces as allocated to each permitted dwelling unit.

4. **Non-Conforming Garages.** Notwithstanding other provisions of this Chapter to the contrary, a lot containing a garage or parking structure which is non-conforming as to its interior setback may be maintained or reconstructed in its same location in accordance with the requirements of subsection (d) of SBMC Section 28.87.030 or, in connection with the construction of an accessory dwelling unit pursuant to this subsection, it may be expanded in size along the non-conforming setback line so long as the expansion is to make the structure more in conformance with the City's Uniform Construction Code requirements or with City Parking Design Standards for Accessory Dwelling Units in R-2 Zone adopted pursuant to this subsection.

5. **Condominium Units Not Allowed; ABR Review.** Notwithstanding other provisions of this Code, including specifically but not limited to subsection (B) of Santa Barbara Municipal Code Section 28.88.120, the subdivision of a development of two family dwellings pursuant to this subsection, either as a new development or as a conversion of an existing two-family dwelling, shall be governed by the requirements of Santa Barbara Municipal Code Section 27.13.040. In addition, an application to develop a lot with an accessory dwelling unit pursuant to this subsection shall receive design review approval from the Architectural Board of Review in accordance with the requirements of subsection B of Santa Barbara Municipal Code Section 22.68.020 as noticed in accordance with the requirements of Santa Barbara Municipal Code Section 22.68.040.

6. **Not Applicable To Sloped Lots.** The provisions of this Subsection E shall not apply to any lot with an average slope of ten percent (10%) or greater as calculated pursuant to the formula specified in Subsection F below.

F. **R-2 LOT SLOPE DENSITY.** The minimum lot areas specified in this section shall be increased by the following factors where the average slope of the parcels falls within the percent of average slope ranges given:

Factor	Percent of Average Slope
1.5 times minimum lot area	10% to 20%
2.0 times minimum lot area	20% to 30%
3.0 times minimum lot area	over 30%

"Average slope" of a parcel of land or any portion thereof shall be computed by applying the formula (S=.00229 IL divided by A) to the natural slope of the land, before grading is commenced, as determined from a topographic map conforming to National Mapping Standards and having a scale of not less than 1 inch equals 200 feet and a contour interval of not less than five feet (5'). The letters in this formula shall have the following significance:

S = The average slope of the land in percent.
I = The contour interval in feet.
L = The combined length of all contours in feet, excluding the length of contours in drainage channels and in natural water courses below the 25 year flood level.
A = The net area of parcel or portion thereof, in acres, after deducting all areas in drainage channels below the 25 year flood level, for which the slope is to be determined.

G. **HABITABLE DWELLING SPACE - DEFINED.** For the purpose of this Section, the term "Habitable Dwelling Space" shall be calculated to include all building square footage as measured from the inside of the walls of the building, excluding the square footage of the garage. (Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5271, 2003; Ord. 4632, 1990; Ord. 3753, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.085 Regulations for Non-Residential Buildings, Structures and Uses.

A. **SETBACKS.** Setbacks for all buildings and structures used for nonresidential purposes shall be double the setback requirements for a dwelling as required for the zone in which such building or structure is located.

B. **LOT COVERAGE.** Not more than twenty-five percent (25%) of the area of a lot may be covered by buildings used for nonresidential purposes.

C. **ARCHITECTURAL APPROVAL.** All buildings used for nonresidential purposes shall be subject to the approval of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. (Ord. 5459, 2008; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.090 Other Requirements.

The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood including the mailing of notices to property owners and the holding of a public hearing. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3117, 1966.)

Chapter 28.20

AVERAGE UNIT-SIZE DENSITY INCENTIVE PROGRAM

Sections:

28.20.010 Purpose.
28.20.020 Definitions.
28.20.030 Permitted Zones for the Program.
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28.20.010 Purpose.

The Average Unit-Size Density Incentive Program carries out a key program directed by the 2011 General Plan. The Program facilitates the construction of smaller housing units by allowing increased density and development standard incentives in selected areas of the City. Housing types that provide housing opportunities to the City's workforce are encouraged and facilitated by the program. The Average Unit-Size Density Incentive Program will be in effect for a trial period of either eight years or until 250 residential units have been constructed in the areas designated for High Density residential [as defined in SBMC §28.20.060(B)] or the Priority Housing Overlay [as defined in SBMC §28.20.060(C)], as shown on the City's Average Unit-Size Density Incentive Program Map, whichever occurs earlier. (Ord. 5630, 2013.)

28.20.020 Definitions.

For purposes of this Chapter 28.20, the following words or phrases shall have the respective meanings assigned to them in the following definitions unless, in a given instance, the context in which they are used indicates a different meaning:

A. Affordable Housing. Residential units that are sold or rented at values defined as being affordable by the City of Santa Barbara's Affordable Housing Policies and Procedures, as such policies and procedures may be approved by the City Council from time to time.

B. Average Unit Size. The total of the net floor area of each of the residential units in a project and divided by the number of residential units in that project.

C. Community Benefit Housing. Residential development that has a public benefit including the following housing types:

1. Priority Housing;

2. Housing affordable to low, moderate, or middle income households as defined in SBMC Chapter 28.43; and

3. Transitional Housing, affordable efficiency dwelling units (as described in Section 28.87.150 of this Code), and supportive housing which supports special needs populations such as housing for seniors, the physically or mentally disabled, the homeless, or children aging out of foster care.

D. Employer-Sponsored Housing. Residential units which are developed, owned, maintained, and initially sold or rented to employees of a local Employer (or group of employers) where each residential unit is occupied as a primary residence (as defined by federal income tax law) by a household that includes at least one person who works in the south coast region of Santa Barbara County.

E. Net Floor Area. For purposes of this Average Unit-Size Density Program, net floor area is the area in square feet of all floors confined within the exterior walls of a residential unit, but not including the area of the following: exterior walls, vent shafts, courtyards, garages, carports, common areas not controlled by the occupant of an individual residential unit, and any areas with a ceiling height of less than five (5) feet above the finished floor. In addition, the area occupied by stairs or an elevator shaft within the exterior walls of a residential unit shall be counted only on one floor of the residential unit.

F. Limited-Equity Housing Cooperative. A corporation organized on a cooperative basis that meets the requirements of state Civil Code § 817 and which restricts the resale price of the cooperative's shares in order to maintain a specified level of affordability to any new shareholder.

G. Local Employer. A person, business, company, corporation or other duly formed legal entity which employs persons whose primary place of employment is located within the South Coast region of Santa Barbara County.

H. Priority Housing. Priority Housing includes the following three categories of housing: 1. Employer-Sponsored Housing; 2. Limited-Equity Housing Cooperatives; and 3. Rental Housing.

I. Project Site. All lots included within a project proposed in accordance with the Average Unit-Size Density Incentive Program.

I. Rental Housing. Housing developed and maintained as multiple dwelling units on the same lot for occupancy by separate households pursuant to a lease or other rental agreements where all dwelling units are owned exclusively by the same legal entity.

J. Supportive Housing. As defined in state Health and Safety Code Section 50675.14(b)(2).

K. Transitional Housing. That type of Supportive Housing that is re-circulated to other eligible program participants as specified and defined in state Health and Safety Code Section 50675.2(h). (Ord. 5671, 2014; Ord. 5630, 2013.)

28.20.030 Permitted Zones for the Program.

The Average Unit-Size Density Incentive Program as established herein is a density incentive program available in the following zones of the City: R-3, R-4, HRC-2, R-O, C-P, C-L, C-1, C-2, C-M, and OC Zones, as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached hereto as Exhibit A. The fact that a lot may be subject to an overlay zone, including, but not limited to, the S-D-2 or S-D-3 Overlay Zones, does not preclude the application of the Average Unit-Size Density Incentive Program on that lot if the Average Unit-Size Density Incentive Program is otherwise allowed in the base zoning of that lot. Development Projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program shall comply with the development standards specified in this Chapter 28.20. (Ord. 5630, 2013.)

28.20.040 Program Duration.

A. Initial Program Period. The Average Unit-Size Density Incentive Program shall have an initial duration of eight years after the effective date of the ordinance codifying this Chapter or until 250 new residential units under this program are constructed (as evidenced by the issuance of a Certificate of Occupancy) within the areas of the City designated for High Density Residential or the Priority Housing overlay (as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached to this Chapter as Exhibit A), whichever occurs sooner.

B. Exclusion of Low and Very Low Housing Units. Housing projects that are affordable to low-income and very low-income households, as defined in the City's Affordable Housing Policies and Procedures, will not count towards the 250 unit Program limit established in subsection A above.

C. Pending Applications. Any application for new development that is deemed complete prior to the expiration of the Program term established in subsection A or the issuance of the certificate of occupancy for the 250th residential unit (whichever occurs sooner) may continue to be processed and potentially approved under the Average Unit-Size Density Incentive Program. (Ord. 5630, 2013.)

28.20.050 Status of R-3 and R-4 Residential Density.

Notwithstanding the provisions of SBMC Section 28.21.080 of this Title, for the duration of the Average Unit-Size Density Incentive Program established in Section 28.20.040(A) above, the following incentive program is available regarding the residential density of new development projects in zones of the City which otherwise would apply the R-3 residential density:

A. Average Unit-Size Density Incentive Program. Projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program established in Section 28.20.060 hereof are exempt from the standard R-3 residential density provisions specified in Subsections B through E of Section 28.21.080 of this Title.

B. Variable Density. The variable density provisions specified in Subsection F of Section 28.21.080 of this Code shall be suspended for the period of time the Average Unit-Size Density Incentive Program established by this Chapter is available. Projects developed or approved in accordance with the terms of variable density prior to the effective date of this Chapter shall remain legal conforming land uses. During the suspension of Subsection F of SBMC Section 28.21.080, alterations and additions to variable density projects are permitted provided the alterations or additions do not add new residential units or add bedrooms to existing residential units in excess of the number of bedrooms that could have been developed on the real property under the Variable Density Program.

C. Development of Affordable Housing. Projects that meet the affordability criteria of the State Density Bonus Law or the City's Affordable Housing Policies and Procedures may continue to propose development pursuant to the density incentives established in Section 28.87.400 of this Title. (Ord. 5630, 2013.)

28.20.060 Average Unit Size Density Incentives.

The Average Unit-Size Density Incentive Program offers project applicants dwelling unit density incentives as alternatives to the base residential densities specified for the particular City zones in which the program is available. The Average Unit-Size Density Incentive Program consists of three density tiers which may apply based upon the City's General Plan land use designation for the lot and the nature of the development being proposed as follows:

A. Medium-High Density. The Medium-High density tier applies to those lots with a City General Plan land use designation of Medium High Density Residential. The Medium-High density tier allows the development of projects at residential densities ranging from fifteen (15) to twenty-seven (27) dwelling units per acre. The maximum average unit size within the Medium-High density tier varies from 1,450 square feet of floor area to 905 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B and incorporated by this reference as though fully set forth herein.

B. High Density. The High Density tier applies to those lots with a City General Plan land use designation of High Density Residential. The High Density tier allows the development of projects at residential densities ranging from twenty-eight (28) to thirty-six (36) dwelling units per acre. The maximum average unit size within the High Density tier varies from 1,245 square feet of floor area to 970 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B.

C. Priority Housing Overlay. The Priority Housing Overlay applies to lots within the City with a City General Plan land use designation of High Density Residential and lots zoned C-M (regardless of the General Plan land use designation) as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached to this Chapter as Exhibit A. The Priority Housing Overlay allows the development of projects at residential densities ranging from thirty-seven (37) to sixty-three (63) dwelling units per acre. The maximum average unit size within the Priority Housing Overlay varies from 970 square feet of floor area to 811 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B. The Priority Housing Overlay is only available for Rental Housing, Employer-Sponsored Housing, or Limited-Equity Housing Cooperative. A project developed under the Priority Housing Overlay may have a mixture of Priority Housing categories (i.e., a portion of the project may be Rental Housing while another portion of the project may be Employer-Sponsored housing).

D. Process to Establish Priority Housing. For the purposes of this Chapter, the different forms of Priority Housing shall be established in the following manner:

1. Employer-Sponsored Housing. In order to qualify for the density incentives allowed under the Average Unit-Size Density Incentive Program, the applicant for a proposed Employer-Sponsored Housing project should typically propose a project which contains a range of dwelling unit sizes and which offers a range of rents or purchase prices, some of which are affordable to a household earning 200% of the Area Median Income or less at the time of the initial occupancy of the project. The owner of an approved Employer-Sponsored Housing project must record a written instrument against the real property, in a form acceptable to the City Attorney, by which the employer sponsor(s) that owns the real property agrees to limit the occupancy of each residential unit to a household who occupies the unit as their primary residence and which includes at least one person who is primarily employed at a place of employment located within the south coast region of Santa Barbara County for as long as the property is developed and maintained at the incentive densities.

2. Limited-Equity Housing Cooperative. In order to qualify for the density incentives provided under the Average Unit-Size Density Program, all of the dwelling units within the Limited-Equity Housing Cooperative must be affordable to households earning up to 250% of the Area Median Income measured at the time of purchase, as affordability is defined in the City's Affordable Housing Policies and Procedures, and a covenant containing this requirement (in a form acceptable to the City Attorney) shall be recorded against the real property to this effect.

3. Rental Housing. In order to qualify for the Priority Housing Overlay density incentives allowed under the Average Unit-Size Density Incentive Program, the owner of real property developed with Rental Housing must record a written covenant, in a form acceptable to the City Attorney, by which the owner agrees to maintain the rental housing use for as long as the property is developed and maintained at the incentive densities provided for in this Chapter.

E. Dwelling Unit Sizes. The unit sizes shown in the Average Unit-Size Density Incentive Program Table are the maximum average unit sizes allowed for the corresponding residential densities specified in the applicable density tier. Projects may be developed under the Average Unit-Size Density Incentive Program at a residential density that is greater than the base density for the zone in which the lot is located, but at a residential density that is less than the density range specified in the density tier assigned to the lot by its City General Plan land use designation. However, the average unit size of any project that is developed at a residential density which exceeds the SBMC Chapter 28.21 base density for the zone in which the lot is located through the application of the Average Unit-Size Density Incentive Program may not exceed the maximum average unit size for the applicable residential density tier as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B. (Ord. 5630, 2013.)

28.20.065 Average Unit Size and Inclusionary Housing Projects.

If a project developed in accordance with the Average Unit-Size Density Incentive Program of this Chapter is required to comply with the City's Inclusionary Housing Ordinance (SBMC Chapter 28.43), and if the owner of the Project elects to provide the inclusionary units on-site as part of the project (as opposed to paying the allowed in-lieu fee allowed by SBMC Chapter 28.43), the increased number of dwelling units to which the owner is entitled under SBMC Chapter 28.43 shall also comply with the maximum average unit size for the base density of the project under the Average Unit-Size Density Incentive Program. (Ord. 5630, 2013.)

28.20.070 Additional Development Incentives.

A. Development Standards Generally. In order to further encourage the development of projects in accordance with the provisions of this Average Unit-Size Density Incentive Program, the development standards listed in this Section 28.20.070 are allowed for those projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program. Except as otherwise specified in this Section, projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program shall otherwise comply with the development standards applicable to the base zone in which the lot is located.

B. Market Rate Ownership Projects Within the S-D-2 Overlay Zone. Projects developed with market rate ownership units on lots with a City General Plan land use designation of Medium-High Density within the S-D-2 overlay zone shall comply with S-D-2 zone development standards as required by Section 28.45.008 of this Title.

C. Building Height. Projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program shall conform to the building height standards specified within the zone in which the lot is located, except that Average Unit-Size Density Incentive Program projects in the R-3, R-4, HRC-2, R-O, C-P, C-L, C-1, S-D-2, and OC Zones may be built with up to four stories so long as such buildings do not exceed a maximum of 45 feet in building height; provided, however, that projects developed with market rate ownership units on lots with a City General Plan land use designation of Medium-High Density and subject to the S-D-2 overlay zone shall comply with S-D-2 zone building height and building story limitations of Section 28.45.008 of this Title.

D. Setbacks. Projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program shall observe the following building setback standards:

1. R-O, C-P, C-L, C-1, C-2, C-M, and S-D-2 Zones. Projects developed in accordance with the Average Unit-Size Density Incentive Program in the R-O, C-P, C-L, C-1, C-2, C-M, and S-D-2 Zones shall observe the following building setback standards:

a. Front Setback.

i. State Street and First Blocks of Cross Streets. Projects on lots fronting State Street between Montecito Street and Sola Street, and lots fronting the first block east or west of State Street on streets that cross State Street between and including Montecito Street and Sola Street, shall not be required to provide a front building setback.

ii. Commercially-Zoned Lots Subject to the S-D-2 Overlay Zone. Projects developed on commercially-zoned lots within the S-D-2 overlay zone shall observe a front setback of ten (10) feet; provided, however, that projects on commercially zoned lots in the Medium-High Density designation and developed with market rate ownership units shall observe the front setback standards of the S-D-2 overlay zone required by Section 28.45.008 of this Title.

iii. All Other Lots. Projects on lots that do not front on the streets specified in Section 28.20.070(D)(1)(a)(i) shall observe the following front building setback standard: A uniform front setback of five (5) feet shall be provided except where that portion of the structure which intrudes into the required five (5) foot front setback is appropriately balanced with a front building setback area that exceeds the minimum five (5) foot front setback. The additional compensating setback area shall not be located farther from the adjacent front lot line than one half of the length of the front lot line.

b. Interior Setback Adjacent to Nonresidential Zone. No interior setback is required for those projects adjacent to a nonresidential zone; provided, however, that projects on commercially-zoned lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the interior setback standards required by the applicable base zone.

c. Interior Setback Adjacent to Residential Zone. A uniform interior setback of six (6) feet shall be provided except for those projects where that portion of the structure which intrudes into the required six (6) foot interior setback is appropriately balanced with an interior setback area that exceeds the minimum six (6) foot interior setback; provided, however, that projects developed on commercially-zoned lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the interior setback standards required by the applicable base zone.

2. R-3 and R-4 Zones. Projects on lots developed in accordance with the Average Unit-Size Density Incentive Program in the R-3 and R-4 Zones (except for market rate ownership projects within the S-D-2 overlay zone) shall observe the following building setbacks:

a. Front Setback. A front setback of not less than the indicated distance indicated below shall be provided between the front lot line and all buildings, structures, and parking areas on the lot as follows:

i. One or two story buildings or structures: ten (10) feet
ii. Three or more story buildings or structures:
(1) Ground floor portions: ten (10) feet
(2) Second story portions: ten (10) feet
(3) Third or more story portions: twenty (20) feet
(4) Parking: As required by Sections 28.21.060.A.3 and 28.21.060.A.4 of this Title.

b. Interior Setback. An interior setback of not less than the distance indicated below shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

i. One or two story buildings or structures: six (6) feet
ii. Three or more story buildings or structures:
(1) Ground floor portions: six (6) feet
(2) Second story portions: six (6) feet
(3) Third or more story portions: ten (10) feet
(4) Garages, carport or uncovered parking: As required by Section 28.21.060.B.3. of this Title.

c. Rear Setback. A rear setback of not less than the indicated distance shall be provided between the rear lot line and all buildings, structures, and parking on the lot as follows:

i. Ground floor portions: six (6) feet
ii. Second story portions: ten (10) feet
iii. Third or more story portions: ten (10) feet
iv. Garage, carport, or uncovered parking: three (3) feet.

3. HRC-2 and O-C Zones. Lots developed in accordance with the Average Unit-Size Density Incentive Program in the HRC-2 and OC Zones shall observe the setback standards required by the applicable base zone.

E. Distance Between Buildings on the Same Lot.

No main building (as defined in SBMC Section 28.04.145) shall be closer than ten (10) feet to any other main building on the same lot; provided, however, that projects on lots in the Medium-High Density designation subject to the S-D-2 overlay zone and developed with market rate ownership units shall observe the building separation standards required by the applicable base zone.

F. Parking.

As an alternative to the residential parking requirements specified in Subsections G and H of Section 28.90.100 of this Title, projects developed under the Average Unit-Size Density Incentive Program may observe the following residential parking requirements; provided, however, that projects on lots in the Medium-High Density designation subject to the S-D-2 overlay zone and developed with market rate ownership units shall observe the parking requirements required by the applicable base zone:

1. Residential Units. A minimum of one covered or uncovered parking space shall be provided for each residential unit.

2. Bicycle Parking. A minimum of one covered and secured bicycle parking space shall be provided for each residential unit.

3. Guest Parking. Guest parking is not required.

4. Other Parking Standards. Other than the residential parking requirements specified in Subsections G and H of Section 28.90.100, projects developed under the Average Unit-Size Density Incentive Program shall observe the parking standards specified in Chapter 28.90 of this Title.

G. Outdoor Living Space.

Projects developed in accordance with the Average Unit-Size Density Incentive Program shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Title with the following exceptions:

1. All projects on lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the Outdoor Living Space requirements specified by the applicable base zone.

2. All projects in commercial zones electing to provide outdoor living space pursuant to the Private Outdoor Living Space Method specified in Subsection A of SBMC Section 28.21.081 are required to provide both the Private Outdoor Living Space specified in SBMC Section 28.21.081(A)(1) and the Common Open Area specified in SBMC Section 28.21.081(A)(3). Projects developed under the Average Unit-Size Density Incentive Program which elect to provide outdoor living space pursuant to the Private Outdoor Living Space Method of SBMC Section 28.21.081(A)(1) may, but are not required to, provide the Open Space specified in SBMC Section 28.21.081(A)(2).

3. All projects in commercial zones electing to provide outdoor living space pursuant to the Common Outdoor Living Space Method specified in Subsection B of SBMC Section 28.21.081 shall provide common outdoor living space in accordance with Subsection B of that Section. In addition, for projects developed in accordance with the Average Unit-Size Density Incentive Program, the required common outdoor living space may be located at either grade or on any floor of the building(s), notwithstanding SBMC Section 28.21.081(B)(4) to the contrary. (Ord. 5630, 2013.)

28.20.080 Planning Commission Review of Rental Housing Projects.

A. Planning Commission Review. The Planning Commission shall review all rental housing projects proposed in accordance with the provisions of the Average Unit-Size Density Incentive Program when both of the following criteria are satisfied:

1. Any lot within the project site has a High Density Residential land use designation or the project is being proposed under the Average Unit-Size Density Incentive Program Priority Housing Overlay, and
2. The project site has a combined net lot area of 15,000 square feet or greater.

B. Review by Pre-Application Review Team. All Average Unit-Size Density Incentive Program projects subject to Planning Commission review pursuant to this Section 28.20.080 shall be reviewed by the Pre-Application Review Team as provided in Section 27.07.070 of this Code.

C. Timing of Review. The Planning Commission review pursuant to this Section 28.20.080 shall occur after the initial concept review by the Architectural Board of Review or Historic Landmarks Commission, as applicable. The project applicant may elect to have additional concept reviews by the applicable design review body, prior to the review by the Planning Commission. If an Average Unit-Size Density Incentive Program project requires a discretionary approval by the Planning Commission pursuant to any other provision of this Code, then the review required pursuant to this Section 28.20.080 may be combined with the hearing for the other discretionary approval required for the project.

D. Hearing Procedures. The Planning Commission shall conduct its review at a public hearing noticed in accordance with Section 28.87.380 of this Code. The Planning Commission shall receive a written report from the Pre-Application Review Team concerning the proposed design and improvement of the project and the project's consistency with the City's General Plan. The Planning Commission shall provide comment and recommendation by majority vote regarding the proposed design and improvement of the project and the project's consistency with the City's General Plan. The Planning Commission comments and recommendations are intended for use by the applicable design review body in their deliberations.

E. Communication to Design Review Body. Following the Planning Commission review hearing, the Community Development Department staff shall communicate the Planning Commission's comments and recommendations to the applicable design review body.

F. Additional Planning Commission Review. If a project is subject to Planning Commission review pursuant to this Section 28.20.080, the Historic Landmarks Commission cannot elect to refer the project to the Planning Commission pursuant to Section 22.22.133, and the Architectural Board of Review cannot elect to refer the project to the Planning Commission pursuant to Section 22.68.050. However, the project applicant may request an additional concept review of the project by the Planning Commission. (Ord. 5671, 2014.)

MAP:

AVERAGE UNIT-SIZE DENSITY INCENTIVE PROGRAM MAP

TABLE:

AVERAGE UNIT-SIZE DENSITY INCENTIVE PROGRAM TABLE

Chapter 28.21

R-3 LIMITED MULTIPLE-FAMILY RESIDENCE ZONE AND R-4 HOTEL-MOTEL-MULTIPLE RESIDENCE ZONE

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28.21.001 In General.
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28.21.030 Uses Permitted.
28.21.035 Uses Permitted Upon the Issuance of a Conditional Use Permit or Performance Standard Permit.
28.21.050 Building Height.
28.21.060 Setbacks.
28.21.065 Reduction of Setback Requirements.
28.21.070 Distance Between Buildings on the Same Lot.
28.21.080 Lot Area and Frontage Requirements.
28.21.081 Outdoor Living Space.
28.21.085 Regulations for Non-Residential Buildings, Structures and Uses.
28.21.090 Other Requirements.
28.21.100 Off-street Parking.
28.21.110 Signs.
28.21.120 Public Street Requirements.
28.21.130 Development Plan Approval.
28.21.131 Development Potential.

28.21.001 In General.

The following regulations shall apply to both the R-3 Limited Multiple-Family Residence Zone and the R-4 Hotel-Motel-Multiple-Residence Zone unless otherwise provided in this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.005 General Description and Legislative Intent.

1. R-3 ZONE.

This is a restricted residential district of high density in which the principal use of land is for multiple-family dwellings, together with recreational, religious and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life and to prohibit activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

2. R-4 ZONE.

This is a hotel-motel multiple residence district in which the principal use of land is intended to be for multiple housing, together with recreational, religious and educational facilities required to serve the community. The provisions of this ordinance are intended to provide a pleasant and healthful environment by establishing provisions for usable open spaces.

It is the intent of this district to allow hotels and similar establishments, including related recreational, conference center and other auxiliary uses primarily for use by hotel guests, while protecting the existing housing stock, and to preserve the residential character of those neighborhoods which are still primarily residential. In addition, the preservation of buildings of architectural and/or historical significance shall be encouraged. A conversion permit will be required in order to convert existing dwelling units for the purpose of providing hotel or similar uses.

Regulations for this district are designed to control activities of a retail commercial nature and those which would tend to be inharmonious with housing. Restaurants intended to serve the visitors using the established hotels and motels in the immediate vicinity are permitted subject to approval of a conditional use permit. (Ord. 4199, 1983; Ord. 4018 §1, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.030 Uses Permitted.

A. R-3 ZONE.

1. Any use permitted in the R-2 Zone and subject to the restrictions and limitations contained therein, except that any use specifically mentioned hereafter shall be subject to the restrictions of the R-3 Zone.

2. One-, two-, and multiple-family dwellings.

3. Community care facilities, residential care facilities for the elderly and hospices serving 7 to 12 individuals subject to the provisions in Chapter 28.93.

B. R-4 ZONE.

1. Any use permitted in the R-3 Zone and subject to the restrictions and limitations contained therein, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the R-4 Zone.

2. Hotels and related recreational, conference center and other auxiliary uses primarily for use by hotel guests. Any hotels, when units are designed or constructed with cooking facilities shall, as to such units, be subject to the lot area per unit requirements of the R-4 Zone and to the parking requirements for multiple family units required in Subsection 28.90.100.G.3 of this Code. Such hotels when designed, constructed or used for either twenty-four (24) or more dwelling units, or fifty (50) guest rooms or more may include a business, except a restaurant, conducted therein for the convenience of the occupants and their guests; provided entrance to such places of business be from the inside of such buildings; that the floor area used for all the businesses in the facility shall not exceed thirty percent (30%) of the total ground floor area of all the buildings comprising the hotel which are on a single lot or contiguous lots; and provided further that no street frontage of any such building shall be used for such business. Any hotel, regardless of the number of units or rooms therein, may include a restaurant for use by the hotel occupants and their guests only, provided that such facility conforms to all other requirements imposed on any "business" by this paragraph. A restaurant not conforming to all other requirements imposed on any "business" by this paragraph or not for use solely by hotel occupants and their guests may be established only if a conditional use permit is obtained for operation of a restaurant under Chapter 28.94 of this Code. (Ord. 4858, 1994; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.035 Uses Permitted Upon the Issuance of a Conditional Use Permit or Performance Standard Permit.

As provided in Chapters 28.93 and 28.94 of this ordinance. (Ord. 5380, 2005; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.050 Building Height.

Three (3) stories, which three (3) stories combined shall not exceed (i) forty-five feet (45') nor (ii) exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.060 Setbacks.

The following setbacks shall be observed on all lots within these zones:

A. Front Setback. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot, as follows:

1. One or two story building or structure: 10 feet
2. Three story building or structure: 15 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the front setback shall be reduced as follows:
   a. Ground floor portions: 10 feet
   b. Second story portions: 10 feet
   c. Third story portions: 20 feet
3. Parking that does not back out onto the street: 10 feet
4. Parking that backs out onto the street: 20 feet

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

1. One or two story building or structure: 6 feet
2. Three story building or structure: 10 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the interior setback shall be reduced as follows:
   a. Ground floor portions: 6 feet
   b. Second story portions: 6 feet
   c. Third story portions: 10 feet
3. Garage, carport or uncovered parking: 6 feet; however, if the width of the lot is less than fifty-five (55) feet at the opening of a garage or carport, the garage or carport opening does not face the street, and the interior depth of the garage or carport does not exceed twenty (20) feet, the setback may be reduced by up to 3 feet by the design review body that reviews the project.

C. Rear Setback. A rear setback of not less than the indicated distance shall be provided between the rear lot line and all buildings, structures, and parking on the lot:

1. Ground floor portions: 6 feet
2. Second story portions: 10 feet
3. Third story portions: 10 feet
4. Garage, carport, or uncovered parking: 3 feet

For purposes of this section, a rear setback shall be provided from the lot line opposite to the front lot line. In the event of two or more front lot lines, the rear setback shall be provided from the lot line opposite to any of the front lot lines. (Ord. 5459, 2008.)

28.21.065 Reduction of Setback Requirements.

It is hereby declared that under the following conditions a physical hardship exists on all R-3 and R-4 Zone lots, and that the listed modifications are hereby granted where the stated conditions exist.

Other provisions of this title notwithstanding, a conforming addition may be made to an existing nonconforming dwelling where such nonconformance is due to inadequate front setback or interior setbacks, providing said dwelling complied with the setbacks required by ordinance at the time of construction. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3587, 1973.)

28.21.070 Distance Between Buildings on the Same Lot.

No main building shall be closer than fifteen feet (15') to any other main building on the same lot, except that a one-story building shall be no closer than ten feet (10') to another one-story building. (Ord. 3710, 1974; Ord. 2585, 1957.)

A. Minimum Lot Size and Frontage for New Lots. Every lot hereafter created in an R-3 and R-4 Zone shall contain at least fourteen thousand (14,000) square feet and sixty feet (60') of frontage on a public street.

B. Lots Less Than 5,000 Square Feet. Existing lots of less than five thousand (5,000) square feet of net lot area may be used as a building site for a one-family dwelling, provided that all other regulations of the zone prescribed by this title are observed.

C. Existing Lots of 5,000 to 6,999 Square Feet. Existing lots of 5,000 to 6,999 square feet of net lot area, inclusive, may be used as a building site for two (2) dwelling units, provided that all other regulations of the zone prescribed by this title are observed.

D. Lots of 7,000 to 13,999 Square Feet. Existing lots of 7,000 to 13,999 square feet of net lot area, inclusive, may be used as a building site for three (3) units, provided that all other regulations of the zone prescribed by this title are observed.

E. Lots of 14,000 Square Feet or More. For lots of fourteen thousand (14,000) square feet or more of net lot area, a minimum of three thousand five hundred (3,500) square feet of net lot area shall be provided for each dwelling unit hereafter erected.

F. Variable Density in Certain Zones. Lots in the R-3, R-4, C-1, C-2, C-M and R-O Zones, as well as lots in the HRC-2 and OC Zones where residential uses are allowed by the Local Coastal Plan, may be used as a building site for more units than permitted in paragraphs B, C, D and E above if the number of bedrooms in the dwelling unit is limited in accord with the following:

1. Studio unit - one (1) unit per 1,600 square feet of lot area;
2. 1 bedroom unit - one (1) unit per 1,840 square feet of lot area;
3. 2 bedroom unit - one (1) unit per 2,320 square feet of lot area;
4. 3 or more bedroom unit - one (1) unit per 2,800 square feet of lot area.

Existing lots with less than 5,000 square feet of net lot area shall not be used as a building site under this Subsection (F) for more than two (2) dwelling units. This Subsection (F) shall be applicable in the R-3, R-4, C-1, C-2, C-M, R-O, HRC-2 and OC Zones and not in any other zone. The fact that a lot may be subject to an overlay zone, including, but not limited to, the S-D-2 or S-D-3 Overlay Zones, does not prohibit the application of variable density if variable density is otherwise allowed in the base zoning of the lot. (Ord. 5459, 2008; Ord. 5343, 2005; Ord. 4772, 1992; Ord. 3950 §1, 1978; Ord. 3753, 1975.)

28.21.081 Outdoor Living Space.

Every lot in this zone shall provide outdoor living space in accordance with either of the following methods:

A. Private Outdoor Living Space Method. Lots providing outdoor living space in accordance with this method shall provide each of the spaces described in paragraphs 1-3 below:

1. Private Outdoor Living Space. Private outdoor living space shall be provided for each dwelling unit as follows:

a. Minimum size. The private outdoor living space shall be not less than the size specified below based on the number of bedrooms in the dwelling unit and the location where the private outdoor living space is provided:

(1) Ground floor:
- (a) Studio unit - 100 square feet
- (b) 1 Bedroom unit - 120 square feet
- (c) 2 Bedroom unit - 140 square feet
- (d) 3 or more Bedroom unit - 160 square feet

(2) Second or higher story:
- (a) Studio unit - 60 square feet
- (b) 1 Bedroom unit - 72 square feet
- (c) 2 Bedroom unit - 84 square feet

(d) 3 or more Bedroom unit - 96 square feet

b. Minimum Dimensions. The private outdoor living space shall have minimum dimensions as specified below, measured in perpendicular directions based on the location where the private outdoor living space is provided:

(1) Ground floor: 10 feet

(2) Second or higher story: 6 feet

c. Connectivity. Private outdoor living space shall be contiguous to and accessible from the dwelling unit for which it is provided.

d. Multi-story dwelling units. Dwelling units that occupy more than one story may provide the required private outdoor living space on any story.

e. Allowed amenities. Private outdoor living space may include planter areas totaling no more than fifty (50) square feet, patio areas, balconies, and decks.

f. Exclusions. Private outdoor living space shall not include stairs, entrance decks, or landings. In addition, private outdoor living space shall not include areas located under eaves, balconies, or other cantilevered architectural or building projections not providing additional floor area where the vertical clearance under the architectural or building projection is less than seven feet.

g. Allowed setback encroachments. Private outdoor living space may encroach into setbacks as follows:

(1) Private outdoor living space provided on grade may encroach into interior and rear setbacks up to the property line.

(2) Private outdoor living space provided on grade may be located up to ten (10) feet from the front lot line, subject to the following conditions:

(a) The area of the private outdoor living space located in the front yard may not exceed more than 50% of the front yard area, excluding driveways.

(b) The private outdoor living space provided in the front yard shall be enclosed by a solid fence having a minimum height of five (5) feet and a maximum height of six (6) feet. The exterior of the fence shall be landscaped. However, the design review body that reviews the project may reduce or waive the requirement for a fence or landscaping in order to preserve substantial views from the unit being served by the private outdoor living space or if the area does not abut a street.

2. Open Space. In addition to all setbacks, every lot satisfying the outdoor living space requirement in accordance with this private outdoor living space method shall provide on grade open space of an area not less than ten percent (10%) of the net lot area in accordance with the provisions of this paragraph 2. The intent of this provision is to provide relief from building volume, driveways and parking beyond that afforded by setbacks.

a. Examples of Permitted Open Space Improvements. The required open space may consist of landscaped or hardscaped areas unobstructed from the ground upwards, including, but not limited to:

(1) Walks,

(2) Patios,

(3) Planted areas,

(4) Decks no more than 18” above grade at all points, and

(5) Swimming pool areas.

b. Examples of Open Space Improvements Not Permitted. The required open space shall not consist of the following:

(1) Garages,

(2) Carports,

(3) Driveways,

(4) Loading areas,

(5) Parking and turnaround areas,

(6) Balconies,

(7) Porches,

(8) Decks higher than 18” above grade at any point,

(9) Roof decks, or

(10) Areas located under trellises, arbors, eaves, balconies, bay windows, window seats, or other cantilevered architectural or building projections not providing additional floor area where the vertical clearance under the structure or architectural or building projection is less than seven feet.

3. Common Open Area. The common open area requirement specified in this Paragraph 3 shall only apply to lots developed with four (4) or more dwelling units. Every lot satisfying the outdoor living space requirement in accordance with this private outdoor living space method shall provide a common open area in accordance with this paragraph 3. The common open area shall have a minimum dimension of fifteen (15) feet measured in perpendicular directions and shall be accessible to all dwelling units on the lot. The common open area may be located on grade, on the second or higher story, or on a roof deck. On grade common open area may include portions of the interior setback or rear setback. On grade common open area may include portions of any remaining front yard, but shall not include any portion of the front setback. The common open area required in this paragraph 3 may be counted as part of the open space required in paragraph 2 as long as the other conditions of paragraph 2 are satisfied.

B. Common Outdoor Living Space Method. Lots providing outdoor living space in accordance with this method shall provide common outdoor living space in accordance with the following:

1. Accessibility. The common outdoor living space shall be accessible to all dwelling units on the lot.

2. Minimum Size. The common outdoor living space shall consist of at least fifteen percent (15%) of the net lot area.

3. Minimum Dimensions. The common outdoor living space may be provided in multiple locations on the lot, but at least one location shall have a minimum dimension of twenty (20) feet measured in perpendicular directions.

4. Location. Common outdoor living space must be located on grade. On grade common outdoor living space may be located in an interior setback or rear setback. On grade common outdoor living space may be located in the remaining front yard but shall not include any portion of the front setback.

5. Exclusions. Common outdoor living space shall not include any of the following areas:

a. Areas designed for use by motor vehicles, including, but not limited to, driveways, parking, and turnaround areas.

b. Areas located under trellises, arbors, eaves, balconies, bay windows, window seats, or other architectural or building projections not providing additional floor area where the vertical clearance under the structure or architectural or building projection is less than seven feet. (Ord. 5630, 2013; Ord. 5459, 2008.)

28.21.085 Regulations for Non-residential Buildings, Structures and Uses.

A. SETBACKS. Setbacks for all buildings and structures used for nonresidential purposes shall be double the setback requirements for a dwelling as required for the zone in which such building or structure is located. Notwithstanding the foregoing, the following shall be exempt from the double setback requirement:

1. Conversions of existing residential structures to structures that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2, and

2. Remodels of existing buildings that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2.

B. LOT COVERAGE. Not more than twenty-five percent (25%) of the net area of a lot may be covered by buildings used for nonresidential purposes. Notwithstanding the foregoing, the following shall be exempt from the lot coverage limitation:

1. Conversions of existing residential structures to structures that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2, and

2. Remodels of existing buildings that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2.

C. ARCHITECTURAL APPROVAL. All buildings used for nonresidential purposes shall be subject to the approval of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. (Ord. 5459, 2008; Ord. 4946, 1996; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.090 Other Requirements.

The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood including the mailing of notices to property owners and the holding of a public hearing. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.110 Signs.

Signs shall be permitted in these zones only as prescribed in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.120 Public Street Requirements.

A. When any person proposes to construct one (1) or more multiple-family dwellings, wherein the number of dwelling units is controlled by Section 28.20.060, on a lot or combination of lots, the size, shape, dimensions or topography of which, in relation to existing abutting public streets, require that there be an adequate access or internal circulation roadway for vehicular traffic, including, but not limited to, emergency vehicles and equipment traffic, the City's Chief Building Official may, prior and as a condition to the issuance of a building permit for such dwelling or dwellings, require the submission by the owner or applicant of a plot plan of such lot or combination of lots showing the location of all existing buildings and all buildings proposed to be constructed thereon and showing the location, width, and extent of improvements of an adequate access or internal circulation roadway thereon designed to connect with the abutting public street or streets.

The term adequate access or internal circulation roadway shall mean a dedicated public street established and improved to City standards and so located as to provide convenient and orderly traffic movement, ingress and egress and circulation upon, through and within the lot or combination of lots in relation to abutting streets, the multiple-family dwelling or dwellings, and the off-street parking areas required in connection with such dwelling or dwellings.

The plot plan and adequate access or internal circulation roadway shall be required by the Chief Building Official where:

1. The lot or combination of lots which is the site of the proposed construction exceeds five (5) acres; or
2. The maximum possible number of dwelling units which could be constructed on such lot or combination of lots, pursuant to Section 28.20.060 exceeds one hundred (100); or
3. Any portion of a multiple-family dwelling proposed to be constructed on the lot or combination of lots will be more than two hundred and fifty feet (250') from the right-of-way line of an abutting street.

When none of the three (3) foregoing categories are applicable to the lot or combination of lots, the adequate access or internal circulation roadway as defined herein shall not be required where the lot or combination of lots abut on a previously dedicated street or streets and where the private driveway access from the nearest entry to the required off-street parking area to the point of connection with such street or streets does not exceed one hundred and fifty (150) lineal feet.

B. When the plot plan required by the Chief Building Official is filed, the Building Official shall forthwith submit the same to the Community Development Department and the Public Works Department for investigation, report and recommendation. Such reports and recommendations shall be submitted to the Planning Commission for hearing at its earliest convenience, and such Planning Commission shall, following such hearing, approve, modify or reject such proposed adequate access or internal circulation roadway in respect to location and connection with existing abutting street or streets.

C. The owner or applicant may appeal any decision of the Planning Commission to the City Council in the manner provided by Chapter 1.30 of this Code.

D. Following approval by the Planning Commission or the City Council, as the case may be, of the proposed adequate access or internal circulation roadway shown on the plot plan, the owner or applicant shall:

1. By formal instrument offer to dedicate said proposed roadway as a public street; and
2. Either complete the required improvement of such public street to the satisfaction of the City Engineer or agree to complete such improvement within a period of one (1) year, such agreement to be secured by a good and sufficient surety bond in a principal sum equivalent to the estimated cost of such public street on the basis of estimates to be provided by the Department of Public Works, and conditioned on final completion of the construction of said street.

E. Upon completion of such public street improvement to the satisfaction of the City Engineer, or the execution and acceptance of an agreement to complete, secured by bond, a building permit shall then be issued if the requirements of other applicable ordinances have been met. The offer of dedication shall continue until, and shall not be accepted until, the required improvements have been completed to the satisfaction of the City Engineer.
(Ord. 5630, 2013; Ord. 3710, 1974; Ord. 3119, 1966; Ord. 3118, 1966.)

28.21.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.21.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.22

HRC-1 and HRC-2 HOTEL AND RELATED COMMERCE ZONES

Sections:

28.22.010 In General.
28.22.030 Uses Permitted.
28.22.035 Uses Permitted Upon the Issuance of a Conditional Use Permit.
28.22.040 Coastal Zone Review.
28.22.045 Development Potential.
28.22.050 Building Height Standards.
28.22.060 Setbacks.

28.22.010 In General.

This is a zone which, because of its proximity to the shoreline and its location along two major arteries, strives to promote, maintain and protect visitor-serving and commercial recreational uses. Tourist and traveler related uses shall be encouraged in this zone in a manner which does not detract from the desirability of the shoreline as a place to visit. Residential uses are appropriate in certain areas of the HRC-2 zone.

Land classified in the HRC-2 zone may also be overlaid with a second classification of being in the Ocean-Oriented Commercial zone (hereinafter referred to as the "OC zone.") The OC zone regulations shall apply to all development projects on land with a dual HRC-2 / OC zoning designation. (Ord. 5343, 2005; Ord. 4320, 1985; 4172, 1982.)

28.22.030 Land Uses Permitted.

The following land uses are allowed in the HRC zones indicated:

A. HRC-1 ZONE:

Hotels, motels and tourist courts, including related recreational, conference center and other auxiliary uses primarily for use by hotel guests and as permitted in Section 28.21.030.B.2 of this code. In addition, restaurants, including those with entertainment facilities used in conjunction with the restaurant, are allowed.

B. HRC-2 ZONE:

1. General. Any use permitted in the HRC-1 Zone and subject to the restrictions and limitations contained therein.

2. Specific. Any of the following uses which are primarily visitor-serving or of a commercial recreational nature specific to the Coastal Zone are allowed:

a. Bicycle, roller skating, moped, dive gear and other recreational equipment rental stores.
b. Stores which sell liquor, groceries and food, which do not exceed 2,500 sq. ft. in gross floor area.
c. Specialty and gift shops.
d. Art galleries.
e. Bait and tackle shops, sales of boats, marine supplies and related equipment.
f. Other visitor-serving or commercial recreational uses deemed appropriate by the Planning Commission.

3. General Office Use. The second and third floors of commercial buildings are allowed to be used for general office uses upon issuance of a Conditional Use Permit. A Conditional Use Permit may be granted by the Planning Commission or City Council on appeal for such uses in accordance with the provisions of Chapter 28.94 of this Code, subject to the following additional findings:

a. The use is compatible with visitor-serving uses;
b. Visitor-serving uses remain the primary use of the building; and
c. Non-visitor-serving uses shall not exceed fifty (50) percent of the total square footage of the building.

4. Restriction on Residential Use. Residential use is prohibited in the HRC-2 Zone except in the following areas:

a. The area bounded by Cabrillo Boulevard on the southeast, Los Patos Way on the southwest and the existing railroad right-of-way on the north.
b. The area identified as Area A of the Cabrillo Plaza Specific Plan as specified in Resolution No. 83-155.

Any use permitted in the R-3 Zone is allowed in these areas subject to the restrictions and limitations contained therein.

5. Special Treatment Area. The following additional restrictions shall apply in the area bounded by Cabrillo Boulevard on the southeast, Los Patos Way on the southwest and the existing railroad right-of-way on the north, due to concerns about protection of the sensitive habitat character and aesthetics of the Andree Clark Bird Refuge:

a. High Intensity Uses. The following high-intensity uses shall be prohibited:
i. fast food restaurants.

ii. stores which sell liquor, groceries and food, except that off-site sale of beer and wine and picnic items may be allowed only when incidental to and related to the primary use of the establishment.

iii. automobile service station.

b. Front Setback. There shall be a front setback of not less than:

i. Ten (10) feet for one-story buildings that do not exceed fifteen (15) feet in height; and

ii. one hundred (100) feet for the second-story portion of any building that exceeds fifteen (15) feet in height.

c. Building Height. Three-story buildings and buildings in excess of thirty (30) feet in height shall be prohibited. (Ord. 5678, 2014; Ord. 5459, 2008; Ord. 5343, 2005; Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.035 Uses Permitted Upon the Issuance of a Conditional Use Permit.

In the HRC-2 Zone, automobile rentals, parking lots, automobile service stations and automobile service station/mini-markets shall be permitted with a conditional use permit issued in accordance with the provisions of Chapter 28.94 of this Code, except where specifically prohibited elsewhere in this Chapter. (Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.040 Coastal Zone Review.

All development in the Coastal Overlay Zone (S-D-3) is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.045 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

28.22.050 Building Height Standards.

No building or structure in an HRC zone shall exceed three (3) stories or exceed forty-five (45) feet in height. (Ord. 5343, 2005; Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.060 Setbacks.

A FRONT SETBACK. There shall be a front setback of not less than:

1. Ten (10) feet for one-story buildings that do not exceed fifteen (15) feet in height; and
2. Twenty (20) feet for all other buildings.

B. INTERIOR SETBACK. Buildings on property immediately adjacent to residentially-zoned property shall have an interior setback of no less than ten (10) feet or one-half (½) the height of the building, whichever is greater. (Ord. 5459, 2008; Ord. 4320, 1985; Ord. 4172, 1982.)

Chapter 28.27

R-H RESORT-RESIDENTIAL HOTEL ZONE

Sections:

28.27.001 Title.
28.27.005 Legislative Intent.
28.27.010 Dual Zoning Classifications.
28.27.015 Regulations Applicable to R-H Zone/Exclusive Development and Use.
28.27.030 Uses Permitted.
28.27.040 Minimum Site Area.
28.27.050 Building Regulations.
28.27.060 Land Coverage.
28.27.070 Sleeping Unit Density.
28.27.090 Development Plan as Prerequisite to R-H Zoning.
28.27.100 Development Plan as Prerequisite to Development.
28.27.101 Development Potential.
28.27.110 Signs.

28.27.001 Title.

R-H Resort-Residential Hotel Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.005 Legislative Intent.

The purpose of the R-H Zone is to provide for the highly specialized uses that are associated with the development and operation of resort-residential hotels and to insure the least possible conflict with or disturbance of the amenities attached to and associated with adjoining residential areas. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.010 Dual Zoning Classifications.

Land classified and zoned as R-H shall also be classified and zoned as E-1, E-2, E-3, R-1, R-2 or R-3. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.015 Regulations Applicable to R-H Zone/Exclusive Development and Use.

The regulations contained in this part shall apply to property zoned R-H and developed for the uses permitted in Section 28.27.030.

Property classified and zoned R-H shall be developed and used either exclusively under the regulations contained in this part, or exclusively under the regulations applicable to the underlying residential zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.030 Uses Permitted.

The following uses are permitted in R-H Zones:

1. Resort-residential hotels, consisting of a main building containing dwelling units, and regularly maintained, customary and usual hotel facilities conducted for the convenience of the occupants and their guests including, without limitation, dining rooms, cocktail lounges, news stands and similar facilities, all of which have their main entrance from the lobby; and
2. Together with, and operated under the same ownership as the main building, separate residential structures, hereinafter called guest buildings.
   a. Dwelling units in guest buildings may be equipped with kitchens.
   b. A single guest building may not contain in excess of twelve (12) bedrooms, nor in excess of six (6) dwelling units.
   c. At least fifty percent (50%) of the total number of dwelling units shall be located in guest buildings.

(Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.040 Minimum Site Area.

Property shall not be zoned R-H nor be used for R-H purposes unless the site so zoned and used consists of not less than four (4) acres. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.050 Building Regulations.

A. SETBACK. All buildings and structures shall be separated from interior lot lines and front lot lines a distance equal to or greater than twice the maximum front setback requirement for the underlying residential zone, and in no case less than thirty feet (30') nor less than the height of the building or structure.

B. DISTANCE BETWEEN BUILDINGS. No part of any building shall be located nearer to any part of any other building than the height of the taller of them, and in no case less than fifteen feet (15').

C. HEIGHT LIMITATION, MAIN BUILDING. The main building shall not be higher in number of feet than the building height limitation for the underlying residential zone.

D. HEIGHT LIMITATIONS, ALL OTHER BUILDINGS. Buildings, other than the main building, shall not exceed two (2) stories in height. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.060 Land Coverage.

No more than thirty-three and one-third percent (33-1/3%) of the property zoned and used as R-H may be covered with buildings and structures, to include parking structures, exclusive of porches, balconies and patios.

Not more than thirty-three and one-third percent (33-1/3%) of the property zoned and used as R-H may be covered by open parking spaces, turn-around areas and driveways. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.070 Sleeping Unit Density.

For the purpose of this section a sleeping unit is a room designed in whole or part for sleeping purposes for not more than two (2) persons. (For example, a two-bedroom apartment would contain two (2) sleeping units, a studio apartment would contain one (1) sleeping unit, a hotel room would be also one (1) sleeping unit, etc.)

The number of sleeping units per acre which may be constructed or maintained, or both, on property zoned and used as R-H shall be determined by the following formula:

BASIC UNDERLYING RESIDENTIAL ZONE	MAXIMUM NUMBER OF SLEEPING UNITS PER ACRE
E-1	5
E-2	8
E-3	10
R-1	15
R-2	20
R-3	40

(Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.090 Development Plan as Prerequisite to R-H Zoning.

R-H zoning shall not be applied to any property until after a development plan and perspective renderings and elevations have been submitted to the Community Development Department for study and subsequently approved by the Planning Commission or City Council on appeal. The development plan shall include all existing and proposed buildings, driveways, turn-around and parking areas and a landscape plan. The landscape plan shall include the description and location of all landscaping features such as walls, patios, pools, recreation areas, walks, statuary, rockwork and areas to be planted.

Two (2) copies of the approved development plan shall be retained in the files of the Community Development Department. Subsequent development of the property under the regulations contained in this part shall comply with such approved development plan, except that such development plan shall be altered as necessary to conform to amended or added regulations and shall not be deemed nor held to give, convey or provide the source of vested rights to proceed in accord with the approved development plan. (Ord. 4361, 1986; 3948, 1978; Ord. 3710, 1974; Ord. 3068, 1965.)

28.27.100 Development Plan as Prerequisite to Development.

As a prerequisite to construction or relocation of any new buildings, structures, parking lot(s) or facilities, on any property zoned R-H, a development plan containing the information set forth in Section 28.27.090 pertaining to existing conditions and proposed construction or alteration of the property shall be submitted to the Planning Commission for approval or to the City Council on appeal. (Ord. 4361, 1986; 3948, 1978.)

28.27.101 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991)

28.27.110 Signs.

All signs on property zoned and used as R-H shall be subject to the requirements and limitations set out in the Sign Ordinance for signs in the R-4 Zone and shall be approved by the Sign Committee. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.30

GARDEN APARTMENT DEVELOPMENTS

Sections:

28.30.001 Title.
28.30.005 Legislative Intent.
28.30.032 Where Permitted.
28.30.060 Setbacks.
28.30.070 Distance Between Buildings.
28.30.080 Lot Area Requirements.
28.30.090 Units Per Building.
28.30.100 Off-street Parking.
28.30.110 Signs.

28.30.001 Title.

Garden Apartment Developments. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.005 Legislative Intent.

Now, therefore, it is declared to be the legislative intent of the City of Santa Barbara to provide for greater flexibility in the development of residential properties and for greater amenities and open space related thereto when in the public interest and welfare; to encourage a more creative approach to the development of land; to protect and enhance property values and to provide more desirable spatial relationships between buildings and structures on the land than would be possible under strict adherence to ordinance requirements of the basic zone; and to encourage the preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment.

As a further declaration of the legislative intent of this chapter, it is hereby declared that the provisions hereinafter contained for the computation of the allowable maximum number of dwelling units shall not be used as a means of creating density higher than that allowed under Chapter 28.18, nor a density higher than would be possible by way of the usual subdivision procedure.

Garden apartment developments shall provide for close visual and physical relationship between dwelling units and the landscaped open areas which must dominate the site development, such landscaped open areas to include substantial usable areas for passive and/or active recreational use; from public view the development shall present a landscaped open space effect; parking areas and building masses shall not dominate the scene. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.032 Where Permitted.

Garden apartment developments may be permitted in R-2 Two-family Residence Zones upon the issuance of a conditional use permit pursuant to Chapter 28.94 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.060 Setbacks.

A. FRONT SETBACK. There shall be a front setback of not less than thirty feet (30').

B. INTERIOR SETBACK. There shall be interior setbacks of not less than thirty feet (30'). (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3587, 1973.)

28.30.070 Distance Between Buildings.

No building containing dwelling units shall be located closer to another building containing dwelling units than one-half (1/2) the sum of the heights of both such buildings, and in no case less than fifteen feet (15'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.080 Lot Area Requirements.

Each garden apartment development hereafter approved shall be located on a site of not less than twenty-five thousand (25,000) square feet of net area.

There shall be a minimum of three thousand (3,000) square feet of lot area per dwelling unit. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.090 Units Per Building.

No building shall contain more than eight (8) dwelling units. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.33

PLANNED RESIDENCE DEVELOPMENTS

Sections:

28.33.001 Title.
28.33.005 Legislative Intent.
28.33.010 Procedures.
28.33.030 Uses Permitted.
28.33.045 Property Development Standards.

28.33.001 Title.

Planned Residence Developments. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.33.005 Legislative Intent.

Whereas, Title 1, Division 7, Chapter 12, Sections 6950 - 6954 of the Government Code of the State of California do provide that a city may acquire by purchase, bequest, devise, grant, gift, or otherwise, any interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment; and

Whereas, Section 6953 of said Government Code does provide that the acquisition of such open area constitutes a public purpose, and that the City may acquire the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve the purposes of Chapter 12 of said Government Code;

Now, therefore, it is declared to be the legislative intent of the Council of the City of Santa Barbara to provide for greater flexibility in the development of residential properties, and for greater amenities and open spaces related thereto, when in the public interest and welfare; to encourage a more creative approach to the development of land; to protect and enhance property values and to provide more desirable spatial relationships between buildings and structures on the land than would be possible under strict adherence to ordinance requirements of the basic zone; and to encourage the preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.33.010 Procedures.

Prior to submission of an application for a conditional use permit for a planned residential development, the applicant shall submit to the Chief of Building and Zoning basic site information including aerial photos where deemed necessary by the Chief of Building and Zoning, generalized development plans including lot sizes and open spaces proposed, existing and proposed deed restrictions and easements, existing neighborhood development and any other information which may be reasonably required by the Chief of Building and Zoning to assist the Division of Land Use Controls in its initial consideration of the planned residential development.

1. After completion of preliminary conference(s), the applicant shall file a request for a conditional use permit, submitting therewith:
    - a. A preliminary title report showing vested ownership and all covenants, restrictions and reservations of record.
    - b. Statement of intent indicating:
        - (1) Reason why the subject property may be suitable for planned residential development;
        - (2) Type and class of residence to be constructed;
        - (3) Any deed restrictions contemplated or proposed;
        - (4) Method and schedule of development and improvement of the tract;
        - (5) Purpose and proposed use of the open space to be provided.
    - c. Site (plot) plans drawn to a scale of not greater than one hundred feet (100') to the inch showing:
        - (1) Proposed lots and lot size;
        - (2) Street rights-of-way, existing and proposed;
        - (3) Street improvements proposed including any proposed modification of City standards;
        - (4) Contours at intervals not greater than five feet (5') extending a distance of one hundred feet (100') beyond the boundaries of the development;
        - (5) Existing and proposed easements;
        - (6) Proposed open spaces.
    - d. Landscaping plan drawn to a scale of forty feet (40') or less to the inch showing:
        - (1) All mature trees, indicating those to be retained, removed or relocated;
        - (2) Special landscape features to be retained or created such as rocks, walls, fences, etc.;
        - (3) Recreation areas and facilities to be provided, if any;
        - (4) Proposed grading in contour intervals of not less than five feet (5').

e. Other information reasonably required by the Chief of Building and Zoning to assist the Division of Land Use Controls in a proper consideration of the proposal.

2. The procedure for consideration of a conditional use permit shall be as outlined in Chapter 28.94. If such permit be approved, the Planning Commission and City Council shall first state their finding that the proposed development is consistent with the purposes and objectives outlined herein; and the Planning Commission and the Council may impose such conditions as are necessary to protect the public welfare and to insure proper development under the approved plans.

3. Upon approval of a conditional use permit the applicant may submit a tentative subdivision map which shall conform to the approved conditional use permit plans and conditions. (Ord. 3710, 1974; Ord. 2892, 1962.)

28.33.030 Uses Permitted.

A. Single-family dwellings.
B. Private parks, public parks, open spaces and areas for public or private use and enjoyment.
C. A State-licensed Small Family Day Care Home.
D. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93.
E. State authorized, licensed, or certified uses to the extent they are required by State Law to be allowed in residential zones. (Ord. 4858, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.33.045 Property Development Standards.

1. MINIMUM LOT SIZE: To preserve and protect the value of properties adjacent to the proposed development and to provide for an orderly and uniform transition, lots which will adjoin existing developments shall be required to provide an amount of street frontage not less than that of existing lots but not greater than minimum requirements for the zone in which located.

The Planning Commission may, upon its own motion or upon verified application of the developer, permit lot sizes in a planned residential development to be reduced below the minimum standards required by the Zoning Ordinance. As a prerequisite and condition to the granting of such a permit, the developer shall demonstrate to the Planning Commission that there is a reasonable relationship between the requested lot size and the proposed open areas within the development; that such lot sizes are compatible with the comprehensive plan for the residential development and are necessary to assure that the spirit and intent of this Chapter, as set forth in Section 28.33.005 is observed. Reduction in lot size shall only be permitted as an incident to the exercise of discretion by the Planning Commission and not as consideration for an arbitrary exercise of the zoning power; however, lot area and frontage shall not be reduced below the following minimum requirements, except as otherwise provided:

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE
R-1	5,000 sq. ft.	60 ft.
E-3	6,000 sq. ft.	65 ft.
E-2	8,000 sq. ft.	75 ft.
E-1	10,000 sq. ft.	80 ft.
A-2	15,000 sq. ft.	90 ft.
A-1	25,000 sq. ft.	100 ft.

Exception: Where justified by improved subdivision design, building placement or natural terrain features, the Planning Commission, on recommendation of the Chief of Building and Zoning, may permit interior lots with useable lot area not less than the minimum lot area herein prescribed, and with not less than twenty-five feet (25') of frontage on a public street, provided that such approval shall be consistent with the spirit and intent of this Chapter.

2. STREETS: In order to provide greater flexibility of development and to preserve natural terrain features and open areas the City Council, may, upon the favorable recommendation of the Planning Commission and Public Works Director, grant such modifications of City street design standards as may be deemed necessary to assure that the spirit and intent of this Chapter are observed and the public welfare and safety secured.

3. YARDS AND SETBACKS: Yards or setback lines for individual lots shall be not less than the minimum required in the basic zone district in which the lots are located, except:

No main or accessory building or structure shall be located closer to the exterior boundary of a planned residential development than a distance equal to the height of such structures, such height to be determined as provided in Section 28.04.140 of this Title.

4. DISTANCE BETWEEN BUILDINGS: No main or accessory buildings in a planned residence development shall be located closer to each other than one-half (1/2) of the aggregate height of both buildings, such height to be determined as provided in Section 28.04.140 of this Title, except:

a. Where buildings are so offset that no portion of one (1) building falls within the projection of the outer walls of another, the common space between then may be reduced to not less than twenty feet (20'); and

b. Where buildings face on, or back to, any other residential building, the minimum distance between them shall be thirty feet (30').

5. DENSITY OF DEVELOPMENT: Density of development (permissible number of dwelling units) shall be computed by the following formula: Total net acreage within the planned residential development area divided by the minimum lot area required in the basic zone district. Total net acreage shall mean the total site area exclusive of existing and proposed public street rights-of-way, existing public or quasi-public open spaces, historical sites, schools, churches and similar institutions and land unacceptable for development or open space purposes. Quasi-public open spaces shall be considered to include areas such as golf courses, cemeteries, private parks and recreation areas and similar open uses which are not publicly owned but which provide similar amenities.

6. OPEN SPACES:

a. Control of the design of open spaces is vested in the Planning Commission subject to review as to reasonableness by the City Council; design shall mean size, shape, location and useability for proposed public or quasi-public purposes and development.

b. Approval of such open spaces by the Planning Commission and City Council shall be expressly conditioned upon a conveyance by the developer to the City of Santa Barbara of the development rights, the fee or any lesser interest, any other contractual right or a combination of any of the foregoing necessary to achieve the purposes set forth in Section 28.33.005.

c. No planned residential development shall be approved prior to the submission of a legal document or documents setting forth a plan or manner of care and maintenance of such open spaces, recreational areas and communally owned facilities. No such document shall be acceptable until approved by the City Attorney as to legal form and effect and the Planning Commission as to suitability for the proposed use of the open areas. (Ord. 5459, Section 3, 2008; Ord. 4633, 1990; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.36

PUD PLANNED UNIT DEVELOPMENT ZONE

Sections:

28.36.001 In General.
28.36.005 Legislative Intent.
28.36.010 Procedure.
28.36.013 Conditions, Restrictions and Modifications.
28.36.025 Action.
28.36.030 Uses Permitted.
28.36.045 Property Development Standards.
28.36.050 Building Height.
28.36.070 Distance Between Buildings.
28.36.075 Setback Requirements.
28.36.100 Parking Requirements.
28.36.120 Street Requirements.
28.36.135 Development Stages.
28.36.195 Open Space and Landscaping Requirements.
28.36.220 PUD Zone Exclusive.

28.36.001 In General.

Land classified in a PUD Zone shall also be classified in an A, E or R-1 Zone and the following regulations shall apply in the PUD Zone unless otherwise provided in this chapter.

Land areas approved for planned unit development in accordance with this chapter shall be shown on the Official Zoning Map by the symbol 'PUD' and a maximum allowable density figure in dwelling units per acre following the symbol of the basic zone classification for the property, such as A-1-PUD-.8 or R-1-PUD-5.6. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.005 Legislative Intent.

Whereas, Title 1, Division 7, Chapter 12, Sections 6950 - 6954 of the Government Code of the State of California provide that a city may acquire by purchase, bequest, grant, gift or otherwise, and through the expenditure of public funds the fee of any lesser interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment; and

Whereas, rapid growth and spread of urban development is encroaching upon, or eliminating many open areas and spaces of varied sizes and character, including many having significant economic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic or economic assets to existing or impending urban development; and

Whereas, Section 6953 of said Government Code specifically declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced and that a city may acquire by purchase, gift, grant, devise lease or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right necessary to achieve the above purpose and may acquire the fee to any property for the purpose of conveying or leasing said property back to the original owner or other person under such covenants or other contractual arrangements as will limit the future use of the property in accordance with the above public purpose.

Now, therefore, it is declared to be the legislative intent of the Council of the City of Santa Barbara to provide for greater flexibility in the development of residential properties, and for greater amenities and open spaces related thereto, when in the public interest and welfare; to encourage a more creative approach to the development of land; to protect and enhance property values and to provide more desirable spatial relationships between buildings and structures on the land than would be possible under strict adherence to ordinance requirements of the basic zone; and to encourage the preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment.

As a further declaration of the legislative intent of this chapter, it is hereby declared that the provisions hereinafter contained for the computation of the allowable maximum number of dwelling units shall not be used as a means of creating density higher than that allowed under Section 28.36.045 of this chapter nor a density higher than would be possible by way of the usual subdivision procedure, with the exception of affordable housing developments which may be granted a density increase of up to 25% over the otherwise allowable units when consistent with Section 28.87.400 of the Zoning Ordinance. Further, planned unit developments shall provide for close visual and physical relationship between dwelling units and the landscaped open areas which must dominate the site development. Such landscaped open areas must include substantial usable areas for passive and/or active recreational use. From public view the development must present a landscaped open space effect. Parking areas and building masses must not dominate the scene. (Ord. 4912, 1995; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.010 Procedure.

1. Procedure for establishing a Planned Unit Development Zone in combination with one (1) of the basic A, E or R-1 Zone classifications shall be the same as set forth under Zone Changes in Chapter 28.92 of this title. The applicant shall also demonstrate that development to the PUD standards contained in this chapter constitutes the best use from the community point of view for the land for which the application is made, consistent with Section 28.36.005 hereof.

2. The development plan for a planned unit development project shall be processed as a condition use permit in accordance with the provisions of Title 28, Chapter 28.94 and may be processed concurrently with the request for the PUD Zone change as required above.

3. Prior to submission of an application for a conditional use permit for a planned unit development plan, the applicant(s) shall submit to the Chief of Building and Zoning basic site information, including aerial photos where deemed necessary by the Chief of Building and Zoning; generalized development plans, including lot sizes and open spaces proposed, existing easements, existing neighborhood development, and any other information which may be reasonably required by the Chief of Building and Zoning to aid and assist the Planning Commission in an initial consideration of the preliminary PUD plan. The preliminary plan shall be presented to the Planning Commission at a regular meeting for discussion by the individual commissioners. No formal action shall be taken by the Planning Commission regarding the preliminary plan.

4. After completion of preliminary conference(s), the applicant(s) shall file a request for a conditional use permit. A professional team approach in the preparation of the planned unit development plan is required. This team should include, but is not limited to, a registered architect, registered landscape architect, and registered civil engineer. The following shall be submitted:

a. A preliminary title report showing vested ownership and all covenants, conditions, restrictions and reservations of record.

b. Statement of intent indicating:

(1) Reason why the subject property is suitable for planned unit development.

(2) Type of residences to be constructed.

(3) Method and time schedule of development and improvement of the project.

(4) Purpose and proposed use of the open space(s) to be provided.

(5) State the manner in which the units will be sold, i.e., type of condominium or cooperative, according to the planned unit development types permitted under Section 28.36.030 of this chapter.

c. Development plans drawn to a scale of not greater than one hundred feet (100') to the inch showing: the boundaries of the site, topography and a proposed grading plan; the width, location and name of surrounding streets, proposed street sections and improvements; existing and proposed sewer lines; existing and proposed surface and improved drainage; the topography, location, dimensions and uses on adjacent property of all existing buildings and structures within one hundred feet (100') of the boundary line of the subject site; the location, dimensions, ground floor area and uses of all existing and proposed buildings and structures on the subject site; landscaping; parking areas, including the size and number of stalls and the internal circulation pattern; signs, including location, size and height; pedestrian, vehicular and service ingress and egress; location, height and material of walls and fences; and other specific uses of the site.

d. Schematic drawings and renderings to scale showing the architectural design of all buildings and structures.

e. Statistical information including the following:

(1) Total acreage of site area.

(2) Height, ground floor area and total floor area of each building.

(3) Number of dwelling units in each building.

(4) Building coverage expressed as a percent of the site area.

(5) Area of land devoted to landscaping and/or open space usable for recreation purposes, and its percentage of the site area and net area.

f. The sequence of construction of various portions of the development if the construction is to occur in stages.

g. A statement as to the source of water and method of sewage disposal.

h. Landscaping plan(s), showing:

(1) All mature trees, indicating those to be retained, removed or relocated.

(2) Special landscape features to be retained or created, such as rocks, walls, fences, etc.

(3) Recreation areas and facilities to be provided, if any.

(4) Proposed grading in contour intervals of not less than five feet (5').

(5) Other landscaping.

i. Other information reasonably required by the Planning Commission for a proper consideration of the proposal including, but not limited to, geological and soil reports.

5. All architectural plans relative to planned unit developments shall be in accordance with the policy of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark.

6. Where subdivision of land is intended, City Ordinance Number 2872, as amended or superseded, shall apply and tentative subdivision maps may be processed concurrently with the conditional use permit application. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.013 Conditions, Restrictions and Modifications.

As a condition of the approval of a development plan hereunder, the Planning Commission may impose such other appropriate and reasonable conditions and restrictions, and permit such modifications as it may deem necessary for the protection of property in the neighborhood or in the interests of public health, safety and welfare in order to carry out the purposes, spirit and intent of this chapter. However, no variance or modification shall be granted for building height, maximum number of dwelling units per building (four) or maximum dwelling units per acre of site area, as set forth in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.025 Action.

1. Upon receipt of fifteen (15) copies of the development plan, together with the required supplemental data, the Division of Land Use Controls shall transmit one (1) copy to each of the following agencies: Public Works Director, Water Superintendent, Chief of the Fire Department, County Assessor, County Health Officer, Clerk of the City Council, City Park and Recreation Commissions, and City Board of Education. Within fifteen (15) days, each such agency shall file with the Division of Land Use Controls recommendations for improvements and revisions to be required as a condition of approval of the development plan. The Division of Land Use Controls shall correlate departmental recommendations and submit them to the developer or his authorized agent not later than one (1) week prior to the Planning Commission meeting at which the plan is to be considered. Within six (6) weeks of receipt of the development plan, the Planning Commission shall consider said plan and the recommendations of the above mentioned agencies and of the Division of Land Use Controls and shall approve, conditionally approve or disapprove the development plan within a reasonable time thereafter.

2. A conditional approval may specify the limits within which the dimensions shown on the development plan may vary. The Planning Commission action shall be final, subject to appeal to the City Council.

Upon approval or conditional approval of the development plan, permits may be issued for grading, uses, buildings and structures which are in substantial conformity with the approved development plan and the conditions imposed.

3. No grading shall be commenced nor shall any building or structure be erected, moved, altered, enlarged, or rebuilt on a planned unit development site except in substantial conformity with the approved development plan and said conditions, except as otherwise provided herein. Substantial conformity shall be determined by the Chief of Building and Zoning, or in case of disagreement with the developer, by the Planning Commission.

4. Revised development plans shall be submitted and processed in the same manner as the original development plan. When approved, such revised development plan shall automatically supersede any previously approved plan. (Ord. 3710, 1974; Ord. 3045, 1965.)

28.36.030 Uses Permitted.

A. Any use permitted in the basic zone classification.

B. Planned unit developments containing:

1. Single-family and/or two-family dwellings.
2. Multiple-family dwellings, provided no building shall contain more than four (4) dwelling units.
3. Accessory buildings and uses, such as recreation facilities, parking lots, carports and garages, private and public parks, open spaces and areas for public and private use.

C. A State-licensed Small Family Day Care Home.

D. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93.

E. State authorized, licensed, or certified uses to the extent they are required by State Law to be allowed in residential zones. (Ord. 4912, 1995; Ord. 4858, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.045 Property Development Standards.

1. Planned Unit Development Site. A planned unit development site is a lot, or combination of lots which comprise an area of land under, or committed to, a development plan which has been filed with the Planning Commission in accordance with the terms of this chapter.

2. Site Area. The site area shall exclude existing public street rights-of-way and any non-residential use; however, open recreation, such as golf courses, putting greens, swimming pools, cabana areas, tennis and badminton courts and like facilities, shall not be construed as non-residential uses.

3. Maximum Number of Dwelling Units. The maximum number of dwelling units allowable in planned unit development shall not exceed the number of lots which could be developed by way of the usual subdivision procedure, utilizing the existing zoning on the property and all subdivision design standards as outlined in Title 27 and Title 28 of this Code. The slope density provisions of Section 28.15.080 of this Code shall be considered when making this determination. Exception: when consistent with Section 28.87.400 of the Zoning Ordinance, up to 25% density bonus units may be allowed in developments if the developer has agreed to construct affordable units.

The Planning Commission may recommend and the City Council may approve a numerical density of dwelling units per acre of site area less than the maximum indicated, based on consideration of the individual site characteristics such as topography, soil, relationship to existing neighborhoods, and similar characteristics. (Ord. 4912, 1995; Ord. 4049, 1980; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.050 Building Height.

1. Two (2) stories, except in hillside development as provided in (2) hereinafter.
2. In hillside development, a multi-level building may be constructed following the natural topography in steps, split levels or full story levels, provided no vertical section of the building shall contain more than two (2) stories. The plane of a bearing wall may not be used as such vertical section. In no case shall a vertical section through the building measure more than thirty five feet (35'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.070 Distance Between Buildings.

No building containing dwelling units shall be located closer to the opposing walls of another building containing dwelling units on the property than one-half (1/2) the sum of the heights of both such buildings, provided however that such distance between buildings shall in no case be required to exceed one hundred feet (100'). The distance between two (2) such adjacent buildings so located that the walls of one (1) building do not face the walls of another building shall be not less than fifteen feet (15'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.075 Setback Requirements.

In lieu of setback requirements as set forth in the base zone, the following setbacks shall be provided:

A. FRONT SETBACK. There shall be a front setback or setbacks not less than twice the required front setback in the base zone in which the site is located.

B. INTERIOR SETBACK. There shall be an interior setback of not less than forty feet (40'). (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.100 Parking Requirements.

The following permanently maintained off-street parking spaces so designed that a car need not be moved to gain access to any other space nor that any car need back out into a public street, shall be provided:

1. For each dwelling unit, not less than two (2) parking spaces, either in a garage or a carport.
2. One (1) additional off-street uncovered parking space shall be provided for every two (2) dwelling units. Uncovered parking areas and driveways shall be paved in accordance with Chapter 28.90 of this Code. Uncovered parking areas shall be provided with one (1) tree for every ten (10) parking spaces in order to break up the continuity of paved areas.
3. No more than five (5) spaces shall adjoin each other without intervening landscaped areas. Except for necessary access, no part of the paved parking area shall be within the public street right-of-way. The area between the parking area and the public street curb or pavement shall be appropriately landscaped and improved to the satisfaction of the Chief of Building and Zoning to provide visual screening of the parking area and necessary pedestrian ways.

It is the spirit and intent of this chapter that parking areas shall not dominate open spaces and landscaping as defined hereunder. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.120 Street Requirements.

In order to provide flexibility of development and to preserve natural terrain features and open spaces, Planning Commission may grant such modifications of City street design standards as may be deemed necessary to assure that the spirit and intent of this chapter are observe and the public welfare and safety secured. (Ord. 4496, 1988; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.135 Development Stages.

If the sequence of construction of various portions of the development is to occur in stages then the open space and/or recreational facilities shall be developed, or committed thereto, in proportion to the number of dwelling units intended to be developed during any given stage of construction as approved by the Planning Commission. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the approved conditional use permit. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.195 Open Space and Landscaping Requirements.

1. Not less than fifty percent (50%) of the net area of the property shall be open space devoted to planting, patios, walkways and recreational areas, but excluding areas covered by dwelling units, garages, carports, parking areas or driveways. Net area is defined as the site area less all land covered by buildings, streets, parking lots or stalls, driveways, and all other paved vehicular ways and facilities. Any driveway or uncovered parking area shall be separated from the peripheral boundary line of the property by a landscaped area of not less than ten feet (10') in width. Development rights to all or any open space shall be required to be deeded permanently to the City before any permanent occupancy permit to any building or units in any planned unit development shall be granted.
2. Control of the design of open spaces is vested in the Planning Commission. Design shall mean size, shape, location and usability for proposed private, public or quasi-public purposes and development. Approval of such open spaces by the Planning Commission shall be expressly conditioned upon a conveyance by the developer to the City of Santa Barbara of the development rights, or the right to prohibit the construction of additional buildings or other contractual rights, necessary to achieve the purposes set forth in Section 28.36.005 of this ordinance.
3. Planned unit developments shall provide for close visual and physical relationship between dwelling units and the landscaped open areas which must dominate the site development, such landscaped open areas to include substantial usable areas for passive and/or active recreational use. Further, from public view, the development should present a landscaped open space effect to the end that parking areas and building masses shall not dominate the scene.
4. Planned unit developments shall be approved subject to the submission of a legal instrument or instruments setting forth a plan or manner of permanent care and maintenance of such open spaces, recreational areas and communally owned facilities. No such instrument shall be acceptable until approved by the City Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the open areas. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.220 PUD Zone Exclusive.

Notwithstanding anything in Section 28.36.005 to the contrary, when Planned Unit Development Zoning is requested by an owner or developer, or when, on the basis of competent engineering or geological reports furnished to either such body, the City Council, upon recommendation of said Planning Commission or upon its own motion, then finds and determines that the development of the land under standard subdivision procedure would, by reason of its steep topography, soil instability or other natural characteristics create hazardous or dangerous erosion or drainage problems, then upon such finding and determination being duly made the City Council may classify the land in a PUD Zone without also classifying the land in any other zone. (Ord. 3710, 1974; Ord. 3159, 1966.)

Chapter 28.37

PR - PARK AND RECREATION ZONE

Sections:

28.37.001 In General.
28.37.005 Legislative Intent.
28.37.007 Definitions.
28.37.010 Procedure and Noticing.
28.37.025 Findings.
28.37.030 Uses Permitted by Category.
28.37.040 Development Standards.
28.37.090 Coastal Zone Review.
28.37.131 Development Potential.

28.37.001 In General.

The Park and Recreation Zone is established in order to protect and preserve publicly owned park and beach lands for the benefit and enjoyment of present and future generations of residents and visitors. The zone is also established to promote uses of park lands which are compatible with the surrounding land uses and categories within which the respective parks are assigned and to encourage the protection of the City's open space through conservation and appropriate development. (Ord. 4919, 1995; Ord. 4169, 1982.)

28.37.005 Legislative Intent.

The purpose and intent of this zone is to establish categories of park and recreation facilities and/or land and establish an appropriate system of review for proposed uses, improvements and/or development. The regulations of this zone are designed to maintain and protect neighborhoods that are adjacent to parks and recreation facilities, while providing for the appropriate types and/or intensity of land use of parks and recreation facilities, for the benefit of the community. (Ord. 4919, 1995.)

28.37.007 Definitions.

A. ACTIVE RECREATION. Activities such as organized sports and drop-in sports, usually team oriented, which utilize equipment and are played on a field or court. Active Recreation includes, but is not limited to, soccer, football, swimming, baseball, softball, basketball, tennis, ultimate frisbee, volleyball and wheelchair football.

B. BALL FIELDS AND COURTS.

1. **Informal.** Informal Ball Fields are usually open grass areas with no field or court delineation, or only bases, players' benches and backstop. Fields are not scheduled for league or tournament play. No dugouts, bleachers or lighting are provided. May include basketball courts with pavement striping, but without lighting.

2. **Formal.** Formal Ball Fields are often lighted and may include dressed infield area, baselines, pitcher's mound for baseball, large backstops, dugouts, players' benches and bleachers. Soccer fields are delineated, include players' benches and goals and may include lighting. Formal indoor courts for volleyball, basketball and other organized sports are also included. Formal ball fields may also include related food concessions.

C. COMMUNITY GARDEN. A Community Garden is a piece of urban land that is made available to residents of the community who may not have private yard area that is adequate to plant and maintain a private garden. This land is made available for the purpose of planting small personal gardens and usually consists of several small plots that are assigned to individuals or groups of people and which may be subject to an annual rental fee.

D. CONCESSION. A Concession is a rental or lease of land or space in a building by the City to an operator of the following types of retail outlets: snack bar, restaurant, push cart and miscellaneous sundries and equipment rental that relate to the uses of the facility where the concession is located.

E. COMMUNITY MEETING ROOMS.

1. **Small Community Meeting Room.** A Small Community Meeting Room accommodates up to 75 people. Small Community Meeting Rooms may include food preparation areas and are used for meetings, seminars and small parties.

2. **Large Community Meeting Room.** A Large Community Meeting Room accommodates small or large groups of people. Large Community Meeting Rooms usually include food preparation facilities and may be used for large parties, banquets, dances and lectures.

F. LIGHTING.

1. **General Lighting.** General Lighting is used for security, safety or decorative purposes.

2. **Ball Field Lighting.** Ball Field Lighting is used to illuminate formal ball fields and courts in order to allow evening use of such facilities.

G. MINOR BUILDINGS. Buildings which are not used for recreation programming or meetings. Minor buildings include restrooms, storage buildings, equipment sheds and caretakers' residences.

H. OUTDOOR GAME AREA. A delineated area designed specifically, and meeting established criteria, for a game. Outdoor Game Areas include, but are not limited to, volleyball, lawn bowling, horseshoe pitching, tether ball, hopscotch and handball.

I. PARKING AREAS.

1. **Informal Parking Area.** Informal Parking Areas are unimproved, unpaved, include no striping or designated stalls and are not lighted. They may serve as overflow for an existing formal lot.

2. **Small Formal Parking Area.** Small Formal Parking Areas include ten (10) or fewer spaces and are paved, usually striped and sometimes lighted. They are subject to City standards outlined in Chapter 28.90 of this Title.

3. **Large Formal Parking Area.** Large Formal Parking Areas include more than ten (10) parking spaces and are paved, usually striped and sometimes lighted. They are subject to City standards outlined in Chapter 28.90 of this Title.

J. PASSIVE RECREATION. Activities that are engaged in by individuals or small groups, usually not dependent on a delineated area designed for specific activities. Passive Recreation includes, but is not limited to, hiking, bicycling, jogging, frisbee catch, bird watching, walking, picnicking and horseback riding.

K. PICNIC AREA.

1. **Individual Picnic Area.** Picnic tables generally set a minimum of ten feet (10') apart and intended for use by small groups requiring the use of only one (1) picnic table.

2. **Small Group Picnic Area.** A Small Group Picnic Area consists of picnic tables intentionally arranged to accommodate use by a group of up to thirty (30) people. Small Group Picnic Areas often include a single barbecue sized to accommodate a group meal.

3. **Large Group Picnic Area.** A Large Group Picnic Area consists of picnic tables intentionally arranged to accommodate use by more than thirty (30) people, which may be subject to reservation. Large Group Picnic Areas often include one or more barbecues and food preparation tables sized to accommodate a group meal.

L. PLAYGROUND. A playground is an area which includes, but is not limited to, swings, slides, climbing structures, sand play, spring riders and other play structures.

1. **Small Playground.** A Small Playground includes up to 4000 square feet of area.

2. **Large Playground.** A Large Playground includes 4001 or more square feet of area.

M. TRAIL. A Trail is a passageway for hikers, equestrians and/or bicyclists. Uses of individual trails shall be determined by the Parks and Recreation Director. (Ord. 4919, 1995.)

28.37.010 Procedure and Noticing.

A. DESIGNATION OF PARKS BY CATEGORY. The City Council shall adopt a resolution that designates or assigns all City parks and recreation facilities to one of the categories listed in §28.37.030. In addition, the resolution shall include an exhibit that summarizes review and approval procedures for park and recreation facility uses.

In the future, if a new facility is proposed to be designated or an existing facility assigned to another category, the Parks and Recreation Commission and Planning Commission shall make a recommendation on such a designation to the City Council. The City Council shall hold a noticed public hearing prior to making a decision on the proposed category designation and amending said resolution.

B. PARKS AND RECREATION COMMISSION REVIEW. The Parks and Recreation Commission, or City Council on appeal, shall review and may approve, conditionally approve or deny applications based upon the required findings specified in §28.37.025 for the following:

1. **Noticed Public Hearing.** For the following facilities, a noticed public hearing shall be required as outlined in Subsection E of this Section:

a. Additions to or new community buildings that may have the potential to impact the surrounding neighborhood due to a change in the intensity of use resulting in traffic, noise or lighting impacts.

b. Formal ball fields and courts.

c. Large playgrounds.

d. Large group picnic areas.

e. New community gardens.

f. New ball field lighting for previously unlit formal ball fields and courts.

g. New parking areas with more than 10 spaces or additions of more than 10 spaces to existing parking areas.

h. Child care centers.

i. Carousels and similar amusements.

j. Concessions.

2. Public Meeting. For the following facilities, a public meeting shall be held:

a. Informal ball fields and courts.

b. Small playgrounds.

c. Parking Areas/Improvements involving ten (10) or fewer spaces.

d. General Lighting, except new ball field lighting in previously unlit areas.

e. Minor buildings, except temporary restrooms.
f. Swimming and wading pools.
g. Miscellaneous projects including but not limited to artwork, memorials and shade structures.

C. PLANNING COMMISSION REVIEW. The Planning Commission, or City Council on appeal, shall review and may approve, conditionally approve or deny applications based upon the required findings specified in §28.37.025 for the following:

1. Projects that are located within or outside the Coastal Zone (S-D-3 Overlay Zone):
   a. Additions to or new community buildings pursuant to Chapter 28.85 of this Title.
   b. New formal ball fields and courts.
   c. New swimming or wading pools.
2. Projects that are located in the Coastal Zone. Such projects that meet the definition of "development" as defined in Chapter 28.44 of this Title may require a noticed public hearing pursuant to said Chapter.

D. DESIGN REVIEW. Design review is required to the extent provided for by Chapters 22.22 (Historic Structures) and 22.68 (Architectural Board of Review) of this Code.

E. NOTICING. The public notice for projects specified above in Subsections A, B.1 and C of this Section shall be mailed and posted at least ten (10) days prior to the hearing date and shall include the following:

1. Posting of signs at all park entrances and along adjacent streets at a sign spacing interval of 150 feet; and
2. Mailed notice to all property owners within 300 feet of the park property shall be required if the project involves a new park or recreational facility or changes to an existing Sports Facility or Regional Park, as defined in §28.37.030 of this Chapter. If the proposed project involves changes to any other existing park or recreation facility, mailed notice shall be provided to all property owners within one hundred feet (100') of the park or recreation facility property.

F. APPEAL - NOTICE OF HEARING. Decisions by the Park and Recreation Commission or the Planning Commission are appealable to the City Council pursuant to Section 1.30.050 of this Code. If noticing was required pursuant to Subsection E of this Section before either the Parks and Recreation Commission or the Planning Commission, such notice shall also be provided as delineated in said Subsection E for the hearing on the appeal.

G. COMMUNITY DEVELOPMENT DIRECTOR REVIEW. Determinations as to whether a use or a change in the intensity of use is allowed in a particular park category and the appropriate review process shall be made by the Community Development Director. (Ord. 5609, 2013; Ord. 5380, 2005; Ord. 5136, 1999; Ord. 4919, 1995; Ord. 4849, 1994; Ord. 4701, 1991; Ord. 3944, 1978; Ord. 3646 §1, 1974.)

28.37.025 Findings.

The Parks and Recreation Commission and/or Planning Commission, where applicable, or City Council on appeal, shall review and make the following findings when approving or denying a project pursuant to §28.37.010.B and §28.37.010.C:

A. That the proposed park and recreation improvements are appropriate or necessary for the benefit of the community and visitors;

B. That the proposed park and recreation facilities including lighting, play areas, parking facilities and associated landscaping, will be compatible with the character of the neighborhood;

C. That the total area of the site and the setbacks of all facilities from the property lines and street are sufficient, in view of the physical character of the land, proposed development and neighborhood, to avoid significant negative effects on surrounding properties;

D. That the intensity of park use is appropriate and compatible with the character of the neighborhood;

E. That the proposed park and recreation facilities are compatible with the scenic character of the City; and

F. That any proposed structures or buildings are compatible with the neighborhood in terms of size, bulk and scale or location. (Ord. 4919, 1995.)

28.37.030 Uses Permitted by Category.

A. The following categories of park and recreation facilities reflect the diversity of such facilities within the community. Parks and recreation facilities with similar use characteristics have been grouped into the following categories to establish an orderly system of inventory and allowed uses within the respective categories and to make property owners aware of the uses allowed in such nearby facilities.

1. UNDEVELOPED PARKLAND. The future use of these undeveloped parklands has not been determined. These are properties that the City owns that may or may not be appropriate for parks and/or recreation use.

2. OPEN SPACE. This land is intended to be protected and managed as a natural environment with passive recreation usage and minimal development.

3. PASSIVE PARK. These are developed parks of natural, cultural or ornamental quality suited to passive outdoor recreation such as bird watching, walking and picnicking.

4. NEIGHBORHOOD PARK. These are small parks that typically serve a limited geographic area and nearby population.

5. BEACH. These are areas that provide access to the ocean and sand areas for passive and active recreation.

6. COMMUNITY PARK. These multi-use parks are usually larger than Neighborhood Parks. These are parks where special, pre-arranged activities and special events and functions occur. These are specialized facilities that serve a concentrated or limited population or specific group from a wide geographic area of the City.

7. SPORTS FACILITIES. These are outdoor facilities where intense recreational activities and organized sports and tournaments occur and which may include related buildings and parking areas.

8. COMMUNITY BUILDINGS. These are indoor facilities where intense recreational activities and organized sports and tournaments, meetings and gatherings and other community oriented activities occur. Community Buildings may also include related parking and grounds.

9. REGIONAL PARK. These are facilities where major organized events occur that draw people from throughout the region. They may also include areas of diverse environmental, cultural, educational or scientific quality with a variety of opportunities for both passive and active recreation activities.

B. The following chart sets out the uses allowed in the park and recreation categories defined above. "Yes" means the use or improvement is allowed. "No" means the use or improvement is prohibited.

CATEGORIES OF PARKS AND RECREATION FACILITIES AND ALLOWED IMPROVEMENTS/USES

ALLOWED IMPROVEMENTS/USES (a)	CATEGORY OF PARK								
	Undeveloped	Open Space	Passive Park	Neighborhood Park	Beach	Community Park	Sports Facilities	Community Buildings	Regional Park
Trails	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Minor Buildings	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Meeting Rooms •Small (≤ 75 people)	No	No	No	Yes	No	Yes	No	Yes	Yes
•Large (>75 people)	No	No	No	No	No	Yes	No	Yes	Yes
Outdoor Game Areas and Informal Ball Fields and Courts	No	No	No	Yes	Yes	Yes	Yes	No	Yes
•Formal Ball Fields and Courts	No	No	No	No	No	No	Yes	Yes	Yes
Swimming Pools •Wading	No	No	No	Yes	No	Yes	Yes	Yes	Yes
•Swimming	No	No	No	No	No	No	Yes	Yes	Yes
Playgrounds •Small (Up to 4,000 SF)	No	No	No	Yes	Yes	Yes	Yes	No	Yes
•Large (> 4,000 SF)	No	No	No	No	Yes	Yes	Yes	No	Yes
Picnic Areas •Individual	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
•Small Group (up to 4 tables together)	No	No	No	Yes	Yes	Yes	Yes	No	Yes
•Large Group	No	No	No	No	Yes	Yes	Yes	No	Yes
Community Gardens	No	No	No	Yes	No	Yes	No	No	Yes
Child Care Centers	No	No	No	Yes	No	Yes	No	Yes	Yes
Carousels and similar amusements	No	No	No	No	No	Yes	No	No	Yes
Day Camps	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Concessions	No	No	No	No	No	Yes	Yes	Yes	Yes
Parking Area •Informal (not paved)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Small Formal (≤ 10 spaces)	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Formal (> 10 spaces)	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lighting - General	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Ball Field Lighting	No	No	No	No	No	No	Yes	No	Yes
Miscellaneous •Artwork or Memorial	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Shade Structure	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes

If an improvement is proposed that is not specifically called out as an allowed use in the category, the Community Development Director will determine if the improvement is allowed or whether the park or recreation facility would be required to move to another category.

C. SPECIAL PROVISIONS. In addition to the uses and improvements allowed in the categories of uses stated in Subsection B of this Section, the following special provisions apply:

1. Formal courts for volleyball only are allowed at Beaches.

2. Zoological gardens that are classified as a Regional Park are also allowed to include the following uses: animal exhibits/habitats and related animal care, medical and holding areas for animals, class rooms including indoor educational exhibit space, gift shops, restaurants, snack bars and administrative offices and service facilities related to zoological garden operations.

3. Outdoor performance areas, including band shells and amphitheaters, existing or approved prior to June 30, 1995, are allowed uses and may be maintained and improved without a Conditional Use Permit as long as: a. no expansion in seating occurs; or, b. no improvements occur which allow amplified music where it did not previously exist. Future outdoor performance areas and expansions of existing ones may be allowed in Community and Regional Parks, subject to issuance of a Conditional Use Permit as outlined in Chapter 28.94 of this Title. (Ord. 4919, 1995; Ord. 4169, 1982.)

28.37.040 Development Standards.

A. SETBACKS. The following setbacks shall apply to parking areas, buildings, structures, outdoor game areas, playground equipment and formal/informal ball fields:

1. Front Setback. The required front setback shall be the same as that specified for the residential zone of the property on the abutting parcels on each side of the subject property. Where the setbacks on the abutting parcels are different from each other, the front setback shall be the least restrictive residential setback of the abutting zones. In the event the park property is bounded by a street, the front setback shall be the same as the least restrictive front setback on the adjacent properties on the same side of the street. In no case shall the front setback be less than ten (10) feet.

2. Interior and Rear Setbacks. There shall be interior and rear setbacks of not less than ten (10) feet.

B. LIGHTING. All exterior lighting shall be directed such that it will not cast light or glare onto adjacent properties. Any lighting shall be hooded or shielded so that no direct beams fall upon adjacent residential property. Indirect diffused lights and low garden lights shall be used wherever possible and shall be required as necessary to assure compatibility with adjacent and surrounding properties.

C. LOCATION OF PLAY AREAS. Outdoor playgrounds and informal ball fields and courts shall be located in a manner that is compatible with the character of the surrounding area and that minimizes significant detrimental noise impacts to adjacent properties while promoting visibility and safety.

D. PARKING REQUIREMENTS. Parking within the Park and Recreation Zone shall be in accordance with requirements set forth in Chapter 28.90 - Automobile Parking Requirements. (Ord. 5459, 2008; Ord. 4919, 1995; Ord. 4169, 1982.)

28.37.090 Coastal Zone Review.

All development in the Coastal Overlay Zone is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4169, 1982.)

28.37.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85 of this Title. (Ord. 5609, 2013; Ord. 4919, 1995; Ord. 4670, 1991.)

Chapter 28.39

P-D PLANNED DEVELOPMENT ZONE

Sections:

28.39.001 In General.
28.39.005 Legislative Intent.
28.39.030 Uses Permitted.
28.39.050 Building Height.
28.39.060 Setbacks.
28.39.100 Parking Requirements.
28.39.110 Signs.
28.39.115 Architectural Control.
28.39.130 Development Plan Approval.
28.39.131 Development Potential.

28.39.001 In General.

Land classified in a P-D Zone shall also be classified in another zone and the following regulations shall apply in the P-D Planned Development Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.005 Legislative Intent.

These regulations are intended to implement the orderly development of land in conformance with the comprehensive General Plan of the City of Santa Barbara, and in particular the provision for planned centers provided therein, by providing for uses and restrictions other than those contained in other zone districts in this title where justified by one (1) or more of the following circumstances:

1. Unusual topographic conditions.
2. Proximity to public parks, buildings, major traffic carriers, bodies of water, watercourses, open spaces and other similar improvements or land features.
3. Disparity between adjacent zoning district (e.g., single-family residential adjacent to commercial) warranting special features to protect the more restricted district.
4. Areas designated by the General Plan for planned center or other special or unique land use. (Ord. 3710, 1974.)

28.39.030 Uses Permitted.

1. Any use permitted in the other zone in which the land is classified and when so used subject to the restrictions and limitations contained therein.
2. Any of the following uses and subject to the restrictions and limitations contained in this chapter.

(1) New automobile sales, rental and leasing, including trucks of not more than one (1) ton capacity, and including the following accessory uses:

(a) Used car sales;

(b) Automotive repair and servicing conducted entirely within a building. Repair bays shall not be visible from a public street;

(c) Motor home and camper sales;

(d) Incidental sales, servicing and repair of trucks, truck trailers and buses greater than one (1) ton capacity.

(2) Automobile washing and polishing.

(3) Automobile diagnostic center.

(4) Automobile service station and accessory uses limited to incidental tire and tube repairing, battery servicing, automobile lubrication and other minor automotive service within the building, not including auto body repair.

(5) Bank.

(6) Boat sales.

(7) Church.

(8) Club or lodge.

(9) Hospital.

(10) Hotel, motel.

(11) Museum.

(12) Offices: general, administrative, business, professional and public.

(13) Parking lots.

(14) Public building.

(15) Recreational vehicle storage.

(16) Research and development.

(17) Restaurant.

(18) Schools: art, music, dance, vocational and public.

(19)Sports centers.
(20)Tennis, swimming, lawn bowling or other sporting club.
(21)Theatre or auditorium.
(22)Trailer sales.
(23)Mini-warehouse, designed and used exclusively for storage of privately owned household articles and vehicles not in inventory for resale; individual storage compartments not to exceed 400 square feet in area. (Ord. 3853, 1976.)

28.39.050 Building Height.

A maximum three (3) stories not exceeding forty-five feet (45'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.060 Yards.

1. FRONT YARD. There shall be a front yard of not less than ten feet (10').
2. INTERIOR YARDS, LOT AREA, FRONTAGE, DISTANCE BETWEEN BUILDINGS ON THE SAME LOT. None, except as may be required pursuant to Section 28.39.125. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.115 Architectural Control.

The architectural and general appearance of all buildings and grounds shall be in accordance with the action of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another Landmark district or if the structure is a designated City Landmark. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.130 Development Plan Approval.

Before any building or structure is hereafter erected or any land hereafter used in the P-D Zone under the provisions of this Chapter, a development plan shall be submitted for the approval of the Planning Commission showing proposed building location, size, setbacks, floor area and elevations, proposed parking lot design and landscaping plan.

It is hereby declared that most of the uses allowed in the P-D Zone are special uses and of such a nature that it is impractical to establish in advance of development the minimum requirements for parking, site area, setbacks, hours or manner of operation, lighting, landscaping or other standards usually applied to each individual facility or planned center proposed to be established under these provisions.

The Planning Commission may, therefore, further limit the allowed uses and building height and require additional setbacks in the P-D Zone where necessary to secure an appropriate development.

In lieu of prescribing herein minimum performance and development standards, the Planning Commission shall make the following findings and impose conditions necessary to secure and perpetuate the basis for such findings:

1. That the total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;
2. That prescribed hours and days of operation of the facilities are such that the character of the area is not inappropriately altered or disturbed;
3. That the design and operation of outdoor lighting equipment will not be a nuisance to the use of property in the area;
4. That the appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area and of the City. (Ord. 4361, 1985; 3710, 1974; Ord. 3617, 1974.)

28.39.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.42

S-H SENIOR HOUSING ZONE

Sections:

28.42.001 In General.
28.42.005 Legislative Intent.
28.42.006 Senior Citizen and Elderly Person Defined.
28.42.010 Procedure.
28.42.013 Limited to Housing for Elderly.
28.42.030 Uses Permitted.
28.42.045 Basic Standards and Requirements.
28.42.060 Setbacks.
28.42.070 Distance Between Buildings.
28.42.100 Off-street Parking.
28.42.110 Signs.
28.42.127 Regulations, Limitations and Restrictions.
28.42.128 Termination of S-H Senior Housing Zone Classification.
28.42.130 Development Plan.
28.42.132 Precise Plan.
28.42.150 Maximum Permitted Occupancy.

28.42.001 In General.

Land classified in a S-H Zone shall also be classified in an A, E, R-1 or R-2 Zone and the following regulations shall apply in the S-H Senior Housing Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.005 Legislative Intent.

These regulations are designed and intended to insure the orderly development of land in conformance with the comprehensive scheme contemplated by the General Plan of the City of Santa Barbara by permitting the enforcement of restrictions other than those imposed by the other zone districts in this title where justified by the existence of the following findings:

1. The Planning Commission finds that a substantial need exists in the community for additional housing facilities for elderly persons of low and moderate incomes.
2. The Planning Commission finds that the characteristics of the site development proposed are such that the surrounding properties will not be adversely affected by the proposed senior housing project.
3. The Planning Commission finds that sufficient safeguards exist which will assure the long term continued use of the premises in accordance with the intent of this section and the conditions of approval of the development.
4. The design of the buildings shall be such that it is compatible and/or convertible to uses consistent to the zone in which the buildings are located.

These regulations are further designed and intended to insure that development occurs substantially in conformance with the developer's plans submitted as a basis for a proposed rezoning; to avoid the possibility of providing an excessive area of land zoned for the same uses as a result of failure to fully develop the land so zoned; and to minimize the use of rezoning primarily as a method of appreciating the value of a specific parcel of land for speculative purposes when such rezoning excludes comparable rezoning of other properties.

These regulations recognize that more than one (1) parcel or group of parcels of land may be suitable for a specified use but that if all such suitable parcels are zoned for such use there would result an imbalance in the area zoned for various types of uses to the detriment of the community or the district as a whole. (Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.006 Senior Citizen and Elderly Person Defined.

For purposes of this part, elderly persons or senior citizens are defined as follows: Low and moderate income persons, sixty-two (62) years of age or older. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.010 Procedure.

1. Adoption of an amendment applying the provisions of this section to any property shall be accomplished only following application by the property owner in accord with the procedure established herein and, where effective, shall be indicated on the zoning map by the symbol S-H in combination with the symbol for the basic A, E, R-1 or R-2 Zone.

2. To apply for a S-H Zone, the applicant shall file with the Division of Land Use Controls a rezoning request and fee together with a development plan as hereinafter described. After review by the Division of Land Use Controls for compliance with applicable ordinances the application shall be considered by the Planning Commission which may approve, modify or deny the application. Action of the Planning Commission shall be subject to appeal to the City Council in the manner set forth in Chapter 28.92 of this title.

3. After approval of the development plan by the Planning Commission the City Council may adopt the development plan as an amendment to the Zoning Ordinance, incorporating such modifications and conditions as have been recommended by the Planning Commission. At the same time the zoning map shall be changed to show the S-H symbol on the subject property.

4. Subsequent to the effective date of the amendment and within any time limitations established in the amendment or any time extensions granted by the Planning Commission, the applicant shall file with the Planning Commission a precise plan incorporating all buildings and structures proposed to be constructed in the first stage of development. The precise plan shall not be considered unless it is in a form acceptable to the Division of Land Use Controls for processing building permits thereon and conforming to the City Building Division for processing building permits thereon and conforming to the conditions of the approved development plan or any approved modifications thereof. The Planning Commission shall review the precise plan for substantial conformance with the development plan and the requirements of the amendment incorporating the development plan; no grading or building permits for buildings or structures proposed for construction under this section shall be issued prior to approval of the precise plan by the Planning Commission.

5. The plans and elevations for all buildings and structures to be erected in a S-H Zone shall be reviewed in the manner and according to the procedure as set forth in Chapter 22.68 or 22.69 of the Santa Barbara Municipal Code, depending on whether the proposed buildings are single family residences or multi-family residences. (Ord. 5416, 2007; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.013 Limited to Housing for Elderly.

In order to insure continued use of the development for affordable housing for elderly persons, prior to the approval of any precise plan for development under this Chapter, the applicant shall submit evidence satisfactory to the Planning Commission that an enforceable regulatory agreement exists to assure the continued operation of the facility for its intended use for not less than thirty years. Said agreement shall be reviewed by the Office of the City Attorney.

No variance, modification or other waiver to this Section shall be granted. (Ord. 4364, 1985; Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.030 Uses Permitted.

1. Any use permitted in the basic zone in which the land is classified, and when so used subject to all of the provisions contained in sections defining said zone.

2. Housing developments for elderly persons, including group dining and recreation facilities accessory thereto subject to the provisions of this chapter. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.045 Basic Standards and Requirements.

Neither the Planning Commission nor the Division of Land Use Controls shall accept for filing an application and development plan which does not comply with all of the following provisions:

1. No building shall exceed a height of two (2) stories.
2. No building shall contain more than four (4) units.
3. No building containing residence units shall exceed a gross floor area of two thousand two hundred (2,200) square feet exclusive of garages or carports.
4. The total number of residence buildings in the development shall not exceed the product of the net area of the site in acres multiplied by the following appropriate density factor for the basic zone in which the site is located:

BASIC ZONE	RESIDENCE BUILDINGS	DWELLING UNITS PER ACRE
A-1	0.8	3.2
A-2	1.5	6.0
E-1	2.3	9.2
E-2	3.6	14.4
E-3	4.6	18.4
R-1	5.6	22.4
R-2	5.6	22.4

This provision shall not be construed as granting any right to the applicant to the maximum number of buildings and units represented by the above density factors. The Planning Commission and/or City Council may, in order to carry out the intent of this chapter, further limit the total number of buildings in the development and/or density of buildings per acre of net site area.

5. Any single uncovered parking area shall not provide more than ten (10) parking spaces. A parking area containing spaces on both sides of a common aisle shall be counted as one (1) parking area.

6. Carports and garages shall be attached to and made a part of a main building. No carport or garage shall provide more than three (3) auto parking spaces.

7. No more than ten percent (10%) of the number of buildings in a development shall have a flat roof. All other roofs shall be hipped or gabled.

The intent of this provision is to minimize the contrast between the architectural character of the development and the typical or standard architectural style of single-family dwellings in the community.

8. All buildings shall be located on the site in a manner similar to the way residences might be located in the zone in which the property is classified. For example, if PUD, they may be clustered; if single-family, they should be laid out like a standard subdivision. To demonstrate this, the applicant shall submit, in rough form, a practical subdivision scheme of the property with the proposed buildings shown thereon. Lot sizes, frontages, street alignments, setbacks and all other aspects of such hypothetical subdivision shall be in accordance with applicable Zoning Ordinances and Subdivision Ordinance requirements. (Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.060 Setbacks.

Setback requirements shall be the same as in the base zone in which the property is located. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.070 Distance Between Buildings.

The minimum distance between buildings shall be the same as required in the basic zone in which the property is located. (Ord. 3710, 1974.)

28.42.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.110 Signs.

Signs shall be permitted as provided in the basic zone in which the property is located. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.127 Regulations, Limitations and Restrictions.

The Planning Commission may recommend and the City Council may adopt as part of the development plan, and may require in the precise plan, requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this title, and designed to protect property values in the vicinity of the subject property and the public peace, health, safety and general welfare of persons residing, working in and passing through the neighborhood. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.128 Termination of S-H Senior Housing Zone Classification.

Any ordinance amendment establishing an S-H classification under this chapter shall establish a time limitation within which a precise plan or a substantial portion thereof must be approved by the Planning Commission, provided that such time limitation shall not exceed two (2) years from the effective date of said ordinance amendment.

An ordinance amendment establishing an S-H classification shall terminate and the affected property shall automatically revert to the district classification represented by the basic symbol at the end of the time limitation if the precise plan or a substantial portion thereof has not been approved by the Planning Commission. For good cause shown, the Planning Commission may extend such time limitation for not to exceed a total additional time of six (6) months. Any precise plan which has not been disapproved within sixty (60) days from the date that it was submitted to the Planning Commission shall be deemed approved unless the applicant agrees to a time extension.

Any ordinance amendment adopted under the provisions of this section terminates and the affected property shall automatically revert to the district classification represented by the basic symbol if, within eighteen (18) months after Planning Commission approval of a precise plan, the construction incorporated in the precise plan has not been substantially commenced. Such eighteen (18) month period may be extended by the City Council upon the showing of good cause. (Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.130 Development Plan.

Any application for the establishment of an S-H Senior Housing Zone shall be accompanied by a development plan drawn to scale together with supporting data and showing the following:

1. The boundaries of the property, the width, location and names of surrounding streets and uses of adjacent properties.
2. A plot plan drawn to scale showing the location and dimensions of all existing and proposed structures, landscaping, parking areas and other proposed uses on the subject property supplemented by a narrative description of all improvements proposed to be installed and the general types of uses on each portion of the property.
3. Schematic drawings and renderings showing the architectural design of buildings and structures proposed to be constructed.
4. A schedule of time for construction of various portions of the development if the construction is to occur in stages.

The development plan and any supplemental data shall be filed as a permanent record in the Office of the Division of Land Use Controls. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.132 Precise Plan.

The precise plan shall consist of a map or maps together with supplemental descriptive data which shall show the location of all buildings and structures to be constructed or maintained upon the property or properties and such other information as may be needed to fully describe and locate all features of the proposed development. The precise plan and any supplemental data shall be filed as a permanent record in the Office of the Division of Land Use Controls.

After the effective date of the amendment applying the S-H symbol to a parcel of property, no grading shall be commenced, nor shall any building or structure be erected, moved, altered, enlarged or rebuilt on such property except in compliance with the precise plan approved by the Planning Commission. (Ord. 4364, 1985; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.150 Maximum Permitted Occupancy.

The maximum permitted occupancy of units developed in an S-H Overlay Zone is restricted as follows:

1. Efficiency or studio unit: One (1) resident.
2. One (1) bedroom unit: Two (2) residents.
3. Two (2) bedroom unit: Four (4) residents.
4. For units having three (3) or more bedrooms, the maximum permitted occupancy of such units shall be restricted to two (2) persons per bedroom per unit. (Ord. 3710, 1974; Ord. 3407, 1970.)

Chapter 28.43

INCLUSIONARY HOUSING ORDINANCE

Sections:

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28.43.010 Purposes and Intent.

A. The purposes and intent of this Chapter, which shall be known as the "City of Santa Barbara Inclusionary Housing Ordinance," are the following:

1. To encourage the development and availability of housing affordable to a broad range of Households with varying income levels within the City;
2. To promote the City's goal to add affordable housing units to the City's housing stock;
3. To increase the availability of housing opportunities for Middle Income and Upper-Middle Income households within the City limits in order to protect the economic diversity of the City's housing stock, reduce traffic, commuting and related air quality impacts, and reduce the demands placed on transportation infrastructure in the region; and
4. To implement policies of the Housing Element of the General Plan which include: a. adopting an inclusionary housing program to meet the housing needs of those not currently served by City Housing and Redevelopment Agency programs; and b. encouraging the development of housing for first time home buyers, including moderate and Middle Income households. (Ord. 5310, 2004.)

28.43.020 Definitions.

As used in this Chapter, the following terms shall have the meaning and usage indicated below:

A. **AFFORDABLE HOUSING POLICIES AND PROCEDURES.** The City's Affordable Housing Policies and Procedures as adopted by the City Council of the City of Santa Barbara and amended from time to time.

B. **AFFORDABLE HOUSING INCLUSIONARY FUND.** That special fund of the City established by the City as provided in Section 28.43.130.

C. **AREA MEDIAN INCOME.** The median household income as provided in Section 50093(c) of the California Government Code, as it is currently enacted or hereinafter amended.

D. **APPLICANT.** Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential Development.

E. **HOUSEHOLD.** One person living alone or two or more persons sharing residency whose income is considered for housing payments.

F. **INCLUSIONARY HOUSING PLAN.** A plan for a residential development submitted by an Applicant as provided by Section 28.43.090(b).

G. **INCLUSIONARY UNIT.** An Ownership Unit that must be offered to eligible purchasers (in accordance with eligibility requirements set by the City) at a City-approved affordable sale price according to the requirements herein.

H. **MARKET-RATE UNIT.** An Ownership Unit in a Residential Development that is not an Inclusionary Unit.

I. **MIDDLE INCOME HOUSEHOLD.** A Household whose income is between one hundred twenty percent (120%) and one hundred sixty percent (160%) of the Area Median Income, adjusted for household size.

J. **OFF-SITE INCLUSIONARY UNIT.** An Inclusionary Unit that will be built separately or at a different location than the main development.

K. **ON-SITE INCLUSIONARY UNIT.** An Inclusionary Unit that will be built as part of the main development.

L. **OWNERSHIP UNIT.** A dwelling unit that may be sold separately under the requirements of the State Subdivision Map Act. For purposes of this Chapter, a dwelling unit may be designated as an Ownership Unit whether or not it is rented by the owner thereof. The following shall be considered to be a single Ownership Unit: 1. a dwelling unit together with an attached Secondary Dwelling Unit approved under Chapter 28.94, or 2. a dwelling unit

together with an additional dwelling unit on the same lot approved under Chapter 28.93 of the City's Municipal Code.

M. **RESIDENTIAL DEVELOPMENT.** The proposed development of any single family, duplex or condominium Dwelling Units in residential or mixed-use developments requiring a tentative subdivision map under the City's Subdivision Ordinance. Residential Development shall include the conversion of rental housing to condominiums or similar uses as described in Chapter 28.88 of this Municipal Code.

N. **RESIDENTIAL LOT SUBDIVISION.** The subdivision of land into individual parcels where the application to the City for the subdivision approval does not include a concurrent request for City design approval of the residential dwelling units or homes to be constructed upon on such lots.

O. **TARGET INCOME.** A number, expressed as a percentage of Area Median Income, used in calculating the maximum sale price of an affordable housing unit. It is the household income to which the unit is targeted to be affordable.

P. **UNIT SIZE.** All of the usable floor area within the perimeter walls of a dwelling unit, exclusive of open porches, decks, balconies, garages, basements, cellars that extend no more than two (2) feet above finished grade, and attics that do not exceed a floor-to-ceiling height of five (5) feet.

Q. **UPPER-MIDDLE INCOME HOUSEHOLD.** A Household whose income is between one hundred sixty percent (160%) and two hundred percent (200%) of the Area Median Income, adjusted for household size.
(Ord. 5380, 2005; Ord. 5310, 2004.)

28.43.030 Inclusionary Requirements.

A. **GENERAL REQUIREMENTS.**

1. **Developments of Ten (10) or More Units.** For all Residential Developments of ten (10) or more dwelling units, at least fifteen percent (15%) of the total units must be constructed and offered for sale as Inclusionary Units restricted for owner-occupancy by Middle Income Households or, in the case of Residential Lot Subdivisions for the construction of single family homes, by Upper-Middle Income Households as specified herein.

2. **Developments of Less Than Ten (10) Units But More Than One Unit – Payment of an In-Lieu Fee.** For all Residential Developments of less than ten units and more than one unit, the Applicant shall, at the Applicant's election, either provide at least one unit as an owner-occupied Middle Income restricted Unit, or pay to the City an in-lieu fee equal to five percent (5%) of the in-lieu fee specified by Section 28.43.070B herein, multiplied by the total number of dwelling units of the Residential Development; provided, however, that for those Residential Developments which are not a condominium conversion project (as defined by SBMC Chapter 28.88) and which propose to construct two (2) to four (4) dwelling units, the required in-lieu fee shall equal five percent (5%) of the in-lieu fee specified by Section 28.43.070B herein multiplied by the number of units in the Residential Development which exceed one dwelling unit.

B. **RESIDENTIAL LOT SUBDIVISIONS.**

1. **Subdivisions of Ten or More Parcels.** For all Residential Lot Subdivisions where the lots to be approved would permit the eventual development of ten (10) or more Dwelling Units, the Applicant shall pay an in-lieu fee corresponding to fifteen percent (15%) of the number of Dwelling Units that might eventually be built on the lots, or the Applicant may propose an alternative means of compliance with this Chapter pursuant to Section 28.43.080 below.

2. **Subdivisions of Less Than Ten Parcels.** For all Residential Lot Subdivisions where the real property parcels to be approved would result in the eventual development of less than ten (10) Dwelling Units but more than one (1) Dwelling Unit, the Applicant shall, at the Applicant's election, either provide that one Dwelling Unit will be constructed as an owner-occupied Middle Income Household restricted Unit, or pay an in-lieu fee corresponding to five percent (5%) of the in-lieu fee specified by Section 28.43.070B multiplied by the number of Dwelling Units that might eventually be built as part of the subdivision. At the option of the Applicant, the Applicant may propose an alternative means of compliance with this Chapter pursuant to Section 28.43.080 below.

C. **EXISTING DWELLING UNITS.** Existing Ownership Units that are to be retained shall be included in the number of units in the Residential Development for purposes of calculating the number of Inclusionary Units required under this Section; however, the number of such existing units to be included in the calculation shall not exceed the number of proposed new Ownership Units to be added.

D. **DENSITY BONUS UNITS.** Any additional owner-occupied units authorized and approved as a density bonus under the City's Affordable Housing Policies and Procedures will not be counted in determining the required number of Inclusionary Units.

E. **ROUNDING.** In determining the number of Inclusionary Units required by this Section, any decimal fraction less than 0.5 shall be rounded down to the nearest whole number, and any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number.

F. **PRICE LIMITS FOR INCLUSIONARY UNITS.** Inclusionary Units must be restricted for sale at affordable prices as follows:

1. Except as provided in the following subsections, Inclusionary Units must be restricted to and sold at prices affordable to Middle Income Households, calculated according to procedure specified in the City's Affordable Housing Policies and Procedures [applicable as of the date of Planning Commission's approval] using a Target Income of one hundred twenty percent (120%) of the then current Area Median Income.

2. The Community Development Director may approve a Target Income of one hundred thirty percent (130%) of Area Median Income for Inclusionary Units built as duplexes, or exceptionally large condominiums, in accordance with the City's Affordable Housing Policies and Procedures.

3. Inclusionary Units built as detached single family homes, each on its own separate lot, must be restricted to and sold at prices affordable to Upper-Middle Income Households, with sale prices calculated according to the procedure specified in the City's Affordable Housing Policies and Procedures using a Target Income of one hundred sixty percent (160%) of Area Median Income.

4. Nothing herein shall preclude an Applicant/Owner from voluntarily agreeing to restrict the Inclusionary Units for sale to very-low, low or moderate income households at the Target Incomes specified for such income categories in the City's Affordable Housing Policies and Procedures.

G. **COMBINING RESIDENTIAL DEVELOPMENTS.** If two proposed Residential Developments that share a common boundary are under development review by the City simultaneously, such developments will be treated under this Chapter as if they were combined for purposes of determining the number of Inclusionary Units or Inclusionary Lots required under this Chapter, provided they are proposed by the same Applicant or by joint Applicants which share a substantial legal commonality of ownership and control. Applicants which are related partnerships or corporations will be deemed to share a substantial commonality of ownership and control if more than sixty percent (60%) of the natural persons who are general partners are the same for each partnership or, in the case of corporate ownership, the applicant individual or entity controls sixty percent (60%) of more of the voting stock or shares of each corporation. (Ord. 5488, 2009; Ord. 5310, 2004.)

28.43.040 Exemptions.

A. **PROJECTS EXEMPTED FROM INCLUSIONARY REQUIREMENTS.** The requirements of this Chapter shall not apply to the following types of development projects:

1. **Rental Units.** A project constructing Dwelling Units which may not be separately owned, transferred, or conveyed under the state Subdivision Map Act.

2. **Casualty Reconstruction Projects.** The reconstruction of any residential units or structures which have been destroyed by fire, flood, earthquake or other act of nature, which are being reconstructed in a manner consistent with the requirements of Santa Barbara Municipal Code Section 28.87.038.

3. **Voluntarily Affordable Projects.** Residential Developments which propose that not less than thirty percent (30%) of the units of the development will be deed restricted for occupancy by families qualifying as Upper Middle Income (or lower income) households pursuant to and in accordance with the City's Affordable Housing Policies and Procedures.

4. **Employer-Sponsored Housing Projects.** Employer-Sponsored Housing Projects developed in accordance with the Average Unit-Size Density Incentive Program of SBMC Chapter 28.20. (Ord. 5630, 2013; Ord. 5488, 2009; Ord. 5310, 2004.)

28.43.050 Incentives for On-Site Housing.

A. **PROVIDING UNITS ON-SITE.** An Applicant for a Residential Development of ten or more dwelling units who elects to satisfy the inclusionary housing requirements of this Chapter by producing owner-occupied Inclusionary Housing units on the site of a Residential Development shall be entitled to a density bonus for the number of Inclusionary Units to be provided on-site, in accordance with the City's density bonus program for owner-occupied units as described in the City's Affordable Housing Policies and Procedures without the need for the Applicant to separately apply for a lot area modification for the density bonus.

B. **USE OF ZONING ORDINANCE MODIFICATIONS.** The City may provide modifications in zoning requirements that will facilitate increased density for the purpose of accomplishing the goals of this Chapter, including modifications to parking, setback, yard area, open space and solar access requirements as specified in Section 28.92.110 of this Municipal Code. (Ord. 5488, 2009; Ord. 5380, 2005; Ord. 5310, 2004.)

28.43.060 Affordable Housing Standards.

A. **CONSTRUCTION STANDARDS FOR INCLUSIONARY UNITS.** Inclusionary Units built under this Chapter must conform to the following standards:

1. **Design.** Except as otherwise provided in this Chapter, Inclusionary Units must be dispersed evenly throughout a Residential Development and must be comparable in construction quality and exterior design to the Market-Rate Units constructed as part of the Development. Inclusionary Units may be smaller in aggregate size and may have different interior finishes and features than Market-Rate Units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing.

2. **Size.** The average number of bedrooms in the Inclusionary Units must equal or exceed the average number of bedrooms in the Market-Rate Units of the Development. Absent a waiver from the Community Development Director, two-bedroom Inclusionary Units shall generally have at least one and one-half bathrooms, and three-bedroom Inclusionary Units shall generally have at least two bathrooms. However, the required number of bathrooms shall not be greater than the number of bathrooms in the Market-Rate Units. The minimum Unit Size of each Inclusionary Unit shall be in conformance with the City's Affordable Housing Policies and Procedures.

3. **Timing of Construction.** All Inclusionary Units must be constructed and occupied concurrently with or prior to the construction and occupancy of Market-Rate Units of the Development. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase of the Residential Development.

4. **Duration of Affordability Requirement.** Inclusionary Units produced under this Chapter must be legally restricted to occupancy by Households of the income levels for which the units were designated pursuant to and in conformance with the City's Affordable Housing Policies and Procedures. (Ord. 5310, 2004.)

28.43.070 In-Lieu Fees.

A. **PAYMENT OF IN-LIEU FEE TO CITY**. The requirements of this Chapter may also be satisfied by paying an in-lieu fee to the City for deposit into the City's Affordable Housing Inclusionary Fund as such fund is provided for in Section 28.43.130.

B. **CALCULATION OF IN-LIEU FEE**. The in-lieu fee for each required Inclusionary Unit that is not constructed on-site will be calculated as of the date of Planning Commission final approval in a manner sufficient to make up the monetary difference between the following: 1. the Estimated Production Cost of a two-bedroom condominium unit in the City as defined in this Section, and 2. the price of a two-bedroom dwelling unit affordable to a Low-Income Household calculated according to the procedure specified in the City's Affordable Housing Policies and Procedures for a two-bedroom unit. The target income for this calculation shall be seventy percent (70%) of Area Median Income, and the housing-cost-to-income ratio for this calculation shall be thirty percent (30%). The Estimated Production Cost shall be deemed to be the median sale price of two-bedroom condominium units in the City less a fifteen percent (15%) adjustment to reflect an Applicant/Developer's anticipated profit. The median sale price of two-bedroom condominium units in the City shall be established by the City Council, based on data provided by the Santa Barbara Association of Realtors or other source selected by the City Council, for sales during the four most recent calendar quarters prior to the calculation. The City Council may annually review the median sale price of two-bedroom condominium units in the City, and may, based on that review, adjust the in-lieu fee amount.

As of the date of the adoption of this Chapter, the median sale price of two-bedroom condominium units in the City for the four most recent calendar quarters was $500,000, the Estimated Production Cost was $425,000, the Area Median Income was $64,700, the price of a two-bedroom dwelling unit affordable to a Low-Income Household was $115,000, and the in-lieu fee based on the above calculation was $310,000.

C. **PRORATING.** If the calculation for the required number of Inclusionary Units as provided in Section 28.43.030 results in a fraction of a unit, the amount of in-lieu fee for such fractional unit shall be prorated.

D. **REDUCTION OF IN-LIEU FEE FOR SMALLER UNITS.** For Residential Developments, the amount of the in-lieu fee shall be reduced where the average Unit Size of the Market-Rate Units is less than 1700 square feet, according to the following:

1. If the average Unit Size of the Market-Rate Units is between 1,400 and 1,699 square feet, the in-lieu fee shall be reduced by fifteen percent (15%).
2. If the average Unit Size of the Market-Rate Units is between 1,100 and 1,399 square feet, the in-lieu fee shall be reduced by twenty percent (20%).
3. If the average Unit Size of the Market-Rate Units is between 800 and 1,099 square feet, the in-lieu fee shall be reduced by twenty-five percent (25%).
4. If the average Unit Size of the Market-Rate Units is below 800 square feet, the in-lieu fee shall be reduced by thirty percent (30%).

E. **TIMING OF PAYMENT OF IN-LIEU FEE.** The timing of payment of the in-lieu fee varies according to the type of development and the number of units to be developed, as follows:

1. **New Construction of Five or More Units.** For new construction of five or more dwelling units, the in-lieu fee shall be paid prior to the issuance of a building permit for the Development; for phased-construction developments, payment of the applicable in-lieu fees shall be made for each portion of the Development prior to the issuance of a building permit for that phase of the Development. In the event that the Applicant/Developer intends to pay the in-lieu fee from proceeds of a bank construction loan, and such bank requires the issuance of a building permit prior to funding the construction loan, the Applicant/Developer may request that the Community Development Director issue the building permit prior to payment of the fee. The Community Development Director may approve such request provided the Applicant/Developer agrees in writing that the fee will be paid within ten (10) days after the issuance of the building permit, and further agrees that the building permit will be deemed revoked by the City and work undertaken pursuant to the building permit stopped if the in-lieu fee is not paid within such ten-day period.
2. **Condominium Conversions.** For condominium conversions, payment of the in-lieu fee shall be made prior to recordation of the Final Subdivision Map.
3. **Residential Lot Subdivisions.** For Residential Lot Subdivisions, payment of the in-lieu fee shall be made prior to recordation of the Final Subdivision Map.
4. **Residential Developments of Four Units or Less.** For Residential Developments of four units or less which are subject to this Chapter and which elect to pay an in-lieu fee under the requirements of this Chapter, the in-lieu fees shall be paid to the City prior to the issuance of a Certificate of Occupancy by the Chief Building Official of the City.

F. **DELAYED PAYMENT.** When payment is delayed, in the event of default, or for any other reason, the amount of the in-lieu fee payable under this Section will be based upon the greater of the fee schedule in effect at the time the fee is paid or the fee schedule in effect at the time of Planning Commission approval. (Ord. 5488, 2009; Ord. 5310, 2004.)

28.43.080 Alternative Methods of Compliance.

A. **ALTERNATIVE METHODS OF COMPLIANCE - APPLICANT PROPOSALS.** An Applicant, at the Applicant's option, may propose an alternative means of compliance with this Chapter by submitting to the City an Inclusionary Housing Plan prepared in accordance with the following alternative compliance provisions:

1. **Off-Site Construction.** All or some of the required Inclusionary Units may be constructed off-site if the Planning Commission (or the City Council on appeal) finds that the combination of location, unit size, unit type, pricing, and timing of availability of the proposed off-site Inclusionary Units would provide equivalent or greater benefit than would result from providing those Inclusionary Units on-site as might otherwise be required by this Chapter. Prior to the recordation of the Final Subdivision Map for the Residential Development subject to the inclusionary requirements of this Chapter, the Applicant shall post a bond, bank letter of credit, or other security acceptable to the Community Development Director, in the amount of the in-lieu fee per Section 28.43.070, which the City may call and may deposit in the Affordable Housing Inclusionary Fund and may spend in accordance with the terms of that Fund in the event that the off-site inclusionary units are not completed (as evidenced by the issuance of a certificate of occupancy for such units) according to the schedule stated in the Inclusionary Housing Plan submitted by the Applicant and prior to the completion and occupancy of the Residential Development.

2. **Dedication of Land For Affordable Housing Purposes.** In lieu of building Inclusionary Units on or off-site or the payment of in-lieu fees, an Applicant may choose to dedicate land to the City [or a City-designated non-profit housing developer] under circumstances where the land is suitable for the construction of Inclusionary Units and under circumstances which the Planning Commission (or the City Council on appeal) reasonably has determined to be of equivalent or greater value than would be produced by applying the City's current in-lieu fee to the Applicant's inclusionary housing obligation.

3. **Combination of Approaches.** The Planning Commission (or the City Council on appeal) may accept any combination of on-site construction, off-site construction, in-lieu fees and land dedication which, in the Planning Commission's or City Council's determination, would provide equivalent or greater benefit than that which might result from providing Inclusionary Units on-site.

B. **DISCRETION OF PLANNING COMMISSION OR CITY COUNCIL.** The Planning Commission (or the City Council on appeal) may approve, conditionally approve or reject any alternative proposed by an Applicant as part of an Affordable Housing Plan. Any approval or conditional approval must be based on a finding that the purposes of this Chapter would be better served by implementation of the proposed alternative. In determining whether the purposes of this Chapter would be better served under the proposed alternative, the Planning Commission (or the City Council on appeal) should consider the extent to which other factors affect the feasibility of prompt construction of the Inclusionary Housing Units, such as site design, zoning, infrastructure, clear title, grading and environmental review. (Ord. 5310, 2004.)

28.43.090 Inclusionary Housing Plan Processing.

A. **GENERALLY.** The submittal of an Inclusionary Housing Plan and recordation of an approved City affordability control covenant shall be a pre-condition on the City approval of any Final Subdivision Map, and no building permit shall be issued for any Development to which this Chapter applies without full compliance with the provision of this Section. This Section shall not apply to exempt projects or to projects where the requirements of the Chapter are satisfied by payment of an in-lieu fee under Section 28.43.070.

B. **INCLUSIONARY HOUSING PLAN.** Every residential development to which this Chapter applies shall include an Inclusionary Housing Plan as part of the application submittal for either development plan approval or subdivision approval. No application for a tentative map, subdivision map, or building permit for a development to which this Chapter applies may be deemed complete until an Inclusionary Housing Plan is submitted to and approved by the Community Development Director as being complete. At any time during the formal development review process, the Community Development Director may require from the Applicant additional information reasonably necessary to clarify and supplement the application or determine the consistency of the Project's proposed Inclusionary Housing Plan with the requirements of this Chapter.

C. **REQUIRED PLAN ELEMENTS.** An Inclusionary Housing Plan must include the following elements or submittal requirements:

1. The number, location, structure (attached, semi-attached, or detached), and size of the proposed Market-Rate and Inclusionary Units and the basis for calculating the number of Inclusionary Units;
2. A floor or site plan depicting the location of the Inclusionary Units and the Market-Rate Units;
3. The income levels to which each Inclusionary Unit will be made affordable;
4. The methods to be used to advertise the availability of the Inclusionary Units and select the eligible purchasers, including preference to be given, if any, to applicants who live or work in the City in conformance with the City's Affordable Housing Policies and Procedures;
5. For phased Development, a phasing plan that provides for the timely development of the number of Inclusionary Units proportionate to each proposed phase of development as required by Section 28.43.060.A.3 of this Chapter;
6. A description of any modifications as listed in Section 28.92.110 that are requested of the City;
7. Any alternative means designated in Section 28.43.080.A proposed for the Development along with information necessary to support the findings required by Section 28.43.080.B for approval of such alternatives; and

8. Any other information reasonably requested by the Community Development Director to assist with evaluation of the Plan under the standards of this Chapter.

D. **AFFORDABILITY CONTROL COVENANTS.** Prior to issuance of a grading permit or building permit, whichever is requested first, a standard City affordability control covenant must be approved and executed by the Community Development Director, executed by the Applicant/Owners, and recorded against the title of each Inclusionary Unit. If subdivision into individual property parcels has not been finalized at the time of issuance of a grading permit or building permit, an overall interim affordability control covenant shall be recorded against the Residential Development, and shall be replaced by separate recorded affordability control covenants for each unit prior to issuance of a Certificate of Occupancy by the City for such units. (Ord. 5310, 2004.)

28.43.100 Eligibility for Inclusionary Units.

A. **GENERAL ELIGIBILITY FOR INCLUSIONARY UNITS.** No Household may purchase or occupy an Inclusionary Unit unless the City has approved the Household's eligibility, and the Household and City have executed and recorded an affordability control covenant in the chain of title of the Inclusionary Unit. Such affordability control covenant is in addition to the covenant required in Section 28.43.090 above. The eligibility of the purchasing household shall be established in accordance with the City's Affordable Housing Policies and Procedures and any additional eligibility requirements agreed upon in writing by the Applicant and the City.

B. **OWNER OCCUPANCY.** A Household which purchases an Inclusionary Unit must occupy that unit as a principal residence, as that term is defined for federal tax purposes by the United States Internal Revenue Code. (Ord. 5310, 2004.)

28.43.110 Owner-Occupied Units; Sales Price; Long-Term Restriction.

A. **INITIAL SALES PRICE.** The initial sales price of an Inclusionary Unit must be set in accordance with the City's Affordable Housing Policies and Procedures, using the Target Income requirements specified in this Chapter.

B. **TRANSFERS AND CONVEYANCES.** A renewal of the affordability controls covenant will be entered into upon each change of ownership of an Inclusionary Unit and upon any transfer or conveyance (whether voluntarily or by operation of law) of an owner-occupied Inclusionary Unit as such covenants are required in accordance with the City's Affordable Housing Policies and Procedures.

C. **RESALE PRICE.** The maximum sales price and qualifications of purchasers permitted on resale of an Inclusionary Unit shall be specified in the affordability control covenant and shall be in conformance with the City's then approved and applicable Affordable Housing Policies and Procedures. (Ord. 5310, 2004.)

28.43.120 Adjustments and Waivers.

A. **ADJUSTMENTS AND WAIVERS.** The requirements of this Chapter may be adjusted to propose an alternative method of compliance with this Chapter in accordance with Section 28.43.080 or waived (in whole or in part) by the City if the Applicant demonstrates to the Planning Commission (or the City Council on appeal) that applying the requirement of this Chapter would be contrary to the requirements of the laws of the United States or California or the Constitutions thereof.

B. **TIMING OF WAIVER REQUEST.** To receive an adjustment or waiver, the Applicant must make an initial request of the Planning Commission for such an adjustment or waiver and an appropriate demonstration of the appropriateness of the adjustment or waiver when first applying to the Planning Commission for the review and approval of the proposed Residential Development development plan or subdivision review as such review and approval is required by either Title 28 or Title 27 of the Santa Barbara Municipal Code.

C. **WAIVER AND ADJUSTMENT CONSIDERATIONS.** In making a determination on an application to adjust or waive the requirements of this Chapter, the Planning Commission (or the City Council on appeal) may assume each of the following when applicable: (i) that the Applicant is subject to the inclusionary housing requirement or in-lieu fee; (ii) the extent to which the Applicant will benefit from inclusionary incentives under Section 28.43.050; and (iii) that the Applicant will be obligated to provide the most economical Inclusionary Units feasible in terms of construction, design, location and tenure.

D. **WRITTEN DECISION.** The Planning Commission (or the City Council on appeal) will determine the application and issue written findings and a decision within sixty (60) days of the public hearing on the Adjustment/Waiver Request.

E. **APPEAL TO THE CITY COUNCIL.** Upon a decision by the Planning Commission on the proposed overall residential development plan, any action taken by the Commission made pursuant to a request for an adjustment for an alternative method of compliance under Section 28.43.080, or for a waiver pursuant to this Section, may be appealed to the City Council in accordance with the appeal procedures of Santa Barbara Municipal Code Section 1.30.050. (Ord. 5310, 2004.)

28.43.130 Affordable Housing Inclusionary Fund.

A. **INCLUSIONARY FUND.** There is hereby established a separate City Affordable Housing Inclusionary Fund ("Fund") maintained by the City Finance Director. This Fund shall receive all fees contributed under Sections 28.43.070 and 28.43.080 and may, at the discretion of the City Administrator, also receive monies from other sources.

B. **PURPOSE AND LIMITATIONS.** Monies deposited in the Fund must be used to increase and improve the supply of housing affordable to Upper-Middle, Middle, Moderate-, Low-, and Very Low-Income Households in the City and to ensure compliance of such Households with the City's Affordable Housing Policies and Procedures. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Section, including, but not limited to, the City's purchase and resale of affordable housing units that are in default of the affordable control covenant recorded against that property, provided that the City shall, at all times, comply with the applicable provisions and requirements of the state Mitigation Fee Act, Govt. Code Sections 66000 - 66025.

C. **ADMINISTRATION.** The Fund shall be administered by the Community Development Director, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this Chapter and any adopted budget of the City.

D. **EXPENDITURES.** Fund monies shall be used in accordance with the City's Housing Element, Redevelopment Plan, the City's Affordable Housing Policies and Procedures, or subsequent plan adopted by the City Council to construct, rehabilitate or subsidize affordable housing or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases or other public-private partnership arrangements. The Fund may be used for the benefit of both rental and owner-occupied housing in accordance with the applicable requirements of the state Mitigation Fee Act, Govt. Code Sections 66000 - 66025.

E. **COMMUNITY DEVELOPMENT DIRECTOR'S ANNUAL REPORT.** The Community Development Director, with the assistance of the City Finance Director, shall report annually to the City Council on the status of activities undertaken with the Fund. The report shall include a statement of income, expenses, disbursements and other uses of the Fund. The report should also state the number and type of Inclusionary Units constructed during that year. (Ord. 5488, 2009; Ord. 5310, 2004.)

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Chapter 28.44

COASTAL OVERLAY ZONE – S-D-3 ZONE DESIGNATION

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28.44.010 Legislative Intent.

The Coastal Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to insure that all public and private development in the Coastal Zone of the City of Santa Barbara is consistent with the City's Certified Local Coastal Program and the Coastal Act.
(Ord. 5417, 2007.)

28.44.020 Location.

The S-D-3 Zone is applied to the "Coastal Zone" which is defined as generally all of the land 1,000 yards from the mean high tide line as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the City of Santa Barbara (including the Santa Barbara Municipal Airport and Goleta). (Ord. 5417, 2007.)

28.44.030 Compliance.

Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Chapter 28.44. If there is a conflict between a provision of the City of Santa Barbara Local Coastal Program (including the Land Use Plan and the Coastal Overlay Zone Ordinance) and a provision of the General Plan or any other City-adopted plan, resolution or ordinance not included in the City of Santa Barbara Local Coastal Program, and it is not possible for the proposed development to comply with both the Local Coastal Program and such other plan, resolution or ordinance, the Local Coastal Program shall take precedence and the development shall not be approved unless it complies with the Local Coastal Program provision.
(Ord. 5417, 2007.)

28.44.040 Definitions.

For the purposes of this Chapter 28.44, the following words and phrases shall be construed as set forth below in this Section 28.44.040 unless it is apparent from the context that a different meaning is intended:

A. ACCESS.

1. Lateral. An area of land providing public access along the water's edge.

2. Vertical. An area of land providing a connection between the first public road or use area nearest the sea and the publicly-owned tidelands or established lateral access way.

B. AGGRIEVED PERSON. Any person who, in person or through a representative, appeared at a public hearing of the City in connection with the decision or action appealed, or who, by other appropriate means prior to the hearing, informed the City of the nature of his concerns or who for good cause was unable to do either.

C. APPEALABLE DEVELOPMENT.

1. Developments approved by the City between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

2. Developments approved by the City not included within Paragraph 1 above located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

3. Any development which constitutes a major public works project or a major energy facility.

The Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara, has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any appealable area, the matter should be referred to the City of Santa Barbara and/or the Executive Director of the California Coastal Commission for clarification and information. The Post-LCP Certification Permit and Appeal Jurisdiction Map may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

D. APPLICANT. The person, partnership, corporation or state or local government agency applying for a coastal development permit.

E. COASTAL COMMISSION. California Coastal Commission.

F. COASTAL DEVELOPMENT PERMIT. A permit for any development within the coastal zone that is required pursuant to subdivision (a) of Section 30600 of the California Public Resources Code and issued by the City in accordance with the provisions of this Section.

G. COASTAL ZONE. That land and water area of the City of Santa Barbara extending seaward to the State's outer limit of jurisdiction and extending inland to the boundary shown on the official Zoning Maps for the S-D-3 Coastal Overlay Zone, as amended from time to time and adopted by the Coastal Commission.

H. DEVELOPMENT. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

I. ENERGY FACILITY. Any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.

J. ENVIRONMENTALLY SENSITIVE AREA. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

K. FEASIBLE. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

L. FILL. Earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

M. LAND USE PLAN. Maps and a text which indicate the kinds, location and intensity of land uses allowed in the Coastal Zone and includes resources protection and development policies related to those uses.

N. LOCAL COASTAL PROGRAM. The City's land use plan, zoning ordinances, zoning maps and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

O. MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY.

1. “Major public works” and “Major energy facilities” mean facilities that cost more than one hundred thousand dollars ($100,000) with an automatic annual increase every year following the baseline of one hundred thousand dollars set in 1983 in accordance with the Engineering News Record Construction Cost Index, except for those facilities governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.

2. Notwithstanding the criteria in Paragraph 1 above, “major public works” also means publicly-financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

P. NATURAL DISASTER. Any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owner.

Q. OCEAN-DEPENDENT DEVELOPMENT OR USE. Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

R. OCEAN-RELATED DEVELOPMENT OR USE. Any development or use which is dependent on an ocean-dependent development or use.

S. OTHER PERMITS AND APPROVALS. Permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

T. PERSON. Any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state or local government, special district, or an agency thereof.

U. PUBLIC WORKS PROJECT. Any of the following development shall constitute a public works project:

1. All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

2. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

3. All publicly-financed recreational facilities, all projects of the State Coastal Conservancy and any development by a special district.

4. All community college facilities.

V. SEA. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

W. STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

X. VISITOR-SERVING DEVELOPMENT OR USE. Stores, shops, businesses, temporary lodging and recreational facilities (both public and private) which provide accommodations, food and services for the traveling public, including, but not limited to, hotels, motels, campgrounds, parks, nature preserves, restaurants, specialty shops, art galleries and commercial recreational development such as shopping, eating and amusement areas.

Y. WETLAND. Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

Z. WORKING DAY. Any day on which all City offices are open for business. (Ord. 5417, 2007.)

28.44.050 Application for Development.

A. APPLICATION. Except for development involving emergency work subject to the provisions of Section 28.44.100, an application for a coastal development permit shall be submitted prior to the commencement of any development within the Coastal Zone. The application for the coastal development permit shall be filed prior to or concurrent with other necessary City permits or approvals for said development. Such application shall be submitted to the Community Development Department and shall be accompanied by such filing fee as established by the City Council. The Community Development Department shall provide a written handout explaining the requirements for a completed coastal development application. The Community Development Department shall take the following actions:

1. Determine if the proposed project requires a coastal development permit and, if so, determine the category of permit for the project in accordance with this Chapter.

2. File the application and provide notice of action on the application in accordance with this Chapter.

3. For those projects requiring a public hearing, prepare and transmit a staff report and recommendation regarding the application to the Planning Commission or Staff Hearing Officer.

B. DETERMINATION OF APPLICABLE NOTICE AND HEARING PROCEDURES.
The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the Community Development Department at the time the application for the coastal development permit is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning laws which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or the Community Development Department has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

1. The Community Development Department shall make its determination as to what type of development is being proposed (i.e. categorically excluded, non-appealable or appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

2. If the determination of the Community Development Department is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

3. The Executive Director shall, within two (2) working days of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit the determination as to whether the development is categorically excluded, non-appealable or appealable.

4. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next meeting (in the appropriate geographic region of the state) following the City's request. (Ord. 5417, 2007.)

28.44.060 Permit Required.

In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City, unless the development involves emergency work subject to the provisions of Section 28.44.100 or the development is subject to one of the exclusions or exemptions specified in Section 28.44.070. (Ord. 5417, 2007.)

28.44.070 Exclusions and Exemptions.

The following categories of development, through Subsection C, are categorically excluded from the coastal development permit requirements of this Chapter 28.44 pursuant to Categorical Exclusion Order E-86-03 as amended by Categorical Exclusion Order E-06-1 and certified by the California Coastal Commission:

A. TIME-SHARE CONVERSION EXCLUSION. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

B. VESTED RIGHTS EXCLUSION. Any development which, on the effective date of this subsection, has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval expires or lapses; provided, however, that no substantial change may be made in any such development without prior Coastal Commission and City approval having been obtained by the developer.

C. SINGLE FAMILY RESIDENCE EXCLUSIONS.

1. Construction of one (1) single family residence on an existing vacant parcel in the area designated as Non-Appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.

2. Demolition and reconstruction of an existing single family residence in the area designated as Non-Appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara. Notwithstanding the exclusion specified in this paragraph, if an application for demolition and reconstruction of an existing single family residence is submitted for a lot that either: (1) contains a City Landmark or Structure of Merit, (2) contains or is within 100 feet of archeological or paleontological resources, or (3) contains or is within 100 feet of a environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped, then the application shall require a coastal development permit.

The following categories of development, through the end of this Section 28.44.070, are exempt from the coastal development permit requirements of this Chapter 28.44 pursuant to Section 30610 of the Public Resource Code and Sections 13250-13253 of Title 14 of the California Administrative Code.

D. SINGLE FAMILY RESIDENCE EXEMPTION. Improvements to existing single family residences; provided, however, that those improvements which involve a risk of adverse environmental effect shall require a coastal development permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

E. OTHER CONSTRUCTION EXEMPTION. Improvements to any structure other than a single family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a coastal development permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.

F. MAINTENANCE OF NAVIGATION CHANNEL EXEMPTION. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

G. REPAIR OR MAINTENANCE EXEMPTION. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a coastal development permit, as provided in Section 13252 of Title 14 of the California Administrative Code, as amended from time to time.

H. UTILITY CONNECTIONS EXEMPTION. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter; provided that the Community Development Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

I. REPLACEMENT OF EXISTING STRUCTURES DESTROYED BY NATURAL DISASTER EXEMPTION. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this Subsection I, the term:

1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

J. TEMPORARY EVENT EXEMPTION.

1. Definitions. For the purposes of this Subsection J, the following words and phrases shall be construed as set forth below:

a. Exclusive Use. A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.

b. Limited Duration. A period of time that does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis.

c. Non-permanent Structure(s). Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.

d. Temporary Event. An activity or use that constitutes development as defined in Section 30106 of the California Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.

e. Coastal Resources. Include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

f. Sandy Beach Area. Includes publicly-owned and privately-owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

2. General Rule. Except as provided in Paragraph 4 below, every temporary event is excluded from the coastal development permit requirements under this Chapter 28.44, unless the temporary event meets all of the following criteria:

a. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,

b. The event occupies all or a portion of a sandy beach area; and,

c. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

3. Other Exclusions. The Community Development Director may also exclude a temporary event that satisfies all of the criteria specified in Paragraph 2 above, if:

a. The fee is for preferred seating only and 75% of the provided seating capacity is available free of charge for general public use; or,

b. The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,

c. The event is less than one day in duration; or,

d. The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.

4. Special Circumstances. The Community Development Director, or the Planning Commission or City Council through direction to the Community Development Director, may determine that a temporary event shall require a coastal development permit, even if the criteria specified in Paragraph 2 above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include, but shall not be limited to, the following:

a. The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;

b. The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Paragraph 1 above;

c. The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters; or

d. The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources. (Ord. 5417, 2007.)

28.44.080 Record of Categorical Exclusion Determination.

The Community Development Department shall maintain a record of all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each exclusion determination shall be made to the Coastal Commission within five (5) working days of the determination by the Community Development Department. The City is not required to give the Coastal Commission notice of exemption determinations. (Ord. 5417, 2007.)

28.44.100 Permit for Emergency Work.

The Community Development Director may issue an emergency permit without compliance with the procedures for the issuance of a coastal development permit specified in this Chapter 28.44 in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code. Where persons or public agencies seek a permit for emergency work pursuant to Section 30624 of the California Public Resources Code or this Section 28.44.100, the following procedures shall apply:

A. APPLICATION. Applications for permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:

1. The nature of the emergency;
2. The cause of the emergency, insofar as this can be established;
3. The location of the emergency;
4. The remedial, protective, or preventive work required to deal with the emergency;
5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;
6. The identity of other public agencies alerted to the emergency;
7. Access routes to the emergency; and,
8. Any other information deemed necessary by the Community Development Director.

B. VERIFICATION OF EMERGENCY. The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

C. COORDINATION AND PUBLIC NOTICE. Prior to issuance of an emergency permit, when feasible, the Community Development Director shall notify, and coordinate with, the South Central Coast District Office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone. The Community Development Director shall provide public notice of the proposed emergency action required by Section 13329.3 of Title 14 of the California Administrative Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

D. ISSUANCE. The Community Development Director may grant a permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:

1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits, and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
2. Public comment on the proposed emergency action has been reviewed if time allows;
3. The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976;
4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation;
5. The Community Development Director shall not issue an emergency permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a coastal development permit application for this type of work must be reviewed by the California Coastal Commission pursuant to the provisions of Public Resources Code Sections 30519(b) and 30600(d).

E. FORMAT OF PERMIT. The emergency permit shall be a written document that includes the following information:

1. The date of issuance;
2. An expiration date;
3. The scope of work to be performed;
4. Terms and conditions of the permit. The emergency permit may contain conditions for removal of existing development or structures if they are not authorized in a coastal development permit, or the emergency permit may require that a subsequent coastal development permit must be obtained to authorize the removal of such existing unpermitted development or structures;

5. A provision stating that within ninety (90) days of issuance of the emergency permit, a coastal development permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the emergency permit, to remove such structures, or some other alternative;

6. A provision stating that any development or structures constructed pursuant to an emergency permit shall be considered temporary until authorized by a subsequent coastal development permit and that issuance of an emergency permit shall not constitute an entitlement to the erection of permanent development or structures; and

7. A provision that states that the development authorized in the emergency permit must be removed unless a complete application for a coastal development permit is filed within ninety (90) days of approval of the emergency permit. If all or any portion of the application for the coastal development permit seeking authorization for permanent retention of the development authorized pursuant to the emergency permit is denied, the portion of the development that is denied must be removed.

F. NOTICE TO THE PLANNING COMMISSION.

1. The Community Development Director shall report in writing to the Planning Commission at each meeting of the Commission the emergency permits applied for or issued since the last report. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time the application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. Copies of this report shall also be sent to the South Central Coast District Office of the California Coastal Commission.

2. All emergency permits issued after completion of the agenda for the Planning Commission meeting shall be briefly described by the Community Development Director at the meeting, and the written report required by Paragraph 1 above shall be distributed prior to the next meeting of the Planning Commission.

3. The report of the Community Development Director shall be informational only. The decision to issue an emergency permit is solely at the discretion of the Community Development Director. (Ord. 5417, 2007.)

28.44.110 Authority to Review.

Where a coastal development permit is required pursuant to Section 28.44.060, the authority to review an application for a coastal development permit is designated as follows:

A. APPEALABLE DEVELOPMENT.

1. Planning Commission. The Planning Commission shall review all applications for coastal development permits for proposed development in the appealable area unless authority is granted to the Staff Hearing Officer pursuant to Paragraph 2 below.

2. Staff Hearing Officer. The Staff Hearing Officer shall review applications for coastal development permits for development proposed in the appealable area when:

a. The proposed development requires another discretionary action by the Staff Hearing Officer under any other provision of this Code; or

b. The proposed development involves single family residential development unless the proposed development:

(1) is located less than 50 feet from the edge of any coastal bluff or the inland extent of any beach; or

(2) is located seaward of the seacliff retreat line as defined in the City of Santa Barbara Coastal Plan; or

(3) involves an improvement that increases the internal floor area of any structure by more than 500 square feet; or

(4) involves a second story improvement; or

(5) requires a discretionary action by the Planning Commission under another provision of this Code.

B. NON-APPEALABLE DEVELOPMENT.

1. Planning Commission. The Planning Commission shall review applications for coastal development permits for development proposed in the non-appealable area when the proposed development requires another discretionary action by the Planning Commission under any other provision of this Code.

2. Staff Hearing Officer. The Staff Hearing Officer shall review applications for coastal development permits for development proposed in the non-appealable area when the proposed development does not require another discretionary action by the Planning Commission under another provision of this Code.

C. SECONDARY DWELLING UNITS. When a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice having been given pursuant to Section 28.44.130. The Staff Hearing Officer may receive written comments regarding the application and consider such written comments during the review of the application, but the Staff Hearing Officer shall not conduct a public hearing on the application. The decision of the Staff Hearing Officer concerning an application for a coastal development permit pursuant to this subsection C shall constitute the final action of the City. In the appealable area, decisions of the Staff Hearing Officer made pursuant to this subsection C may be appealed to the Coastal Commission in accordance with Section 28.44.200. Actions on applications to construct secondary dwelling units shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Santa Barbara's certified Local Coastal Program and Chapter 3 of the California Coastal Act. Review of a coastal development permit application for a secondary dwelling unit as an addition to an existing single family residence shall comply with all procedures and development standards of this Chapter, aside from the requirements to conduct a public hearing and City appeals as described in Sections 28.44.120, 28.44.140, and 28.44.160. (Ord. 5417, 2007.)

28.44.120 Public Hearing.

At least one public hearing shall be held on each application requiring a coastal development permit, with the exception of applications that only include the addition of a secondary dwelling unit to an existing single family residence pursuant to Section 28.44.110.C. The Planning Commission or the Staff Hearing Officer, as designated in Section 28.44.110, shall hold the public hearing regarding the coastal development permit concurrently with any other required public hearing or hearings before the reviewing body for any other applications regarding the proposed development. (Ord. 5417, 2007.)

28.44.130 Notice.

A. TIMING AND METHOD. At least ten (10) days prior to the public hearing on the application for a coastal development permit, the Community Development Department shall provide written notice of the public hearing in the following manner:

1. Notice shall be published in a newspaper of general circulation in the City;
2. Notice shall be sent by first class mail to any person who has filed a written request therefore;
3. Notice shall be sent by first class mail to property owners within 300 feet of the exterior boundary of the project parcel;
4. Notice shall be sent by first class mail to occupants of residences, including apartments, on or within 100 feet of the affected parcel;
5. Notice shall be sent by first class mail to the Coastal Commission; and
6. In addition to the required methods of notice above, the Community Development Department may provide for supplemental noticing methods including, but not limited to, posted notice on the project site. However, the failure to receive notice pursuant to any supplemental noticing method shall not constitute a basis for invalidating any action taken on the coastal development permit application.

B. CONTENT. The written notice of the public hearing shall contain all of the following information:

1. A statement that the development is within the coastal zone;
2. The date of filing of the application and the name of the applicant;
3. The permit number assigned to the application;
4. A description of the development and its proposed location;
5. The date, time and place at which the application will be heard by the Planning Commission or the Staff Hearing Officer;
6. A brief description of the general procedure of the Planning Commission or the Staff Hearing Officer concerning the conduct of hearings, submission of public comment either in writing or orally, and local action; and
7. The system for City and Coastal Commission appeals. (Ord. 5417, 2007.)

28.44.140 Notice when Hearing is Continued.

If a public hearing regarding an application for a coastal development permit is continued by the Planning Commission or the Staff Hearing Officer to a date which is neither (1) previously stated in the notice provided pursuant to Section 28.44.130, nor (2) announced at the public hearing as being continued to a date certain, the Community Development Department shall provide notice of the continued hearing in the same manner, and within the same time limits as established in Section 28.44.130. (Ord. 5417, 2007.)

28.44.150 Findings.

In order to approve a coastal development permit, all of the following findings shall be made:

A. The project is consistent with the policies of the California Coastal Act; and

B. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code. (Ord. 5417, 2007.)

28.44.160 Suspensions and Appeals.

A. FROM THE STAFF HEARING OFFICER.

1. Suspensions. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer.

2. Appeals. The decisions of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application for a coastal development permit, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Staff Hearing Officer is not in accord with the provisions of this Chapter or wherein it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

B. FROM THE PLANNING COMMISSION. The decisions of the Planning Commission, including decisions on suspensions or appeals from decisions of the Staff Hearing Officer, may be appealed to the City Council by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the coastal development permit, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Planning Commission is not in accord with the provisions of this Section or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed whereon said Department shall prepare a report to the City Council with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Planning Commission; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant. (Ord. 5417, 2007.)

28.44.170 Finality of City Action.

A local decision on an application for a coastal development permit shall be deemed final when:

A. The local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the California Coastal Act, Public Resources Code; and

B. When all local rights of appeal have been exhausted as defined in Section 28.44.160. (Ord. 5417, 2007.)

28.44.180 Notice of Final Action by the City.

Within seven (7) calendar days of a final City decision on an application for a coastal development permit, the Community Development Department shall provide notice of the action by first class mail to the Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the Coastal Commission. (Ord. 5417, 2007.)

28.44.190 Effective Date of City Final Action on Appealable Items.

A final decision of the City on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired unless any of the following occur:

A. An appeal is filed in accordance with Section 28.44.200; or

B. The notice of final City action has not been given pursuant to Section 28.44.180.

When either of the above circumstances occurs, the Coastal Commission shall, within five (5) working days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended. (Ord. 5417, 2007.)

28.44.200 Appeals to the Coastal Commission.

For those actions taken by the City on applications for coastal development permits that are approved for development defined as "appealable" under California Public Resources Code Section 30603(a) and Subsection 28.44.030.C, an appeal may be filed with the Coastal Commission by an aggrieved party, the applicant, or two (2) members of the Coastal Commission. Such appeals must be filed in the office of the Coastal Commission not later than 5:00 p.m. of the tenth working day following the Commission's receipt of sufficient notice of the final local governmental action. In the case of an appeal by an applicant or aggrieved party, the appellant must have first pursued appeal to the City Council, as established in Section 28.44.160, to be considered an aggrieved party. (Ord. 5417, 2007.)

28.44.220 Development Within Coastal Commission Permit Jurisdiction.

Notwithstanding other permit and appeal provisions of this Chapter, development proposals which are located on lands identified as tidelands, submerged lands or public trust lands as identified on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara, adopted by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a coastal permit from the Coastal Commission. Upon submittal to the City of an application for a coastal development permit, the Community Development Department shall determine if the development may be located on land identified as tidelands, submerged lands and/or public trust lands. Such determination shall be based upon maps and other descriptive information identifying such lands which the Coastal Commission and/or State Lands Commission may supply. Upon a determination that the proposed coastal development involves such lands, the Community Development Department shall notify the applicant and the Coastal Commission of the determination that a State coastal permit is required for the development. In conjunction with the City's review and decision on the development in accordance with the requirements of this Chapter and other City codes, the City shall also make a recommendation to the Coastal Commission regarding the development's conformance with the certified Local Coastal Program, including this Chapter. The City's determination of development conformance with the objectives and requirements of the Local Coastal Program shall be advisory only and not a final action under this Chapter. Development shall not proceed until the Coastal Commission grants a coastal permit for such a development.

A. PLANNING COMMISSION RECOMMENDATION. If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Planning Commission under any other provision of this Code, the Planning Commission shall conduct a public hearing regarding the development's conformance with the certified Local Coastal Program including this Chapter. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

B. STAFF HEARING OFFICER RECOMMENDATION. If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Staff Hearing Officer under any other provision of this Code, the Staff Hearing Officer shall conduct a public hearing regarding development's conformance with the certified Local Coastal Program including this Chapter. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

C. COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION. If the proposed development within the permit jurisdiction of the Coastal Commission does not require discretionary review by the Planning Commission or the Staff Hearing Officer under any other provision of this Code, the Community Development Department shall review the proposed development's conformance with the certified Local Coastal Program including this Chapter and shall forward the application, supporting file documents and the Community Development Department's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application. (Ord. 5417, 2007.)

28.44.230 Time for Commencement of Approved Development; Extensions.

A. TIME FOR COMMENCEMENT OF APPROVED DEVELOPMENT. The time for commencement of the approved development shall be two years from the date of the final action upon the application, unless a different time is specified in the conditions of approval for the coastal development permit.

B. EXTENSIONS. Prior to the time that commencement of development must occur under the terms of the coastal development permit or Subsection A, the applicant may apply to the Community Development Director for an extension of time not to exceed an additional one-year period. Such an extension of time may be granted no more than three (3) times, and under no circumstances shall the time for commencement of development be more than five (5) years after the date of the final action on the application. Extensions of time may be granted by the Community Development Director upon findings that the development continues to be in conformance with the certified Local Coastal Program, that the applicant demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record, and that there are no changed circumstances that may affect the consistency of the development with the certified Local Coastal Program, the General Plan and applicable City ordinances, resolutions and other laws. (Ord. 5417, 2007.)

28.44.240 Amendments to Coastal Development Permits.

On the request of an applicant, a coastal development permit may be amended in the same manner specified for the initial review of an application for a coastal development permit. (Ord. 5417, 2007.)

28.44.250 General Provisions.

A. CONFLICTING PERMITS AND LICENSES TO BE VOIDED. All departments, officials, and public employees of the City vested with the duty and authority to issue permits or licenses shall conform to the provisions of this zone and shall issue no permits or licenses for uses, buildings, or any purpose in conflict with the provisions of this Section. Any such permit or license issued in conflict with this Section shall be null and void.

B. CONFLICT WITH OTHER REGULATIONS. Where conflicts occur between the regulations contained in this Section and the California Building Code as adopted and amended by the City, other sections of Title 28 of this Code, or other regulations effective within the City, the more restrictive of such laws, codes or regulations shall apply.

It is not intended that this Section shall interfere with, abrogate or annul any easement, covenant, or other agreement now in effect; provided, however, that where this Section imposes a greater restriction upon the use of buildings or land or upon new construction than are imposed or required by other ordinances, rules, or regulations, or by easements, covenants, or agreements, the provisions of this Section shall apply.

Nothing contained in this Section shall be deemed to repeal or amend any regulation of the City requiring a permit, license, and/or approval, for any business, trade, or occupation, nor shall anything in this Section be deemed to repeal or amend the building code. If provisions of this Section overlap or conflict, the most protective provision relating to coastal resources shall apply.

C. FAILURE TO ACT NOTICE.

1. Notification by Applicant: If the City has failed to act on an application within the time limits set forth in Article 5 ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

2. Notification by City. Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Department shall, within five (5) working days of such determination, notify those persons entitled to receive notice that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

D. AMENDMENTS TO A CERTIFIED LOCAL COASTAL PROGRAM. The purpose of this Subsection is to provide for changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; to provide for text amendments to this Section and/or the City's Local Coastal Plan as the City may deem necessary or desirable; and to provide for amendments to any ordinances or implementation measures carrying out the provisions of the City's Local Coastal Plan. The intent of this Subsection is to provide the mechanism, consistent with the Coastal Act, for amending the City's certified Local Coastal Program.

1. Initiation. An amendment to the certified Local Coastal Program may be initiated by any member of the public, the Planning Commission or the City Council. All amendments proposed to the Commission for final certification must be initiated by resolution of the City Council.

2. City Review and Processing. Processing of amendments to the certified Local Coastal Program shall proceed in the same manner as that required for an amendment to the:

a. General Plan, if that amendment is intended to amend the text or map of the City's Coastal Plan.

b. Municipal Code or Zoning Map, if that amendment is intended to amend the Municipal Code or Zoning Map.

3. Noticing. Notice of the hearing shall be given at least ten (10) calendar days before the hearing.

a. For any amendment, notice shall be:

(1) Published in a newspaper of general circulation in the City.

(2) Mailed to any person who has filed a written request therefore and has supplied the City with self-addressed, stamped envelopes.

(3) Mailed to the Coastal Commission.

b. In addition, for a proposed rezoning or change of land use designation, notices shall be mailed:

(1) To the owners of the affected property and also the owners of all property within 300 feet of the exterior boundaries of the affected property, using for this purpose the name and address of such owners shown on the tax rolls of Santa Barbara County.

(2) To occupants of residences, including apartments on or within 100 feet of the affected property.

(3) In the event that the rezoning or change of land use designation affects a portion of the City which has an area equivalent to more than four (4) square City blocks, the City may, instead, provide notice by placing a display advertisement in a newspaper of general circulation, published and circulated in the City.

E. COASTAL COMMISSION CERTIFICATION. Any proposed amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission. Therefore, any approval by the City of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission within fourteen (14) days of the final approval by the City Council in accordance with Sections 30512 and 30513 of the Coastal Act.

F. DEVELOPMENT POTENTIAL. Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989, unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85.

G. DEVELOPMENT WITHIN THE GOLETA SLOUGH. Any development within the Goleta Slough Reserve Zone is required to obtain a Goleta Slough Coastal Development Permit pursuant to the provisions of Chapter 29.25 unless specifically exempted.

H. HAZARDOUS WASTE MANAGEMENT FACILITIES. Approval for construction or use of any off-site hazardous waste management facilities, as defined in Section 28.04.370 of this Title, shall require preparation and approval of an amendment to the Local Coastal Program by the City Council and the California Coastal Commission. Such facilities shall also require approval of a change in zone to the HWMF Overlay Zone and any other required permits in accordance with Chapter 28.75 of this Title. (Ord. 5609, 2013; Ord. 5459, Section 3, 2008; Ord. 5451, Section 5, 2008; Ord. 5417, 2007.)

Chapter 28.45

S-D SPECIAL DISTRICT ZONE

Sections:

28.45.001 In General.
28.45.005 Legislative Intent.
28.45.006 S-D Zone Standards Not Less Restrictive.
28.45.007 S-D-1 Zone Designation.
28.45.008 S-D-2 Zone Designation.

28.45.001 In General.

Land classified in an S-D Zone shall also be classified in a basic zone and the following regulations shall apply in the S-D Special District Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 3559, 1972.)

28.45.005 Legislative Intent.

These regulations are designed and intended to provide a method of increasing particular zoning standards in a certain area or neighborhood in the community wherein the Planning Commission finds that the standards contained in the basic zone or zones in which the land is classified are not sufficiently restrictive to assure appropriate development in that area or to protect the residents therein against inappropriate land uses or activities otherwise permitted in the basic zone category. These regulations are further designed and intended to be used only in circumstances where the standards to be affected by the special district zone are a minor portion of the total standards applicable to the basic zone so that rezoning of the area to another basic zone category to achieve the desired results would introduce other inappropriate standards. (Ord. 3710, 1974; Ord. 3559, 1972.)

28.45.006 S-D Zone Standards Not Less Restrictive.

The standards required by any S-D Zone shall in no case be less restrictive than the comparable standard required in the basic zone in which the land is classified. In the event that there be no comparable standard in the basic zone, the Planning Commission shall find that the S-D Zone standard in no way permits development or use of land which is in any way more intense than that permitted by the basic zone.

Each special district zone hereafter created shall be designated by the letters S-D followed by a number for the purpose of identifying the particular standards required in each S-D Zone. These special standards shall be contained in separate sections of this chapter. (Ord. 3710, 1974; Ord. 3559, 1972.)

28.45.007 S-D-1 Zone Designation.

A. LOCATION. The S-D-1 Zone is applied to the San Roque Park Subdivision, which is located northerly of State Street between San Roque Road and Ontare Road.

B. LEGISLATIVE INTENT. It is the purpose of the S-D-1 Zone to require front setbacks greater than those required in the base zones in which lots in the San Roque Park Subdivision are classified. The San Roque Park Subdivision was created in 1926, at which time a deed restriction was imposed requiring that buildings be set back at least forty feet (40') from the front property line. This restriction was in effect until 1941, at which time it expired. Development since 1941 has largely respected this increased front setback, in spite of the fact that the Zoning Ordinance requirements are less restrictive. A majority of the property owners in the San Roque Park Subdivision have expressed the desire for the City, through zoning, to increase the front setback requirement in this area to conform with the original deed restrictions.

C. S-D-1 STANDARDS.

1. FRONT SETBACK. There shall be a front setback of not less than forty feet (40') in depth, with the following exceptions:

a. For front yards abutting San Roque Road or Ontare Road, or any front yard abutting that portion of Canon Drive where land on both sides of the streets is not classified in the S-D-1 Zone category, the front setback shall be as provided in the base zone.

b. Any front yard abutting Madrona Drive shall provide a front setback of not less than thirty feet (30') in depth.

2. INTERIOR SETBACK. The interior setback requirement shall be as provided in the base zone. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3578, 1973.)

28.45.008 S-D-2 Zone Designation.

A. LOCATION. The S-D-2 zone is applied to the "Upper State Street Area" which is defined as the area bounded by Alamar Avenue, U.S. Highway 101, Foothill Road and State Highway 154.

B. LEGISLATIVE INTENT. It is the purpose of the S-D-2 Zone to impose certain traffic related restrictions greater than those provided in the base zones in which lots in the "Upper State Street Area" are classified. State Street is the only major east-west surface street serving the Upper State Street Area and it is one of the most heavily traveled streets in the City. In order to prevent the volumes of traffic on State Street from exceeding acceptable limits and to limit increased air pollution, due to vehicular traffic, it is necessary to impose the traffic related restrictions contained in this section on new developments in the area. In order to ensure the appropriateness of developments in said area, and the mitigation of traffic impacts where possible, it is necessary that development plans for said developments be reviewed.

C. DEVELOPMENT POTENTIAL. Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85.

D. STANDARDS. The following standards shall apply to all projects in the S-D-2 Zone:

1. Parking Requirements. Off-street parking shall be provided as required in Chapter 28.90 of this Title.

2. Drive-through Facilities. No building or structure hereafter erected, reconstructed, structurally altered or enlarged in the S-D-2 Zone shall be designed or used, in whole or in part, as a motor vehicle drive-through facility. As used herein, "motor vehicle drive-through facility" means a commercial building or structure or portion thereof which is designed or used to provide goods or services to the occupants of motor vehicles. Such term shall include, but not be limited to, banks and other financial institutions, fast food establishments, and film deposit/pick-up establishments, but shall not include drive-in movies, gasoline stations, or car wash operations.

3. Building Height. Three (3) stories not exceeding forty-five (45) feet and not exceeding the total floor area of a two (2) story building (thirty (30) feet) which could be constructed on the lot in compliance with all applicable regulations.

4. Front Setbacks. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings and structures on the lot as follows:

a. One-story building or structure not exceeding fifteen feet (15’) of building height: 10 feet

b. Two- or three-story building or structure or any one story building or structure in excess of fifteen feet (15’) of building height: 20 feet (Ord. 5609, 2013; Ord. 5459, 2008; Ord. 4896, 1994; Ord. 4696, 1991; Ord. 4670, 1991; Ord. 4361, 1985; Ord. 4015, 1979; Ord. 3989, 1979; Ord. 3979, 1979.)

Chapter 28.46

SP-5 ZONE

Sections:

28.46.005 Legislative Intent.
28.46.010 Uses Permitted.
28.46.020 Conditions, Restrictions and Modifications.
28.46.025 Building Height.
28.46.035 Front and Interior Setback Requirements.
28.46.040 Residential Lot Area Requirements for Parcels in the Zone.
28.46.045 Off-Street Parking.
28.46.050 Street Requirements.
28.46.055 Restrictions on Usage of Signs.
28.46.060 Architectural Review Requirements for Development.
28.46.065 Allowable Density of Development and Maximum Number of Dwelling Units Allowed.
28.46.070 Requirements for Construction Phasing.
28.46.075 Affordability Requirement for Residential Units.
28.46.080 Open Space and Landscaping.
28.46.085 Mitigation Monitoring Program.

28.46.005 Legislative Intent.

It is the purpose of the SP-5 Zone to establish a single residential unit district where affordability of the housing is ensured and where specific development standards are established to protect the natural environment and neighborhood values on property adjacent to Westmont College. (Ord. 4900, 1995.)

28.46.010 Uses Permitted.

The uses permitted in the SP-5 Zone in the SP-5 Land Use Map depicted on Map A shall be as follows:

Land Use A - Single Residential Units: Uses permitted in Area A are:
1. Single Residential units;
2. Recreational uses including, but not limited to, spas, jacuzzis, and children's play areas;
3. Private open space including, but not limited to, patios, decks, and yards for the private use of the residents of individual homes; and
4. Uses, buildings, and structures incidental, accessory and subordinate to the permitted uses.

Land Use B - Dedicated Open Space: This area is to be maintained in a natural state to pre-serve the creek habitat, protect the steep slopes from erosion, and maintain the scenic quality of these areas. Uses permitted in Area B are:
1. Installation of storm drain systems;
2. Flood control projects; and
3. Brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal.

Land Use C - Common Passive Open Space: This area is to be used for passive recreation. Uses permitted in Area C are:
1. Walking trails;
2. Bicycle paths; and
3. Utilities, storm drains, flood control and other infrastructures as approved by the City.

Land Use D - Private Active Recreation: This area is to be used as common recreation for the residents. Uses permitted in Area D are:
1. One recreation building not to exceed 1,500 square feet for the exclusive use of residents and their guests for private social functions;
2. Outdoor decks and picnic areas, barbecue, volleyball court, active recreation lawn area, playground equipment, parking and other incidental amenities appropriate to this use;
3. Landscaped areas for common use; and
4. Drainage detention areas and related facilities.

Land Use E - Neighborhood Recreation: This area is to be developed as a common recreation facility available for use by residents of adjoining neighborhood. Uses permitted in Area E are:

1. Playground equipment, picnic areas, active recreation lawn areas, and other incidental amenities appropriate to this use;
2. Landscaped areas for common use;
3. Open areas required for the protection of scenic, habitat or other resources; and
4. Storm drainage improvements and detention areas and related facilities.

Land Use F - Circulation: This area is to be used for roads and on-street parking. Uses permitted in Area F are:

1. Roads;
2. Sidewalks; and
3. On-street parking areas.

(Ord. 4900, 1995.)

28.46.020 Conditions, Restrictions and Modifications.

The Planning Commission may impose such appropriate and reasonable conditions and restrictions as it may deem necessary for the protection of property in the neighborhood or in the interest of public health, safety and welfare in order to carry out the purposes and intent of this chapter. However, no variance, modification, or other approval shall be granted for building height, maximum number of residential dwelling units, or maximum residential dwelling units per acre. (Ord. 4900, 1995.)

28.46.025 Building Height.

No building in this zone shall exceed a height of thirty feet (30') nor exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Title. (Ord. 4900, 1995.)

28.46.035 Front and Interior Setback Requirements.

Residential lots fronting a public or private street shall have a front setback from curb face of the roadway of not less than twenty-five feet (25'). Residential lots fronting common open space or driveways shall have a front setback of not less than ten feet (10'). There shall be interior setbacks of not less than ten feet (10'). (Ord. 5459, 2008; Ord. 4900, 1995.)

28.46.040 Residential Lot Area Requirements for Parcels in the Zone.

Residential lots shall have no less than 6,500 square feet. (Ord. 4900, 1995.)

28.46.045 Off-Street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this Title. Notwithstanding Chapter 28.90, no more than five spaces shall adjoin each other without intervening landscaping areas. It is the intent of this Chapter that parking areas shall not dominate open space and landscaping areas. (Ord. 4900, 1995.)

28.46.050 Street Requirements.

If necessary to preserve natural terrain features and open space, the Planning Commission may grant modifications of City street design standards as may be deemed necessary to assure that the intent of this Chapter is observed and the public welfare and safety secured. (Ord. 4900, 1995.)

28.46.055 Restrictions on Usage of Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance, Chapter 22.70 of this Title. (Ord. 4900, 1995.)

28.46.060 Architectural Review Requirements for Development.

Notwithstanding the applicability standards of Chapter 22.68 of this Title, all development within the SP-5 Zone shall be subject to the review and approval of the Architectural Board of Review. (Ord. 4900, 1995.)

28.46.065 Allowable Density of Development and Maximum Number of Dwelling Units Allowed.

The maximum density shall be no greater than 1.4 residential units per gross acre. The maximum number of residential units in this zone shall be no greater than 41 units. (Ord. 4900, 1995.)

28.46.070 Requirements for Construction Phasing.

Phasing of development is permitted consistent with an approved Tentative Subdivision Map. If the sequence of construction of residential portions of the development is to occur in stages (phases) then the open space and/or recreational facilities shall be developed in proportion to the number of residential units intended to be developed during any given stage of construction as approved by the Planning Commission. (Ord. 4900, 1995.)

28.46.075 Affordability Requirement for Residential Units.

All residential units shall be affordable to moderate income households as defined by the City of Santa Barbara Housing Program or its successor. Affordability requirements for every residential unit shall be subject to the review and approval of the Community Development Director. The maximum household income level shall not exceed the moderate income level as determined by the Community Development Director. (Ord. 4900, 1995.)

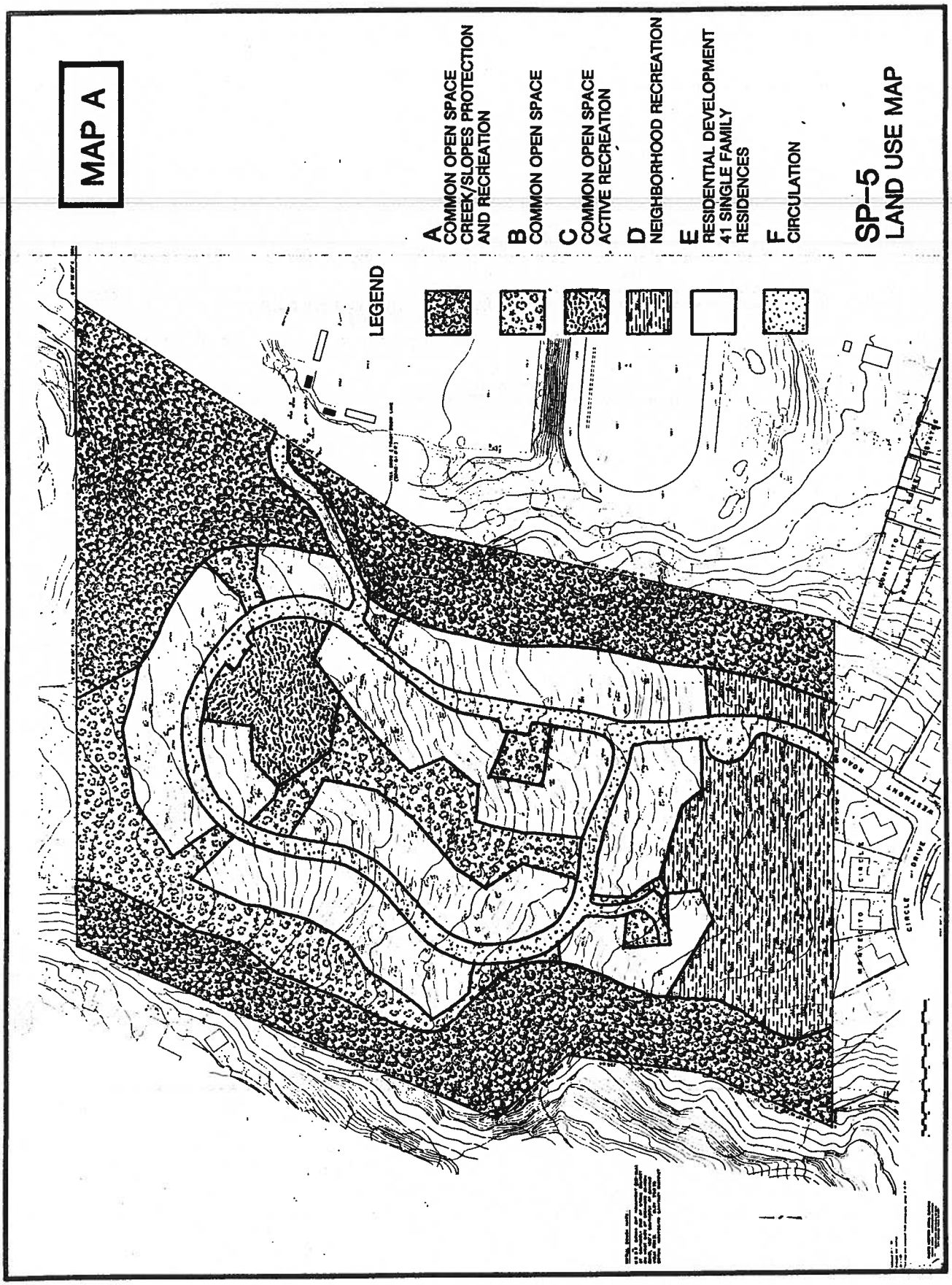
28.46.080 Open Space and Landscaping.

Not less than 50 percent of the gross area of the property in this zone shall be a combination of Dedicated Open Space, Common Open Space, Private Active Recreation and Neighborhood Recreation, as defined in the land uses permitted section (28.46.010), Land Uses B, C, D and E. Open space and landscaped areas shall dominate the site development. Such open space and landscaped areas shall include substantial useable areas for passive and/or active recreational use. Further, from public view, the development should present an open space and landscaped effect so that parking areas and building masses shall not dominate the scene. (Ord. 4900, 1995.)

28.46.085 Mitigation Monitoring Program.

Prior to the approval of any development on the property, a Mitigation Monitoring Program consistent with the California Environ-mental Quality Act shall be approved by the Planning Commission. (Ord. 4900, 1995.)

Ord. 4900, 1995.



Chapter 28.47

RIVIERA CAMPUS SPECIFIC PLAN
SP-7 ZONE

Sections:

28.47.010 Permitted Land Uses.
28.47.020 Uses Permitted Upon the Granting of a Conditional Use Permit.
28.47.030 Operating Standards.
28.47.040 Site Area Standards.
28.47.050 Building Height.
28.47.060 Front and Interior Setback Requirements.
28.47.070 Site Coverage.
28.47.080 Limited Special Events for Outside Entities.
28.47.090 Parking Requirements.
28.47.100 Architectural Control.
28.47.110 Street Frontage Requirements.
28.47.120 Construction and Maintenance of Site and Buildings.
28.47.130 Area Map.

28.47.010 Permitted Land Uses.

The following land uses are permitted in the Riviera Campus Specific Plan Zone:

A. Research and development establishments and related administrative operations, provided that no manufacturing is permitted, and further provided that such uses or operations are not hazardous, offensive or obnoxious by reason of the emission of odor, dust, heat, glare, gas fumes, smoke, vibrations, electromagnetic or other radiation resulting in radio or television interference, or by reason of the storage or disposal of waste materials or other products of such operations.

For the purposes of this Section, the word manufacturing shall mean the fabrication, assembly or production of articles other than prototypes or models used for experimentation or research. The word prototype is hereby defined as an original or model or pattern from which manufactured, fabricated or assembled products are developed or copied. No prototype, model or pattern shall be built, erected or constructed to a scale exceeding the ceiling height of the building in which it or they are erected, constructed or developed, and the erection, fabrication or assembly thereof shall be confined to the interior of the building. Product storage related to the research and development business shall be incidental to the research and development use.

B. Administrative offices, provided that such offices are not open to or visited by the general public for the purpose of receiving or disbursing goods, services, information, payments or other such routine or frequent activities. Offices performing personnel employment activities shall be limited to those involving persons actually working at the site and not the general public.

C. Classes or training program activities shall be incidental to the administrative office use of the premises. The number of persons attending such classes shall not exceed ten percent (10%) of the total number of employees regularly (daily) present at the site.

D. Product storage related to the business shall be incidental to the office use only.

E. Movie Theater limited to 6,665 square feet (approximately 453 seats).

F. Professional Offices, including those of an architect, engineer or therapist, provided that no activity is carried on catering to retail trade with the general public and there is no stock of goods for sale to customers (e.g. architect, engineer, counselor).

G. Arts-Related Uses, including but not limited to, photography studio, artist studio, film development/ production, music recording/editing. Product or raw material storage shall be incidental to the arts-related use. (Ord. 5319, 2004.)

28.47.020 Uses Permitted Upon the Granting of a Conditional Use Permit.

Only the following uses shall be allowed in the Riviera Campus Specific Plan Area subject to the issuance of a Conditional Use Permit, provided that the Planning Commission has made the findings stated in 28.94.020 for such use.

A. Educational facilities.

B. Child care center.

C. Up to three (3) manager/caretaker residential units within or attached to an existing non-residential structure. (Ord. 5319, 2004.)

28.47.030 Operating Standards.

Any use in the Riviera Campus Specific Plan Area ("SP-7") shall comply with the following standards of performance and operation:

A. **Fire and Explosion Hazards**. There shall be provided and maintained in good workable condition adequate and sufficient safety and fire suppression equipment and devices in such locations on the premises as may be necessary to prevent and suppress fire and explosion hazards wherever inflammable or explosive materials are used or stored.

B. **Incineration**. There shall be no rubbish or refuse incineration on the premises.

C. **Radiation**. All devices emitting radio frequency energy shall be operated in such a manner as to cause no interference with any activity carried on beyond the boundary of the premises of such establishment, including but not limited to, radio and television interference. Radio frequency energy is electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three (3) million megacycles.

D. **Noise**. Noise shall be restricted in accordance with Chapter 9.16 of the Santa Barbara Municipal Code.

E. **Vibration**. No equipment, machinery or facility in such establishment shall be operated so as to produce or generate vibration which is perceptible without the aid of instruments to a person of ordinary sensibilities at or beyond the boundary line of the premises.

F. **Emission of Dust, Heat and Glare**. No such establishment shall be operated in a manner resulting in the emission of dust or other substances susceptible of being transmitted through the air, or heat or glare to an extent or degree permitting such emission or emissions to extend beyond the boundary line of the premises.

G. **Outdoor Storage and Waste Disposal**. All fuel, raw materials, equipment and products used outside the building of such establishment shall be enclosed by a fence, wall or shrubbery planting adequate to conceal such facility from adjacent or nearby residential property. The removal or transference from the premises of such establishment of any such fuel, raw materials or products by natural forces or causes shall be prevented. Suitable closed containers shall be provided and used for the storage of any materials or water products which by their nature are combustible, volatile, dust or odor producing or edible or attractive to rodents, vermin or insects. (Ord. 5319, 2004.)

28.47.040 Site Area Standards.

The Riviera Campus Specific Plan Area ("SP-7") shall consist of a lot or lots for the uses allowed by this Specific Plan, and in the aggregate the Area shall have a minimum lot area of not less than two (2) acres. (Ord. 5319, 2004.)

28.47.050 Building Height.

No building in the Riviera Campus Specific Plan Area shall exceed 35 feet in height with exception of the following structures that are allowed to be maintained or repaired at the heights indicated:

A. Furse Hall/Administration building (51.5 feet).
B. Brooks Hall/Men's Gymnasium (44 feet).
C. Quadrangle Building (39 feet).
D. Ebbets Hall (49 feet).

In the event that the nonconforming buildings are destroyed by a natural casualty, reconstruction of the Area buildings shall be carried out in accordance with the provisions contained within 28.87.030.D and 28.87.038. Any additions to such structures shall adhere to the standards of this zone. (Ord. 5319, 2004.)

28.47.060 Front and Interior Yard Requirements.

All structures within the Riviera Campus Specific Plan Area shall have a front setback of not less than 35 feet and an interior setback of not less than 25 feet. Pine Hall, the Cafeteria/Music building, and Ebbets Hall shall be considered nonconforming to the front setback requirement. Furse Hall (Administration building) shall be considered nonconforming to the interior setback requirement. Structures designed to replace these demolished or destroyed structures on substantially the same footprint may meet or be consistent with the existing structure setback, and additions to the structures shall not be closer than the line of the existing building parallel to the front property line at any point. Any approved additions to these buildings should generally be consistent with current requirements. (Ord. 5459, 2008; Ord. 5319, 2004.)

28.47.070 Site Coverage.

Not more than twenty-five percent (25%) of the net site area of the Riviera Campus Specific Plan Area shall be covered with buildings and structures. Not more than thirty-five percent (35%) of the net site shall be used for open vehicle access, parking, loading and delivery. A minimum of 40% of the Riviera Campus Specific Plan Area shall be preserved in open space (including landscaped areas, landscape features, and public walkways). (Ord. 5319, 2004.)

28.47.080 Limited Special Events for Outside Entities.

Activities on the campus of the Riviera Campus which are sponsored or conducted by entities other than tenants of Riviera Campus shall be limited as indicated below:

A. **Weddings**. No more than 12 per year with a maximum of 250 attendees at each wedding. The wedding event shall end no later than ½ hour after sunset (dusk) or 8:30 p.m., whichever is earlier.

B. **Non-Profit Benefit Events**. Benefit events shall be conducted by or to support non-profit community organizations. No more than four such events per year shall be allowed, with a maximum of 400 attendees per event. Each event shall end no later than ½ hour after sunset (dusk) or 8:30 p.m., whichever is earlier.

C. **Additional Events**. Up to two additional special events beyond those outlined above may be approved by the Community Development Director upon a showing that adequate parking will be provided and a community benefit will result. These special events shall be subject to the same operating standards and limitations as outlined for Non-Profit Benefit Events. (Ord. 5319, 2004.)

28.47.090 Parking Requirements.

Off-street parking for uses within the Riviera Campus Specific Plan Area shall be provided as required in Chapter 28.90 of this Title. (Ord. 5319, 2004.)

28.47.100 Architectural Control.

The plans and elevations for all buildings and structures to be erected and all exterior alterations as defined in Chapter 22.22 of this Code for buildings or structures within the Riviera Campus Specific Plan Area shall be subject to review and approval by the Historic Landmarks Commission. (Ord. 5319, 2004.)

28.47.110 Street Frontage Requirements.

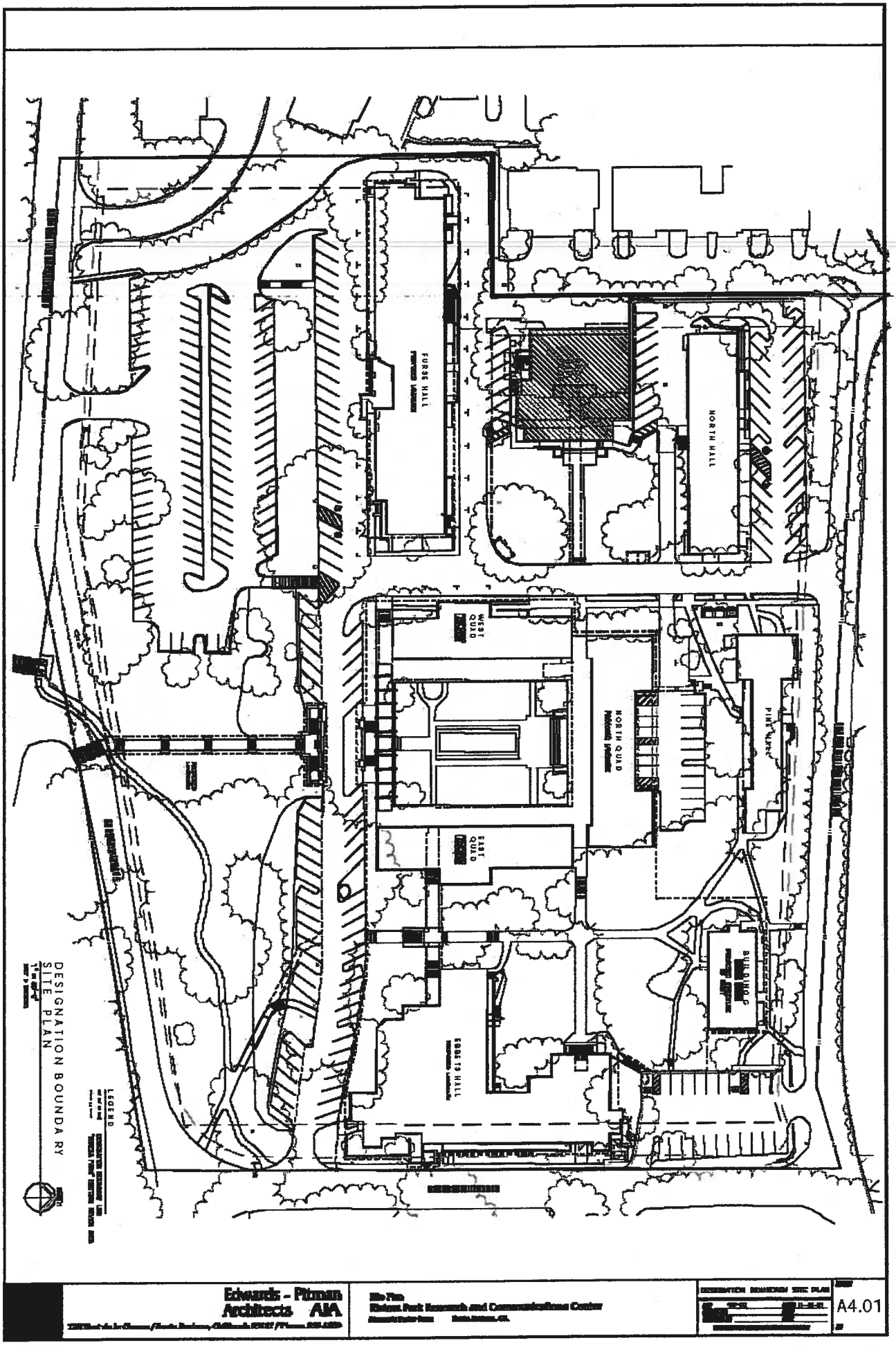
All parcels in the Riviera Campus Specific Plan (SP–7) Area shall have street frontage and single side dimensions of not less than one hundred fifty feet (150') each. (Ord. 5319, 2004.)

28.47.120 Construction and Maintenance of Site and Buildings.

The owner or developer of the Riviera Campus (SP-7) Plan site shall construct buildings and install landscaping in strict accordance with approved plans and without substantial deviation therefrom. In addition, all buildings and landscaping shall be maintained in a clean and orderly condition. (Ord. 5319, 2004.)

28.47.130 Area Map.

The map attached hereto and labeled the “Riviera Campus Specific Plan Area” is hereby approved and incorporated in this Chapter by this reference. (Ord. 5319, 2004.)



RIVIERA CAMPUS SPECIFIC PLAN AREA

Chapter 28.48

R-O RESTRICTED OFFICE ZONE

Sections:

28.48.001 In General.
28.48.030 Uses Permitted.
28.48.032 Uses Permitted Upon the Issuance of a Conditional Use Permit.
28.48.050 Building Height.
28.48.060 Setbacks.
28.48.080 Lot Area and Frontage Requirements.
28.48.081 Outdoor Living Space.
28.48.100 Parking Requirements.
28.48.110 Signs.
28.48.115 Architectural Treatment.
28.48.130 Development Plan Approval.
28.48.131 Development Potential.

28.48.001 In General.

This is a restricted zone which, because of its proximity to major commercial zones and/or public uses, is a transitional zone between such uses and residential zones and is deemed suitable for use either for offices or residences under the following regulations. This zone also strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

Land classified in an R-O Zone may also be classified in another zone and the following regulations shall apply in the R-O Restricted Office Zone, unless otherwise provided in this chapter. (Ord. 4005 §1, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.48.030 Uses Permitted.

A. Any use permitted in the R-3 Limited Multiple-family Residence Zone except as otherwise provided in Subsection B. herein.

B. When land classified in an R-O Zone is also classified in another zone, as provided by Section 28.48.001, the following uses shall be permitted:

1. Any use permitted in the other zone in which the land is classified and when so used subject to the restrictions and limitations contained therein.
2. Any use permitted in the following subsections and subject to the restrictions and limitations contained in this Chapter.

C. Office buildings in which no activity is carried on catering to retail trade with the general public and no stock of goods is maintained for sale to customers, for the following office uses: accountant, architect, attorney, branch bank, dentist, engineer, insurance broker, physician, real estate broker or stock broker.

D. Research and development establishments and related administrative operations, subject to provisions and definitions contained in Section 28.60.005, 28.60.030 and 28.60.040 of this Title.

E. Community care facilities, residential care facilities for the elderly and hospices serving 7 to 12 individuals.

F. State-licensed Large Family Day Care Homes. (Ord. 4858, 1994; Ord. 3710, 1974; Ord. 3120, 1966.)

28.48.032 Uses Permitted Upon the Issuance of a Conditional Use Permit.

As provided in Chapter 28.94 of this Title. (Ord. 4414, 1986.)

28.48.050 Building Height.

Three (3) stories and not to exceed forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §2, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.48.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot as follows:

1. One- or two-story building or structure or uncovered parking: 10 feet
2. Three-story building or structure: 15 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the front setback shall be reduced as follows:

a. Ground floor portions: 10 feet
b. Second story portions: 10 feet
c. Third story portions: 20 feet

3. Covered parking: the setback applicable to the building in which the parking is provided as specified in A.1 or A.2 above.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially zoned parcel and all buildings, structures, and parking on the lot as follows:

1. One- or two-story building or structure or uncovered parking: 6 feet
2. Three-story building or structure: 10 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the interior setback shall be reduced as follows:
   a. Ground floor portions: 6 feet
   b. Second story portions: 6 feet
   c. Third story portions: 10 feet
3. Covered parking: the setback applicable to the building in which the parking is provided as specified in B.1 or B.2 above.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. Any building, structure or covered parking: 10 feet or ½ of the building height, whichever is greater.
2. Driveways to parking areas serving exclusively residential uses: R-3/R-4 interior setback requirements.
3. Driveways and uncovered parking areas serving nonresidential uses: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.48.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used for dwelling purposes shall comply with the provisions of the R-3 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.48.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.48.100 Parking Requirements.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.115 Architectural Treatment.

All office buildings shall be so designed as to be compatible with existing and possible future adjacent residential uses, to the satisfaction of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991)

Chapter 28.49

SP-8 HOSPITAL ZONE

Sections:

28.49.010 Permitted Land Uses.
28.49.020 Building Height.
28.49.030 Front and Interior Setback Requirements.
28.49.040 Off-Street Parking.
28.49.050 Development Plan Approval.

28.49.010 Permitted Land Uses.

The land uses permitted in the SP-8 Zone with respect to the three zone areas shown, as depicted on the SP-8 Land Use Map/Site Plan (dated as of April 26, 2005) on file with the City Clerk of the City, shall be as follows:

A. Land Use Area A – General Acute Care Hospital Facility.

The principal intended uses and structures allowed in Land Use Area A are as follows:

1. General acute care hospital facility licensed by the State of California providing medical, surgical, psychiatric and obstetrical care primarily for inpatients.
2. Emergency medical services and clinical care for outpatient treatment and diagnosis.
3. Uses which are customarily associated with a general acute care hospital, including, but not limited to the following:
   a. Offices for hospital administrators and hospital employees, including physicians who work for or are under contract with the hospital;
   b. Hospital support facilities, such as medical laboratories, diagnostic testing centers, physical therapy and inpatient pharmaceutical facilities;
   c. Storage facilities for medical equipment and supplies;
   d. Hospital operations, such as food service and laundry facilities;
   e. Maintenance facilities, such as housekeeping and maintenance storage areas;
   f. Extended care facilities;
   g. Overnight accommodations for on-duty hospital employees and medical residents;
   h. Overnight accommodations within the patients' room for patients' families;
   i. Medical libraries, research and educational facilities;
   j. Cogeneration, incineration, water, electrical and heating and cooling equipment facilities;
   k. Cafeteria facilities for hospital employees, medical residents, physicians and patients' visitors;
   l. Off-street parking facilities;
   m. Helicopter landing site for the reception and transport of emergency and trauma patients;
   n. Pharmacies, gift stores, ATM facilities, restaurants and retail or personal service shops, provided that primary access is only from within the hospital building;
   o. Child-care centers and associated recreational facilities;
   p. Chapels and places of worship;
   q. Auditoriums;
   r. Telecommunications facilities;
   s. Employee services, such as credit unions; and,
   t. Office uses customary and ancillary to an acute care hospital facility.
4. Those permitted uses provided for in the C-O Medical Office Zone, specifically Section 28.51.030, subsections B through H, as codified at the time of the adoption of the ordinance creating this Chapter.

B. Land Use Area B – Parking Structure, Medical Office Building.

The uses and structures allowed in Land Use Area B are as follows:

1. Open parking lots, single or multi-story parking structures;
2. Uses customary and ancillary to medical office buildings, including, but not limited to, medical laboratories and prescription pharmacies;
3. Office uses customary and ancillary to an acute care hospital facility; and,
4. Pharmacies, gift stores, ATM facilities, restaurants and retail or personal service shops.
5. Those permitted uses provided for in the C-O Medical Office Zone, specifically Section 28.51.030, as codified at the time of the adoption of the Ordinance creating this Chapter.

C. Land Use Area C – Parking Structure; Child Care Facility.

The uses and structures allowed in Land Use Area C are:

1. Child Care Facilities; and,
2. Open parking lots, single or multi-story parking structures.
3. Those permitted uses provided for in the C-O Medical Office Zone, specifically Section 28.51.030, as codified at the time of the adoption of the Ordinance creating this Chapter.

(Ord. 5359, 2005.)

28.49.020 Building Height.

A. In Land Use Area A, no new building shall exceed 60 feet in height. Existing buildings in Land Use Area A which exceed 60 feet in height ("Nonconforming Buildings") are allowed to be maintained or repaired at their existing heights as permitted in accordance with this Code. In the event that the Nonconforming Buildings are damaged or destroyed, reconstruction shall be carried out in accordance with the provisions contained in Sections 28.87.030.D and 28.87.038 of this Title.

B. In Land Use Areas B and C, no building shall exceed 45 feet in height.

C. Building elements that do not add floor area to the acute care hospital building, such as vents, elevator penthouses, helipads, chimneys, mechanical equipment, antennae and towers are not considered a part of the height of the building. (Ord. 5359, 2005.)

28.49.030 Front and Interior Setback Requirements.

There shall be a front setback and interior setbacks of not less than ten (10) feet for all buildings and parking structures in Land Use Areas A, B & C. Notwithstanding the foregoing, however, for a parking structure in Land Use Area C there shall be interior setbacks of no less than ten (10) feet provided that, if the area of the building that encroaches into the interior setback is compensated for by having an equal or greater unobstructed area outside the interior setback, the ten (10) foot setback may be reduced to 4.5 feet for a distance of up to 80 lineal feet. (Ord. 5459, 2008; Ord. 5359, 2005.)

28.49.040 Off-Street Parking.

Notwithstanding Chapter 28.90, the parking needs for development within the SP-8 zone shall be evaluated on a project-specific site and use basis. Parking shall be provided to meet parking needs as justified through a written parking analysis and evaluation prepared by a transportation engineer and subject to review and approval by the Planning Commission or Transportation and Parking Manager as appropriate.

The parking evaluation shall consider both peak and non-peak parking demands considering the number of employees, doctors and nursing staff, patients, visitors and other relevant data, including parking and transportation demand management practices. Parking for development projects shall be provided in parking structures or parking lots within the SP-8 zone.

Parking may be provided within the SP-8 zone for other real properties outside the SP-8 zone so long as such parking is consistent with a parking and transportation management plan which has been reviewed and approved by the Planning Commission or City Transportation and Parking Manager, as deemed appropriate by the Community Development Director. (Ord. 5359, 2005.)

28.49.050 Development Plan Approval.

All new development proposed in this zone shall be subject to Development Plan review and approval in the manner and as required by Chapter 28.85 of this Code. At the time such development projects are reviewed, the Planning Commission may impose such appropriate and reasonable conditions and restrictions as it may deem necessary for the protection of property in the neighborhood or in the interest of public health, safety and welfare, in order to carry out the purposes and intent of this Chapter. The Planning Commission shall approve any new development for the uses enumerated in Section 28.49.010 upon a finding that the appearance of the developed site in terms of the arrangement, height, scale, and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the existing SP-8 area and the neighborhood. (Ord. 5609, 2013; Ord. 5359, 2005.)

Chapter 28.50

SP-9 ZONE – VERONICA MEADOWS SPECIFIC PLAN

Sections:

28.50.005 Legislative Intent.
28.50.030 Uses Permitted.
28.50.035 Uses Permitted Upon the Granting of a Conditional Use Permit.
28.50.040 Conditions, Restrictions and Modifications.
28.50.045 Prohibition of Shiny Roofing and Siding.
28.50.050 Building Height.
28.50.060 Setback and Open Yard Requirements.
28.50.065 Reduction in Setback Requirements.
28.50.070 Distance Between Buildings.
28.50.080 Lot Area and Frontage Requirements.
28.50.085 Allowable Density of Development.
28.50.090 Open Space and Landscaping.
28.50.095 Street Requirements.
28.50.100 Off-Street Parking.
28.50.105 Garages and Accessory Buildings.
28.50.110 Home Size and Development Restrictions.
28.50.115 Architectural Control.
28.50.120 Exemption from SBMC Chapter 28.43.
28.50.130 Affordable Housing Provision.
28.50.140 Fencing.
28.50.150 Area Map.

28.50.005 Legislative Intent.

It is the purpose of the SP-9 Zone to establish a single-family residence district where specific development standards are established to cluster development, maintain a semi-rural setting, restore a section of degraded creek and riparian corridor, and protect the natural environment. (Ord. 5456, 2008.)

28.50.030 Uses Permitted.

The uses permitted in the SP-9 Zone as depicted on attached Map A (attached as an exhibit to the Chapter and dated as of June 24, 2008) shall be as follows:

A. Area A – Residential Development: Uses permitted in Area A (as depicted on Map A) are:

1. A single residential unit occupying a single lot.
2. Uses, buildings, and structures typically allowed by the City incidental, accessory and subordinate to the permitted residential uses.
3. A Home Occupation.
4. A State-licensed Small Family Day Care Home.
5. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93 of this Title.
6. State authorized, licensed or certified uses to the extent such a use is required by state law.
7. Creek stabilization, habitat restoration, and related maintenance.
8. Private open space including, but not limited to, patios, decks, and yards for the private use of the residents of individual homes.
9. Common open space and passive recreational areas.
10. Public trails as approved by the City.
11. Brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal.
12. Utilities, storm drain system, flood control projects or other infrastructures as approved by the City.
13. The gazebo structure required by the Environmental Impact Report as mitigation for potentially significant impacts to cultural resources.

B. Area B – Open Space: Area B (as depicted on Map A) shall be maintained in its natural state to preserve the steep slopes from erosion or landslide, preserve the creek environment, and maintain the scenic quality of the area. Uses permitted in Area B are the following:

1. Public trails along the Arroyo Burro Creek corridor.
2. Brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal.
3. Subsurface utilities, flood control projects or other infrastructure as approved by the City.

(Ord. 5456, 2008.)

28.50.035 Uses Permitted Upon the Granting of a Conditional Use Permit.

The uses allowed by conditional use permit shall be as provided in Chapter 28.94 of this Title. However, no development is permitted in Area B under any circumstances. (Ord. 5456, 2008.)

28.50.040 Conditions, Restrictions and Modifications.

In connection with any development approval required to be issued by the City, the City may impose such appropriate and reasonable conditions and restrictions as it may deem necessary for the protection of property in the neighborhood or in the interest of public health, safety and welfare, in order to carry out the purposes and intent of this Chapter. While the provisions of Chapter 28.92 (Variances, Modifications and Zone Changes) shall be applicable within this zone, it is the intent of this Specific Plan that no variance, modification, or other approval shall be granted that would result in a number of residential units within Area A that exceeds the maximum number of residential dwelling units originally specified in Section 28.50.085, and that Area B be permanently maintained in its natural state. (Ord. 5456, 2008.)

28.50.045 Prohibition of Shiny Roofing and Siding.

The materials used for roofing and siding on any building shall be of a non-reflective nature, and any shiny, mirror-like or glossy metallic finish for such materials is prohibited. (Ord. 5456, 2008.)

28.50.050 Building Height.

No building in this zone shall exceed a height of thirty feet (30') nor exceed the height limitation imposed for the protection and enhancement of solar access by Chapter 28.11 of this Title. (Ord. 5456, 2008.)

28.50.060 Setback and Open Yard Requirements.

A. **FRONT SETBACK.** Each lot shall provide a front setback of not less than twenty feet (20'), except as permitted by Section 28.50.065.

B. **INTERIOR SETBACKS.** Each lot shall provide interior setbacks of not less than six feet (6'), except as permitted by Section 28.50.065.

C. **REAR YARD SETBACKS.** Each lot shall provide a rear setback of not less than six feet (6'), except that those lots abutting the open space drainage (identified as Lot 31 in Figure 4-7 of the 2008 Final Revised EIR) may be permitted to have a zero setback.

D. **OPEN YARD:**

1. Minimum Size: One area of 1,250 square feet
2. Minimum Dimensions: 20 feet by 10 feet
3. Maximum Slope: None
4. Location and Configuration:

a. Open yard may consist of any combination of ground level areas such as: patios, ground floor decks, pathways, landscaped areas, natural areas, flat areas, or hillsides, so long as the overall size and dimensions of the open yard meet the requirements described in Section 28.50.060.D.1 and 2 above, and it is not located in any of the following areas:

(1) A portion of the front yard; or

(2) Any areas designed for use by motor vehicles, including, but not limited to, driveways and parking areas; or

(3) On decks, patios, terraces or similar improvements, where the average height above grade is greater than 36". Average height shall be calculated by measuring the height of each corner of the deck, adding those heights together, and dividing by the number of corners.

b. If the open yard is provided on a slope greater than 20%, the open yard shall contain a flat area as follows:

(1) Minimum size: 160 square feet

(2) Minimum dimensions: 10 feet by 10 feet

(3) Maximum slope: 2%

(4) The flat area may be provided at grade, or on decks pursuant to Section 28.50.060.D.4.a.

c. Lots with multiple frontages shall have a primary front yard designated by the property owner and agreed to in writing by the Community Development Director. All other front yards shall be designated as secondary front yards. Ground level open yard may be provided in the secondary front yard, up to ten feet (10') from the front property line, provided that it is unobstructed and meets all other requirements.

d. On lots of less than 7,000 square feet and an average slope of 20% or less, the following is required:

(1) The open yard may be provided in one area, or in separate areas of not less than 400 square feet each (minimum dimensions of 20 feet by 10 feet required), and

(2) Up to 850 square feet of the open yard may be provided in the remaining front yard, provided that it is unobstructed and meets the minimum dimensions required. (Ord. 5456, 2008.)

28.50.065 Reduction in Setback Requirements.

A. **FRONT SETBACK REDUCTION.** The required front setback may be reduced to 15 feet when:

1. The lot is less than 7,000 square feet and the required parking is provided in a detached garage in the rear yard; or
2. The lot is a triangular lot of less than 7,000 square feet; or
3. The subject lot abuts a private street.

B. **ATTACHED MAIN BUILDINGS.** Main buildings may be constructed on an interior property line when attached to another main building on an adjacent property, as follows:

1. The buildings are attached by not less than eight feet (8') in length of one of the walls or roof, or not less than one hundred percent (100%) of any wall less than eight feet (8') in length; and
2. Said configuration shall be allowed for no more than four (4) lots within the zone, resulting in no more than two buildings containing two dwelling units.

C. **ACCESSORY BUILDINGS.** Interior setbacks are not required for detached accessory buildings, screened trash areas, or attached porte cocheres not exceeding 14 feet wide by 18 feet long where three of the four sides are open, as approved by the City's Single Family Design Board. (Ord. 5456, 2008.)

28.50.070 Distance Between Buildings.

No main building shall be closer than twenty feet (20') to any other main building on the same lot. (Ord. 5456, 2008.)

28.50.080 Lot Area and Frontage Requirements.

Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having the following:

A. A net area, excluding street rights-of-way and other publicly dedicated improvements, of not less than 5,000 square feet, provided that a minimum average net lot area of 7,000 square feet shall be provided for all residential lots in Area A.

B. Not less than 60 feet of frontage on a public or private street, except as the Planning Commission or City Council may allow by subdivision map approval at the Alan Road cul-de-sac, or by Modification. (Ord. 5456, 2008.)

28.50.085 Allowable Density of Development.

The maximum number of residential units in this zone shall be twenty-three (23). However, if at least two affordable units are provided, the maximum number of residential units in this zone may be increased to twenty-five (25) units. (Ord. 5456, 2008.)

28.50.090 Open Space and Landscaping.

Not less than 50 percent (50%) of the gross acreage of Area A shall be common open space devoted to planting, walkways, natural drainage features (e.g., bioswales, retention basins), riparian corridor, public agency access and passive recreational areas. (Ord. 5456, 2008.)

28.50.095 Street Requirements.

In order to maintain a semi-rural ambiance, and where necessary to preserve natural terrain features or open space, the Planning Commission or City Council may grant exceptions to City street design standards as may be deemed necessary to assure that the intent of this Chapter is observed, that adequate public parking is provided, and the public welfare and safety secured. (Ord. 5456, 2008.)

28.50.100 Off-Street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this Title. (Ord. 5456, 2008.)

28.50.105 Garages and Accessory Buildings.

A. Detached accessory buildings shall not exceed two (2) stories or thirty feet (30') in height.

B. Accessory buildings, excluding garages, shall not have a total aggregate square footage in excess of 500 square feet.

C. Garages shall not have a total aggregate square footage in excess of 600 square feet. (Ord. 5456, 2008.)

28.50.110 Home Size and Development Restrictions.

A. Notwithstanding any other provision of this Code, residential structures in this zone, except as provided by Section 28.50.110.B below, shall not exceed a total net square footage of 3,800 square feet, excluding garages and accessory structures.

B. Notwithstanding any other provision of this Code, residential structures in this zone located adjacent to and with access from Alan Road shall not exceed a total net square footage of 2,500 square feet, excluding garages and accessory structures. Home size in this area shall be massed and designed to provide an appropriate transition to existing adjacent homes along Alan Road as determined appropriate by the Single Family Design Board.

C. All residential structures shall be located within the "Grading and Landscaping" envelope shown on the Conceptual Site Plan exhibit as approved by the City in connection with the subdivision of this real property.

D. All residential structures shall be located a minimum of one-hundred feet (100') from the top of creek bank, which is defined as the Adjusted Top of Bank in Figure 4-4 of the certified Final Revised Environmental Impact Report for the Veronica Meadows Specific Plan, dated May 2008.

E. For the purposes of this Chapter, the term "net square footage" shall be defined and calculated in the manner which that term is used and calculated pursuant to SBMC Section 28.15.083. (Ord. 5456, 2008.)

28.50.115 Architectural Control.

All development within the SP-9 Zone shall be subject to the review and approval of the Single Family Design Board for consistency with the City's Single Family Design Guidelines; however, home sizes shall not be subject to height or size limitations beyond those identified in Sections 28.50.050, 28.50.105 and 28.50.110, and no Floor Area Ratio maximums shall apply to the homes initially constructed within Area A, but shall apply thereafter. The grades of individual lots and roads shall blend with the natural topography of the site, minimize site grading, and balance on site earthwork to the maximum extent feasible. Where the Single Family Design Guidelines conflict with this Chapter, this Chapter shall govern proposed development, with emphasis on the Legislative Intent of the Zone (Section 28.50.005). (Ord. 5456, 2008.)

28.50.120 Exemption from SBMC Chapter 28.43.

Development within the SP-9 Zone shall be exempt from the Inclusionary Housing requirements of SBMC Chapter 28.43 – the "City of Santa Barbara Inclusionary Housing Ordinance." (Ord. 5456, 2008.)

28.50.130 Affordable Housing Provision.

If Affordable Housing units are provided, the lots on which they are located shall be no less than 3,000 square feet in size. Said lots and associated development shall comply with the provisions of this Zone in all other aspects, unless said provisions are reduced through a Modification, pursuant to Chapter 28.92 of this Title. (Ord. 5456, 2008.)

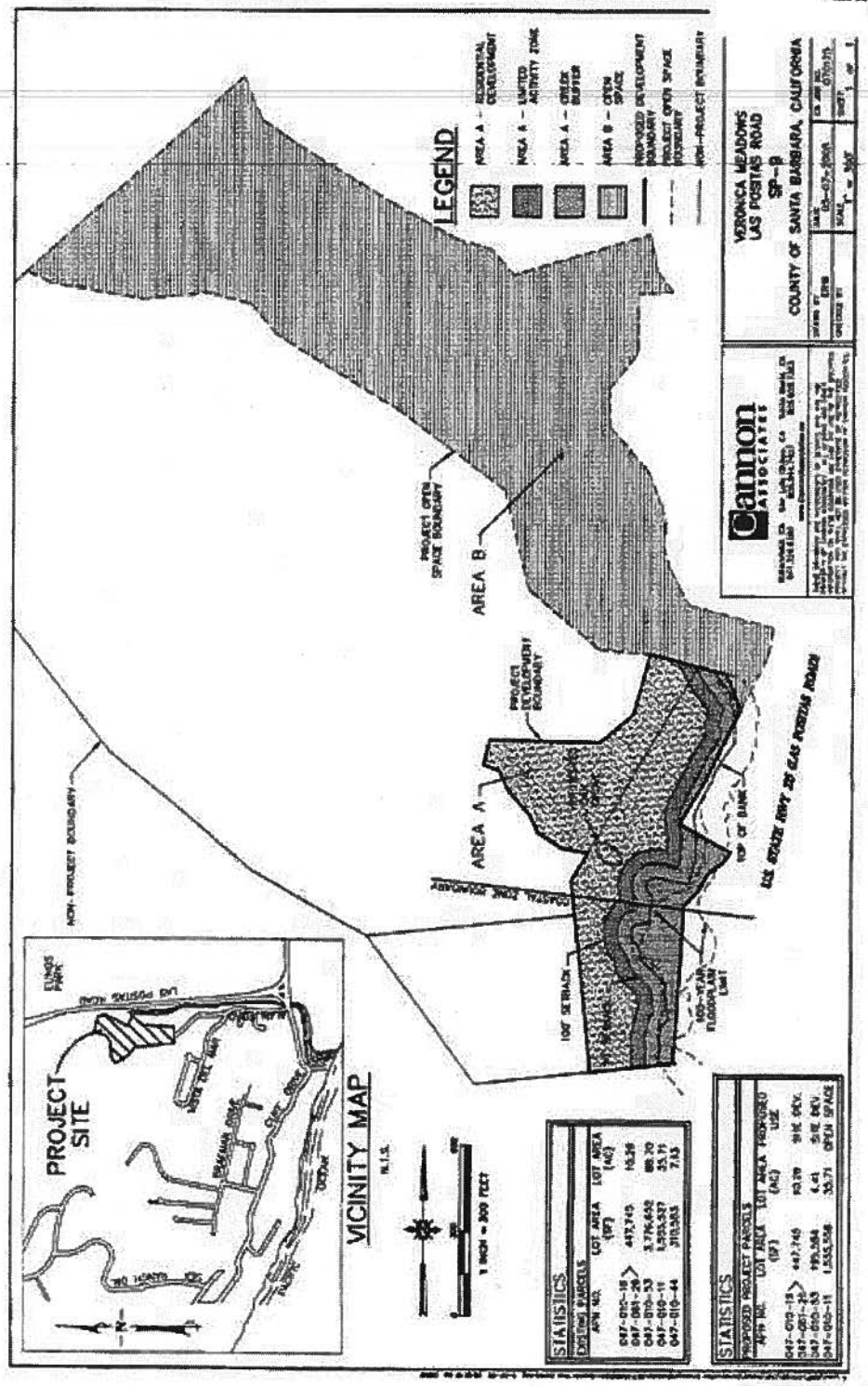
28.50.140 Fencing.

Fencing within fifty feet (50') of the top of creek bank, which is defined as the Adjusted Top of Bank in the certified Final Environmental Impact Report for the Veronica Meadows Specific Plan dated May 2008, shall be approved by the Community Development Director after being reviewed for comments only by the Single Family Design Board. Fencing abutting the open space drainage (identified as Lot 31 in Figure 4-7 of the Final Revised EIR) shall be open. All other fencing shall be subject to the provisions of Section 28.87.170 of this Title.
(Ord. 5456, 2008.)

28.50.150 Area Map.

The map attached hereto as Exhibit A (dated as of June 24, 2008) and labeled "Veronica Meadows Specific Plan Area" is hereby approved and incorporated in this Chapter by this reference. (Ord. 5456, 2008.)

EXHIBIT A



Veronica Meadows Specific Plan Area

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Chapter 28.51

C-O MEDICAL OFFICE ZONE

Sections:

28.51.001 In General.
28.51.030 Uses Permitted.
28.51.050 Building Heights.
28.51.060 Setbacks.
28.51.065 Area Requirements.
28.51.081 Outdoor Living Space.
28.51.100 Parking Requirements.
28.51.110 Signs.
28.51.115 Architectural Treatment.
28.51.130 Development Plan Approval.
28.51.131 Development Potential.

28.51.001 In General.

This is a zone which, because of its proximity to a major medical facility and its conformity with the General Plan, is deemed suitable for use for medical, dental and related professional offices as well as residences, under the following regulations. This zone also strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 § 4, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.030 Uses Permitted.

A. Any residential use permitted in the R-3 Limited Multiple-family Residence Zone.
B. Professional offices offering medical and related services, including the following: chiropodists, chiropractors, clinics, dentists, opticians, optometrists, osteopaths, physicians, surgeons and other similar medical offices as approved by the Planning Commission.
C. Hospitals, skilled nursing facilities and other similar buildings and facilities for the treatment of human ailments where facilities are provided for the keeping of patients overnight or longer, subject to the issuance of a conditional use permit and subject to the special procedural provisions prescribed in Chapter 28.94 of this Code.
D. Accessory buildings and accessory uses such as medical laboratories and prescription pharmacies.
E. Medical equipment and supply stores of no more than 3,000 square feet of net floor area. Medical equipment and supply stores of more than 3,000 square feet of net floor area are subject to the issuance of a Conditional Use Permit under Chapter 28.94 of this Code.
F. Banks of no more than 1,000 square feet of net floor area. Banks of more than 1,000 square feet of net floor area are subject to the issuance of a Conditional Use Permit issued under Chapter 28.94 of this Code.
G. Community care facilities, residential care facilities for the elderly, and hospices serving up to 12 individuals.
H. State-licensed Large Family Day Care Homes.
I. Birth Centers.
J. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines. (Ord. 5459, 2008; Ord. 4858, 1994; Ord. 3943, 1978; Ord. 3882, 1977; 3413, 1970; Ord. 3398, 1970; Ord. 2868, 1962; Ord. 2585, 1957.)

28.51.050 Building Heights.

Three (3) stories and not to exceed forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §5, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:
A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot as follows:
1. One- or two-story building or structure or uncovered parking: 10 feet
2. Three-story building or structure: 15 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the front setback shall be reduced as follows:
a. Ground floor portions: 10 feet
b. Second story portions: 10 feet
c. Third story portions: 20 feet
3. Covered parking: the setback applicable to the building in which the parking is provided as specified in A.1 or A.2 above.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially zoned parcel and all buildings, structures, and parking on the lot as follows:

1. One- or two-story building or structure or uncovered parking: 6 feet
2. Three-story building or structure: 10 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the interior setback shall be reduced as follows:
   a. Ground floor portions: 6 feet
   b. Second story portions: 6 feet
   c. Third story portions: 10 feet
3. Covered parking: the setback applicable to the building in which the parking is provided as specified in B.1 or B.2 above.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. Any building, structure or covered parking: 10 feet or ½ of the building height, whichever is greater.
2. Driveways to parking areas serving exclusively residential uses: R-3/R-4 interior setback requirements.
3. Driveways and parking areas serving nonresidential uses: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.51.065 Area Requirements.

None, except that all buildings or portions thereof used for dwelling purposes shall comply with the provisions of the R-3 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.081 Outdoor Living Space.

Any building in this zone developed exclusively for residential use or any mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.51.100 Parking Requirements.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 3413, 1970.)

28.51.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3413, 1970.)

28.51.115 Architectural Treatment.

All buildings shall be designed to be compatible with the adjacent residential uses, to the satisfaction of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord 3413, 1970.)

28.51.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.54

C-P RESTRICTED COMMERCIAL ZONE

Sections:

28.54.001	**In General.**	**28.54.081**	**Outdoor Living Space.**
28.54.030	**Uses Permitted in the C-P Zone.**	**28.54.100**	**Parking Requirements.**
28.54.050	**Building Height.**	**28.54.110**	**Signs.**
28.54.060	**Setbacks.**	**28.54.115**	**Architectural Control.**
28.54.070	**Distance Between Buildings on the Same Lot.**	**28.54.120**	**Development Plan Approval for Larger Buildings and Structures.**
28.54.080	**Lot Area and Frontage Requirements.**	**28.54.130**	**Development Plan Approval.**
		28.54.131	**Development Potential.**

28.54.001 In General.

The following regulations shall apply in the C-P Restricted Commercial Zone unless otherwise provided in this chapter. The zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

Land classified in a C-P Zone may also be classified in another zone and the following regulations shall apply in the C-P Restricted Commercial Zone unless otherwise provided in this chapter. (Ord. 4005 §7, 1979; Ord. 3710, 1974; Ord. 3499, 1972.)

28.54.030 Uses Permitted in the C-P Zone.

A. Any use permitted in the R-4, R-O and C-O Zones and subject to the use restrictions and limitations contained in the respective zone and in Section 28.54.130.

B. Any of the following uses:

1. Art school.
2. Automobile parking areas.
3. Automobile service station or automobile service station/mini-market containing not more than six (6) pumps and limited to incidental tire and tube repairing, battery servicing, automobile lubrication and other minor automotive service and repair with a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code.
4. Bakery employing not more than ten (10) persons.
5. Bank.
6. Barber shop.
7. Beauty shop.
8. Billiard parlor.
9. Bookstore.
10. Bowling alley.
11. Caterer.
12. Child care center.
13. Confectionery store.
14. Dancing school.
15. Dressmaking or millinery shop.
16. Drugstore.
17. Dry cleaning, pressing and laundry agency.
18. Dry goods or notion store.
19. Florist shop.
20. Garden nursery.
21. Gift shop.
22. Grocery, fruit and vegetable store.
23. Hardware store.
24. Household appliance store and repair.
25. Ice storage house of not more than five (5) ton capacity.
26. Jewelry store.
27. Liquor store.
28. Meat market or delicatessen.
29. Music and vocal schools.
30. Pet shop.
31. Photographic shop.
32. Restaurant, bar, tearoom or cafe.

33. Self-service laundry or dry cleaning.
34. Shoe store or shoe repair shop.
35. Stationery store.
36. Tailor, clothing or wearing apparel shop.
37. Television, radio store and repair.
38. Veterinary hospital for small animals provided;
    a. That no animals are to be boarded overnight except for medical reasons.
    b. That the building shall be designed so as to prevent the escape of all obnoxious odors and noises.
39. Wig shop.
40. Household hazardous waste collection facility, as defined in Section 28.04.405.
41. Accessory buildings and accessory uses, including a storage garage for the exclusive use of the patrons of the above stores or businesses.
42. Automobile rental, restricted to passenger vehicles, not including trailers, campers, trucks, recreational vehicles, etc., with the specific location subject to approval by the Planning Commission.
43. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. The above specified stores, shops or businesses, to the extent that they sell merchandise shall sell only at retail, shall sell only new merchandise, except for the resale of used merchandise acquired incidentally in the sale of new merchandise, and shall be permitted only under the following conditions:

1. Such store, shop or business, except automobile service station and nursery shall be conducted entirely within an enclosed building.
2. Products made incidental to a permitted use shall be sold at retail on the premises. (Ord. 5459, 2008; Ord. 5380, 2005; Ord. 5040, 1998; Ord. 4858, 1994; Ord. 4825, 1993; Ord. 4033 §4, 1980; Ord. 3727, 1975.)

28.54.050 Building Height.

Three (3) stories and not exceeding forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §8, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than ten (10) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.54.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.54.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.115 Architectural Control.

The architectural and general appearance of all buildings and grounds shall be substantially in accordance with the actions of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 3529, 1972; Ord. 2585, 1957.)

28.54.120 Development Plan Approval for Larger Buildings and Structures.

A. **C-P Zone Development Plan Approval.** Prior to the permitting and construction of any building or structure of 10,000 square feet or more of total floor area within the C-P Zone, a Development Plan shall be submitted for approval by the Planning Commission pursuant to the procedural and public noticing requirements of Santa Barbara Municipal Code Section 28.85.030.

B. **C-P Development Plan Submittal Requirements.** A Development Plan submitted pursuant to this Section shall, at a minimum, show the proposed building location on the site, the size, setbacks, floor area, floor plan and elevations, proposed parking lot design, footprints of adjacent structures, landscaping plan, and other information as prescribed by the Community Development Director, provided that such information is reasonably related to meeting the requirements of this Chapter.

C. **Planning Commission Review.** The Planning Commission may limit the allowed uses and the permissible building height for buildings and structures approved pursuant to this Section, and may impose additional setbacks requirements, where deemed necessary by the Planning Commission in order to secure an appropriate development and as deemed necessary to mitigate adverse impacts upon neighboring residential uses.

D. **Required Findings.** The Planning Commission, or City Council on appeal, shall make the following findings and impose conditions necessary to secure and perpetuate the basis for such findings, in order to approve a Development Plan submitted pursuant to this Section:

1. The proposed development complies with all of the provisions of this Title; and
2. The proposed development is consistent with the General Plan and the principles of sound community planning; and
3. The total area of the site and the setbacks of all facilities from the property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that major detrimental impact on surrounding properties is avoided to the greatest extent possible; and
4. The design and operation of the project and its components, including outdoor lighting and noise-generating equipment, will not be a nuisance to the use of property in the area, particularly residential use; and
5. Adequate access and off-street parking is provided in a manner and amount so that the demands of the development are met without altering the character of the public streets in the area; and
6. The appearance of the developed site in terms of the arrangement, height, size, bulk, scale and architectural style of the buildings, location of the parking areas, landscaping, and other features is compatible with the character of the area and of the City.

E. **Appeals.** A decision by the Planning Commission pursuant to this Section may be appealed in the manner provided for such appeals in Santa Barbara Municipal Code Section 28.85.070.

F. **Expiration of Development Plans.** The provisions of Santa Barbara Municipal Code Section 28.85.090 shall be applicable to Development Plans approved pursuant to this Section. (Ord. 5609, 2013; Ord. 5040, 1998.)

28.54.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3529, 1972.)

28.54.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.57

C-L LIMITED COMMERCIAL ZONE

Sections:

28.57.001 In General.
28.57.005 Legislative Intent.
28.57.030 Uses Permitted in the C-L Zone.
28.57.050 Building Height.
28.57.060 Setbacks.
28.57.070 Distance Between Buildings on the Same Lot.
28.57.080 Lot Area and Frontage Requirements.
28.57.081 Outdoor Living Space.
28.57.100 Parking Requirements.
28.57.110 Signs.
28.57.130 Development Plan Approval.
28.57.131 Development Potential.

28.57.001 In General.

The following regulations shall apply in the C-L Limited Commercial Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.005 Legislative Intent.

The C-L Limited Commercial Zone is designed to be applied to a particular area of the City because of that area's unique characteristics and its relation to other zones and activities in the community. The land classified in this zone is located on State Street, which is described by the General Plan as being the principal street in the community reflecting the character of Santa Barbara and requiring, therefore, special treatment. State Street connects the Shoreline and Harbor areas, the Central Business District and Civic Center and the northside commercial and residential district.

The particular section of State Street for which this zone is designed is located above and adjacent to the Central Business District in close proximity to residential areas. General office, hotel and related commercial uses are appropriate and the General Plan so indicates. Also, certain commercial activities of a low intensity nature may be compatible in the commercial community established by this zone.

In all developments in this area, however, the City must exercise sufficient design, construction and operation controls to assure that the desirable characteristics of State Street in this area are maintained and enhanced and that the adjacent residential environment is protected and preserved, especially in terms of light, air and existing visual amenities. (Ord. 4005 §10, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.030 Uses Permitted in the C-L Zone.

A. Any use permitted in the R-O, C-O and R-4 Zones and subject to the use restrictions and limitations contained in the respective zone, except that any such use specifically mentioned hereafter shall be subject to the use restrictions of the C-L Zone.

B. Any of the following uses:

1. Antique shop.
2. Bank.
3. Barber, beauty shop, including hair stylist.
4. Candy, ice cream, pastry shop.
5. Caterer.
6. Child Care Center.
7. Delicatessen and specialty food store, including convenience grocery items.
8. Drug store and pharmacy, limited to stores carrying primarily drugs, personal care and health products.
9. Florist shop.
10. Funeral parlor.
11. Gift shop.
12. Household hazardous waste collection facility, as defined in Section 28.04.405 of this Title.
13. Interior decorating shop.

14. Jewelry store.
15. Liquor, wine store.
16. Photographic studio.
17. Restaurant.
18. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. The above-specified stores, shops or businesses shall be permitted only under the following conditions:
1. Merchandise shall be sold only at retail;
2. Except for restaurants and child care centers, all activities shall be conducted entirely within an enclosed building;
3. Products made incidental to a permitted use shall be sold at retail on the premises.

D. Accessory buildings and uses. (Ord. 5459, 2008; Ord. 4825, 1993; Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.050 Building Height.

Three (3) stories and not exceeding forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §11, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than ten (10) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:
1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:
1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.57.070 Distance Between Buildings on the Same Lot.

All buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.57.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3531, 1972; Ord. 2585, 1957.)

28.57.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3710, 1974; Ord. 3531, 1972.)

28.57.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.60

C-X RESEARCH AND DEVELOPMENT AND ADMINISTRATIVE OFFICE ZONE

Sections:

28.60.001 In General.
28.60.005 Legislative Intent.
28.60.030 Uses Permitted.
28.60.040 Operating Standards.
28.60.045 Site Area Standards.
28.60.050 Building Height.
28.60.060 Setbacks.
28.60.063 Maximum Site Coverage.
28.60.100 Parking Requirements.
28.60.115 Architectural Control.
28.60.120 Street Frontage Requirements.
28.60.130 Development Plan.
28.60.131 Development Potential.
28.60.140 Construction and Maintenance of Site and Buildings.
28.60.150 Description of Operation and Number of Employees.
28.60.200 Landscaping Requirements.

28.60.001 In General.

Land classified in a C-X Zone shall also be classified in another zone and the following regulations shall apply to the C-X Zone unless otherwise provided in this chapter; provided, however, that any area classified as a C-X Zone prior to May 11, 1967, shall remain so classified until an underlying zone shall have been applied to such previously existing C-X Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.005 Legislative Intent.

It is the intent of this chapter to permit uses in the C-X Zone of the type described below at which the level and intensity of activity is commensurate with that of the surrounding residential area and the basic zone in which the site is located. The intensity of activity of a C-X facility may be considered to be directly related to the number of persons and vehicles traveling to and from the site during a given period of time. The appropriate maximum level of activity for a C-X site will vary considerably depending upon the location of the site, the basic zone category, access to appropriate collector and arterial streets and other similar factors. It is intended that the Planning Commission shall make the determination that the level of activity proposed for a C-X site is appropriate. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.030 Uses Permitted.

1. Research and development establishments and related administrative operations; provided that no manufacturing is permitted in a C-X Zone and further provided that such uses or operations are not hazardous, offensive or obnoxious by reason of the emission of odor, dust, heat, glare, gas fumes, smoke, vibrations, electromagnetic or other radiation resulting in radio or television interference, or by reason of the storage or disposal of waste materials or other products of such operations.

The word manufacturing as used herein shall mean the fabrication, assembly or production of articles other than prototypes or models used for experimentation or research. The word prototype is hereby defined as an original or model or pattern from which manufactured, fabricated or assembled products are developed or copied. No prototype, model or pattern shall be built, erected or constructed in a C-X Zone to a scale exceeding the ceiling height of the building in which it or they are erected, constructed or developed, and the erection, fabrication or assembly thereof shall be confined to the interior of the building.

2. Administrative offices, provided that:

a. Such offices are not open to or visited by the general public for the purpose of receiving or disbursing goods, services, information, payments or other such routine or frequent activities.

b. Personnel employment activities shall be limited to those involving personnel to be working at the C-X site.

c. Classes or training program activities shall be incidental to the administrative use of the premises. The number of persons shall not exceed ten percent (10%) of the total number of employees regularly (daily) present at the site.

3. Radio and television transmitting and broadcasting stations, provided that:

a. The height of any antenna or similar device exceeding the maximum allowable height established in Section 28.87.260 shall require a Conditional Use Permit (CUP) pursuant to Municipal Code Chapter 28.94. It is the intent of these administrative office provisions and restrictions to prohibit the conduct of retail, wholesale, service, professional or other business with the general public. These are activities which would cause a large increase in traffic to and from the facility. Necessary visits by service personnel and tradesmen, business calls and other activities normal to a strictly administrative function are intended to be allowed. (Ord. 4891, 1994; Ord. 3710, 1974; Ord. 3703, 1974; Ord. 2808, 1961.)

28.60.040 Operating Standards.

Any research and development or administrative office establishment situated in a C-X Zone shall comply with the following standards of performance and operation:

1. FIRE AND EXPLOSION HAZARDS. There shall be provided and maintained in a good and workable condition adequate and sufficient safety and fire suppression equipment and devices in such locations on the premises as may be necessary to prevent and suppress fire and explosion hazards wherever inflammable or explosive materials are used or stored.

2. INCINERATION. There shall be no rubbish or refuse incineration on the premises.

3. RADIATION. All devices emitting radio frequency energy shall be operated in such a manner as to cause no interference with any activity carried on beyond the boundary of the premises of such establishment including but not limited to radio and television interference. Radio frequency energy is electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three (3) million megacycles.

4. NOISE. See Chapter 9.16 of this Code for noise standards.

5. VIBRATION. No equipment, machinery or facility in such establishment shall be operated so as to produce or generate vibration which is perceptible without the aid or instruments to a person of ordinary sensibilities at or beyond the boundary line of the premises.

6. EMISSION OF DUST, HEAT AND GLARE. No such establishment shall be operated in a manner resulting in the emission of dust or other substances susceptible of being transmitted through the air, or heat or glare to an extent or degree permitting such emission or emissions to extend beyond the boundary line of the premises.

7. OUTDOOR STORAGE AND WASTE DISPOSAL. All fuel, raw materials, equipment and products used outside the building of such establishment shall be enclosed by a fence, wall or shrubbery planting adequate to conceal such facility from adjacent or nearby residential property. The removal or transference from the premises of such establishment of any such fuel, raw materials or products by natural forces or causes shall be prevented. Suitable closed containers shall be provided and used for the storage of any materials or water products which by their nature are combustible, volatile, dust or odor producing or edible or attractive to rodents, vermin or insects. (Ord. 4159, 1982; Ord. 3710, 1974; Ord. 3409, 1970; Ord. 2808, 1961.)

28.60.045 Site Area Standards.

A C-X site shall consist of a lot or lots for the location of a single C-X establishment and in the aggregate such site shall consist of not less than two (2) acres in area, provided that in the event topographic features involving steep slopes, gullies or ravines render such two (2) acre minimum size inadequate for the restrictive purposes of this article, the Planning Commission may recommend and the City Council may require additional area to be included in the site as may be reasonably necessary to effect the purpose and intent of this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.050 Building Height.

No building in a C-X Zone shall exceed one (1) story or twenty feet (20') in height. (Ord. 3710, 1974; Ord. 2808, 1961; Ord. 2585, 1957.)

28.60.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than thirty five (35) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK. An interior setback of not less than twenty five (25) feet shall be provided between the interior lot line and all buildings, structures and parking on the lot. (Ord. 5459, 2008.)

28.60.063 Maximum Site Coverage.

Not more than twenty-five percent (25%) of the total area comprising the site of a C-X establishment shall be covered with buildings or structures and not more than thirty percent (30%) of such area shall be used for open parking, loading or delivery uses. (Ord. 3710, 1974; Ord. 2808, 1961; 2585, 1957.)

28.60.100 Parking Requirements.

Off-street parking shall be provided as required in Chapter 28.90 of this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.115 Architectural Control.

The plans and elevations for all buildings and structures to be erected in a C-X Zone shall be reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, and alterations are proposed. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.120 Street Frontage Requirements.

Each C-X site shall have street frontage and single side dimensions of not less than one hundred fifty feet (150') each. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.130 Development Plan.

Before any building or structure is hereafter erected on a C-X site a development plan of said site shall be prepared and submitted by the owner or developer, drawn to a scale of not less than one inch (1") to equal thirty feet (30'), and showing the proposed development of such site. Such development plan shall show the following information:

1. All buildings existing and proposed, together with the elevation thereof, and showing the outline of exterior walls and roof overhang, including covered walkways.
2. All outside walkways, driveways, service areas and other developments existing and proposed to the centerline of any adjoining street.
3. Parking lot layout, showing detail of stalls and landscaping.
4. Site grading, showing detail of slope treatment including but not limited to planting and erosion control, provided that said grading plan and layout may be submitted on a separate plan.
5. Said plan shall be submitted for approval to the Planning Commission. (Ord. 4361, 1986; 3710, 1974; Ord. 3538, 1972; Ord. 2808, 1961.)

28.60.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

28.60.140 Construction and Maintenance of Site and Buildings.

Following approval of the foregoing required development plan and landscaping plan as aforesaid, the owner or developer of such C-X site shall construct said buildings and install such landscaping in strict accordance with said plans and without material or substantial deviation therefrom, and said buildings and landscaping shall be thereafter maintained in a clean and orderly condition. In order that said premises or establishment, or any part thereof, shall not become offensive or obnoxious to persons occupying residential properties in sight thereof. (Ord. 4361, 1986; Ord. 3710, 1974; Ord. 2808, 1961.)

28.60.150 Description of Operation and Number of Employees.

Before a C-X site or portion thereof is occupied for any purpose permitted by this chapter, the owner or his agent shall submit to the Division of Land Use Controls a description of the operation proposed for the site together with a statement of the maximum number of employees to be present at the site. The Planning Commission shall review these submissions for conformance with the intent of this chapter and may approve, approve with conditions or disapprove the occupancy as described. Following any such approval by the Planning Commission, the premises shall only be occupied in a manner substantially in accordance with such approval and, specifically, at no time shall the number of employees at the site exceed the maximum number approved. (Ord. 3710, 1974; Ord. 3409, 1970.)

28.60.200 Landscaping Requirements.

The portion of the C-X establishment site area not covered by buildings or structures, parking, driveways or walkways, shall be landscaped according to a plan for such landscaping approved by the City Park and Recreation Commission, as hereinafter provided. There shall also be prepared and submitted by the owner or developer, a landscaping plan and layout prepared by a licensed landscape architect or a licensed landscape contractor, and such plan shall cover all of the site not used for buildings, parking or service areas. The landscaping plan shall be submitted to the Planning Commission with the site development plan, and to the Board of Park and Recreation Commissioners for the recommendation of each of such commissions to the City Council. (Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.63

C-1 LIMITED COMMERCIAL ZONE

Sections:

28.63.001 In General.
28.63.030 Uses Permitted in the C-1 Zone.
28.63.050 Building Height.
28.63.060 Setbacks.
28.63.070 Distance Between Buildings on the Same Lot.
28.63.080 Lot Area and Frontage Requirements.
28.63.081 Outdoor Living Space.
28.63.100 Parking Requirements.
28.63.110 Signs.
28.63.115 Architectural Control.
28.63.130 Development Plan Approval.
28.63.131 Development Potential.

28.63.001 In General.

The following regulations shall apply in the C-1 Limited Commercial Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

Land classified in a C-1 Zone may also be classified in another zone and the following regulations shall apply in the C-1 Zone, unless otherwise provided in this chapter. (Ord. 4005 §13, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.030 Uses Permitted in the C-1 Zone.

A. Any use permitted in the R-4, R-O and C-O Zones and subject to the use restrictions and limitations contained in the respective zone and in Section 28.63.130, except as otherwise provided in Subsection B. herein.

B. When land classified in a C-1 Zone is also classified in another zone, as provided in Section 28.63.001, uses shall be limited to the following:

1. Any use permitted in Subsection C. herein;
2. Any use permitted in the other zone in which the land is classified and when so used subject to the restrictions and limitations contained therein.

C. Any of the following uses:

1. Antique shop.
2. Automobile service station or automobile service station/mini-market, and accessory uses, limited to incidental tire and tube repairing, battery servicing, automobile lubrication and other minor automotive service within the building not including auto body repair with a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code.
3. Bakery employing not more than ten (10) persons.
4. Bank.
5. Barber shop.
6. Beauty shop.
7. Billiard parlor.
8. Bookstore.
9. Caterer.
10. Child Care Center.
11. Clothing store.
12. Club or lodge.
13. Confectionery store.
14. Dressmaking or millinery shop.
15. Drugstore.
16. Dry cleaning, pressing and laundry agency.
17. Dry goods or notion store.
18. Florist.
19. Garden nursery.
20. Gift shop.
21. Grocery, fruit and vegetable store.
22. Hardware store.
23. Hotel.
24. Household appliance store and repair.
25. Household hazardous waste collection facility, as defined in Section 28.04.405 of this Title.
26. Ice storage house of not more than five (5) ton capacity.
27. Interior decorator.

28. Jewelry store.

29. Liquor store.
30. Meat market or delicatessen store.
31. Offices: general, administrative, business, professional, public.
32. Pet store.
33. Photographer.
34. Photographic store.
35. Research and development.
36. Restaurant and bar.
37. Self-service laundry and dry cleaning.
38. Shoe store, shoe repair.
39. Stationery store.
40. Tailor.
41. Television and radio store and repair.
42. Veterinary hospital for small animals, provided:
    a. That no animals are to be boarded overnight except for medical reasons.
    b. The building shall be designed so as to prevent the escape of all obnoxious odors and noises.
43. Wig shop.
44. Accessory buildings and accessory uses, including a storage garage for the exclusive use of the patrons of the above stores or businesses.
45. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

D. The above-specified stores, shops or businesses shall be permitted only under the following conditions:

1. Such stores, shops or businesses, except automobile service stations, child care centers, and nurseries, shall be conducted entirely within an enclosed building.
2. Products made incidental to a permitted use shall be sold at retail on the premises. (Ord. 5459, 2008; Ord. 5380, 2005; Ord. 4825, 1993; Ord. 4033 §5, 1980; Ord. 3710, 1974; Ord. 3461, 1970; Ord. 3421, 1970; Ord. 3398, 1970.)

28.63.050 Building Height.

Three (3) stories and not exceeding forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §14, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than ten (10) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.63.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.63.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3531, 1972.)

28.63.115 Architectural Control.

The architectural and general appearance of all buildings and grounds shall be in accordance with the action of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.66

C-2 COMMERCIAL ZONE

Sections:

28.66.001 In General.
28.66.030 Uses Permitted.
28.66.050 Building Height.
28.66.060 Setbacks.
28.66.070 Distance Between Buildings on the Same Lot.
28.66.080 Lot Area and Frontage Requirements.
28.66.081 Outdoor Living Space.
28.66.130 Development Plan Approval.
28.66.131 Development Potential.

28.66.001 In General.

The following regulations shall apply in the C-2 Commercial Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 §16, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.66.030 Uses Permitted.

A. Any use permitted in the C-P Zone and subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the C-2 Zone.

B. Such use shall not be inimical to the public health, welfare, safety or morals by reason of the offering to distribute, or distributing or exhibition to members of the public of any obscene matter as defined in Section 311 of the Penal Code of the State of California.

C. Any of the following uses:

1. Retail, wholesale or service store or business provided that there shall be no manufacturing, assembly, processing or compounding or products other than such as are customarily incidental or essential to such establishments and provided further that there shall be not more than ten (10) persons engaged in any such manufacture, processing or treatment of products, and not more than fifty percent (50%) of the floor area of the building is used in the treatment, manufacture or processing of products, and that such operations are not objectionable due to noise, odor, dust, smoke, vibration or other similar causes.
2. Advertising sign board or structure.
3. Automobile parking area.
4. Automobile super service station or automobile service station/mini-market including automobile laundry or car wash and auto steam cleaning establishment provided that all tire and tube repairing, battery, servicing and steam cleaning shall be conducted wholly within a building with a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code.
5. Bakery employing not more than twenty (20) persons on premises.
6. Bath, Turkish and the like.
7. Billiard or pool hall or bowling alley.
8. Blueprinting and photostating shop.
9. Church.
10. Cleaning and pressing establishment using non-inflammable and non-explosive cleaning fluid.
11. Conservatory of music.
12. Contractor - no outside storage or storage of heavy equipment.
13. Department store.
14. Educational facility.
15. Electric distributing substation.
16. Funeral parlor.
17. Furniture warehouse for storing personal household goods.
18. Health club, spa, gymnasium.
19. Hospital, clinic or skilled nursing facility.
20. Interior decorating shop.
21. Medical laboratory.
22. Parking garage, public.
23. Pest control.
24. Plumbing shop.
25. Printing, lithographing or publishing establishment.
26. Public parking area.
27. Radio and television store.
28. Refrigerated locker.
29. Restaurant, tea room or cafe.
30. Skating rink.
31. Storage garage, including repairing and servicing.
32. Studio.
33. Taxidermist.
34. Telephone exchange.
35. Theater or auditorium (except drive-in theater).
36. Trade school, not objectionable due to noise, odor, dust, smoke, vibration or other similar causes.
37. Trailer and equipment sales and rental - non-industrial use.
38. Upholstery shop.
39. Used car sales area, provided that no repair or reconditioning of automobiles shall be permitted, except when enclosed in a building.
40. Wedding chapel.
41. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

D. Accessory buildings and accessory uses. (Ord. 5459, 2008; Ord. 5380, 2005; Ord. 4858, 1994; Ord. 4033 §6, 1980; Ord. 3710, 1974; Ord. 3461, 1970; Ord. 3421, 1970; Ord. 3398, 1970; Ord. 2763, 1960.)

28.66.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories, nor shall any building exceed a height of sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Theater Additions. Notwithstanding the provisions of SBMC Section 28.04.140, a stage addition to a live performance theater shall not be considered as part of the height of the building under the following circumstances: 1. the stage addition is devoted solely to rigging fly systems, 2. the addition is made to a theater that existed as of December 31, 2003, and 3. the stage addition does not exceed the height of the theater as such theater existed on December 31, 2003.

E. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 5459, Section 3, 2008; Ord. 5341, 2004; Ord. 4005, 1979; Ord. 3710, 1974; Ord. 3587, 1973.)

28.66.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings, structures and parking: No setback required.
2. Exclusively residential buildings, structures and parking: R-3/R-4 front setback requirement.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.66.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.66.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.66.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.66.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.66.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.69

C-M COMMERCIAL MANUFACTURING ZONE

Sections:

28.69.001 In General.
28.69.030 Uses Permitted.
28.69.050 Building Height.
28.69.060 Setbacks.
28.69.070 Distance Between Buildings on the Same Lot.
28.69.080 Lot Area and Frontage Requirements.
28.69.081 Outdoor Living Space.
28.69.130 Development Plan Approval.
28.69.131 Development Potential.

28.69.001 In General.

The following regulations shall apply in the C-M Commercial Manufacturing Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 §19, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.030 Uses Permitted.

A. Any use permitted in the C-2 Zone and subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the C-M Zone.

B. Any of the following uses, provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose hazard to life or property:

1. Automobile body shop.
2. Automobile paint shop.
3. Bakery goods manufacturing.
4. Boat building and repairing and machine shop.
5. Building contractor and material storage.
6. Cabinet shop.
7. Canvas and canvas products manufacturing.
8. Car wash.
9. Cement products manufacturing.
10. Cleaning and dyeing.
11. Clothing products manufacturing.
12. Draying and truck yard or terminal.
13. Electronics products manufacturing.
14. Emergency Shelters in compliance with Chapter 28.79.
15. Equipment and trailer rental and storage.
16. Food products manufacturing.
17. House moving.
18. Laundry.
19. Lumber yard.
20. Machine shop.
21. Plating works.
22. Produce warehouse.
23. Research and development establishment and related administrative operations.
24. Rug cleaning.
25. Sheet metal shop.
26. Sign manufacturing.
27. Storage warehouse.
28. Tire retreading.
29. Veterinary hospital.
30. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. Accessory buildings and accessory uses. (Ord. 5662, 2014; Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3398, 1970; Ord. 3120, 1966.)

28.69.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories, nor shall any building exceed a height of sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45’) unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project’s benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 4005 §20, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings, structures and parking: No setback required.
2. Exclusively residential buildings, structures and parking: R-3/R-4 front setback requirement.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.69.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.69.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.69.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.70

HC - HARBOR COMMERCIAL ZONE

Sections:

28.70.001	**In General.**	**28.70.050**	**Building Height Standards.**
28.70.030	**Uses Permitted in the Harbor and Shoreline Area.**	**28.70.090**	**Coastal Zone Review.**
		28.70.131	**Development Potential.**

28.70.001 In General.

The regulations contained in this Chapter shall apply in the Harbor Commercial Zone unless otherwise provided in this Title. The Zone strives to assure that the harbor will remain primarily a working harbor with visitor-serving and ocean-related uses secondary to ocean-dependent uses, and that Stearns Wharf will consist of a mixture of visitor-serving, and ocean-dependent and ocean-related uses. In addition, this zone is intended to provide a desirable environment by preserving and protecting surrounding land uses in terms of light, air and existing visual amenities. (Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.030 Uses Permitted in the Harbor and Shoreline Area.

In all areas of the Harbor Commercial Zone the following uses are permitted provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, waste, noise, vibrations, disturbances or other similar causes which may impose a hazard to life and property. Within the Harbor Commercial Zone the primary uses listed below shall be the predominant uses for the harbor and shoreline area.

A. Primary harbor uses:
   1. Marinas, boat moorings, marine service stations, boat yard/repair facilities and related activities.
   2. Marine-oriented government facilities.
   3. Seafood processing.
   4. Services necessary for commercial fishing activities, including such facilities as net repair areas, hoists and ice machines and storage areas.
   5. Other ocean-dependent uses as deemed appropriate by the Planning Commission.

B. Secondary harbor uses:
   1. Museums and other cultural displays relating to the ocean.
   2. Bait and tackle shops.
   3. Boat sales, storage, construction and/or repair.
   4. Diving gear, boat, surfing and other ocean-related equipment rental.
   5. Fast food restaurants, other restaurants, and restaurants with entertainment and meeting facilities used in conjunction with the restaurant.
   6. Marine equipment and accessories sales and/or repair.
   7. Marine storage.
   8. Marine surveyor.
   9. Offices of businesses or persons engaged exclusively in ocean-related activities.
   10. Public parking lots.
   11. Sail manufacturing and/or repair.
   12. Seafood sales and processing.
   13. Marine oriented specialty and gift shops.
   14. Stores which sell liquor, groceries and food which do not exceed 2,500 square feet in gross floor area.
   15. Household hazardous waste collection facilities as defined in Section 28.04.405 of this Title and exclusively serving the area within the H-C Zone.
   16. Other ocean-related uses as deemed appropriate by the Planning Commission.

C. Stearns Wharf uses:
   1. Art galleries.
   2. Bait and tackle shops.
   3. Boat sales, storage, construction and/or repair.
   4. Diving gear, boat, surfing and other ocean-related equipment rental.
   5. Fast food restaurants, other restaurants and restaurants with entertainment facilities used in conjunction with the restaurant.
   6. Marine equipment and accessories sales and/or repair.
   7. Marine service stations.
   8. Marine storage.

9. Marine surveyors.
10. Museums and other cultural displays relating to the ocean.
11. Offices of businesses or persons engaged in ocean-related activities.
12. Sail manufacturing and/or repair.
13. Seafood sales and processing.
14. Specialty and gift shops.
15. Stores which sell liquor, groceries and food which do not exceed 2,500 square feet in gross floor area.
16. Other ocean-dependent, ocean-related and visitor-serving uses as deemed appropriate by the Planning Commission.

D. Five year review of uses:

At least once every five (5) years from March 30, 1993, the Board of Harbor Commissioners shall review the extent and nature of the uses existing in the Harbor and shoreline area of the HC Zone and make a recommendation to the Planning Commission regarding the adequacy of ocean-dependent uses (Harbor primary uses) in relation to ocean-related and visitor-serving uses (Harbor secondary uses) in order to assure that the harbor remains a working harbor. A review of the mix of uses may occur at any other time at the direction of the Board of Harbor Commissioners or Planning Commission. Subsequent reviews shall be at five (5) year intervals thereafter. The Coastal Commission shall receive a copy of the recommendation and accompanying background materials associated with each review. (Ord. 5459, Section 3, 2008; Ord. 4825, 1993; Ord. 4808, 1993; Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.050 Building Height Standards.

Two (2) stories not to exceed thirty (30) feet. (Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.090 Coastal Zone Review.

All development in the Coastal Overlay Zone S-D-3, is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.71

OC Ocean-Oriented Commercial Zone

Sections:

28.71.010 In General.
28.71.020 Uses Permitted.
28.71.030 Uses Permitted Upon the Issuance of a Conditional Use Permit.
28.71.040 Coastal Zone Review.
28.71.050 Development Potential.
28.71.060 Building Height Standards.
28.71.070 Lot Area, Frontage, and Outdoor Living Space Requirements.
28.71.080 Parking Requirements.

28.71.010 In General.

The regulations contained in this Chapter shall apply in the OC Zone unless otherwise provided in this Title. This zone strives to achieve balanced use of the City's Waterfront and maintain the small scale, local character that is unique to the Waterfront area. Land uses shall be encouraged in this zone that maintain and enhance the desirability of the Waterfront as a place to work, visit, and live. This zone is intended to foster a vital, mixed use neighborhood and preserve and protect the coastal environment in terms of light, air, and visual amenities.

Land classified in the OC zone may also be classified in the HRC-2 (Hotel and Related Commerce 2) zone and those land uses authorized within the HRC-2 zone are also allowed uses within the dual OC/HRC-2 zone. (Ord. 5343, 2005.)

28.71.020 Uses Permitted.

Any of the following uses are permitted, provided that such operations, manufacturing, processing, or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances, or other similar causes which may impose hazard to life or property:

1. Ocean-dependent and ocean-oriented uses such as:
   a. Aquaculture facilities.
   b. Boat and boat trailer rental.
   c. Marine equipment and accessories manufacturing, sales, repair, storage, or rental.
   d. Marine-oriented government facilities.
   e. Marine research and development facilities.
   f. Offices of businesses engaged in ocean-related activities.
   g. Boat and sail manufacturing and repair.
   h. Seafood processing, wholesaling, storage, and related activities.
   i. Services necessary for commercial fishing activities, including such facilities as net repair areas, ice machines, and storage areas.
   j. Ocean-oriented educational facilities.
2. Commercial recreational uses such as:
   a. Bicycle, roller skating, moped, dive gear, boating, surfing, and other recreational equipment rental, sales, manufacturing, and repair.
   b. Public or private parks or recreational facilities.
3. Arts related uses such as:
   a. Art galleries (may include sales).
   b. Art schools.
   c. Art studios/workspaces (may include sales).
   d. Blueprinting, photostatting, printing, lithographing, or publishing establishments.
   e. Industrial arts and crafts uses, including, but not limited to, framing, jewelry making, metallurgy, pottery, sculpture, specialty sewing/monogramming, and weaving (industrial arts and crafts uses may include sales).

   For the purposes of this Chapter, the term "art" shall be defined as the creative application of a specific skill, the purpose of which is to create objects of form or beauty.
4. Restaurants.
5. Residential Uses.
   a. Generally. Any use permitted in the R-3 zone is allowed in the area bounded by Helena Avenue on the west, the existing railroad right-of-way on the south, Garden Street on the east and Highway 101 on the north, subject to the restrictions and limitations contained in this Chapter so long as the R-3 use is constructed as a project providing a mix of allowed non-residential and residential use where the residential use will not exceed 70 percent of the total building floor area of the development project.

   Any parcel of 5500 square feet or less in size which exist as of the date of the adoption of the ordinance codifying this amendment to Chapter 28.71 and which is not contiguous to another adjacent parcel(s) which is held in common ownership with the first parcel shall be exempt from the above-described mixed-use requirements.

   b. Affordable Housing Projects. Development projects comprised exclusively of units affordable to very low, low, or moderate income households (as evidenced by the recordation of long-term affordability covenants consistent with the City's Affordable Housing Policies and Procedures) shall be exempt from the above-stated mixed-use requirements for this zone.

   c. Existing Residential Buildings. Residential buildings which exist at the time of the adoption of the Ordinance enacting this Chapter (as established by the existence of a valid certificate of occupancy issued by the City), shall not be deemed non-conforming to the requirements of this Chapter and such buildings may be rehabilitated or remodeled (but not demolished) and expanded so long as any such permitted expansion (or expansions in total) does not exceed twenty percent (20%) of the floor area of the existing dwelling unit with the floor area and percentage calculated as of the date of the adoption of the Ordinance enacting this Chapter.
6. Small Stores. Stores that sell liquor, groceries, or food that do not exceed 2,500 square feet in gross floor area.
7. OC Uses Found Consistent. Other ocean-dependent, ocean-oriented, commercial recreational, or arts-related uses that are found to be consistent with the intent of the OC zone by the Planning Commission. (Ord. 5343, 2005.)

28.71.030 Uses Permitted Upon the Issuance of a Conditional Use Permit.

A. Automobile Related Uses. In the OC Zone, automobile rentals and parking lots shall be permitted with a conditional use permit issued in accordance with the provisions of Chapter 28.94 of this Code.

B. Small Hotels. In the OC zone, small hotels shall be permitted upon the issuance of a conditional use permit in the OC zone area designated for "small hotel" on the map attached to this Chapter as Exhibit A subject to the following express limitations:

1. A small hotel may not have more than six (6) guest rooms;

2. The size of each hotel guest room shall be limited to a maximum of 300 square feet of floor area (including hallways, closets, baths, interior circulation and other similar floor area) and the room may not include an individual kitchen area;

3. A common kitchen / dining / lobby area is allowed but may not be located within a guest room;

4. A manager's residential unit is allowed with a maximum of 600 square feet of floor area provided that the manager's unit is located adjacent to, or with immediate access to, the common or lobby area and provided that it not have a separate access from outside the common area.

C. Findings Required for Small Hotels. Planning Commission approval of small hotels in the area of the OC zone for which they are authorized by subsection B hereof shall be subject to all of the following CUP findings:

That the small hotel:

1. will support the goals of the Local Coastal Plan and OC zone to promote a vital, mixed use neighborhood in the Waterfront comprised of a diversity of land uses;

2. is part of a mixed-use project and in a mixed-use setting within a property having pre-existing legal uses or permitted OC uses;

3. is compatible with the surrounding land uses and OC uses;

4. may include a manager's unit if it is necessary to support the hotel or other improvements on the site;

5. will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;

6. has a sufficient area for the site and has a design for the facilities of an appropriate magnitude in view of the character of the land and in view of the proposed development that significant detrimental impact on surrounding properties is avoided;

7. will provide adequate access and off-street parking in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

8. will have an appearance (in terms of its arrangement, height, scale, and architectural style of the buildings, location of parking areas, landscaping, and other features) which is compatible with the character of the area. (Ord. 5343, 2005.)

28.71.040 Coastal Zone Review.

All development in the Coastal Overlay Zone (S-D-3) is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 5343, 2005.)

28.71.050 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 5343, 2005.)

28.71.060 Building Height Standards.

No building or structure in the OC zone shall exceed three (3) stories nor exceed forty-five (45) feet in height. (Ord. 5343, 2005.)

28.71.070 Lot Area, Frontage, and Outdoor Living Space Requirements.

A. Lot Area and Frontage Requirements. All buildings or portions thereof used for dwelling purposes shall comply with the lot area and frontage provisions of the R-3 Zone.

B. Outdoor Living Space. All buildings or portions thereof used for dwelling purposes shall comply with the outdoor living space provisions of the R-3 zone. (Ord. 5343, 2005.)

28.71.080 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 5343, 2005.)

Chapter 28.72

M-1 LIGHT MANUFACTURING ZONE

Sections:

28.72.001 In General.
28.72.030 Uses Permitted.
28.72.050 Building Height.
28.72.060 Setbacks.
28.72.070 Distance Between Buildings on the Same Lot.
28.72.080 Lot Area and Frontage Requirements.
28.72.130 Development Plan Approval.
28.72.131 Development Potential.

28.72.001 In General.

The following regulations shall apply in the M-1 Light Manufacturing Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 §22, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.030 Uses Permitted.

A. Any use permitted in the C-M Zone subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the M-1 Zone. Furthermore, no building or any portion of a building shall be erected or used as a dwelling except for a caretaker or night watchperson's residence of no more than four hundred (400) square feet of net floor area.

B. Any of the following uses are permitted provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose a hazard to life or property:

1. Agricultural equipment rental.
2. Alcohol and alcoholic beverages manufacture.
3. Assembly plant.
4. Automobile body and fender works, painting and upholstery and automobile laundry.
5. Awning manufacturing.
6. Bag manufacturing.
7. Battery manufacturing and rebuilding.
8. Bedspring manufacturing.
9. Bookbinding.
10. Bottling plant.
11. Brewery.
12. Brush manufacturing.
13. Building materials, new and used.
14. Candle manufacturing.
15. Candy manufacturing.
16. Cannery (except fish and meat products).
17. Cellophane products manufacturing.
18. Cement products manufacturing.
19. Cesspool - pumping, draining, cleaning.
20. Church.
21. Cigar and cigarette manufacturing.
22. Cleaning and dyeing, wholesale.
23. Clock factory.
24. Clothing manufacturing.
25. Coffee roasting.
26. Cold storage plant.
27. Contractor, farming equipment.
28. Cork products manufacturing.
29. Cornice works.
30. Cosmetics manufacturing.
31. Cotton storage.
32. Covenant or monastery, subject to the issuance of a Conditional Use Permit issued under Chapter 28.94 of this Code.
33. Creamery.

34. Dextrine manufacturing.

35. Distribution plant.
36. Dog kennel, boarding, breeding or training.
37. Draying and truck yard or terminal.
38. Drug manufacturing.
39. Educational facility, subject to the issuance of a Conditional Use Permit issued under Chapter 28.94 of this Code.
40. Electrical appliance and equipment manufacturing.
41. Electric utility warehouse and service yard or electric transmission substation.
42. Electronic instruments and devices manufacturing.
43. Feather products, manufacturing or renovation.
44. Felt products manufacturing.
45. Fiber products manufacturing.
46. Fixture manufacturing, gas, electric.
47. Fumigating contractor.
48. Furniture manufacturing.
49. Hay barn.
50. Horn products manufacturing.
51. Ice manufacturing and storage.
52. Ink manufacturing.
53. Insecticides manufacturing.
54. Iron works, ornamental (no casting).
55. Knitting mill.
56. Laboratory for research, testing and experimental purposes.
57. Leather products manufacturing (no tanning).
58. Machinery, farm and repair.
59. Malt products manufacturing.
60. Medicine manufacturing.
61. Metal spinning.
62. Milk pasteurization.
63. Millinery manufacturing.
64. Novelty manufacturing.
65. Packing plant, fruit and vegetables.
66. Paint mixing (no boiling).
67. Paper products manufacturing.
68. Perfume manufacturing.
69. Phonograph manufacturing.
70. Plastic products manufacturing.
71. Plating.
72. Pottery and statuary manufacturing.
73. Produce yard or terminal.
74. Pumping plant.
75. Refrigerating plant.
76. Rope plant.
77. Rubber products manufacturing.
78. Rug manufacturing.
79. Sandpaper manufacturing.
80. Sea shell products manufacturing.
81. Sheet metal products.
82. Starch mixing and bottling.
83. Stone grinding, cutting and dressing.
84. Tool manufacturing (no drop hammer or punch presses).
85. Toy manufacturing.
86. Venetian blind manufacturing.
87. Wood products manufacturing.
88. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. Accessory buildings and accessory uses. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3398, 1957.)

28.72.050 Building Height.

A. Maximum Building Height. Four (4) stories and not to exceed sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 4005 §23, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings, structures and parking: No setback required.
2. Exclusively residential buildings, structures and parking: R-3/R-4 front setback requirement.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.72.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.72.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991)

Chapter 28.73

OM-1 OCEAN-ORIENTED LIGHT MANUFACTURING

Sections:

28.73.010 In General.
28.73.030 Uses Permitted in the OM-1 Zone.
28.73.050 Building Height.
28.73.060 Setbacks.
28.73.070 Distance Between Buildings on the Same Lot.
28.73.080 Lot Area and Frontage Requirements.
28.73.090 Coastal Zone Review.
28.73.131 Development Potential.

28.73.010 In General.

The regulations contained in this Chapter shall apply in the OM-1 Ocean-Oriented Light Manufacturing Zone unless otherwise provided in this Title. This zone strives to provide for appropriate ocean-dependent and-related industrial uses in close proximity to the Harbor/Wharf Complex. The City, while recognizing that buildings existing at the time this Chapter was adopted are allowed to maintain M-1 uses, encourages the establishment of ocean-oriented uses in such buildings in keeping with the policies of the California Coastal Act and the City's Coastal Plan. In addition, this zone is intended to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.030 Uses Permitted in the OM-1 Zone.

A. Any of the following uses provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose a hazard to life or property:

1. Boat sales, storage, construction and/or repair;
2. Marine storage;
3. Public parking lots;
4. Sail manufacturing and repair;
5. Seafood processing and wholesaling;
6. Household hazardous waste collection facility as defined in Section 28.04.405 of this Title.
7. Other ocean-related uses deemed appropriate by the Planning Commission.

B. Any use other than those permitted in Subsection 28.73.030.A above and permitted in the M-1 Zone subject to the restrictions and limitations contained therein and issuance of a Conditional Use Permit. A Conditional Use Permit may be granted by the Planning Commission or City Council on appeal, for such uses in the OM-1 Zone in accordance with the provisions of Chapter 28.94 of this Code, subject to the following additional findings:

1. The use is compatible with ocean-dependent or ocean-related uses; and

2. The property would have no feasible economic value if limited to ocean-dependent or ocean-related uses. This finding shall be substantiated by competent evidence determined by the Planning Commission to be objective which includes no present or future demand for ocean-dependent or ocean-related uses.

C. Structures in existence or developments which have a valid and unexpired approval from the Coastal Commission on the effective date of this Sub-section may be used for all uses permitted in the M-1 Zone.

D. Wastewater/sanitation treatment facilities and other essential public service facilities owned and operated by the City of Santa Barbara. (Ord. 5459, Section 3, 2008; Ord. 4825, 1993; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories, nor shall any building exceed a height of sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or, a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.060 Setbacks.

Setback requirements shall be the same as those provided for the M-1 Zone, Chapter 28.72 of this Code. (Ord. 5459, 2008; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.070 Distance Between Buildings on the Same Lot.

Restrictions shall be the same as those provided for the M-1 Zone, Chapter 28.72 of this Code. (Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.080 Lot Area and Frontage Requirements.

Restrictions shall be the same as those provided for the M-1 Zone, Chapter 28.72 of this Code. (Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.090 Coastal Zone Review.

All development in the Coastal Overlay Zone is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

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Chapter 28.75

HWMF HAZARDOUS WASTE MANAGEMENT FACILITY OVERLAY ZONE

Sections:

28.75.001	**In General.**	**28.75.050**	**Building Height.**
28.75.005	**Legislative Intent.**	**28.75.060**	**Setbacks.**
28.75.010	**Procedures.**	**28.75.070**	**Distance Between Buildings on the Same Lot.**
28.75.013	**Findings.**	**28.75.100**	**Parking Requirements.**
28.75.025	**Action.**	**28.75.128**	**Termination of HWMF Overlay Zone Classification.**
28.75.030	**Uses Permitted in the HWMF Overlay Zone.**	**28.75.130**	**Development Potential.**
28.75.045	**Project Development Standards.**		

28.75.001 In General.

Land classified in a HWMF Overlay Zone shall also be classified in a C-M, M-1, or OM-1 Zone and the following regulations shall apply in the HWMF Overlay Zone unless otherwise provided in this Chapter.

Land areas approved for Hazardous Waste Management Facilities in accordance with this Chapter shall be shown on the Official Zoning Map by the symbol "HWMF". (Ord. 4825, 1993.)

28.75.005 Legislative Intent.

The purpose and intent of this overlay zone is to provide a mechanism for the siting of specified off-site hazardous waste management facilities and to ensure that such facilities are sited consistent with the requirements of the Hazardous Waste Management Plan adopted by Chapter 22.05 of Title 22 of this Code, the base zone over which the HWMF Overlay Zone is applied and the existing and future uses in the area surrounding such facilities. (Ord. 4825, 1993.)

28.75.010 Procedures.

A. The procedure for establishing a Hazardous Waste Management Facility Overlay Zone in combination with one of the underlying zones listed in Section 28.75.001 of this Chapter shall be the same as set forth under Zone Changes in Chapter 28.92 of this Title, except as otherwise outlined in this Chapter.

B. If a development plan is required for a hazardous waste management facility, it shall be processed as outlined in Chapter 28.85, concurrently with the request for the HWMF Overlay Zone as required above. In addition, a Conditional Use Permit in accordance with the provisions of Title 28, Chapter 28.94, shall be required and shall be processed concurrently with the request for the HWMF Overlay Zone change as required above.

C. In addition to the application requirements for a zone change, development plan, conditional use permit and any other necessary applications for land use permits, an application for uses in the HWMF Overlay Zone shall include:

1. An evaluation of the consistency of the proposed project with the siting criteria for offsite hazardous waste management facilities set forth in the Hazardous Waste Management Plan.
2. An evaluation of alternative sites for the project.
3. Map(s) showing the area within a half-mile radius of the project site which indicate:
   a. All dwelling units and other sensitive land uses such as schools, hospitals, convalescent hospitals, rest homes, day care facilities, libraries, parks, etc.;
   b. Other buildings and structures;
   c. Environmentally sensitive areas;
   d. Location of major highways and access routes;
   e. Available emergency services; and
   f. All significant topographic features.
4. Map(s) showing the area within a quarter-mile radius of the project site which indicate:
   a. All sanitary sewer systems;
   b. All storm drains; and
   c. The prevailing wind direction.
5. Information on the types and maximum and average expected quantities of wastes proposed to be stored, treated or transferred by the facility and the physical and chemical characteristics of those wastes.
6. A Risk Assessment that estimates the level of risk to human health and the environment. Sufficient detail shall be provided so that decision-makers have an adequate basis from which to consider alternatives. The Risk Assessment shall include, but not be limited to, the following items:
   a. The use of worst case incident scenarios;

b. The identification of the maximum volumes expected of different classes or types of hazardous materials or wastes;

c. The identification of physical and chemical characteristics of the wastes that will be handled;

d. A discussion of the size and composition of any residential or populated areas nearby and the potential for impacting these areas;

e. An evaluation of potential impacts to air quality, water resources, crops, vegetation and wildlife;

f. An evaluation of the project's effect on immobile populations;

g. An analysis of emergency response capabilities;

h. An evaluation of emissions from routine operations;

i. The evaluation of different transportation options; and

j. A discussion of the proposed detection and monitoring systems, auditing and inspection programs and other risk reduction controls with regard to protection of human health and the environment.

7. A preliminary Risk Management Prevention Plan (RMPP) if such RMPP is required by reason of Section 65850.2 of the Government Code.

8. A preliminary emergency response plan that addresses the potential actions to be taken in the event of a release or a threatened release of a hazardous waste.

9. Measures or plans to ensure site security.

10. Analysis of depth to groundwater.

11. Data needed to evaluate need for the hazardous waste management facility as identified by Policy 2-1 of the Hazardous Waste Management Plan, including but not limited to, data from the state manifest records, data from the Santa Barbara County Department of Environmental Health Services, other current data and any intergovernmental agreements into which the County of Santa Barbara has entered.

12. A site characterization and geotechnical investigation which evaluates geologic hazards and other disaster potential. This shall include, but not be limited to, assessment of soils, faults, slopes, landslide potential, ground and surface waters and floods.

13. Traffic, circulation and parking demand study.

14. Architectural and visual analysis which shows how the project will be designed to protect public views and to be compatible with the neighborhood.

15. An assessment of the project's expected demand for water, sewer and energy including availability of the required resources and any conservation measures incorporated into the project design.

16. A closure and post-closure plan detailing measures to be taken to restore, evaluate and monitor conditions at the site at the time the applicant or successor owners/operators cease operation of the hazardous waste management facility, to ensure the elimination of any adverse environmental condition related to the operation of the facility or any condition which could pose a hazard to human health, affect community welfare, or which could affect existing or potential development in the vicinity. The plan will include demonstration of binding commitments to guarantee implementation of the plan. The adequacy of the plan will be determined by the Director of the Community Development Department.

17. An analysis of the project's potential fiscal impact on the City and any other affected jurisdictions along with financial assurances that show that the operator has included a funding system that will cover the costs of construction, operation, emergency, closure and post-closure cleanup and monitoring.

18. Any other information that the Community Development Department deems necessary to evaluate and process the application.

(Ord. 5609, 2013; Ord. 4825, 1993.)

28.75.013 Findings.

In addition to the findings required for the approval of rezones, development plans, conditional use permits and any other necessary approvals, no rezone to the HWMF Overlay Zone shall be approved unless the City Council, upon the recommendation of the Planning Commission, also makes the following findings:

A. The hazardous waste management facility is consistent with the Hazardous Waste Management Plan.

B. There is a need for the offsite treatment, storage or transfer hazardous waste management facility as determined pursuant to Policy 2-1 of the Hazardous Waste Management Plan.

C. The rezone and/or proposed facility is consistent with the siting criteria for offsite hazardous waste management facilities set forth in the Hazardous Waste Management Plan and with the development standards set forth in Section 28.75.045 below.

D. A risk assessment has been prepared for the rezone and/or development plan which adequately evaluates the risks to human health and safety and the environment under both routine operations and upset conditions.

E. The risks to human health and the environment have been minimized to the maximum extent feasible and the remaining risks are considered acceptable.

F. The facility will be operated using the best feasible hazardous waste management technologies.

G. The significant environmental impacts have been addressed as required under the provisions of the California Environmental Quality Act of 1970, as amended from time to time.

H. The proposed facility is consistent with the City General Plan in that the facility is in an area designated by the General Plan and zoned for industrial use and the area is substantially developed with other industrial facilities which are served by the same transportation routes as the proposed facility. In addition, the land uses authorized in the General Plan and by zoning in the vicinity of the project are compatible with the project.

I. The proposed facility is within reasonable proximity to industrial facilities which produce or treat hazardous waste on-site as outlined in the Hazardous Waste Management Plan.

J. The alternative locations for the proposed facility, as identified in the environmental impact report for the project and in the Hazardous Waste Management Plan, have been adequately considered in determining the location chosen for the facility.

K. A closure and post-closure plan has been submitted which adequately describes and guarantees implementation of measures to be taken to restore, evaluate and monitor conditions at the site upon cessation of operations, to ensure elimination of adverse environmental conditions and potential hazards to human health and other effects.

L. The project will not create a financial burden for the City or the County.

M. The proposed facility operator has demonstrated financial responsibility for the operation, monitoring, closure and post-closure requirements of the facility. (Ord. 4825, 1993.)

28.75.025 Action.

In addition to the application and public hearing process required by this Title for any change of zone, conditional use permit, development plan or other land use permit, offsite hazardous waste management facilities are subject to the procedures outlined in Article 8.7 (commencing with Section 25199.1) of the California Health and Safety Code, including, but not limited to, the following:

A. NOTICE OF INTENT. At least 90 days before filing an application for the addition of a HWMF Overlay Zone to a property and for a Conditional Use Permit for an offsite hazardous waste management facility and, if necessary, a coastal development permit and/or development plan approval with the City, the applicant shall file a Notice of Intent to make such application with the Office of Permit Assistance in the Governor's Office of Planning and Research and with the City of Santa Barbara. The Community Development Department shall publish a notice in a newspaper of general circulation in the City, shall post notices in the location where the proposed project is located and shall notify, by direct mailing, the owners of all property within four hundred and fifty (450) feet of the proposed project, as shown on the latest equalized assessment roll. The Notice of Intent is not transferable to a location other than the location specified in the notice and shall remain in effect for one (1) year from the date it is filed with the City or until it is withdrawn by the applicant, whichever is earlier. The Notice of Intent filed with the City shall include the following:

1. A complete description of the nature, function and scope of the project.

2. Labels containing the names, addresses and assessor's parcel numbers of all property owners within four hundred and fifty (450) feet of the affected parcel, as shown in the latest equalized assessment roll.

3. A fee to cover the costs of processing the Notice of Intent and carrying out the required notification procedures, as adopted by a resolution of the City Council.

B. PUBLIC INFORMATION MEETING. Within ninety (90) days of filing a Notice of Intent with the Office of Permit Assistance, the Office shall convene a public meeting in the City of Santa Barbara in order to inform the public of the nature, function and scope of the proposed offsite hazardous waste management facility project and the procedures that are required for approving applications for such projects.

C. SELECTION AND COSTS OF LOCAL ASSESSMENT COMMITTEE. The City Council shall appoint a seven (7) member Local Assessment Committee to advise it in considering an application for an offsite hazardous waste management facility, subject to the following requirements:

1. The Local Assessment Committee shall be appointed not later than thirty (30) days after the application for an offsite hazardous waste management facility is accepted as complete by the Community Development Department.

2. A fee adequate to cover the costs of establishing and convening the Local Assessment Committee, as adopted by a resolution of the City Council, shall be paid by the applicant at the time the application is submitted.

3. The committee shall be broadly constituted to reflect the makeup of the community and shall include three (3) representatives of the community at large, two (2) representatives of environmental or public interest groups and two (2) representatives of affected businesses or industries. Members of the committee shall have no direct financial interest, as defined in Section 87103 of the Government Code, in the proposed offsite hazardous waste management facility.

D. DUTIES OF LOCAL ASSESSMENT COMMITTEE. The Local Assessment Committee shall, as its primary function, advise the City Council of the terms and conditions under which the proposed offsite hazardous waste management facility project may be acceptable to the community. To carry out this function, the Committee shall do all of the following:

1. Enter into a dialogue with the applicant to reach an understanding with the applicant on both of the following:

a. The measures that should be taken by the applicant in connection with the operation of the proposed offsite hazardous waste management facility to protect the public health, safety and welfare and the environment of the City.

b. The special benefits and remuneration the facility applicant will provide the City as compensation for the local costs associated with the facility.

2. Represent generally, in meetings with the project applicant, the interests of the residents of the City and the residents of adjacent communities.

3. Receive and expend any technical assistance grants made available pursuant to Subsection H of this Section.

4. Adopt rules and procedures which are necessary to perform its duties.

5. Advise the Planning Commission and City Council of the terms, provisions and conditions for project approval which have been agreed upon by the Committee and the project applicant, and any other information the Committee deems appropriate. The Planning Commission and City Council may use this advice for their independent consideration of the project.

6. The City Council shall assure that staff resources are provided to assist the Local Assessment Committee in performing its duties.

E. TERM OF THE LOCAL ASSESSMENT COMMITTEE. A Local Assessment Committee established pursuant to this Section shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications for the project for which the Committee was convened.

F. NOTIFICATION OF THE OFFICE OF PERMIT ASSISTANCE AND SCHEDULING OF PUBLIC HEARING. The Community Development Department shall notify the Office of Permit Assistance within ten (10) days after the application for an offsite hazardous waste management facility is accepted as complete by the City. Within sixty (60) days after receiving such notice, the Office of Permit Assistance shall convene a meeting of the lead and responsible agencies for the project, the project applicant, the Local Assessment Committee and the interested public, for the purpose of determining the issues which concern the agencies that are required to approve the project and the issues which concern the public.

G. LOCAL ASSESSMENT COMMITTEE MEET AND CONFER. Following the public hearing required in Subsection F. of this Section, the project applicant and the Local Assessment Committee shall meet and confer on the offsite hazardous waste management facility proposal for the purpose of establishing the terms and conditions under which the project will be acceptable to the community.

H. TECHNICAL ASSISTANCE GRANTS. If the Local Assessment Committee finds that it requires assistance and independent advice to adequately review a proposed offsite hazardous waste management facility project, it may request technical assistance grants from the City Council to enable the Committee to hire a consultant.

1. The Committee may use technical assistance grant funds to hire a consultant to do either, or both, of the following:

a. Assist the Committee in reviewing and evaluating the application for the project, the environmental document prepared for the project and any other documents, materials and information that are required by the City and responsible agencies in connection with the application.

b. Advise the Committee in its meetings and discussions with the facility applicant to seek agreement on the terms and conditions under which the project will be acceptable to the community.

2. The City shall require the applicant for the proposed offsite hazardous waste management facility to pay a fee equal to the amount of any technical assistance grant provided the Committee under Paragraph 1 of this Subsection. The funds received as a result of the imposition of the fee shall be used to make technical assistance grants exclusively for the purposes described in Paragraph 1 of this Subsection.

3. The City shall deposit any fee imposed pursuant to Paragraph 2 of this Subsection in the City treasury, maintain records of all expenditures from the account and return any unused funds and accrued interest to the project applicant upon completion of review of the proposed project.

I. FAILURE TO RESOLVE DIFFERENCES. If the Local Assessment Committee and the project applicant cannot resolve any differences through their meetings, the Office of Permit Assistance may assist in this resolution pursuant to Health and Safety Code Section 25199.4.

J. APPEAL OF DECISION OF CITY COUNCIL. A decision of the City Council to approve or deny an application for an offsite hazardous waste management facility may be appealed to the Governor of the State of California or the Governor's designee pursuant to Health and Safety Code Sections 25199.9, 25199.10, 25199.11 or 25199.13, as appropriate.

(Ord. 4825, 1993.)

28.75.030 Uses Permitted in the HWMF Overlay Zone.

A. Any use permitted in the underlying zone classification, except residential use.
B. Offsite Hazardous Waste Management Facilities including:
1. Hazardous Waste Transfer Station.
2. Hazardous Waste Storage Facility.
3. Hazardous Waste Treatment Facility.
4. Hazardous Waste Recycling Facility.
C. Hazardous Waste Residual Repositories are prohibited within the incorporated limits of the City of Santa Barbara. (Ord. 4825, 1993.)

28.75.045 Project Development Standards.

A. A buffer adequate to protect the public health and safety and environmentally sensitive areas shall be established. The size and location of the buffer shall be based upon a thorough assessment of the risk to human health and the environment.
B. All offsite hazardous waste management facilities shall be designed and constructed so as to contain spills, leaks and other accidental releases of waste. Containment shall provide protection to air quality and surface and groundwater resources and shall be based on a site characterization and geologic report.
C. All offsite hazardous waste management facilities shall use public services.
D. Offsite hazardous waste management facilities shall include measures for adequate site security.
E. Offsite hazardous waste management facilities shall be visually compatible with existing and anticipated surrounding land uses.
F. No noxious odors associated with an offsite hazardous waste management facility shall be detectable at or beyond the property boundary.
G. The level of noise generated by facility operation at the property boundary shall not exceed 65 dB(A).
H. All offsite hazardous waste management facilities shall comply with Santa Barbara County Air Pollution Control District rules and regulations and shall be consistent with the Air Quality Attainment Plan.
I. Project construction shall include mitigation of construction impacts including, but not limited to, dust suppression, emissions controls, sedimentation controls and restricted construction hours.
J. Grading and alteration of natural drainages shall be minimized and adequate provisions shall be made to prevent erosion and flood damage.
K. A monitoring system to measure offsite impacts including, but not limited to, noise, odors, vibration and air and water quality degradation shall be in operation throughout the construction, operation, closure and post-closure of the facility.
L. All outside lighting shall be shielded and no unobstructed beam of light shall shine off the premises. In addition, lighting shall not draw attention to the facility. All lighting shall be of an overall level and type compatible with surrounding uses. (Ord. 4825, 1993.)

28.75.050 Building Height.

Building height shall be subject to the same height limitation as that found in the underlying zone. (Ord. 4825, 1993.)

28.75.060 Setbacks.

Required setbacks shall be subject to the same limitations as those found in the underlying zone, except as outlined by Section 28.75.045 above. (Ord. 5459, 2008; Ord. 4825, 1993.)

28.75.070 Distance Between Buildings on the Same Lot.

Distance between buildings on the same lot shall be subject to the same limitations as those found in the underlying zone, unless a greater distance between buildings is determined to be necessary during review of the project. (Ord. 4825, 1993.)

28.75.100 Parking Requirements.

Parking shall be provided in accordance with Chapter 28.90 of this Code. (Ord. 4825, 1993.)

28.75.128 Termination of HWMF Overlay Zone Classification.

Any ordinance amendment establishing a HWMF Overlay Zone classification under this Chapter shall terminate and the affected property shall automatically revert to the district classification represented by the basic symbol if the conditional use permit, coastal development permit, development plan approval and/or other land use permit expire. (Ord. 4825, 1993.)

28.75.130 Development Potential.

Notwithstanding any provision of law to the contrary, nonresidential construction must comply with Chapter 28.85 and no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4825, 1993.)

Chapter 28.78

MOBILEHOME AND PERMANENT RECREATIONAL VEHICLE PARK CONVERSION REGULATIONS

Sections:

28.78.010 Permit Required for Conversion of Mobilehome and Permanent Recreational Vehicle Parks; Conversion Defined.
28.78.020 Issuance of Conversion Permits.
28.78.030 Physical Standards for Conversion of Mobilehome and Permanent Recreational Vehicle Parks to Condominiums or Over-night Recreational Vehicle Parks.
28.78.040 Application Requirements for Conversion Permits.
28.78.050 Acceptance of Reports.
28.78.060 Public Hearing.
28.78.070 Findings - Mobilehome and Permanent Recreational Vehicle Park Conversion Permit.

28.78.010 Permit Required for Conversion of Mobilehome and Permanent Recreational Vehicle Parks; Conversion Defined.

A. PERMIT REQUIRED. No person, firm, corporation, partnership or other entity shall convert the use of any existing mobilehome park or permanent recreational vehicle park without first having said conversion tentatively approved by the Planning Commission, or the City Council on appeal, and having been issued a conversion permit by the Chief of Building and Zoning.

B. CONVERSION DEFINED. For purposes of this Chapter, "conversion" shall mean use of a mobilehome or permanent recreational vehicle park or a portion of a mobilehome or permanent recreational vehicle park for a purpose other than the rental, or the holding out for rent, of two (2) or more mobilehome or recreational vehicle spaces to accommodate mobilehomes or recreational vehicles and shall not mean the adoption, amendment or repeal of a park rule or regulation. "Conversion" may affect an entire park or any portion thereof, and such "conversion" shall include, but is not limited to, a conversion of a park or any portion thereof to a condominium, stock cooperative, residential development, commercial use, office use, manufacturing use or vacant land. Any conversion to condominiums shall be subject to Sections 28.88.050, 28.88.060, 28.88.070, 28.88.080, 28.88.090 and Section 28.88.100 of this Title, in addition to the provisions of this Chapter. For the purposes of this Chapter, condominiums shall be deemed to include community apartments and stock cooperatives. (Ord. 4269, 1984.)

28.78.020 Issuance of Conversion Permits.

A. CRITERIA. The Chief of Building and Zoning shall issue a conversion permit when he determines that:

1. The applicant has complied with all the applicable City, state and federal laws and regulations in effect at the time that the conversion was approved; and
2. The applicant has complied with all of the conditions of approval.

B. REVOCATION. Once issued, the conversion permit may be revoked if the applicant or his successors in interest fails to comply with the conditions of approval or other applicable laws.

C. EXPIRATION. For a conversion involving a subdivision, a tentative conversion approval shall expire when the tentative subdivision map expires. For a conversion not involving a subdivision a tentative approval shall expire after the same period of time as if it were a project requiring a tentative subdivision map. (Ord. 4269, 1984.)

28.78.030 Physical Standards for Conversion of Mobilehome and Permanent Recreational Vehicle Parks to Condominiums or Overnight Recreational Vehicle Parks.

A. STANDARDS. In order to convert the use of a mobilehome or permanent recreational vehicle park to mobilehome or recreational vehicle condominiums, said park shall be brought up to the standards for construction of new mobilehome or permanent recreational vehicle parks as established in Section 28.94.040 and 28.94.045 of this Code. In cases where (i) the applicant can demonstrate that the standards cannot or should not reasonably be met, and (ii) 75% of the current residents of an applicant's park have expressed a written intent to purchase the park from the applicant, said standards may be waived or modified by the Planning Commission.

B. CONVERSION. In order to convert the use of a mobilehome or permanent recreational vehicle park to an overnight recreational vehicle park, said overnight recreational vehicle park shall meet all standards required by Section 28.94.050 of this Code. (Ord. 4269, 1984.)

28.78.040 Application Requirements for Conversion Permits.

In addition to such other application requirements as the Planning Commission may deem necessary, no application for a conversion permit shall be accepted for any purpose unless it includes the following:

A. CONCEPT PLAN. A written statement and concept plan indicating the use the park site is intended to accommodate, including the approximate number of proposed residential units, if any; approximate square footage and use of any buildings proposed; and the probable impacts/benefits to the community created by the proposed project.

B. SITE PLAN. A site plan of the existing mobilehome or permanent recreational vehicle park showing all existing mobilehome and recreational vehicle spaces, identified by number and indicating whether the space is currently occupied.

C. RESIDENTS LIST. A list of the names and addresses of all residents of the mobilehome or permanent recreational vehicle park.

D. IMPACT REPORT. A report on the housing and financial impacts of the removal of the mobilehomes and recreational vehicles upon all displaced residents. The report shall include but not be limited to the following six items except where the applicant can demonstrate that such is not available.

1. Rental rate history for each space for the previous five (5) years;
2. Monthly vacancy rate for each month during the preceding two years;
3. Makeup of existing resident households, including family size, length of residence, age of residents, estimated household income, and whether receiving federal or state rent subsidies;
4. The date of manufacture and size of each mobilehome and recreational vehicle in the park;
5. A list of those mobilehomes or recreational vehicles that cannot qualify for relocation to another park within reasonable proximity to the City; and
6. A statement of availability and location of equivalent replacement space in mobilehome or recreational vehicle parks within reasonable proximity to the City.

E. RELOCATION ASSISTANCE PLAN. A relocation assistance plan shall be prepared by the applicant which states all measures proposed by the applicant to mitigate any identifiable adverse impacts of the conversion on the displaced permanent residents of the mobilehome or permanent recreational vehicle park. Every relocation assistance plan shall provide, at a minimum, that displaced permanent residents will be provided relocation benefits equal to those required by Section 28.88.100 of this Code. A permanent resident (a) is a person (i) for whom the unit he owns is his sole residence, or (ii) who has rented the mobilehome or recreational vehicle for a period of at least nine consecutive months, and (b) does not include a person who has resided in the park for one year or less prior to the date of application for the conversion permit, provided the person was given written notice of the owner's intention to convert prior to agreeing to reside in the park.

F. EVIDENCE OF NOTICE. The applicant shall submit evidence that a notice of intent to convert was delivered to each resident for whom a signed copy of said notice is not submitted.

G. OTHER INFORMATION. Any other information which, in the opinion of the Community Development Department, will assist in determining whether the proposed project will be consistent with the purpose and intent of this Chapter. (Ord. 4269, 1984.)

28.78.050 Acceptance of Reports.

The housing and financial impact report, the relocation assistance plan, the notice of intent to convert, and other documents shall not be deemed filed until approved in writing by the Community Development Department. (Ord. 4269, 1984.)

28.78.060 Public Hearing.

A. NOTICE OF INTENT. A notice of intent to convert the use of the park shall be delivered to each resident's dwelling unit a minimum of sixty (60) days prior to submittal of an application to convert the use. Evidence of delivery shall be submitted with the application for conversion. The form of the notice shall be as approved by the Community Development Department and shall inform the resident of the following:

1. Name and address of current owner;
2. Name and address of the applicant;
3. Approximate date on which the application for the conversion is to be filed;
4. Anticipated date on which the conversion permit is to be issued;
5. Approximate date on which the space is to be vacated by the resident;
6. Provisions for special cases;
7. Each resident will receive notice for each hearing and right to appear and be heard at any such hearing;
8. Each resident will receive a copy of the housing and financial impact report and relocation assistance program; and
9. Other information as may be deemed necessary by the Community Development Department.

B. RESIDENT NOTICE. Prior to the approval, the Planning Commission shall hold a public hearing. Notice of the hearing shall be mailed at least ten (10) days prior to the hearing date to the affected residents and conspicuously posted on the parcel. The public hearing notice shall describe the general nature of the application, and include notice of time and place of the public hearing, and notification of the residents' rights to attend and to be heard.

C. STAFF REPORT. Any report or recommendation on a proposed conversion of a mobilehome or permanent recreational vehicle park by the Staff to the Planning Commission shall be in writing and a copy shall be sent to the applicant and to each resident of the subject park at least three (3) days prior to any hearing or action on such conversion by the Planning Commission.

D. IMPACT REPORT AND RELOCATION ASSISTANCE PLAN. A copy of the housing and financial impact report and relocation assistance plan shall be delivered to each permanent resident, as defined in Section 28.78.040E, of the subject mobilehome or permanent recreational vehicle park by the applicant a minimum of fifteen (15) days prior to the public hearing and evidence of delivery shall be submitted to the Community Development Department. (Ord. 4269, 1984.)

28.78.070 Findings - Mobilehome and Permanent Recreational Vehicle Park Conversion Permit.

The Planning Commission shall not approve an application for the conversion of a mobilehome or permanent recreational vehicle park unless the Planning Commission finds that:

A. All provisions of this Chapter are met and the issuance of the conversion permit will not be detrimental to the health, safety and general welfare of the City. In making this finding, the Planning Commission shall not consider the impact of the conversion on the City's affordable housing stock.

B. With respect to conversions of an existing park to a mobilehome or recreational vehicle subdivision, that the benefits to be derived from providing increased low-to-moderate cost home ownership opportunities outweigh the loss of rental housing opportunities.

C. In the case of conversion to condominiums, the proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time of approval, except as otherwise provided in this Chapter.

D. The park owner has made reasonable efforts to prepare a relocation assistance program which (i) mitigates any significant adverse impact on the ability of displaced permanent mobilehome or permanent recreational vehicle park residents to find adequate space in a mobilehome or permanent recreational vehicle park, or (ii) in the event such a space is not available, provides other reasonable and comparable relocation assistance, and there are sufficient assurances that the measures in the program will be implemented.

E. In a park where the majority of permanent residents have incomes at or below low and moderate levels, as defined by the federal government and as established by the most recently filed federal income tax returns or some other document deemed acceptable by the Community Development Department, the Redevelopment Agency for the City of Santa Barbara has been offered the right to purchase the mobilehome or recreational vehicle park at fair market value, as determined by an independent real property appraiser selected by the Agency, and has declined the offer or has failed to act on the offer within one hundred eighty (180) days of the park owner's mailing to the Agency a "Notice of Intent to Convert". This finding may be waived where the applicant can demonstrate, to the satisfaction of the Planning Commission or City Council on appeal, that the applicant has made reasonable efforts to obtain necessary income information from a majority of the permanent residents in the park and has been unable to do so.

F. The applicant has not engaged in coercive action toward the residents, such as an unreasonable rent increase, after submission of the first application for City review through the date of approval. In making this finding, consideration may be given to:

1. Rent increases at a rate greater than the rate of increase in the Consumer Price Index (Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach-Anaheim Average, all items, as published by U.S. Bureau of Labor Statistics) unless provided for in leases or contracts in existence prior to the submittal of the first application for City review, and

2. Any other action by the applicant which is taken against residents to coerce them to refrain from opposing the issuance of the conversion permit including, but not limited to, any violation of Chapter 26.04 of this Code. An agreement with residents which provides for benefits to the residents after the approval shall not be considered coercive action.

G. That all notice requirements of the City and the state have been met.

H. All permanent buildings shall, on the date of change of use, be in compliance with the exit and occupancy requirements and the height and area requirements for the type of construction and occupancy involved as required by the California Building Code as adopted and amended by the City, and other applicable laws. (Ord. 5451, Section 5, 2008; Ord. 4275, 1984; Ord. 4269, 1984; Ord. 3710, 1974, Ord. 2763, 1960; Ord. 2585, 1957.)

Chapter 28.79

EMERGENCY SHELTER REGULATIONS

Sections:

28.79.010 Use Permitted.
28.79.020 Development and Management Standards.

28.79.010 Use Permitted.

An emergency shelter, as defined in SBMC Section 28.04.273, is a permitted use in the C-M Zone subject to the development and management standards specified in Section 28.79.020. Notwithstanding any other provision within this Title 28, without the approval of a conditional use permit pursuant to Chapter 28.94, an emergency shelter is not a permitted use in any other zone of the City. (Ord. 5662, 2014.)

28.79.020 Development and Management Standards.

In addition to all other development standards generally applicable within the zone in which the emergency shelter is located, an emergency shelter shall comply with the following development and management standards:

A. Capacity. An emergency shelter located within the C-M Zone may provide a maximum of 100 beds and shall serve no more than 100 homeless persons per night.

B. Length of Stay. A resident of an emergency shelter shall not reside in the emergency shelter for more than 180 consecutive nights.

C. Intake/Waiting Area. An emergency shelter shall provide at least 10 square feet of interior intake and waiting space per bed. Intake and waiting areas shall be located within the building.

D. Outdoor Area/Activity. Outdoor gathering areas shall be screened from the public right-of-way and adjacent properties. An emergency shelter shall not allow prospective residents to queue on the public right-of-way or parking areas.

E. Parking. An emergency shelter shall provide the following parking:

1. One parking space for every 8 beds; and
2. One covered and secure bicycle parking space for every 4 beds.
3. Exceptions. An emergency shelter may propose fewer parking spaces if the emergency shelter can demonstrate by a parking study that the proposed parking will satisfy the anticipated parking demand for the project to the satisfaction of the Public Works Transportation Planning Division. In any case, the required parking for an emergency shelter shall not be more than that which is required for similar residential or commercial uses within the zone.

F. Lighting. Subject to compliance with the Lighting Ordinance (SBMC Chapter 22.75), adequate external lighting shall be provided on-site in order to maintain a safe and secure environment.

G. Concentration of Uses. No emergency shelter or homeless shelter shall be permitted within 300 feet of another emergency shelter or homeless shelter. The distance between shelters shall be measured in a straight line without regard to intervening structures or objects from the nearest point on the property line of one shelter to the nearest point on the property line of the other.

H. On-Site Management. On-site management shall be present at all times that the shelter is in operation. A Management Plan for the operation of the emergency shelter must be submitted with the master application and shall be subject to approval by the Community Development Department Director. As appropriate, the Management Plan shall address:

1. Hours of operation
2. On-site management and security procedures
3. Neighborhood relations and communication
4. Cooking and dining facilities (for residents only)
5. Shower and laundry facilities (for residents only)
6. Smoking areas and policies
7. Outdoor gathering areas and policies

I. Ability to Pay. No individual or household may be denied emergency shelter due to an inability to pay. (Ord. 5662, 2014.)

Chapter 28.80

MEDICAL CANNABIS DISPENSARIES

Sections:

28.80.010 Purpose and Intent.
28.80.020 Definitions.
28.80.030 Storefront Collective Dispensary - Permit Required to Operate.
28.80.040 Imposition of Medical Marijuana Storefront Collective Dispensary Permit Fees.
28.80.050 Limitations on the Permitted Location of a Storefront Collective Dispensary.
28.80.060 Storefront Collective Dispensary – Permit Application Requirements.
28.80.070 Criteria for Review of Collective Dispensary Applications by the City Staff Hearing Officer.
28.80.080 Ongoing Management Requirements for Medical Marijuana Storefront Collective Dispensaries.
28.80.090 City Access to and Inspection of Required Storefront Collective Dispensary Records.
28.80.100 Sale, Distribution, or Exchange of Medical Marijuana with a Non-Medical Marijuana Collective Member.
28.80.110 Appeal from Staff Hearing Officer Determination.
28.80.120 Suspension and Revocation by Staff Hearing Officer.
28.80.130 Transfer of Collective Dispensary Permits.
28.80.140 Medical Marijuana Vending Machines.
28.80.150 Business License Tax Liability.

28.80.010 Purpose and Intent.

It is the purpose and intent of this Chapter to regulate the storefront distribution of medical marijuana in order to ensure the health, safety, and welfare of the residents of the City of Santa Barbara. The regulations in this Chapter, in compliance with the State Compassionate Use Act of 1996 and the State Medical Marijuana Program Act ("the SB 420 statutes"), are not intended and do not interfere with a patient's right to use medical marijuana as authorized under the Compassionate Use Act or the SB 420 statutes, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under the Compassionate Use Act. Under the Compassionate Use Act of 1996 and the SB 420 statutes, only qualified patients, persons with identification cards, and primary caregivers may legally cultivate medical marijuana collectively and provide it to qualified patients or persons with identification cards. Therefore, medical marijuana collectives within the City which choose to operate storefront dispensary locations must comply with all provisions of the Santa Barbara Municipal Code ("SBMC") for obtaining a permit for the storefront dispensary as well as complying with the Compassionate Use Act, the SB 420 statutes, and all other applicable local and state laws. Nothing in this Chapter purports to permit activities that are otherwise illegal under federal, state, or local laws. (Ord. 5526, 2010.)

28.80.020 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

A. Applicant. A person who is required to file an application for a Medical Marijuana Storefront Collective Dispensary permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other dispensary operator, Management Member, employee, or agent of a Medical Marijuana Storefront Collective Dispensary.

B. Drug Paraphernalia. As defined in California Health and Safety Code Section 11014.5, and as may be amended from time to time.

C. Identification Card. As defined in California Health and Safety Code Section 11362.71, and as may be amended from time to time.

D. Management Member. A Medical Marijuana Collective member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a Collective including, but not limited to, members who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the Collective.

E. Medical Marijuana Storefront Collective Dispensary or Storefront Collective Dispensary. An incorporated or unincorporated association which is composed of four (4) or more Qualified Patients and their designated Primary Caregivers who associate at a particular location or Property within the City in order to collectively or cooperatively cultivate marijuana for medical purposes and who, acting through Management Members, distribute the collectively-cultivated medical marijuana to the members of their Collective at a storefront dispensary located within a nonresidential zone of Santa Barbara, all in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5) and Health and Safety Code sections 11362.7 through 11362.9. For the purposes of this Chapter, the term "Medical Marijuana cooperative" (or "cooperative") shall have the same meaning as a "Medical Marijuana collective" (or a "collective"), and the term "cooperative" shall have the definition and formation requirements established for it by state law.

A Storefront Collective Dispensary shall not include the dispensing of medical marijuana by primary caregivers to qualified patients in the following locations so long as the location and operation of the clinic, health care facility, hospice, or residential care facility is otherwise permitted by the Municipal Code and is operated in the manner required by applicable state laws:

1. a clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code,
2. a health care facility licensed pursuant to Chapter Two of Division 2 of the state Health and Safety Code,
3. a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the state Health and Safety Code,
4. residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code,
5. a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code,

provided that any such clinic, health care facility, hospice or residential care facility also fully complies with applicable laws including, but not limited to, the Compassionate Use Act of 1996 and the SB 420 statutes.

F. Permittee. The Management Member or Members identified to the City by an Applicant as such, and to whom a City Storefront Collective Dispensary permit has been issued, and someone who also qualifies as a primary caregiver.

G. Person with an Identification Card. A person as described in California Health and Safety Code Section 11362.71 through 11362.76, and as amended from time to time.

H. Physician. A licensed medical doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

I. Primary Caregiver. A person as defined and described in either subdivision (d) or (e) of California Health and Safety Code Section 11362.7 as it may be amended from time to time.

J. Property. The location or locations within the City at which Medical Marijuana Collective members and Management members associate to collectively or cooperatively cultivate or to distribute Medical Marijuana exclusively to their Collective members.

K. Qualified Patient. A person as defined and described in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time. For the purposes of this Chapter, a Qualified Patient shall also include a Person with an Identification Card.

L. Reasonable Compensation. Compensation commensurate with reasonable wages and benefits paid to employees of federal Internal Revenue Code-qualified nonprofit organizations, which employees have similar job descriptions and duties, as well as a comparable required level of experience and education, similar prior earnings or wage history, and number of hours typically worked per week. The payment of a bonus shall not be considered reasonable compensation.

M. School. An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle, or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private. (Ord. 5526, 2010.)

28.80.030 Storefront Collective Dispensary - Permit Required to Operate.

It shall be unlawful for any person to engage in, to conduct or carry on (or to permit to be engaged in, conducted or carried on) in or upon his or her Property located within the City, the operation of a Storefront Collective Dispensary unless an Applicant has first obtained and continues to maintain in full force and effect a valid Storefront Collective Dispensary Permit issued by the City for that Property pursuant to this Chapter. (Ord. 5526, 2010.)

28.80.040 Imposition of Medical Marijuana Storefront Collective Dispensary Permit Fees.

Every application for a Storefront Collective Dispensary permit shall be accompanied by an application fee (in an amount established by resolution of the City Council) at an amount calculated to recover the City's full cost of reviewing and issuing the Storefront Collective Dispensary permit) and the filing of a complete required application pursuant to this Chapter. The application fee shall not include the standard City fees for fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. (Ord. 5526, 2010.)

28.80.050 Limitations on the Permitted Location of a Storefront Collective Dispensary.

A. Permissible Zoning for Storefront Collective Dispensaries. Storefront Collective Dispensaries may only be permitted and located on parcels within the City which are zoned for commercial uses and on those street block faces listed in the exhibit to this Chapter designated as "Medical Marijuana Storefront Collective Dispensaries – Allowed Locations," dated as of June 22, 2010.

B. Storefront Locations. Except for those locations shown as allowed within the West Pueblo Medical Area on the exhibit attached to this Chapter which have been specifically approved by the Staff Hearing Officer as non-storefront locations pursuant to this Chapter, a Storefront Collective Dispensary shall only be located in a visible storefront type ground-floor location which provides good public views of the Dispensary entrance, its windows, and the entrance to the Storefront Collective Dispensary premises from a public street.

C. Commercial Areas and Zones Where Storefront Collective Dispensaries Not Permitted. Notwithstanding subparagraph (A) above, a Storefront Collective Dispensary shall not be allowed or permitted on a parcel located within 1000 feet of another permitted or allowed Storefront Collective Dispensary.

D. Locational Measurements. The distance between a Storefront Collective Dispensary and above-listed restrictions shall be calculated as a straight line from any parcel line of the Property on which the Storefront Collective Dispensary is located to the parcel line the real property on which the facility, building, or structure, or portion of the building or structure, in which the above-listed use occurs or is located.

For the purposes of determining compliance with the locational restrictions imposed by this section, the permissibility of a proposed Storefront Collective Dispensary location shall be determined by City staff based on the date the permit application has been deemed complete by the City, with the earliest complete applications deemed to have priority over any subsequent Storefront Collective Dispensary application for any particular permissible location.

E. One Collective Dispensary for Each Area of the City. No more than one Storefront Collective Dispensary may open or operate in each of the areas of the City designated as allowed or permissible Collective Dispensary location areas in the exhibit attached to this Chapter, except for those areas which, at the time of the adoption of the ordinance amending this Chapter, already have more than one Storefront Collective Dispensary on a legal non-conforming basis and which are allowed to continue to operate on a legal non-conforming basis under Section Two of the Ordinance amending this Chapter--in which case a legal non-conforming Dispensary may be allowed to continue to operate in such an area.

F. Maximum Number of Medical Marijuana Storefront Collective Dispensaries Allowed Permits. Notwithstanding the above, the City may not issue a total of more than three (3) Collective Dispensary permits at any one time and, subject to the amortization allowance period contained within the uncodified portions of the City ordinance adopting amendments to this chapter, no more than three (3) permitted or allowed Collective Dispensaries may legally operate within the City, including specifically those dispensaries which are open and operating in a legal nonconforming manner at the time of the adoption of the ordinance amending this Chapter. (Ord. 5526, 2010.)

28.80.060 Storefront Collective Dispensary – Permit Application Requirements.

A. Application Filing. A complete Performance Standard Permit application submittal packet is required for a Storefront Collective Dispensary permit, and it shall be submitted (along with all required fees) and all other information and materials required by this Chapter in order to file a complete application for a Storefront Collective Dispensary Permit for a specific Property. All applications for Storefront Collective Dispensary permits shall be filed with the Community Development Department using forms provided by the City. It is the responsibility of the Applicant to provide all of the information required for approval of the permit. The application shall be signed by a Management Member under penalty of perjury.

B. Eligibility for Filing. If a Storefront Collective Dispensary permit application is filed by a non-owner of the Property, it shall also be accompanied by a written affirmation from the Property owner expressly allowing the Applicant and Management Member to apply for the Permit and acknowledging the Applicant's right to use and occupy the Property for the intended Medical Marijuana Storefront Collective Dispensary use.

C. Filing Date. The filing date of any application shall be the date when the City officially receives the last submission of information or materials required in compliance with the submittal requirements specified herein, and the application has been deemed complete in writing by the City.

D. Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the Applicant shall be granted an extension of time to submit all materials required to complete the application within thirty (30) days. If the application remains incomplete in excess of thirty (30) days, the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request.

E. Filing Requirements – Proposed Operational Plan. In connection with a permit application, an Applicant for a Storefront Collective Dispensary permit shall provide a detailed "Operations Plan" for the proposed Dispensary and, upon issuance of the Storefront Collective Dispensary permit by the City, shall operate the Storefront Collective Dispensary in accordance with the Operations Plan, as approved, at all times. A required Operations Plan shall consist of at least the following:

1. Site Plan and Floor Plan. A Storefront Collective Dispensary application shall have a proposed site plan and floor plan which shows a lobby waiting area at the entrance to the Storefront Collective Dispensary used to receive qualified patients or primary caregivers, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated primary caregiver members of the Collective. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage. A Storefront Collective Dispensary shall have suitable locked storage on the premises, identified and approved as a part of the operational security plan for the after-hours storage of medical marijuana.

3. Security Plans. A Storefront Collective Dispensary shall provide a plan to provide adequate security on the premises of the Dispensary which shall be maintained in accordance with the Dispensary security plan approved by the Chief of Police and as reviewed by the Staff Hearing Officer. This plan shall include provisions for adequate lighting and alarms in order to ensure the safety of persons and to protect the premises from theft. All security guards used by dispensaries shall be licensed and employed by a state-licensed private-party operator security company retained by the Storefront Collective Dispensary, and each security guard used shall possess a valid state Department of Consumer Affairs "Security Guard Card" at all times. Security guards shall not possess or carry firearms or tazers while working at a Collective Dispensary.

4. Security Cameras. The Security Plan shall show how the Property will be monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the Property. The recordings shall be maintained at the Property for a period of not less than thirty (30) days.

5. Alarm Systems. The Operations Plan shall provide that professionally monitored burglary and fire alarm systems shall be installed, and such systems shall be maintained in good working condition within the Storefront Collective Dispensary at all times.

6. Emergency Contact. An Operations Plan shall provide the Chief of Police with the name, cell phone number, and facsimile number of a Management Member to act as an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Storefront Collective Dispensary.

7. Public Nuisance. The Operations Plan shall provide for the Management Members of the Collective Dispensary to take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours, if directly related to the patrons of the subject Storefront Collective Dispensary.

8. Loitering Adjacent to a Dispensary. The Operations Plan shall provide that the Management Members will take all reasonable steps to reduce loitering by Collective members in public areas, sidewalks, alleys and areas surrounding the Property and adjacent premises during the business hours of the Storefront Collective Dispensary.

9. Trash, Litter, Graffiti. The Operations Plan shall provide that the Management Members will keep an area which includes the sidewalks adjoining the Dispensary plus ten (10) feet beyond property lines (as well as any parking lots under the control of the Dispensary) clear of litter, debris, and trash.

10. Removal of Graffiti. The Operations Plan shall provide a method for the Management Members to promptly remove all graffiti from the Property and parking lots under the control of the Collective within 72 hours of its appearance.

F. Filing Requirements – Information Regarding Storefront Collective Dispensary Management. A Storefront Collective Dispensary Applicant shall also provide the following Management Member and Collective information as part of a Storefront Collective Dispensary application:

1. The name, address, telephone number, title and function(s) of each Management Member;

2. For each Management Member, a fully legible copy of one (1) valid government-issued form of photo identification, such as a state driver's license or identification card. Acceptable forms of government-issued identification include, but are not limited to, driver's license or photo identity cards issued by the state Department of Motor Vehicles (or equivalent) that meet REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. Military ID cards (active duty or retired military and their dependents) or a Permanent Resident card.

3. Written confirmation as to whether the Collective or a Management Member of the Collective previously operated in this or any other county, city or state under a similar license or permit, and whether the Collective or Management Member Applicant ever had such a license or permit revoked or suspended and the reason(s) therefore.

4. If the Collective is a corporation or a cooperative, a certified copy of the Collective's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information and a copy of the Collective's By Laws;

5. If the Collective is an unincorporated association, a copy of the articles of association;

6. The name and address of the Applicant's or Collective's current designated Agent for Service of Process;

7. A statement dated and signed by each Management Member of the Collective, under penalty of perjury, that the Management Member has personal knowledge of the information contained in the Dispensary Application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the identified Management Member(s);

8. Whether edible medical marijuana products will be prepared and distributed at the proposed Dispensary Property;

9. The Property location or locations where any and all medical marijuana will be collectively cultivated by the Collective members and Management Members. (Ord. 5526, 2010.)

28.80.070 Criteria for Review of Collective Dispensary Applications by the City Staff Hearing Officer.

A. Decision on Application. Upon an application for a Storefront Collective Dispensary permit being deemed complete, the Staff Hearing Officer shall either issue a Storefront Collective Dispensary permit, issue a Storefront Collective Dispensary permit with conditions in accordance with this Chapter, or deny a Storefront Collective Dispensary permit.

B. Criteria for Issuance. The Staff Hearing Officer, or the City Council on appeal, shall consider the following criteria in determining whether to grant or deny a Medical Marijuana Storefront Collective Dispensary permit:

1. That the Collective Dispensary permit and the operation of the proposed Dispensary will be consistent with the intent of the Compassionate Use Act of 1996 and the SB 420 Statutes for providing medical marijuana to qualified patients and primary caregivers, and with the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.

2. That the proposed location of the Storefront Collective Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity.

3. For those applicants who have operated other Storefront Collective Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area of the applicant's former location.

4. That issuance of a Collective Dispensary permit for the Collective Dispensary size requested is appropriate to meet needs of the community for access to medical marijuana.

5. That issuance of the Collective Dispensary permit would serve needs of City residents within a proximity to this location.

6. That the location is not prohibited by the provisions of this Chapter or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.

7. That the Dispensary's Operations Plan, its site plan, its floor plan, the proposed hours of operation, and a security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

8. That all reasonable measures have been incorporated into the Dispensary security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business.

9. That the Storefront Collective Dispensary is likely to have no potentially adverse affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and that the Dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

10. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.

11. That the Applicant has not made a false statement of material fact or has omitted to state a material fact in the application for a permit.

12. That the Applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City. (Ord. 5526, 2010.)

28.80.080 Ongoing Management Requirements for Medical Marijuana Storefront Collective Dispensaries.

Storefront Collective Dispensary operations shall be maintained and managed on a day-to-day basis only in compliance with the following operational standards and requirements:

A. Criminal History. A Storefront Collective Dispensary permittee, including all Management Members of that permittee, shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance and shall remain free of such a conviction or probation during the period of time in which the Storefront Collective Dispensary is being operated.

B. Minors. It shall be unlawful for any Storefront Collective Dispensary permittee, a Management Member of the permittee, or any other person effectively in charge of any Storefront Collective Dispensary to employ any person who is not at least 18 years of age. Persons under the age of eighteen (18) years shall not be allowed on the premises of a Medical Marijuana Collective Dispensary unless they are a qualified patient member of the Collective and they are accompanied by a parent or guardian at all times. The entrance to a Storefront Collective Dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient member of the Collective and they are in the presence of their parent or guardian.

C. Storefront Collective Dispensary Size and Access. The following access restrictions shall apply to all Storefront Collective Dispensaries permitted by this Chapter:

1. A Storefront Collective Dispensary shall not be enlarged in size (i.e., increased floor area) without prior review and approval of the change from the Staff Hearing Officer and an approved amendment to the existing Storefront Collective Dispensary permit pursuant to the requirements of this Chapter.

2. An expressly designated Management Member or Members shall be responsible for monitoring the Property of the Storefront Collective Dispensary for any nuisance activity (including the adjacent public sidewalk and rights-of-way) which may occur on the block within which the Storefront Collective Dispensary is operating.

3. Only Collective members as primary caregivers or qualified patients shall be permitted within a Storefront Collective Dispensary building for the purposes of cultivating, processing, distributing, or obtaining medical marijuana.

4. A qualified patient or a primary caregiver shall not visit a Storefront Collective Dispensary without first having obtained a valid written recommendation from his or her licensed physician recommending the use of medical marijuana or, in the case of a primary caregiver, without first having been expressly designated a primary caregiver to a qualified patient as required by the Compassionate Use Act.

5. A qualified patient or primary caregiver may not obtain medical marijuana upon their first in-person visit to a Storefront Collective Dispensary and, instead, may only become a member of the Collective at the first visit to a particular Dispensary. Upon joining the Collective, a registered member of a Collective may obtain medical marijuana as a qualified patient or primary caregiver only after an initial waiting period of 24 hours after their initial in-person visit to the Dispensary for the purposes of joining the Collective.

6. Only a primary caregiver and qualified patient members of the Collective Dispensary shall be allowed within the designated marijuana dispensing area of a Storefront Collective Dispensary (as shown on the site plan required by the Application) along with only necessary Management Members.

7. Restrooms within the Storefront Collective Dispensary shall remain locked and under the control of Collective Dispensary Management Members at all times.

D. Medical Marijuana Dispensing Operations. The following medical marijuana distribution restrictions and conditions shall apply to all of the day-to-day medical marijuana dispensing operations which occur within a City-permitted Storefront Collective Dispensary:

1. A Storefront Collective Dispensary shall only dispense to qualified patients or primary caregivers with a currently valid physician's approval or recommendation in compliance with the criteria of the Compassionate Use Act of 1996 and the SB 420 Statutes to those persons who are registered as active members of that Collective, and may do so only during storefront dispensary operating hours of between eight o'clock in the morning (8:00 a.m.) through six o'clock in the evening (6:00 p.m.), Monday through Saturday only. The days and hours of the dispensary's operation shall be posted in a sign located on the street frontage of the dispensary premises in a manner consistent with the City's Sign Ordinance. Storefront Collective Dispensaries shall require such persons receiving medical marijuana to provide valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card, each time they seek to obtain medical marijuana.

2. Prior to dispensing medical marijuana, a Management Member of the Storefront Collective Dispensary shall obtain a re-verification from the recommending physician's office personnel that the individual requesting medical marijuana is or remains a qualified patient or a primary caregiver.

3. A Storefront Collective Dispensary shall not have a physician on-site to evaluate patients and provide a Compassionate Use Act recommendation for the use of medical marijuana.

4. Every Storefront Collective Dispensary shall display, at all times during its regular business hours, the permit issued pursuant to the provisions of this Chapter for such Collective Dispensary in a conspicuous place so that the same may be readily seen by all persons entering the Storefront Collective Dispensary.

5. No Storefront Collective Dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises of the Dispensary that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

6. Storefront Collective Dispensaries shall be considered a commercial use relative to the parking requirements imposed by Santa Barbara Municipal Code Section 28.90.100(I).

7. A notice shall be clearly and legibly posted in the Storefront Collective Dispensary indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the Dispensary is prohibited. Signs on the premises shall not obstruct the entrance or windows. Address identification shall comply with Fire Department illuminated address sign requirements.

8. Business identification signage for Storefront Collective Dispensaries shall comply with the City's Sign Ordinance (SBMC Chapter 22.70) and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed six square feet in area or 10 percent of the window area, whichever is less.

E. Dispensary Medical Marijuana On-Site Consumption and Re-Distribution Restrictions. The following medical marijuana consumption restrictions shall apply to all permitted Storefront Collective Dispensaries:

1. Medical marijuana shall not be consumed by qualified patients on the Property or on the premises of the Storefront Collective Dispensary.

The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Collective Dispensary's entrance. Collective Dispensary Management Member employees who are qualified patients may consume marijuana within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

2. Storefront Collective Dispensary operations shall not result in illegal re-distribution or sale of medical marijuana obtained from the Collective Dispensary, or the use or distribution in any manner which violates state law.

F. Retail Sales of Other Items by a Storefront Collective Dispensary. The retail sales of related marijuana use items at a Storefront Collective Dispensary may be allowed only under the following circumstances:

1. With the approval of the Staff Hearing Officer, a Collective Dispensary may conduct or engage in the commercial sale of specific products, goods, or services (except drug paraphernalia) in addition to the provision of medical marijuana on terms and conditions consistent with this Chapter and applicable law.

2. No Collective Dispensary shall sell or display for sale any drug paraphernalia or any implement that may be used to administer medical marijuana.

G. Storefront Collective Dispensary – Compliance with the Compassionate Use Act of 1996 and SB 420 Statutes.

1. State Law Compliance Warning. Each Collective Dispensary shall have a sign posted in a conspicuous location inside the Storefront Collective Dispensary advising the public of the following:

a. The diversion of marijuana for non-medical purposes is a criminal violation of state law.

b. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

c. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of state law.

2. Not-For-Profit Operation of the Storefront Collective Dispensary. No Medical Marijuana Storefront Collective Dispensary shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation for services provided by Management Members and Collective Members toward the Collective's actual expenses for the growth, cultivation, processing, and provision of Medical Marijuana to qualified patients of the Collective shall be allowed, provided that such reimbursements are in strict compliance with the applicable provisions of the SB 420 Statutes. All such cash and in-kind reimbursement amounts and items shall be fully and properly documented in the financial and accounting records of the Collective Dispensary in accordance with and as required by the recordkeeping requirements of this Chapter.

3. Cultivation of Medical Marijuana by the Collective. The collective cultivation of medical marijuana shall be limited to the Collective Members and Management Members. Cultivation of medical marijuana by the Collective Members and the Management Members shall occur exclusively within the boundaries of the counties of Santa Barbara, Ventura, or San Luis Obispo and only at the real property identified for such cultivation on the approved Storefront Collective Dispensary Permit application.

No cultivation of medical marijuana at any Property where the marijuana will be visible with the un-aided eye from any public or other private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior on the Property. No cultivation shall occur at the Property of the Collective unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

4. Distribution of Medical Marijuana Within Santa Barbara Only. Distribution of the medical marijuana collectively cultivated by some Collective Members to other Collective Members shall occur exclusively within the boundaries of the city of Santa Barbara and only at the real property identified as the permitted Dispensary location on the approved Storefront Collective Dispensary Permit application.

5. Membership Limited to One Collective. Membership in a Collective which operates a Storefront Collective Dispensary within the City shall be limited to one Collective per qualified patient or primary caregiver. Each Collective shall also consist only of individuals residing within Santa Barbara County, as the term "principal residence" is defined in the federal Internal Revenue Code.

H. Maintenance of Appropriate Collective Records Regarding Cultivation and Compliance with the SB 420 Statutes.

1. Cultivation Records. Every permitted Storefront Collective Dispensary shall maintain on-site (i.e., at the Property designated for the operation of the Storefront Collective Dispensary) the medical marijuana cultivation records of the Collective. These records shall be signed under penalty of perjury by each Management Member responsible for the cultivation and shall identify the location or locations within the counties of Santa Barbara, Ventura, or San Luis Obispo at which the Collective's medical marijuana is being cultivated. Such records shall also record the total number of marijuana plants cultivated or stored at each cultivation location. The Storefront Collective Dispensary shall also maintain an inventory record documenting the dates and amounts of medical marijuana cultivated or stored at the Dispensary Property, if any, as well as the daily amounts of Medical Marijuana distributed from the permitted Dispensary.

2. Membership Records. Every Storefront Collective Dispensary shall maintain full and complete records of the following membership information: a. the full name, date of birth, residential address, and telephone number(s) of each Collective Member and Management Member; b. the date each Collective Member and Management Member joined the Collective; c. the exact nature of each Collective Member's and Management Member's participation in the Collective; and d. the current status of each member and Management Member as a Qualified Patient or Primary Caregiver.

3. Financial Records. The Collective Dispensary shall also maintain a written accounting record or ledger of all cash, receipts, credit card transactions, reimbursements, (including any in-kind contributions), and any and all reasonable compensation for services provided by the Management Members or other members of the Collective, as well as records of all operational expenditures and costs incurred by the Storefront Collective Dispensary in accordance with generally accepted accounting practices and standards typically applicable to business records.

4. Dispensary Record Retention Period. The records required above by subparagraphs (1), (2), and (3) of this subsection shall be maintained by the Medical Marijuana Collective Dispensary for a period of three (3) years and shall be made available to the City upon a written request, subject to the authority set forth in Section 28.80.090. (Ord. 5526, 2010.)

28.80.090 City Access to and Inspection of Required Storefront Collective Dispensary Records.

A duly designated City Police Department or Community Development Department representative may enter and shall be allowed to inspect the premises of every Storefront Collective Dispensary as well as the financial and membership records of the Collective required by this Chapter between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M., or at any appropriate time to ensure compliance and enforcement of the provisions of this Chapter, except that the inspection and copying of the private medical records of a Collective Member shall be made available to the Police Department only pursuant to a properly executed search warrant or inspection warrant by a court of competent jurisdiction, or a court order for the inspection of such records.

It shall be unlawful for any property owner, landlord, lessee, Medical Marijuana Collective Dispensary Member or Management Member or any other person having any responsibility over the operation of the Storefront Collective Dispensary to refuse to allow, impede, obstruct or interfere with an inspection of the Storefront Collective Dispensary or the required records thereof. (Ord. 5526, 2010.)

28.80.100 Sale, Distribution, or Exchange of Medical Marijuana with a Non-Medical Marijuana Collective Member.

A. Transfers to or from a Non-Collective Member. A Storefront Collective Dispensary, including the Management Member operating the Dispensary, shall not cause or permit the sale, distribution, or exchange of medical marijuana or of any edible medical marijuana product to any non-Collective Member or Management Member. No Storefront Collective Dispensary shall possess medical marijuana that was not collectively cultivated by its Management Members or members either at the Property designated for the cultivation or at its prior location allowed in accordance with this Chapter.

B. Assistance for Edible Marijuana Products. Sales of edible medical marijuana products may be permitted at a Storefront Collective Dispensary and an individual or business within the City which assists a Dispensary in preparing and processing such a product will be deemed by the City as an "individual who provides assistance to a qualified patient or person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to a qualified patient …" as that phrase is used in state Health and Safety Code section 11362.765(b)(3). (Ord. 5526, 2010.)

28.80.110 Appeal from Staff Hearing Officer Determination.

A. Appeal to the Planning Commission and the City Council. An applicant or any interested party who disagrees with the Staff Hearing Officer's decision to issue, issue with conditions, or to deny or revoke a Storefront Collective Dispensary permit may appeal the Staff Hearing Officer's decision to the City Planning Commission in accordance with the appeal provisions of subsection (B) of Santa Barbara Municipal Code section 28.05.020 and, thereafter, to the City Council by filing an appeal pursuant to the requirements of section 1.30.050 of the Municipal Code.

B. Notice of Appeal Hearing. Upon the filing of an appeal pursuant to subparagraph (A) above, the Community Development Director or the City Clerk shall provide public notice of the appeal hearing in accordance with the notice provisions of SBMC Section 28.87.380. (Ord. 5526, 2010.)

28.80.120 Suspension and Revocation by Staff Hearing Officer.

A. Authority to Suspend or Revoke a Storefront Collective Dispensary Permit. Consistent with Section 28.87.360, any Storefront Collective Dispensary permit issued under the terms of this Chapter may be suspended or revoked by the Staff Hearing Officer if it shall appear to that Officer that the Dispensary permittee has violated any of the requirements of this Chapter, or the Dispensary is being operated in a manner which violates the operational requirements or operational plan required by this Chapter, or it is operated in a manner which conflicts with state law.

B. Annual Review of Collective Dispensary Operations. The staff of the Community Development Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted Storefront Collective Dispensary within the City for full compliance with the operational and recordkeeping requirements of this Chapter, including specifically, annual verification that all persons employed or volunteering at the Storefront Collective Dispensary have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. A fee in an amount established by resolution of the City Council may be established in order to reimburse the City for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any Storefront Collective Dispensary which, upon completion of an annual review, is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

C. Suspension or Revocation – Written Notice. Except as otherwise provided in this Chapter, no permit shall be revoked or suspended by the Staff Hearing Officer under the authority of this Chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon a Management Member or the person to whom the permit was granted at least ten (10) days prior to the date set for such review hearing. Such revocation or suspension notice shall state the specific reasons for the proposed suspension or revocation and must have been provided to the permittee in writing prior to the hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a Storefront Collective Dispensary permit. (Ord. 5526, 2010.)

28.80.130 Transfer of Collective Dispensary Permits.

A. Permit – Site Specific. A permittee shall not operate a Storefront Collective Dispensary under the authority of a Storefront Collective Dispensary permit at any place other than the address of the Collective Dispensary stated in the application for the permit. All Collective Dispensary permits issued by the City pursuant to this chapter shall be non-transferable to a different location.

B. Transfer of a Permitted Collective Dispensary. A permittee shall not transfer ownership or control of a Storefront Collective Dispensary or attempt to transfer a Collective Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this Chapter stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Community Development Department in accordance with all provisions of this Chapter accompanied by the required transfer review application fee.

C. Request for Transfer with a Revocation or Suspension Pending. No Storefront Collective Dispensary permit may be transferred (and no permission for a transfer may be issued) when the Community Development Department has notified the permittee in writing that the permit has been or may be suspended or revoked for non-compliance with this Chapter and a notice of such suspension or revocation has been provided.

D. Transfer without Permission. Any attempt to transfer a Storefront Collective Dispensary permit either directly or indirectly in violation of this Chapter is declared void, and the permit shall be deemed revoked. (Ord. 5526, 2010.)

28.80.140 Medical Marijuana Vending Machines.

No person shall maintain, use, or operate a vending machine which dispenses marijuana to a qualified patient or primary caregiver unless such machine is located within the interior of a duly permitted Collective Dispensary. (Ord. 5526, 2010.)

28.80.150 Business License Tax Liability.

An operator of a Storefront Collective Dispensary shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04 as a prerequisite to obtaining a Storefront Collective Dispensary permit pursuant to the terms of this Chapter. When and as required by the State Board of Equalization, Storefront Collective Dispensary transactions shall be subject to sales tax in a manner required by state law. (Ord. 5526, 2010.)

EXHIBIT A TO ORDINANCE NO. 5526
MEDICAL MARIJUANA DISPENSARIES
SANTA BARBARA MUNICIPAL CODE CHAPTER 28.80
ALLOWED LOCATION EXHIBIT
DATED AS OF JUNE 22, 2010

1. **Outer State Street Area:**

   a. 3400 - 3900 blocks of State Street
   b. All parcels on south La Cumbre Road
   c. All parcels on south La Cumbre Lane
   d. All parcels on La Cumbre Plaza Lane
   e. 00-100 blocks of south Hope Avenue

2. **Upper De la Vina Area:**

   a. 2600 – 2900 blocks of De la Vina Street

3. **Mission Street Area:**

   a. 1900-2000 blocks of De la Vina Street
   b. 100 block of west Mission Street
   c. 1800 block of State Street
   d. 1400 block of Chapala Street

4. **Milpas Street:**

   a. 00–400 blocks of north Milpas Street

5. **West Pueblo Medical Facility Area:**

   a. 200 block of Nogales
   b. 200-400 blocks of west Pueblo
   c. 2400-2500 blocks of Bath
   d. 2300 block of Castillo
   e. 300 block of west Junipero

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Chapter 28.81

ADULT ENTERTAINMENT FACILITIES

Sections:

28.81.010 Purpose.
28.81.020 Definitions.
28.81.030 Location of Adult Entertainment Businesses.
28.81.040 Design and Performance Standards.
28.81.050 Legally Existing Non-Conforming Uses.
28.81.060 Severance Clause.

28.81.010 Purpose.

It is the purpose of this Chapter to regulate adult entertainment businesses to promote the health, safety and welfare of the citizens of the City of Santa Barbara and to establish reasonable and uniform regulations to prevent the concentration of adult entertainment businesses within the City. In adopting this Chapter, it is recognized that certain types of adult entertainment businesses possess certain characteristics which when concentrated can have a deleterious effect upon adjacent areas. It is also recognized that locating the adult entertainment businesses covered by this chapter in the vicinity of facilities frequented by minors will cause the exposure of minors to adult material which, because of their immaturity, may adversely affect them. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood and to an adverse effect on minors. The uses subject to these regulations are as follows:

Adult bookstore, adult novelty store, or adult video store;
Adult live entertainment theater;
Adult motion picture or video arcade; and
Adult motion picture theater.

The purpose of this ordinance is not to limit or restrict the content of any communicative materials, including sexually oriented materials, to restrict or deny access by adults to sexually oriented materials protected by the United States or California Constitutions, or to deny access by distributors and exhibitors of sexually oriented materials and entertainment to their intended market. (Ord. 4867, 1994; Ord. 3870, 1976.)

28.81.020 Definitions.

For purposes of this Chapter the following terms shall be defined as follows:

A. **Adult Entertainment Business** shall mean those businesses defined as follows:

1. **Adult Bookstore, Adult Novelty Store, or Adult Video Store** is an establishment with a majority of: a) its floor area devoted to; or b) stock-in-trade consisting of; or c) gross revenues derived from, and offering for sale for any form of consideration, any one or more of the following:

a. Books, magazines, periodicals or other printed matter, photographs, drawings, motion pictures, slides, films, tapes, video cassettes, records, or other visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

b. Instruments, devices or paraphernalia which are designed to be used in connection with "specified sexual activities;" or

c. Goods which are replicas of, or which simulate "specified anatomical areas," or goods which are designed to be placed on or in "specified anatomical areas," or to be used in conjunction with "specified sexual activities."

2. **Adult Live Entertainment Theater** means any place, building, enclosure or structure, partially or entirely used for "live adult entertainment" performances or presentations characterized by an emphasis on depicting, exposing, displaying, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

"Live adult entertainment" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which the performer or performers expose to public view without opaque covering "specified anatomical areas" for entertainment value for any form of consideration.

3. **Adult Motion Picture or Video Arcade** means any business wherein coin, paper note or token operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to four or fewer persons per machine, at any one time, and where the predominant character or theme of the images so displayed is distinguished or characterized by its emphasis on matter depicting, or relating to "specified sexual activities" or "specified anatomical areas."

4. **Adult Motion Picture Theater** means any business, other than a hotel or motel, with the capacity of five or more persons where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions in which the predominant character and theme is distinguished or characterized by its emphasis on matter depicting, or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section. This includes, without limitation, showing any such slides, motion pictures or videos by means of any video tape system which has a display, viewer, screen, or a television set.

5. **Exception to Adult Entertainment Business.** An "Adult entertainment business" shall not include:

a. Bona fide medical establishments operated by properly licensed and registered medical and psychological personnel with appropriate medical or professional credentials for the treatment of patients.

b. Persons depicting "specified anatomical areas" in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by public revenue; or

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by public revenue; or

(3) In a structure operated either as a profit or not-for-profit facility:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

c. The practice of massage in compliance with Chapter 5.76 of this Code.

B. **Employee.**

"Employee" of an adult entertainment business shall mean a person who works or performs in and/or for an adult entertainment business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

C. **Establish.**

"Establish" shall mean and include any of the following:

1. The opening or commencement of any adult entertainment business as defined in this Section; or
2. The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business as defined in this Section; or
3. The relocation of any adult entertainment business; or
4. The expansion or enlargement of the premises by 15% or more of the existing floor area as the area legally existed on March 1, 1994.

D. **Operate.**

"Operate" shall mean to own, lease (as lessor or lessee), rent (as landlord or tenant or as agent for the purpose of representing a principal in the management, rental or operation of the property of such principal), manage, conduct, direct, or be employed in an adult entertainment business.

E. **Operator.**

"Operator" shall mean and include the owner, custodian, manager or person in charge of any adult entertainment business.

F. **Person.**

"Person" shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity.

G. **Public Park, Beach or Recreation Area.**

"Public Park, Beach or Recreation Area" shall mean public land which has been designated for park, beach, recreational, or arts activities including but not limited to a park, beach, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the City which is under the control, operation, or management of the City Department of Parks and Recreation. "Recreation area" shall also include the Santa Barbara Zoological Gardens, the Santa Barbara Museum of Art and the Santa Barbara Museum of Natural History.

H. **Religious Institution.**

"Religious Institution" shall mean any church, synagogue, mosque, temple, or building which is used primarily for religious worship, religious education incidental thereto and related religious activities.

I. **Residential Zone.**

"Residential Zone" shall mean property which has a zoning designation of A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4 or such other residential zones as may be created by ordinance, or a Mobilehome Park or subdivision or Recreational Vehicle Park as defined in this Code.

J. **School.**

"School" shall mean any public or private educational facility primarily attended by minors, including but not limited to, large family day care homes, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, secondary schools, continuation schools and special education schools. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

K. **Sensitive Uses.**

"Sensitive Uses" shall include public parks, beaches or recreation areas, religious institutions, residential zones and schools.

L. **Specified Anatomical Areas.**

"Specified Anatomical Areas" shall include the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, and/or the female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

M. Specified Sexual Activities.

"Specified Sexual Activities" shall include the following:

1. Actual or simulated sexual intercourse, oral copulation and intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
6. Erotic or lewd touching, lewd fondling or other lewd contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation. (Ord. 4867, 1994; Ord. 3870, 1976.)

28.81.030 Location of Adult Entertainment Businesses.

A. GENERAL RESTRICTIONS. No person shall operate or establish an "adult entertainment business," as defined in this Code, in any area of the City of Santa Barbara, except the C-2 zone, C-M zone, or the M-1 zone but excluding the El Pueblo Viejo Landmark District as defined in Section 22.22.100B of the Santa Barbara Municipal Code.

B. VALID PERMITS. No building permit or zoning clearance, business license, or other permit or entitlement for use shall be legally valid if issued to any adult entertainment business proposed to operate or be established in any area of the City except allowed portions of the C-2 zone, C-M zone, or the M-1 zone but excluding those areas of the City within the El Pueblo Viejo Landmark District as defined in Section 22.22.100B of the Santa Barbara Municipal Code.

C. LOCATIONAL RESTRICTIONS. Any adult entertainment business proposed to be operated or established in allowed portions of the C-2 zone, C-M zone, or the M-1 zone shall be subject to the following restrictions:

1. The establishment or operation of an adult entertainment business shall be subject to the locational criteria setting forth minimum distances from sensitive uses and zones as follows:
   a. Residential zone: 500 feet,
   b. Religious institution: 500 feet,
   c. Public park, public beach, recreation area: 500 feet,
   d. School: 500 feet,
   e. Another adult entertainment business: 500 feet.
2. For the purposes of this Chapter, all distances shall be measured in a straight line, without regard for intervening structures, from the nearest exterior wall of the unit or building containing the adult entertainment business to the nearest property line of a sensitive use or zone as listed in this Chapter.
3. For the purposes of this Chapter, the distance between any two adult entertainment businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the unit or structure in which each business is located.
4. An adult entertainment business may not be operated in the same building, structure, or portions thereof containing another adult entertainment business or use as defined in this Chapter. Each business defined in 28.81.020.A.1-4 shall constitute a separate business for purposes of this Chapter. (Ord. 5105, 1999; Ord. 4867, 1994; Ord. 4838, 1993; Ord. 3911, 1977; Ord 3870, 1976.)

28.81.040 Design and Performance Standards.

The establishment or operation of an adult entertainment business shall comply with the applicable site development standards, including, but not limited to, parking, design review, the technical codes adopted pursuant to section 22.04.010 of the Santa Barbara Municipal Code, and as may be amended from time to time, and the California Fire Code adopted pursuant to Chapter 8.04 of the Santa Barbara Municipal Code, and as may be amended from time to time. An adult entertainment business shall comply with the applicable City of Santa Barbara permit and inspection procedures. In addition, adult entertainment businesses shall comply with the following design and performance standards:

A. Signs, advertisements, displays, or other promotional materials depicting or describing "specified anatomical areas" or "specified sexual activities" or displaying instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities" shall not be shown or exhibited so as to be discernible by the public beyond the walls of the building or portion thereof in which the adult entertainment business is conducted.

B. Each adult entertainment business shall have a business entrance separate from any other non-adult business located in the same building.

C. All building openings, entries, and windows for an adult entertainment business shall be located, covered or screened in such a manner as to prevent a view into the interior of an adult entertainment business from any area open to the general public.

D. No adult entertainment business shall be operated in any manner that permits the observation by the public of any material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any location beyond the walls of the building or portion thereof in which the adult entertainment business is conducted.

E. The building entrance to the adult entertainment business shall be clearly and legibly posted with a notice indicating that minors are precluded from entering the premises.

F. No loudspeakers or sound equipment shall be used by adult entertainment businesses for amplification of sound to a level discernible by the public beyond the walls of the building or portion thereof in which the adult entertainment business is conducted.

G. Each adult entertainment business shall be provided with a manager's station which shall be used for the purpose of supervising activities within the business. A manager shall be on duty on the premises during all times that the adult entertainment business is open to the public.

H. Off-street parking shall be provided for the adult entertainment business as specified in accordance with the parking provisions of Santa Barbara Municipal Code Chapter 28.90.

I. An on-site security program shall be prepared and implemented including the following items:

1. All off-street parking areas and building entries serving the adult entertainment business shall be illuminated during all hours of operation with a lighting system which provides a minimum maintained horizontal illumination of one (1) footcandle of light on the parking surface and/or walkway.

2. All interior portions of the adult entertainment business, except those areas devoted to mini-motion or motion pictures, shall be illuminated during all hours of operation with lighting system which provides a minimum maintained horizontal illumination of not less than two (2) footcandles of light on the floor surface. (Ord. 4867, 1994.)

28.81.050 Legally Existing Non-Conforming Uses.

Notwithstanding any other provision of this Title, any legally existing adult entertainment business operating on March 1, 1994, not in compliance with the locational requirements in Section 28.81.030 may continue as a non-conforming use. The legally non-conforming status of an adult entertainment business shall terminate if voluntarily discontinued for thirty (30) or more consecutive days. (Ord. 4867, 1994.)

28.81.060 Severance Clause.

If any section, subsection, paragraph, subparagraph or provision of this Chapter or the application thereof to any person, property or circumstance is held invalid, the remainder of the Chapter and the application of such to other persons, properties or circumstances shall not be affected thereby. (Ord. 4867, 1994.)

Chapter 28.82

ESTABLISHING PROCEDURE FOR STREET WIDENING SETBACK LINES

Sections:

28.82.009	**Determining Authority.**	**28.82.024**	**Hearing.**
28.82.022	**Issuing Building Permits During Interim Period.**	**28.82.140**	**Construction Between Street and Setback Lines - Prohibited.**
28.82.023	**Resolution - Notice of Hearing.**	**28.82.142**	**Penalty for Violation.**

28.82.009 Determining Authority.

Whenever the public peace, health, safety, comfort, convenience, interest or welfare may require, the City Council is hereby authorized and empowered to determine the minimum distance back from the street line for the erection of buildings or structures along any portion of any street, public way or place in the City and to order the establishment of a line to be known and designated as a street widening setback line between which line and the street line no building or structure shall be erected or constructed. The street widening setbacks and the procedures relating to street widening setbacks specified in this Chapter 28.82 and Chapters 28.83 and 28.84 are to be distinguished from the general setbacks defined in Chapter 28.04 and established elsewhere in this Title 28. (Ord. 5459, 2008; Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §1, 1923.)

28.82.022 Issuing Building Permits During Interim Period.

After the adoption of the Resolution of Intention, and prior to the time the ordinance establishing setback line or lines in such proceedings becomes effective, no building permit shall be issued for the erection of any building or structure between any proposed setback line and the street line and any permit so issued shall be void. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1975; Ord. 1157 §3, 1923.)

28.82.023 Resolution - Notice of Hearing.

Before ordering the establishment of any setback line authorized by Section 28.82.009, the Council shall pass a resolution of intention so to do, designating the distance in from the street, the setback line or lines proposed, shall be established; which resolution shall be published once in a daily newspaper published and circulated in the City, and designated by the City Council for the purpose; and one (1) copy of the resolution shall be posted conspicuously upon the street in front of each block or part of block of any street, public way or place where such setback line is proposed to be established. The resolution shall contain, also, a notice of the day, hour and place when and where any and all persons having any objection to the establishment of the proposed setback line or lines may appear before the Council and present any objection or protest which they may have to the proposed setback line or lines as set forth in the Resolution of Intention. The time of hearing shall not be less than fifteen (15) nor more than forty (40) days from the date of the adoption of the Resolution of Intention; and the publication and posting of the Resolution shall be made at least ten (10) days before the time of the hearing, and shall be deemed to be and shall constitute the only notice to be given of such hearing. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §2, 1923.)

28.82.024 Hearing.

At any time not later than the hour set for hearing objections and protests to the establishment of the proposed setback line or lines, any person having any interest in any land upon which the setback line is proposed to be established, may file with the City Clerk a written protest or objection against the establishment of the setback line or lines designated in the Resolution of Intention. Such protest must be in writing, must contain a statement of the facts or reasons constituting the owner's objections and be delivered to the Clerk not later than the hour set for the hearing, and no other protests or objections shall be considered. All protestants may appear before the Council at the hearing, either in person or by attorney, and be heard in support of their protests or objections. At the time set for hearing, or at any time to which the hearing may be continued, the Council shall proceed to hear and pass upon all protests or objections so made, and its decision shall be final and conclusive, both as to the protestants and all other persons.

The Council shall have power and jurisdiction to sustain any protest or objection and abandon the proceeding, or to deny any and all protests or objections, and order by ordinance the establishment of the setback line or lines described in the Resolution of Intention, or to order the same established with such changes or modifications as the Council may deem proper. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §4, 1923.)

28.82.140 Construction Between Street and Setback Lines - Prohibited.

From and after the taking effect of such ordinance establishing any setback line or lines, it shall be unlawful for any person, firm or corporation to construct any building, wall, fence or other structure within the space between the street line and the setback line, so established, and no permit for any building or structure to be erected within such space shall be issued. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §5, 1923.)

28.82.142 Penalty for Violation.

Any person, firm or corporation violating any of the provisions of any ordinance establishing any setback line pursuant to this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars ($500.00), or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each such person, firm or corporation shall be deemed guilty of a separate offense for each day during any portion of which any violation of such ordinance is permitted, continued or committed by such person, firm or corporation, and shall be punishable therefor as provided by this chapter. (Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §6, 1923.)

Chapter 28.83

STREET WIDENING SETBACK LINES ESTABLISHED

Sections:

28.83.007 Canon Perdido Street - Northwesterly Between Quarantina and Milpas Street.
28.83.027 Canon Perdido Street - Southeasterly Between Quarantina Street and Milpas Street.
28.83.057 Chapala Street - Northeasterly Between Montecito Street and Cabrillo Boulevard.
28.83.067 Chapala Street - Southwesterly Between Montecito Street and Cabrillo Boulevard.
28.83.077 Cliff Drive.
28.83.117 East Cabrillo Boulevard.
28.83.127 Gutierrez Street - Northwesterly Between De la Vina Street and Milpas Street.
28.83.137 Gutierrez Street - Southeasterly Between De la Vina Street and Milpas Street.
28.83.147 Hollister Avenue - Northeasterly Between Calle Laureles and Mission Street.
28.83.157 Hollister Avenue - Between City Limits and Mission Street.
28.83.167 Milpas Street - Northeasterly Between Anapamu Street and Cabrillo Boulevard.
28.83.177 Milpas Street - Southeasterly Between Anapamu Street and Cabrillo Boulevard.
28.83.187 Montecito Street - Northeasterly Between Bath Street and Rancheria Street.
28.83.197 Montecito Street - Southeasterly Between Bath Street and Rancheria Street.
28.83.227 Carrillo Street Extension.

28.83.007 Canon Perdido Street - Northwesterly Between Quarantina and Milpas Street.

A straight line drawn from the northeasterly line of Quarantina Street produced northwesterly, to southwesterly line of Milpas Street ten feet (10') northwesterly from the northwesterly line of Canon Perdido Street is established as a setback line, between which line and such northwesterly line of Canon Perdido Street no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(5).)

28.83.027 Canon Perdido Street - Southeasterly Between Quarantina Street and Milpas Street.

A straight line drawn from the northeasterly line of Quarantina Street to the southwesterly line of Milpas Street, ten feet (10') southeasterly from the southeasterly line of Canon Perdido Street is established as a setback line, between which line and such southeasterly line of Canon Perdido Street no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(6).)

28.83.057 Chapala Street - Northeasterly Between Montecito Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Montecito Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') northeasterly from the northeasterly line of Chapala Street is established as a setback line between which line and such northeasterly line of Chapala Street no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(9).)

28.83.067 Chapala Street - Southwesterly Between Montecito Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Montecito Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') southwesterly from the southwesterly line of Chapala Street is established as a setback line between which line and such southwesterly line of Chapala Street no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(10).)

28.83.077 Cliff Drive.

Two (2) setback lines, drawn parallel to each other and to the centerline of Cliff Drive, separated from each other by the centerline of Cliff Drive, the one (1) being drawn on one (1) side of the centerline of Cliff Drive and the other being drawn on the other side of such centerline of Cliff Drive, each such setback line being fifty-five feet (55') distant from the centerline of Cliff Drive, and one hundred ten feet (110') distant from the other such setback line, at all points, and running for a distance extending from the existing West Montecito Street widening setback line on the east, to and including all portions of Cliff Drive, to the easterly side of the entrance to Arroyo Burro Beach, between which two (2) setback lines no building or structure shall hereafter be erected, constructed or placed. (Ord. 5274, 2003; prior Code Appendix II, Article II §1(11).)

28.83.117 East Cabrillo Boulevard.

A line drawn parallel to and distant ten feet (10') northwesterly from the line of East Cabrillo Boulevard between the northeasterly line of State Street and the southwesterly line of Santa Barbara Street is established as a setback line, between which line and such northeasterly line of East Cabrillo Boulevard no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(14).)

28.83.127 Gutierrez Street - Northwesterly Between De la Vina Street and Milpas Street.

A straight line drawn from the northeasterly line of De la Vina Street to the southwesterly line of Milpas Street, ten feet (10') northwesterly from the northwesterly line of Gutierrez Street is established as a setback line, between which line and such northwesterly line of Gutierrez Street no building or structure shall hereafter be erected or placed. (Ord. 3028 §1(part), 1965; prior Code Appendix II, Article II §1(15).)

28.83.137 Gutierrez Street - Southeasterly Between De la Vina Street and Milpas Street.

A straight line drawn from the northeasterly line of De la Vina Street to the southwesterly line of Milpas Street, ten feet (10') southeasterly from the southeasterly line of Gutierrez Street is established as a setback line, between which line and such southeasterly line of Gutierrez Street no building or structure shall hereafter be erected or placed. (Ord. 3028 §1(part), 1965; prior Code Appendix II, Article II §1(16).)

28.83.147 Hollister Avenue - Northeasterly Between Calle Laureles and Mission Street.

A line drawn from the easterly line of Calle Laureles to the northwesterly line of Mission Street, parallel to and ten feet (10') northeasterly from the northeasterly line of Hollister Avenue is established as a setback line between which line and such northeasterly line of Hollister Avenue no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II &1(17).)

28.83.157 Hollister Avenue - Between City Limits and Mission Street.

A line drawn from the City limits to the northwesterly line of Mission Street, parallel to and ten feet (10') southwesterly from the southwesterly line of Hollister Avenue is established as a setback line, between which line and such southwesterly line of Hollister Avenue no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(18).)

28.83.167 Milpas Street - Northeasterly Between Anapamu Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Anapamu Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') northeasterly from the northeasterly line of Milpas Street is established as a setback line between which line and such northeasterly line of Milpas Street no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(19).)

28.83.177 Milpas Street - Southeasterly Between Anapamu Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Anapamu Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') southwesterly from the southwesterly line of Milpas Street, is established as a setback line, between which line and such southwesterly line of Milpas Street no building or structure shall hereafter be erected or placed. (Prior Code Appendix II, Article II §1(20).)

28.83.187 Montecito Street - Northeasterly Between Bath Street and Rancheria Street.

A straight line drawn from the southwesterly line of Bath Street to the northeasterly line of Rancheria Street, ten feet (10') northwesterly from the northwesterly line of Montecito Street, is established as a setback line, between which line and such northwesterly line of Montecito Street no building or structure shall hereafter be erected or placed. (Ord. 5153, 2000; prior Code Appendix II, Article II §1(21).)

28.83.197 Montecito Street - Southeasterly Between Bath Street and Rancheria Street.

A straight line drawn from the southwesterly line of Bath Street to the northeasterly line of Rancheria Street, ten feet (10') southeasterly from the southeasterly line of Montecito Street is established as a setback line between which line and the southeasterly line of Montecito Street no building or structure shall hereafter be erected or placed. (Ord. 5153, 2000; prior Code Appendix II, Article II §1(22).)

28.83.227 Carrillo Street Extension.

A line parallel with and forty feet (40') easterly of the centerline of Carrillo Street extension between engineer's station 49+00 and station 52+00, said centerline as shown on approved plan number C-1-2672, sheet 2 of 31 sheets, on file in the Office of the City Engineer, is established as a setback line, between which line and such easterly side of Carrillo Street extension no building or structure shall hereafter be erected or placed. (Ord. 3205 §1, 1967.)

Chapter 28.84

VARIANCES FOR STREET WIDENING SETBACK LINES

Sections:

28.84.003 Variance by Resolution Authorized.
28.84.010 Basis for Allowing Variances.
28.84.013 Prerequisites to Granting Variance.
28.84.025 Council's Decision to be Final.
28.84.033 Petition to State Grounds for Variance.
28.84.073 Resolution to be Entered in Minutes.
28.84.142 Compliance.

28.84.003 Variance by Resolution Authorized.

Where there is need to allow variance to avoid unreasonable practical difficulties or unreasonable and unnecessary hardships resulting or arising from any setback line established by ordinance in the City, the City Council upon its own motion or upon verified petition, filed with the Clerk of the City Council, of any property owner whose property is directly affected by such setback line, shall have power to allow by its resolution upon such reasonable terms and conditions as the City Council may deem proper and under the circumstances and subject to the conditions and provisions hereinafter specified, variance from the restrictions and prohibitions of any such setback line. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §1, 1946.)

28.84.010 Basis for Allowing Variances.

Variance shall be allowed and permitted under this chapter only in consonance with the general purpose and objective of whatever setback line may be involved; and, only in such instances and only to such extent that the public welfare, safety and convenience shall be duly secured, with substantial justice done with respect to all concerned. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062, §3, 1946.)

28.84.013 Prerequisites to Granting Variance.

Moreover, variance shall be authorized under this chapter upon the following additional provisions and conditions:

(1) That whatever improvements may be constructed, erected or made pursuant to any variance authorized under this chapter shall be and must be wholly removed in the event of any future public acquisition by condemnation of the real property whereon such improvements may be constructed, erected or made at the sole expense of the property owner to whom leave for such variance was granted the owner of the property at the time of the condemnation by the City.

(2) That variance shall be allowed by the City Council only upon the filing with the Clerk of the City of a written agreement and undertaking signed and acknowledged by the property owner involved and by its term binding the property owner or whoever shall be the owner of the property involved at the time of any future condemnation such as that abovementioned, to wholly remove whatever improvements may be constructed, erected or made under or pursuant to the leave granted under this ordinance, which removal shall be at the sole cost and expense of the property owner.

(3) That variance shall be allowed under this chapter only upon the further express condition and provision that if the property owner signing the aforementioned written agreement and undertaking any other owner of such property at the time of condemnation thereof shall fail to wholly remove all improvements constructed, erected or made under this chapter, the same may be removed by the City if it acquires by condemnation the land involved as contemplated by this chapter, at the sole expense of such property owner or owners.

(4) That variance shall be authorized under this chapter only upon the express provision and condition of the property owner or owners involved evidenced as above stated and expressly waiving and renouncing any and all right or claim to damages or compensation in favor of any such property owner or owners involved or otherwise arising by reason of the severance of any improvement constructed, erected or made under this chapter from any other or remaining improvement or by reason of the removal of any such improvement constructed, erected or made pursuant to leave authorized by this chapter, if the City acquires the land involved by condemnation.

(5) That variance shall be authorized by the City Council under this chapter by resolution of the City Council setting forth the written findings of fact required by Subsection "A" next following:

Subsection "A": In order to justify any variance under the provisions of this chapter, the three (3) following qualifications must be shown relative to the property involved in the application for such variance; and, the City Council's resolution of approval in connection with any such applications must contain written findings of fact showing wherein the property involved meets the three (3) following qualifications:

(1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to all property affected by the setback line involved, and which produce unreasonable practical difficulties or unreasonable and unnecessary hardships in the way of adhering to the setback line or lines as established without the granting of leave for any variance therefrom.

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner in consonance and harmony with the enjoyment of their property by other neighboring owners, subject to the setback line involved.

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements subject to the setback line involved. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §4, 1946.)

28.84.025 Council's Decision to be Final.

The decision of the City Council in granting or refusing any petition for any variance under this ordinance or any granting on its own motion any variance under this chapter pursuant to the provisions of this chapter, shall be final and conclusive without any right of appeal. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §6, 1946.)

28.84.033 Petition to State Grounds for Variance.

Every petition filed under this chapter shall state fully the grounds upon which leave for variance is sought and the facts warranting the proposed allowance of variance. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §2, 1946.)

28.84.073 Resolution to be Entered in Minutes.

Every resolution hereafter allowing variance from any setback line shall be entered in full in the minutes of the City Council. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §5, 1946.)

28.84.142 Compliance.

Save and except under and as allowed pursuant to the provisions and procedure prescribed by this chapter, no improvements shall be constructed, erected or made in violation of any setback line ordinance of this City within the prescribed limits established by such setback line ordinance. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §7, 1946.)

Chapter 28.85

NONRESIDENTIAL GROWTH MANAGEMENT PROGRAM

Sections:

28.85.010 Nonresidential Development Limitation.
28.85.020 Definitions.
28.85.030 Development Plan Review Procedures.
28.85.040 Standards for Review – Development Plans.
28.85.050 Traffic Management Strategy.
28.85.060 Development Plan Notice and Hearing.
28.85.070 Appeals.
28.85.080 Fees.
28.85.090 Development Plan Time Limits.
28.85.100 Multiple Development Plans.

28.85.010 Nonresidential Development Limitation.

No application for a land use permit for a nonresidential construction project, as defined in Section 28.85.020 of this Chapter, will be accepted or approved on or after December 6, 1989, unless all of the new nonresidential floor area within the project is allocated from one or more of the categories specified in this Section and the project is consistent with the City's Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013, and as filed with the City Clerk) as implemented in Section 28.85.050.

A. DEVELOPMENT LIMIT. From the effective date of this ordinance until December 31, 2033, the amount of new nonresidential floor area available for nonresidential construction projects shall be restricted to no more than one million three hundred fifty thousand (1,350,000) square feet. This allowable floor area shall be allocated from the following categories, as defined in Section 28.85.020 of this Chapter:

Category	Square Footage
Community Benefit	600,000 s.f.
Small Addition Floor Area	400,000 s.f.
Vacant Property	350,000 s.f.

Except as otherwise provided in this Section and as allocated on an annual basis by a resolution of the Planning Commission, Small Additions shall be limited to no more than twenty thousand (20,000) square feet of nonresidential floor area during each calendar year from the effective date of this ordinance through December 31, 2033. Any unused, expired, or withdrawn development square footage remaining from each annual allotment from the Small Additions category may be rolled over to the following year's Small Additions allotment or allocated to another category by a resolution of the Planning Commission. Procedures for allocating square footage under these categories shall be established by resolution of City Council.

B. NONRESIDENTIAL FLOOR AREA EXCLUDED FROM THE DEVELOPMENT LIMIT. Nonresidential floor area may be constructed or converted from residential floor area without requiring an allocation from the allowable square footage specified in Subsection A of this Section so long as the nonresidential floor area falls within the following categories, as defined in Section 28.85.020 of this Chapter:

1. City Government Buildings.
2. Government Displacement Floor Area.
3. Hotel Room for Room Replacement.
4. Minor Addition Floor Area.
5. Prior-Pending Projects.
6. Prior-Approved Projects.
7. Prior-Approved Specific Plan Project.
8. Transfers of Existing Development Rights, as defined in Section 28.95.020 of this Code.

(Ord. 5609, 2013.)

28.85.020 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. COMMUNITY BENEFIT PROJECT. A project which has been designated by the City Council as satisfying one or more of the following categories is a Community Benefit Project:

1. Community Priority Project. A Community Priority Project is a project that has a broad public benefit, is not principally operated for private profit, and is necessary to meet a present or projected need directly related to public health, safety or general welfare (e.g., museums, childcare facilities, health clinics).

2. Economic Development Project. An Economic Development Project is a project that is consistent with the City Charter, General Plan and this Title, will enhance the standard of living for City and South Coast residents, and will strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. An Economic Development Project should also accomplish one or more of the following:

a. Support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; or

b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or

c. Provide products or services which are currently not available or are in limited supply either locally or regionally; or

d. Support a small and local business in the Santa Barbara community which is being started, maintained, relocated, redeveloped or expanded.

For purposes of this Section, "standard of living" is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

3. Planned Development – New Automobile Sales Project. A Planned Development – New Automobile Sales Project is a project within a Planned Development zone that proposes a project involving new automobile sales, rental and leasing as allowed in Chapter 28.39 of this Code.

B. DEVELOPMENT AREA. A Development Area is a portion of the City that the City of Santa Barbara Traffic Model (as approved by the City Council by Resolution No. 13-010 dated as of March 12, 2013, and as filed with the City Clerk) has shown to have distinct traffic generation patterns, as identified on the Development Area Map. The City of Santa Barbara Development Areas are shown on the map labeled "Growth Management Program Development Areas" (as approved by City Resolution No. 13-010 dated as of March 12, 2013). All notations, references and other information shown on said map are incorporated by reference herein and made a part hereof.

C. EXISTING NONRESIDENTIAL FLOOR AREA. Existing Nonresidential Floor Area is nonresidential floor area that existed on a lot as of October 1, 1988, or nonresidential floor area that was approved and constructed or converted from residential floor area after October 1, 1988, in compliance with, or exempt from, a City development plan or nonresidential growth management program ordinance.

D. FLOOR AREA. Floor Area is the area included within the surrounding exterior walls of a building, or a portion thereof, excluding the area occupied by the exterior walls, vent shafts and courts, stairway landings, or areas or structures used exclusively for parking. Enclosed spaces that contain building “infrastructure” (e.g., mechanical equipment enclosures, trash and recycling enclosures, air conditioners, forced air units, electric vaults, water heaters and softeners, cellular telephone equipment, and other similar uses) shall not count toward the calculation of floor area if such areas are designed in the minimum size necessary to screen or enclose such equipment, and the space cannot be converted to storage or another non-infrastructure use. The area occupied by an elevator shaft or stairs shall only be counted in the calculation of floor area on one floor. A building, or a portion thereof, occupied exclusively by public utility equipment constitutes floor area for purposes of development plan review, but shall not count toward the calculation of floor area for purposes of the development limit specified in Subsection 28.85.010.A. Any floor area which was constructed, approved, demolished or converted in violation of any provision of this Municipal Code shall not give rise to any right to rebuild or transfer floor area.

E. GOVERNMENT BUILDING. A Government Building is a building owned or leased by the city of Santa Barbara, excluding buildings or portions of buildings that are leased to private entities conducting non-governmental activities (e.g., the private leaseholds at the Harbor or Airport).

F. GOVERNMENT DISPLACEMENT FLOOR AREA. Government Displacement Floor Area is nonresidential floor area that is constructed or converted from residential floor area to replace nonresidential floor area that was acquired, removed or damaged by direct condemnation or negotiated acquisition by a governmental entity (federal, state or local), provided the nonresidential floor area of the project constructed to replace a building acquired or removed by the government does not exceed the nonresidential floor area of the building so acquired or removed, unless the additional nonresidential floor area is allocated from another available category.

G. HOTEL ROOM FOR ROOM REPLACEMENT. A Hotel Room for Room Replacement is a project which consists of the replacement of existing hotel rooms at the same location, or transferred from another location as part of an approved Transfer of Existing Development Rights pursuant to Chapter 28.95 of this Code, on a room for room basis. A Hotel Room for Room Replacement does not include nonresidential floor area outside the hotel rooms.

H. LAND USE PERMIT. A Land Use Permit is a governmental decision concerning a permit, license, certificate, or other entitlement for use of land, including a conditional use permit, variance, modification, development plan, specific plan, general plan amendment, coastal development permit, conversion permit, subdivision map (except those creating new single family lots), building permit, grading permit, demolition permit, water service connection or any similar approval or use.

I. MINOR ADDITION FLOOR AREA. Minor Addition Floor Area is the first 1,000 square feet of new nonresidential floor area, over the amount of nonresidential floor area that existed on the lot as of December 6, 1989. Procedures for allocating and accounting for Minor Addition Floor Area shall be established by resolution of the City Council.

J. NONRESIDENTIAL CONSTRUCTION PROJECT. A Nonresidential Construction Project is a project, or portion thereof, which consists of the construction of new nonresidential floor area or the conversion of existing residential floor area to nonresidential use. The repair, replacement, or reconstruction of Existing Nonresidential Floor Area (including existing development rights that are transferred from another site) is not considered new nonresidential floor area for the purpose of the nonresidential development limitation specified in Subsection 28.85.010.A. A nonresidential construction project may occur in the following forms:

1. The addition of new nonresidential floor area to an existing structure; or
2. The construction of new nonresidential floor area in a free standing structure on real property containing another structure; or
3. The construction of new nonresidential floor area as a portion of a mixed use building; or
4. The conversion of residential floor area to nonresidential floor area; or
5. A new building on vacant real property that contains nonresidential floor area.

K. NONRESIDENTIAL FLOOR AREA RATIO. The Nonresidential Floor Area Ratio of a lot is a ratio of the nonresidential floor area on the lot to the net lot area of the lot.

L. PRIOR-APPROVED PROJECTS. A Prior-Approved Project is a project for which a land use permit (other than an application for Specific Plan approval) was approved on or before April 11, 2013, and where the approval remains valid.

M. PRIOR-APPROVED SPECIFIC PLAN PROJECT. A Prior-Approved Specific Plan Project is a project that implements a specific plan that was approved prior to April 16, 1986, the specific plan required the construction of substantial circulation system improvements, and the required circulation system improvements were either:

1. Installed prior to April 11, 2013; or
2. Constructed after April 11, 2013, pursuant to an Owner Participation Agreement and installed prior to the approval of any development plan(s) related to the approved specific plan.

N. PRIOR-PENDING PROJECT. A Prior-Pending Project is a nonresidential construction project for which an application for a land use permit was deemed complete by the City before April 11, 2013, and the application: i. has not been denied by the City; ii. has not been withdrawn by the applicant; and iii. has not yet received City approval.

O. SMALL ADDITION FLOOR AREA. Small Addition Floor Area is the 2,000 square feet of new nonresidential floor area over the amount of nonresidential floor area that existed on the lot on December 6, 1989, and any floor area that has been constructed or approved as Minor Addition Floor Area pursuant to this Chapter or any preceding development plan ordinance since December 6, 1989. Procedures for allocating Small Addition Floor Area shall be established by resolution of the City Council.

P. VACANT PROPERTY. A Vacant Property is a lot of land that was not developed with a permanent building containing floor area as of October 1, 1988, and has not since been developed with any permanent building containing floor area. A vacant property may be allocated new nonresidential floor area from the Vacant Property category up to a maximum nonresidential floor area ratio of .25. Any nonresidential development proposed for the lot over the .25 floor area ratio must be allocated from another development category available for allocation on the lot. (Ord. 5609, 2013.)

28.85.030 Development Plan Review Procedures.

A. DEVELOPMENT PLAN APPLICATION SUBMISSION. Before any project requiring approval of a development plan pursuant to this Chapter is hereafter permitted in any zone, including zones at the Santa Barbara Municipal Airport, a complete development plan application for the proposed development shall be submitted to the Community Development Department for review and consideration in accordance with the provisions of this Chapter.

B. REVIEW BY PRE-APPLICATION REVIEW TEAM. All nonresidential construction projects involving the construction, addition, or conversion of more than 3,000 square feet of nonresidential floor area and all transfers of existing development rights, regardless of size, shall be reviewed by the Pre-Application Review Team as provided in Section 27.07.070 of this Code.

C. DEVELOPMENT PLAN APPROVAL REQUIREMENTS. Except as otherwise specified in this Subsection C, all nonresidential construction projects and all Transfers of Existing Development Rights require approval of a Development Plan.

1. Design Review Approval. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area shall require approval of the design of a development plan from the Architectural Board of Review, or from the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district, or if the structure is a designated City Landmark.
2. Staff Hearing Officer Approval. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area, and which also requires approval of a City discretionary land use permit from the Staff Hearing Officer, shall require approval of a development plan from the Staff Hearing Officer.
3. Planning Commission Approval. The following projects shall require approval of a development plan from the Planning Commission:

a. Any nonresidential construction project (including a public utility facility) that involves the construction, addition, or conversion of more than three thousand (3,000) square feet of new nonresidential floor area, or

b. Any transfer of existing development rights that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of nonresidential floor area (as an aggregate total of all development categories) on the receiving site, or

c. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area, and which requires approval of another land use permit from the Planning Commission, shall require approval of a development plan from the Planning Commission.

d. Notwithstanding the review assignments specified in Paragraphs 1 and 2 above, any nonresidential construction project or transfer of existing development rights that requires the preparation of an Environmental Impact Report shall be reviewed by the Planning Commission.

4. Exceptions. Unless the project requires the preparation of an Environmental Impact Report, the following projects do not require the approval of a development plan:

a. A nonresidential construction project that involves the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area (as an aggregate total of all development categories), or

b. A Transfer of Existing Development Rights that involves the construction, addition, or conversion of nonresidential floor area so long as the project will not result in more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the lot as of April 11, 2013. This exception is not available for a Transfer of Existing Development Rights that involves the transfer of a hotel room on a room-for-room basis. (Ord. 5609, 2013.)

28.85.040 Standards for Review – Development Plans.

The following findings shall be made prior to approving any development plan pursuant to this Chapter:

A. The proposed development complies with all provisions of this Title; and

B. The proposed development is consistent with the principles of sound community planning; and

C. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in Sections 22.22.145 or 22.68.045 of this Code; and

D. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013) as expressed in the allocation allowances specified in SBMC Section 28.85.050. (Ord. 5609, 2013.)

28.85.050 Traffic Management Strategy.

In order to utilize the City's existing transportation capacity efficiently and to prioritize constrained transportation capacity for high priority land uses, the City has established a Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013). In furtherance of the Traffic Management Strategy and recognizing the differential rates of traffic generation observed in the City of Santa Barbara Traffic Model methodology (as used in connection with the preparation of the General Plan FEIR) between the different Development Areas, only certain categories of nonresidential development are available for allocation within the Development Areas identified in this Section.

A. DOWNTOWN DEVELOPMENT AREA. If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a potentially significant adverse cumulative traffic impact may be overridden by the Planning Commission. Within the Downtown Development Area, unless specifically authorized below, a project-specific potentially significant adverse traffic impact cannot be overridden by the Planning Commission. The following categories of nonresidential development are available for allocation to lots within the Downtown Development Area:

1. Prior-Approved Projects. Prior-Approved Projects do not require further environmental review.

2. Prior-Pending Projects.

3. Prior-Approved Specific Plan Projects. A Prior-Approved Specific Plan Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

4. Minor Addition Floor Area. A project constructing, adding, or converting Minor Addition Floor Area that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

5. Small Addition Floor Area.

6. Vacant Property. A Vacant Property Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

7. Community Priority Projects. A Community Priority Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

8. Economic Development Projects.

9. Transfers of Existing Development Rights (TEDR), as defined in Section 28.95.020 of this Code, from any Development Area.

a. A Transfer of Existing Development Rights between lots within the same Development Area that will result in the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the receiving lot as of the effective date of this ordinance and that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

b. All other Transfers of Existing Development Rights (including Hotel Room for Room Replacements) that result in a project-specific potentially significant adverse traffic impact cannot be overridden.

10. Hotel Room for Room Replacement. An on-site Hotel Room for Room Replacement that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

11. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot. The Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

12. City Government Buildings. A government building project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

13. Government Displacement Floor Area. A Government Displacement Floor Area Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

14. Public Utility Facilities. A Public Utility Facility that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

B. UPPER STATE STREET, MESA, COAST VILLAGE ROAD, AND RIVIERA DEVELOPMENT AREAS (OUTLYING DEVELOPMENT AREAS). If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative traffic impact may be overridden. Within the Outlying Development Areas, unless specifically authorized below, a project-specific potentially significant adverse traffic impact cannot be overridden by the Planning Commission. The following categories of nonresidential development are available for allocation to lots within the Outlying Development Areas:

1. Prior-Approved Projects. Prior-Approved Projects do not generally require further environmental review.

2. Prior-Pending Projects.

3. Prior-Approved Specific Plan Projects. A Prior-Approved Specific Plan Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

4. Minor Addition Floor Area. A project constructing, adding, or converting Minor Addition Floor Area that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

5. Vacant Property. A Vacant Property Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

6. Community Priority Projects. A Community Priority Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

7. Transfer of Existing Development Rights (including Hotel Room for Room Replacements), as defined in Section 28.95.020 of this Code, from and to lots within the same Development Area. No receiving site located in an Outlying Development Area may receive a Transfer of Existing Development Rights from a sending site that is located in another Development Area.

a. A Transfer of Existing Development Rights between real properties within the same Development Area that will result in the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the receiving lot as of April 11, 2013, and that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

b. All other Transfers of Existing Development Rights (including Hotel Room for Room Replacements) that result in a project-specific potentially significant adverse traffic impact cannot be overridden by the Planning Commission.

8. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same parcel. The Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

9. Government Buildings. A Government Building that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

10. Government Displacement Project. A Government Displacement Floor Area Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

11. Hotel Room for Room Replacement. An on-site Hotel Room for Room Replacement that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

12. Public Utility Facilities. A Public Utility Facility that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

13. Planned Development – New Automobile Sales Project. A Planned Development – New Automobile Sales Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

C. AIRPORT DEVELOPMENT AREA. If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative adverse traffic impact may be overridden by the Planning Commission. Within the Airport Development Area, unless specifically stated below, a project-specific potentially significant adverse traffic impact may be overridden by the Planning Commission with the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A. The following categories of nonresidential development are available for allocation to real properties within the Airport Development Area:

1. Prior-Approved Projects.
2. Prior-Pending Projects.
3. Prior-Approved Specific Plan Projects.
4. Minor Addition Floor Area.
5. Small Addition Floor Area.
6. Vacant Property.
7. Community Priority Projects.
8. Economic Development Projects.
9. Transfers of Existing Development Rights (including Hotel Room for Room Replacements), as defined in Section 28.95.020 of this Code, from and to lots within the Airport Development Area are available for allocation. No Receiving Site located in the Airport Development Area may receive a Transfer of Existing Development Rights (including Hotel Room for Room Replacements) from a Sending Site that is located in another Development Area.
10. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot.
11. Government Buildings.
12. Government Displacement Projects.
13. Public Utility Facilities. (Ord. 5609, 2013.)

28.85.060 Development Plan Notice and Hearing.

If a nonresidential construction project or transfer of existing development rights requires the approval of a development plan by the Architectural Board of Review, Historic Landmarks Commission, Staff Hearing Officer, Planning Commission, or the City Council on appeal, the Architectural Board of Review, Historic Landmarks Commission, Staff Hearing Officer, Planning Commission, or City Council shall hold a public hearing prior to taking action on any development plan. Notice of the public hearing shall be given in accordance with Section 28.87.380. (Ord. 5609, 2013.)

28.85.070 Appeals.

A decision by the Architectural Board of Review, the Historic Landmarks Commission, or the Planning Commission under this Chapter may be appealed according to the provisions of Chapter 1.30. A decision by the Staff Hearing Officer under this Chapter may be appealed according to the provisions of Section 28.05.020 of this Code. (Ord. 5609, 2013.)

28.85.080 Fees.

Fees for filing applications and appeals in accordance with this Chapter shall be established by resolution of the City Council. (Ord. 5609, 2013.)

28.85.090 Development Plan Time Limits.

Subject to the adjustments for projects with multiple approvals specified in Section 28.87.370 of this Code, development plan approvals shall have the following time limits:

A. TIME LIMIT. A development plan approved pursuant to any provision of this Title shall expire four (4) years from the date of its approval, except as otherwise provided herein. No building or grading permit for any work authorized by a development plan shall be issued following expiration of that plan.

B. CONDITIONS. Any condition imposed on a development plan may, in the discretion of the body approving the development plan, also constitute (i) a condition to the issuance of and continued validity of any building or grading permit issued to implement that development plan, (ii) a condition to the issuance of the certificate of occupancy with respect to any improvements authorized by the development plan and (iii) if recorded with the County Recorder, to the continued validity of the certificate of occupancy. Violation of any such condition shall be grounds for suspension or revocation of any building or grading permit or certificate of occupancy issued with respect to the development plan.

C. EXTENSION OF TIME PERIOD. Upon application of the developer filed prior to the expiration of the development plan, the time at which the development plan expires may be extended by the Community Development Director for one (1) year. An extension of the expiration date of a development plan shall be granted if it is found that there has been due diligence to implement and complete the proposed project as substantiated by competent evidence in the record.

D. SUSPENSION OF TIME DURING MORATORIUM. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include any period of time during which a moratorium, imposed after approval of the development plan, is in existence, provided, however, that the length of the moratorium does not exceed five (5) years. For purposes of this Subsection, a development moratorium shall include (i) a water or sewer moratorium, (ii) a water and sewer moratorium, and (iii) a building or grading permit moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land other than the City, which thereafter prevents, prohibits, or delays the completion of the development. Once a moratorium is terminated, the development plan shall be valid for the same period of time as was left to run on the development plan at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the development plan shall be valid for 120 days following the termination of the moratorium.

E. SUSPENSION OF TIME DURING LITIGATION. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include the period of time during which a lawsuit involving the approval of the development plan or related approvals is or was pending in a court of competent jurisdiction. After service of the initial petition or complaint in the lawsuit upon the City, the applicant may advise the City of the need for a litigation tolling stay pursuant to the City's adopted procedures.

F. DEVELOPMENT PLANS ALREADY APPROVED.

1. Beginning Date – Development Plan Approvals. The adoption of this ordinance shall not alter the date of approval of a Development Plan approved prior to the adoption of this ordinance.

2. Specific Plan Development Plan Approvals. For the purposes of calculating the expiration date of a Specific Plan project Development Plan approved in accordance with Santa Barbara Municipal Code Chapter 29.30, Development Plan approvals shall be deemed to expire eight (8) years after the date of the final City action approving the project Development Plan and shall include any related project approvals or modifications granted by the City in connection therewith.

G. DISPOSITION OF FLOOR AREA ALLOCATED TO EXPIRED PROJECTS. For projects with floor area allocated from the Small Addition category, the unused floor area shall be made available for allocation to Small Addition or Community Benefit Projects, as determined by Planning Commission Resolution, upon expiration of the development plan. For projects with floor area allocated from the Community Benefit and Vacant Property categories, the unused floor area shall revert to the category from which the floor area was allocated upon expiration of the development plan. Floor area that was excluded from the development limit specified in Section 28.85.010 under the Prior-Approved or Prior-Pending categories shall expire upon expiration of the project's Development Plan and shall not be available for another allocation. (Ord. 5609, 2013.)

28.85.100 Multiple Development Plans.

When more than one valid approved development plan exists for a lot, upon issuance of a building or grading permit for any work authorized by one of the approved development plans, all other development plans approved for that lot are deemed abandoned by the property owner. No building or grading permit shall be issued for any work authorized by a development plan following abandonment of that plan. For projects with floor area allocated from the Small Addition category, any unused floor area shall be made available for allocation to the Small Addition category or the Community Benefit Project category upon abandonment of a development plan. For projects with floor area allocated from the Community Benefit and Vacant Property categories, any unused floor area shall revert to the category from which the floor area was allocated upon abandonment of a development plan. (Ord. 5609, 2013.)

Chapter 28.87

GENERAL PROVISIONS

Sections:

28.87.001 In General.
28.87.005 Conflicting Regulations.
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28.87.360 Abandonment and Revocation of Staff Hearing Officer or Planning Commission Approvals.
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28.87.380 Notice of Hearing.
28.87.400 Density Bonus and Development Incentives.
28.87.500 Denial of Affordable Housing Projects.

28.87.001 In General.

The regulations specified in this chapter shall be subject to the following interpretations and exceptions. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.005 Conflicting Regulations.

Where any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.030 Uses Permitted.

A. LESS RESTRICTIVE USES PROHIBITED. The express enumeration and authorization in this title of a particular class of building, structure, premises or use in a designated zone shall be deemed a prohibition of such building, structure, premises or use in all zones of more restrictive classification, except as otherwise specified.

B. ADDITIONAL PERMITTED USES. Uses other than those specifically mentioned in this title as uses permitted in each of the zones may be permitted therein provided such uses are similar to those mentioned and are in the opinion of the City Council no more obnoxious or detrimental to the welfare of the community than the permitted uses in the respective zones. The City Council may approve such uses by ordinance amendment after a recommendation has been received from the Planning Commission.

C. EXCLUSION OF PERMITTED USES. The City Council after a recommendation has been received from the Planning Commission may by ordinance amendment, exclude any permitted use from any zone if in the opinion of the City Council it is obnoxious or detrimental to the welfare of the community.

D. NONCONFORMING BUILDINGS. The following provisions shall apply to all nonconforming buildings and structures or parts thereof legally existing at the effective date of this title.

1. Any nonconforming building or structure may be maintained, improved, or altered only as follows:

a. Improvements that do not change the use or the basic, exterior characteristics or appearance of the building or structure are allowed. Such improvements include but are not limited to the following:

(1) Interior alterations or upgrades to any portion of the nonconforming building or structure, including portions that exceed the current height limitation, such as:

(a) The replacement of wall coverings;

(b) The replacement of existing utilities, or the installation of new utilities;
(c) The replacement of existing interior walls, or the construction of interior walls;
(d) The replacement of existing insulation, or the installation of new insulation; or
(e) The replacement of existing floor coverings, or the installation of new floor coverings;

(2) The replacement of structural members, such as studs, rafters, joists, beams, or other structural members, except where it will result in an increase in roof pitch;

(3) The replacement or installation of new foundations and slabs under the existing building footprint;

(4) Seismic safety retrofit improvements;

(5) The demolition and replacement of the nonconforming building or structure, provided that the following conditions are met:

(a) The basic, exterior characteristics of the replacement building or structure is not changed, except as allowed in this Section;

(b) The new structure complies with all applicable height and building story limitations; and

(c) The demolition and replacement of the nonconforming building or structure does not continue or perpetuate a nonconforming use.

(6) Additions that conform to the current Zoning standards for the zone.

(7) Solar energy systems, as defined in subdivision (a) of Civil Code section 801.5, that are installed roughly parallel to, and protrude no higher than ten inches (10") above (measured from the top of the roof or other structure perpendicularly to the highest point of the solar energy system), a roof or other similar structure that is legally nonconforming as to the required yard, may extend into a required yard to the extent of the legal nonconforming roof or other similar structure.

b. Minor improvements that change the exterior characteristics are allowed. Such minor improvements are limited to the following:

(1) The replacement of exterior wall coverings with the same or different materials;

(2) The replacement of roofing materials with the same or different materials, except those that require an increase in roof pitch;

(3) Reduction in the number or size of window or door openings;

(4) Replacement of existing windows or doors where there is no increase in opening size, or changes in the location of the windows or doors.

c. Minor expansions of the net floor area on lots that are nonconforming as to the maximum net floor area or where the proposed expansion would otherwise be deemed precluded development as specified in Section 28.15.083 are allowed under the following conditions:

(1) The expansion may not exceed 100 square feet of net floor area over the net floor area legally existing on the lot as of the effective date of section 28.15.083;

(2) Only one expansion is allowed pursuant to this subparagraph (c) (even if the expansion is less than 100 square feet of net floor area); and

(3) A minor expansion of net square footage pursuant to this subparagraph (c) is not permitted in connection with the demolition and replacement of a nonconforming building.

2. Nothing in the above provisions shall be construed to prohibit any additions or alterations to a nonconforming structure as may be reasonably necessary to comply with any lawful order of any public authority, such as seismic safety requirements, the Americans with Disabilities Act, or a Notice and Order of the Building Official, made in the interest of the public health, welfare, or safety, provided that modification approvals pursuant to Chapter 28.92 of this Title may be required for such additions or alterations.

E. NONCONFORMING USES. Any nonconforming use of a conforming or nonconforming building may be maintained and continued, provided there is no increase or enlargement of the floor area of the buildings or structures on site which are occupied or devoted to such nonconforming use except as provided in this Subsection, and further provided there is no increase in the intensity of such nonconforming use except as otherwise provided in this title. When a building containing a nonconforming use is demolished, the nonconforming use shall be deemed discontinued, and such nonconforming use shall not be continued or perpetuated in any replacement building, except as provided in this Subsection. For the purposes of this section, an increase in intensity of use shall include but not be limited to the following: An increase in the number of required parking spaces for the use, or increase in the amount of traffic, noise, odors, vibration, air pollution including dust and other particulate matter, hazardous materials or other detrimental effects on the surrounding community that are generated by the use.

1. **Properties with Nonconforming Residential Density.** Improvements or alterations to a residential structure are not allowed if the improvement or alteration does any of the following: 1. increases residential density, 2. increases floor area of any main or accessory building on the lot (except garages and carports), or 3. increases the amount of habitable space. For the purpose of this paragraph, residential density shall be defined as the number of dwelling units on a property, except in the R-3, R-4, R-O, C-1, C-2, C-M, HRC-2, and OC Zones, where residential uses are allowed, the residential density shall be defined as a combination of the number of dwelling units and the number of bedrooms per unit on a property. The following improvements are allowed, provided that any portion of a building or structure that is nonconforming as to the physical standards of the zone shall only be improved consistent with the provisions in SBMC §28.87.030.D.:

a. New fences;
b. New windows;
c. New doors;
d. Replace windows with doors;
e. New ground floor or upper floor decks;
f. New utilities;
g. Re-roof, including changes in pitch up to 4 in 12;
h. New interior or exterior wall coverings;
i. New insulation;
j. New foundations;
k. Structural upgrades;
l. Seismic Safety retrofit improvements;
m. New exterior water heater enclosures;
n. Interior floor plan changes, including converting existing floor area to bathrooms or laundry rooms, subject to the limitations specified above regarding residential density, floor area, and habitable space;
o. New covered or uncovered parking spaces, up to the minimum number required by this Title for the existing dwelling units;
p. Demolition and replacement, pursuant to the conditions in Section 28.87.038.B of this Title; or
q. Other improvements which neither increase the residential density on site, add floor area, nor increase the amount of habitable space.

2. **Residential Uses in the M-1 Zone.** Buildings or structures containing residential uses in the M-1 Zone may be improved and upgraded as allowed in Paragraph 28.87.030.E.1., above, provided the following conditions are met:

a. There is no increase in floor area, including accessory buildings;
b. There is no increase in residential density;
c. If a proposal to upgrade or improve a residential property in the M-1 zone requires discretionary review by the City, notice of such discretionary review shall be given as required by SBMC Sections 22.22.132, 22.68.040, 22,69.040 or 28.92.060, depending on the reviewing body.

3. **Neighborhood Markets in Residential Zones.** Nonconforming neighborhood markets in residential zones that are properly permitted as of September 1, 1998 may be improved and upgraded as allowed in Paragraph 28.87.030.E.1. above, subject to the following additional conditions:

a. There is no increase in floor area;
b. If a proposal to upgrade or improve a neighborhood market in a residential zone requires discretionary review by the City, notice of such discretionary review shall be given as required by SBMC Sections 22.22.132, 22.68.040, or 28.92.060, depending on the reviewing body.

For the purpose of this Section, a neighborhood market shall be defined as a small-scale market that may sell a full range of food and convenience products, including meat, dairy, vegetables, fruits, dry goods, beverages, and prepared food for off-site consumption.

4. Any part of a building, structure or land occupied by such a nonconforming use which is changed to or replaced by a use conforming to the provisions of this title shall not thereafter be used or occupied by a nonconforming use.

5. Any part of a building, structure or land occupied by such a nonconforming use, which use is discontinued or ceases for a period of one (1) year or more, shall not again be used or occupied except by a use allowed by the applicable zoning. This time limit shall not apply to a nonconforming use in a building or structure or on land located in an area which the City Council has, by resolution, found to be impacted by governmental action provided (i) the nonconforming use is resumed within one year of the completion of the governmental action and (ii) the nonconforming use is not more intense than the use which existed prior to the governmental action.

6. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification. In areas found by the City Council to be impacted by governmental action, any interim use not conforming to the zoning designation but found appropriate by the Planning Commission may be established upon issuance of a conditional use permit.

7. The foregoing provisions of this section shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of zones under this title or any subsequent change in the regulations of this title.

8. The provisions of this Chapter 28.87 concerning the physical change, abandonment, structural alteration, removal, discontinuance, reconstruction, repairing or rebuilding of nonconforming buildings, structures and uses shall not apply to public utility buildings, structures and uses. Nothing in this part shall be construed or applied so as to prevent the expansion, modernization or replacement of public utility buildings, structures, equipment and facilities where there is no change of use or increase in area of the property so used.

9. An existing educational institution may use, for all educational purposes, buildings existing on the date that this subsection is adopted. (Ord. 5459, 2008; Ord. 5444, 2008; Ord. 5416, 2007; Ord. 5412, 2007; Ord. 5380, 2005; Ord. 5072, 1998; Ord. 4896, 1994; Ord. 4582, 1989; Ord. 4181, 1982; Ord. 3710, 1976; Ord. 3679, 1974; Ord. 2628, 1957; Ord. 2585, 1957.)

28.87.036 Nonconforming Uses Resulting from Amendments.

The provisions of this chapter shall apply to uses which become nonconforming by reason of any amendment to this title, as of the effective date of such amendment. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.038 Reconstruction of Damaged Nonconforming Structures.

A. Nonresidential Structures. A nonconforming building or structure used for nonresidential purposes, which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of not more than seventy-five percent (75%) of its market value immediately prior to the damage, as determined by the Community Development Director or designee, may be restored and the occupancy or use of such building, structure or part thereof which existed at the time of such partial destruction may be continued or resumed, provided that reconstruction, restoration or rebuilding shall commence within a period of one (1) year of the occurrence of the damage or destruction. The applicant shall demonstrate due diligence to complete the proposed reconstruction as determined by the Community Development Director. In the event such damage or destruction exceeds seventy-five percent (75%) of the market value of such nonconforming building or structure immediately prior to the damage, as determined by the Community Development Director or designee, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all the regulations for new buildings in the zone in which it is located. The Community Development Director or designee may require the applicant to have the property appraised by a licensed real estate appraiser in order to determine the market value of such nonconforming building or structure immediately prior to the damage.

B. Residential Structures. Any nonconforming building or structure used for residential purposes, which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy may be restored or rebuilt and the occupancy and use may be continued or resumed provided the following conditions are met:

1. The net square footage of the replacement building or structure shall not exceed the net square footage of the building or structure that was legally permitted prior to the damage or destruction;
2. The number of dwelling units shall be not greater than the number existing prior to the damage or destruction;
3. In R-3, R-4, R-O, C-1, C-2, and C-M zones, the number of bedrooms per dwelling unit shall not be greater than the number existing prior to the damage or destruction;
4. The building setbacks shall not be less than those which existed prior to the damage or destruction;
5. The number of parking spaces shall be no less than the number of parking spaces in existence prior to the damage or destruction;
6. The building, plot and landscaping plans shall be reviewed and approved by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, or the City Council on appeal, if such review would normally be required, except as allowed in this Section;
7. Any such reconstruction, restoration or rebuilding shall conform to all applicable adopted Uniform Codes in effect at the time of reconstruction, unless otherwise excused from compliance as a historic structure, pursuant to the Uniform Code for Building Conservation;
8. All permits required under the California Building Code as adopted and amended by the City shall be obtained. The Community Development Director or designee shall review and determine prior to issuance of said permits that the plans conform to the above;
9. Plans existing in the City's archives shall be used to determine the size, location, use, and configuration of nonconforming buildings and structures. Notwithstanding anything to the contrary above, if a property owner proposes to rebuild the building or structure in accordance with the City's archive plans, a building permit shall be the only required permit or approval. However, any exterior alterations shall be subject to design review, if such review would normally be required by the Santa Barbara Municipal Code. If plans do not exist in the City's archives, the City shall send a notice to all owners of property within 100 feet of the subject property, advising them of the details of the applicant's request to rebuild, and requesting confirmation of the size, location, use, and configuration of the nonconforming building that is proposed to be rebuilt. The public comment period shall be not less than 10 calendar days as calculated from the date that the notice was mailed.
10. The building permit for the reconstruction, restoration or rebuilding must be issued within three (3) years of the occurrence of the damage or destruction. (Ord. 5503, 2009; Ord. 5451, Section 5, 2008; Ord. 5072, 1998; Ord. 4851, 1994; Ord. 3916, 1977; Ord. 3915, 1977; Ord. 3710, 1974.)

28.87.045 Demolition and Replacement of Potentially Hazardous Nonconforming Buildings Which are Subject to the Seismic Safety Ordinance.

A. **OWNER MAY ELECT TO DEMOLISH AND REPLACE.** This section applies to potentially hazardous, nonconforming buildings which are required to, but have not yet complied with Chapter 22.18 of this Code as of the effective date of this amendment. An owner of a potentially hazardous, nonconforming building may elect to demolish that building, and construct a new building in order to meet the requirements of the Seismic Safety Ordinance provided that:

1. If the potentially hazardous, nonconforming building is a Landmark designated pursuant to the authority of Chapter 22.22, demolition of that building shall comply with the requirements contained in Chapter 22.22; and

2. The amount of interior building space (i.e., square footage) shall not be greater than the amount which is contained within the existing building; however, nothing herein shall preclude an addition of square footage pursuant to Chapter 28.85 of this Title; and

3. Setbacks shall not be less than those which currently exist; and

4. The number of parking spaces shall be no less than the number of parking spaces which currently exist; and

5. The number of stories in the building shall be no more than the number of stories which currently exist or which are allowed in the zone, whichever is greater; and

6. Any other existing elements or uses of the building or property which do not conform with the current applicable requirements of the Municipal Code shall not be increased or expanded, but may be retained; and

7. The building, site and landscaping plans shall be subject to the review and approval of the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district, or if the structure is a designated City Landmark, or the City Council on appeal.

Nothing herein shall be deemed to exempt such demolition and replacement of a building from full compliance with the requirements of Charter Section 1506 with respect to the height of buildings in certain zones.

B. **TENANT RELOCATION ASSISTANCE PLAN.** Prior to an approval of the demolition of a residential hotel project pursuant to the provisions of this Section, the property owner shall submit a proposed Tenant Relocation Assistance Plan. The plan, which shall be subject to the review and approval of the Planning Commission shall include, but not be limited to, the following components:

1. **Notice**: A certification that each non-transient tenant will receive a written Notice of Displacement not less than 180 days prior to issuance of a demolition permit for the unit occupied by that tenant.

2. **Relocation Services**: A description of how the property owner will provide relocation services to assist non-transient tenants in finding and securing suitable and comparable replacement housing.

3. **Relocation Assistance**: A description of the amount of monetary assistance (either in the form of cash, a rent credit or other similar credit or free relocation services or a combination thereof) each non-transient tenant will receive prior to the actual displacement of that tenant.

4. **Schedule for Implementation**: A relocation implementation schedule indicating when completion of the Tenant Relocation Plan will be accomplished.

C. **PLANNING COMMISSION REVIEW**. The Planning Commission shall hold a public hearing to review any request to demolish a nonconforming, potentially hazardous building, and construct a new building which may retain one or more nonconformities pursuant to this Subsection. The public hearings shall be held pursuant to Section 28.92.050 of this Title.

1. **Notice of Planning Commission Public Hearing**. Not less than 10 days before the date of the Planning Commission Public Hearing, a notice of the date, time and place of such hearing, the location of the property and the nature of the request shall be given in the following manner, unless otherwise directed by the Planning Commission:

a. By publishing once in a newspaper of general circulation in the City; and

b. By mailing a notice, postage prepaid, to the applicant, to each member of the Planning Commission, to the owners of all property within 300 feet of the exterior boundaries of the property involved, using for this purpose the last known name and address of such owners as shown upon the last Assessment Roll of the County of Santa Barbara.

If the proposed project involves the demolition of a residential hotel, a notice shall be mailed to all tenants of the residential hotel not less than 28 days before the date of the Planning Commission Public Hearing.

2. **Findings**. The Planning Commission may approve the demolition and replacement of such buildings upon finding that:

a. Seismic upgrading of the building is necessary to increase the level of public safety in the event of an earthquake; and

b. Demolition and replacement of the nonconforming building is the most effective method of significantly increasing the level of public safety for the building occupants and the community; and

c. The new building or uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved; and

d. Adequate access and circulation is provided in a manner so that the demands of the new development are adequately met without adversely altering the character of the public streets, sidewalks and walkways in the area; and

e. The appearance of the developed site in terms of the arrangement, size, bulk, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area; and

f. If the project involves the demolition of nonconforming residential hotels, the Tenant Relocation Assistance Plan is adequate to meet the needs of the tenants of the residential hotel which is proposed for demolition and replacement.

g. The parking demands of the replacement project (when contrasted with the demands of the demolished project) do not create a new and significant adverse impact on the parking resources located in the area of the project. If the replacement project results in a new and significant adverse impact on parking resources, the applicant shall make reasonable efforts to mitigate the impact. In such cases, the Planning Commission, or City Council on appeal, shall consider the parking impacts and proposed mitigation measures and may override the impacts if the benefits of the project outweigh the impact. (Ord. 5609, 2013; Ord. 5380, 2005; Ord. 4984, 1996.)

28.87.060 Swimming Pool Requirements.

In any zone that has required setbacks, a swimming pool shall not be located closer than 15 feet to a front lot line or closer than five feet (5') to an interior lot line unless the zone in which the pool is to be constructed has a smaller setback; then, the pool shall observe this lesser setback. The setback shall be measured from the front and interior lot lines to the closest water area of the pool. (Ord. 3804, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.062 Setback, Open Yard, Common Outdoor Living Space, and Distance Between Main Buildings Encroachments.

A. Where setbacks, open yards, common outdoor living space, and minimum distances between main buildings are required in this title, they shall be not less in depth or width than the minimum dimensions specified for any part, and they shall be at every point unobstructed by structures from the ground upward, except as follows:

1. Encroachments allowed in the specific zone.
2. Cantilevered architectural features at least three feet (3’) above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building (such as cornices, canopies, or eaves), or chimneys may encroach up to two feet (2'). However, no cantilevered architectural feature or chimney shall be located closer than three feet (3’) from any property line, except roof eaves, which may be located as close as two feet (2’) from any property line.
3. Uncovered balconies not providing additional floor space within the building may encroach up to two feet (2’). However, an uncovered balcony shall not encroach into an interior setback on a lot located in any single family zone.
4. Solar energy systems, as defined in subdivision (a) of Civil Code section 801.5, that are installed roughly parallel to, and protrude no higher than ten inches (10”) above (measured from the top of the roof perpendicularly to the highest point of the solar energy system), a roof eave, may encroach the same amount as the roof eave.

B. The following structures may encroach into setbacks as specified:

1. Decks that are no more than 10 inches (10”) in height above existing grade may encroach into any setback.
2. Uncovered porches, terraces and outside steps, not extending above the finished floor level of the first floor, may encroach up to three feet (3') into any interior setback.
3. Covered or uncovered entrance landings not extending above the finished floor level of the ground floor and not exceeding three feet (3’) measured in perpendicular dimensions (excluding the area under any handrail required under the California Building Code as adopted and amended by the City) may encroach three feet into any setback.
4. Bay windows at least three feet (3’) above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building may encroach up to two feet (2') into the front setback.
5. Accessible uncovered parking spaces, access aisles, and accessibility ramps necessary to make an existing building accessible to persons with disabilities may encroach into required setbacks to the extent reasonably necessary to accommodate the existing building. This encroachment is not available for new buildings or additions to existing buildings where the addition precludes the development of a conforming accessible improvement.

C. The following types of structures may encroach into the required open yard in the One-Family Residence Zone and the Two-Family Residence Zone (SBMC Section 28.15.060.C and 28.18.060.C.1 and 3a) or common outdoor living space in the R-3/R-4 Zones (SBMC Section 28.21.081.A.3 and 28.21.081.B), provided the total area of all such structures on the property does not occupy more than 20% of the total required open space or common outdoor living space on the lot, that no structure or structures occupy more than 20% of any individual area of required open space or common outdoor living space (if provided in multiple locations):

1. Detached, unenclosed structures (e.g., gazebos, trellises, hot tubs, spas, play equipment, or other freestanding structures).
2. Unenclosed structures which are attached to a wall or walls of a main building (e.g., patio covers, trellises, canopies, or other similar structures).

D. The following types of structures may encroach into the required minimum distance between main buildings on the same lot. However, at no time shall any structure be located closer than five (5) feet to any other structure on the lot, with the exception of: planters less than ten (10) inches in height above finished grade, fences, walls, and roof eaves.

1. Detached accessory structures.
2. Uncovered parking.
3. Planters less than ten (10) inches in height from finished grade.
4. Paving.

5. Fences, hedges, and walls.
6. Uncovered bicycle parking areas including bicycle racks and posts, but excluding bicycle locker parking.
7. The following structures may encroach a maximum of three feet:
a. Balconies, decks, porches, and terraces that do not provide additional floor area. These improvements may be roofed or unroofed. If such improvements are provided above the first floor, they must be cantilevered, and the area below the structure shall not be enclosed.
b. Structures built to enclose trash, recycling, water heaters, or water softeners.
c. Exterior stairways, as long as the stairways are not enclosed by solid walls.
(Ord. 5630, 2013; Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5412, 2007; Ord. 2585, 1957.)

28.87.080 Location of Building.

Except where otherwise provided for in this title, every main building shall face or have frontage upon a public street or permanent means of access to a street. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.140 Buildings Under Construction.

Any building or structure for which a building permit has been issued, and actual construction has begun, prior to the effective date of this title, may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is diligently prosecuted to completion, and provided further that such building or structure shall be completed within two (2) years from the effective date of this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.150 Dwelling and Other Occupancies.

A. **DWELLING UNIT MINIMUM FLOOR AREA REQUIREMENTS**. Every dwelling unit hereafter created shall contain not less than four hundred (400) square feet of usable floor area. Such usable floor area shall be exclusive of open porches, garages, basements, cellars and unfinished attics.

B. **EXCEPTION FOR AFFORDABLE EFFICIENCY DWELLING UNITS.** For projects constructed or operated by a nonprofit or governmental agency providing housing as an "Affordable Housing Cost" to "Lower Income Households" (as those terms are defined in sections 50052.5 and 50079.5 of the state Health and Safety Code), the City may permit efficiency dwelling units (as defined in Section 310.7 of the California Building Code as adopted and amended by the City) for occupancy by no more than two persons who qualify as either very low or low income households at the time of their initial occupancy under circumstances where the unit will have a minimum useable floor area (excluding floor area in the kitchen, bathroom and closet) of not less than 150 square feet. In all other respects, such efficiency dwelling units shall conform to the minimum standards specified in the California Building Code (2001 Edition) and other applicable provisions of this Code. (Ord. 5459, 2008; Ord. 5336, 2004; Ord. 4912, 1995; Ord. 4225, 1983; Ord. 4152, 1982; Ord. 3680, 1974.)

28.87.160 Accessory Buildings.

The following regulations shall apply to the size and location of accessory buildings unless otherwise provided in this title.

A. No detached accessory buildings in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3 or R-4 Zones may exceed two (2) stories or thirty feet (30') in height.

B. Setback requirements contained in this title shall apply to all accessory buildings and structures as well as main buildings and structures, except that no accessory buildings, except garages, shall be located in a front yard.

C. Accessory buildings, excluding garages, shall not have a total aggregate floor area in excess of 500 square feet.

D. Garages in the A-1 and A-2 Zones shall not have a total aggregate floor area in excess of 750 square feet. Garages in the E-1, E-2, E-3, and R-1 Zones shall not have a total aggregate floor area in excess of 500 square feet, except that garages on lots in excess of 20,000 square feet shall not have a total aggregate floor area in excess of 750 square feet. (Ord. 5459, 2008; Ord. 4780, 1992; Ord. 3788, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.170 Fences, Screens, Walls and Hedges.

A. DEFINITIONS. As used in this Section 28.87.170, the following terms and phrases shall have the indicated meanings:

1. **Arbor**. An open structure typically constructed of latticework or metal that often provides partial shade or support for climbing plants, sometimes referred to as a trellis or pergola. An arbor is not considered an accessory building.

2. **Fence**. An upright structure serving as an enclosure, barrier, or boundary or that visually divides or conceals a parcel, usually made of posts, boards, wire, or rails.

3. **Hedge**. A row of closely planted shrubs, bushes, or any other kind of plant material that forms a boundary or substantially continuous visual barrier.

4. **Parkway**. An area between the curb and sidewalk in a fully improved right-of-way, typically landscaped.

5. **Screen**. Vegetation, including, but not limited to, trees, shrubs, bushes, and other plantings, that visually divides or conceals a parcel.

6. **Wall**. An upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area.

B. GENERAL RULES. The following guidelines and standards apply in any zone within the City:

1. **Guidelines**. The Fences, Screens, Walls and Hedges Guidelines, as adopted by resolution of the City Council, shall provide direction and guidance to decision makers and City staff in connection with applications reviewed pursuant to this Section.

2. **Required Reduction for Safety**. If the height of any fence, screen, wall or hedge obstructs the sightlines required for the safe operation of motor vehicles, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.

3. **Height Measurement**. The height of a fence, screen, wall or hedge shall be measured in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge to the highest point of the fence, screen, wall or hedge along said vertical line.

4. **Separation**. Unless there is a horizontal separation of at least five feet (5') between a fence, screen, wall or hedge, the combined height of a fence, screen, wall or hedge and any adjacent fence, screen, wall or hedge shall be measured from the lowest point of the lowest such fence, screen, wall or hedge to the highest point of other fences, screens, walls or hedges.

5. **Schools**. A chain link or open mesh type fence of any height necessary to enclose an elementary or high school site may be located and maintained in any required yard.

6. **Barbed Wire, Concertina Wire, Sharp Wire or Points**. No barbed wire or concertina wire shall be used or maintained in or about the construction of a fence, screen, wall or hedge along the front or interior lot lines of any lot, or within three feet (3') of said lot lines. No sharp wire or points shall project at the top of any fence or wall less than six feet (6') in height.

C. RULES APPLICABLE TO FENCES AND WALLS ON RESIDENTIALLY-ZONED PARCELS. On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to fences and walls:

1. **Required Setbacks**. Except as otherwise provided in this Section, no fence or wall located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines**. Except as otherwise provided in this Section, no fence or wall located within ten feet (10') of a front lot line shall exceed a height of three and one-half feet (3-1/2').

3. **Driveways**. Except as otherwise provided in this Section, no fence or wall exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots**. Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no fence or wall may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

5. **Guardrails**. A guardrail may extend above the maximum height limit for a fence or wall without requiring an exception or modification, only to the minimum extent required for safety by the California Building Code, and only if the guardrail is predominately transparent.

6. **Decorative Elements**. Notwithstanding the above provisions, decorative elements not wider than nine inches (9") by nine inches (9"), such as pilaster caps, finials, posts, lighting fixtures, or similar decorative features as determined by the Community Development Director (or the Director's designee), may exceed the maximum height of any fence or wall by not more than twelve inches (12"), provided such features are spaced not less than six feet (6') apart, measured on-center.

7. **Entryway Arbors**. Notwithstanding the above provisions, one entryway arbor, substantially open (no solid walls or roof) and not exceeding a maximum of eighteen (18) square feet in area and eight feet (8') in height, is permitted in any front yard. The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger. This exception shall only apply to an entryway arbor used in combination with and attached to a fence or wall. No arbor shall be located on a street corner in conflict with the provisions of Section 28.87.170.C.4.

D. RULES APPLICABLE TO SCREENS AND HEDGES ON RESIDENTIALLY-ZONED PARCELS. On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to screens and hedges:

1. **Required Setbacks**. Except as otherwise provided in this Section, no screen or hedge located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines**. Except as otherwise provided in this Section, no screen or hedge located within ten feet (10') of a front lot line shall exceed a height of eight feet (8').

3. **Driveways**. Except as otherwise provided in this Section, no screen or hedge exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots**. Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no screen or hedge may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

E. ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS.

1. **Exceptions to the Fence and Wall Standards by the Community Development Director**. The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines, to Paragraphs C.1, C.2, C.5, C.6, and C.7 above, if the Community Development Director finds that:

a. If the subject fence or wall is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line nearest to the fence or wall have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. As applicable, the subject fence or wall will be compatible with other similarly situated and approved structures in the neighborhood; and

d. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

2. **Exceptions to the Screen and Hedge Standards by the Community Development Director**. The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines, to Paragraphs D.1 and D.2 above, if the Community Development Director finds that:

a. If the subject screen or hedge is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line nearest to the screen or hedge have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. The screen or hedge will be compatible with the character of the neighborhood (the Community Development Director may seek advice from the appropriate design review body when considering this finding);

d. The proposed height of the screen or hedge will respect the height limitation applicable to structures for the protection of solar access as specified in Section 28.11.020 of this Code; and

e. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

3. **Exceptions to Corner Lot and Driveway Sightline Standards by the Public Works Director**. The Public Works Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines, to Paragraphs C.3, C.4, D.3 and D.4 above, if the Public Works Director finds that:

a. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles; and

b. The granting of such exception will not be detrimental to the use and enjoyment of the other properties in the neighborhood.

F. NONCONFORMING. Any fence, screen, wall or hedge which is nonconforming to the provisions of this section and which existed lawfully on January 10, 1957 (the effective date of the ordinance adopting the provisions of this section), may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence or wall, except as permitted in other sections of this title. A hedge shall be determined to be nonconforming by the Community Development Director upon receipt of sufficient evidence indicating that the hedge existed in its present location on January 10, 1957. Notwithstanding the foregoing, no more than ten percent (10%) of the length of a nonconforming fence or wall may be replaced within any twelve-month period, unless: 1) such fence or wall is a significant structure or feature associated with a designated City Landmark or Structure of Merit and the extent of repair or maintenance occurs pursuant to Santa Barbara Municipal Code Section 22.22.070; or 2) such fence or wall is necessary to retain or support soil in a vertical or near vertical slope of earth. If a nonconforming fence, screen, wall or hedge has been determined to be a safety hazard by the Public Works Director, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.

G. RELATIONSHIP WITH THE VIEW DISPUTE RESOLUTION PROCESS. The fact that a hedge or screen does not violate the standards set forth in this Section 28.87.170 or the fact that a property owner has received an administrative exception or modification from the standards set forth in this Section for a hedge or screen shall not preclude another property owner from alleging an unreasonable obstruction of a view and availing himself or herself of the protections and procedures of the City's View Dispute Resolution Process found in Chapter 22.76 of this Code. (Ord. 5650, 2014; Ord. 5459, 2008; Ord. 4162, 1982; Ord. 3513, 1972; Ord. 3234, 1967; Ord. 2585, 1957; Ord. 2346, 1951.)

28.87.180 Recreational Vehicles, Mobilehomes and Modular Units.

A. **RESIDENTIAL USE OF RECREATIONAL VEHICLES AND MOBILEHOMES**. No recreational vehicle shall be used or occupied for living or sleeping purposes unless it is located in a recreational vehicle park and complies with all provisions of any ordinance of the City of Santa Barbara regulating such park.

B. **TEMPORARY OVERNIGHT USE**. Notwithstanding subsection (A) above or any other provision of this Code, the overnight use of a paved parking area by the registered owner of a recreational vehicle (as defined in Section 18010 of the state Health & Safety Code) is allowed under the following expressly limited circumstances:

1. **Church and Nonprofit Parking Lots**. A church or other public benefit nonprofit corporation (which utilizes its real property for a permitted church or nonprofit institutional use) may allow the overnight use of an adjacent paved vehicular parking portion of their real property by the registered owner of a recreational vehicle as a transitional housing alternative under the following limited circumstances:

a. Such overnight use does not conflict with express conditions imposed by the City on a permit for the church or non-profit institutional use.

b. No more than five (5) recreational vehicles are on the church or institutional real property for overnight accommodation use at any one time.

c. During the overnight use, each recreational vehicle is sited at a location not less than fifty (50) feet from any real property being used for residential purposes.

d. Such recreational vehicles are properly and currently licensed for operation on the highway in accordance with the California Vehicle Code.

e. The church or non-profit organization has sole and exclusive control of the parking being used for this purpose.

f. The church or non-profit organization makes adequate and sanitary bathroom facilities (as approved by the Santa Barbara County Health Officer) available to the occupants of the recreational vehicles.

g. No rent is received by the church or non-profit organization for this overnight accommodation use, as the term "rent" is defined in SBMC Section 26.08.030(N).

h. The owner of the RV has been issued a permit for such use of the RV by a non-profit entity designated by the City for supervising the Safe RV Parking Program and designated by the City to assist such RV owners in transitioning to permanent housing.

2. **Parking of RVs in Certain Areas of Certain Zones**. An owner of real property in the M-1 zone, north of the U.S. Highway 101, and the C-M zone, east of Santa Barbara Street to the City limits (as depicted on the map attached to this chapter entitled "RV Overnight Parking in Certain Areas of M-1 and C-M Zones, Dated February 6, 2007"), may allow the overnight use of a paved parking portion of their real property by the registered owner of a recreational vehicle as a transitional housing alternative under the following limited circumstances:

a. Such overnight use does not conflict with express conditions imposed by the City on a use permit for the use of the real property.

b. No more than one (1) recreational vehicle is on the real property for overnight accommodation use at any one time.

c. During the overnight use, each recreational vehicle is parked at a location not less than fifty (50) feet from any real property being used for residential purposes.

d. Such recreational vehicles are properly and currently licensed for operation on the highway in accordance with the California Vehicle Code.

e. The owner of the real property makes adequate and sanitary bathroom facilities (as approved by the Santa Barbara County Health Officer) available to the occupants of the recreational vehicles.

f. No rent is received by the owner of real property for this overnight accommodation use, as the term "rent" is defined in SBMC Section 26.08.030(N), so long as the occupant of the recreational vehicle serves as night-time security personnel.

g. The owner of the RV has been issued a permit for such use of the RV by a non-profit entity designated by the City for supervising the Safe RV Parking Program and designated by the City to assist such RV owners in transitioning to permanent housing.

3. **City Parking Lots**. The recreational vehicle being used is located within a City public parking lot as such lots (including the locations thereon) as may be designated by a resolution of the City Council under use conditions and permit restrictions which shall be expressly established in the City Council resolution. Such Council resolution shall also establish criteria for and a process to certify the continuing need for the occupants of a recreational vehicle to use the recreational vehicle as a transitional housing alternative pending an eventual transition to an acceptable and safe housing alternative.

C. **COMMERCIAL USE**. No recreational vehicle, mobilehome, or modular unit shall be used for office, retail or any other commercial purpose except in the following situations:

1. A recreational vehicle or mobilehome may be used as a sales office for a new or used recreational vehicle or mobilehome sales business if such recreational vehicle or mobilehome is on the same lot or parcel of land where the business is located and if, on such same lot or parcel of land, new or used recreational vehicles or mobilehomes, other than that used for a sales office, are normally kept for display to the public;

2. A recreational vehicle or mobilehome may be used as a sales office for a new or used auto sales business conducted on the same lot or parcel of land in areas other than a City designated landmark district;

3. A recreational vehicle or mobilehome may be used as a construction building or office at the site of a construction project for the duration of such project;

4. A mobilehome in a residential zone may be used for the conduct of a home occupation upon the same conditions and regulations as apply to single family residences in the zone;

5. A modular unit or mobilehome in a residential zone may be used for temporary office purposes in connection with the use of real property as a dedicated public park provided that the owner of the property or the operator of the park has received the required City approvals to construct a permanent park office building and all of the following conditions exist:

a. All required building permits are obtained.

b. Each modular unit or mobilehome is located outside the construction zone.

c. No required parking spaces are eliminated by the placement of the modular units or mobilehome.

d. No retail sales are made from the modular units.

6. One or more modular units may be used during the term of a construction project by employees of an existing business which has been displaced due to the project, provided all of the following conditions exist:

a. All required building permits are obtained.

b. Each modular unit is located outside the construction zone.

c. No required parking spaces are eliminated by the placement of the modular units.

d. No retail sales are made from the modular units.

7. A mobilehome or modular unit may be used as an office for the initial sale, rental or leasing of lots and dwellings in a project on the site provided all of the following conditions exist:

a. All required building permits are obtained.

b. All necessary street improvements and off-street parking spaces are provided to the satisfaction of the Public Works Director and Community Development Director.

c. The sales office is closed after a period of two years, unless the time period is extended by the Community Development Director.

8. A modular unit or mobilehome in a residential zone may be used for interim fire protection purposes in connection with the use of City Fire Station No. 7 (Sheffield/Stanwood Station) provided that such use complies with the requirements of Santa Barbara Municipal Code Section 28.15.040. (Ord. 5411, 2007; Ord. 5368, 2005; Ord. 5275, 2003; Ord. 5222, 2002; Ord. 4525, 1988; Ord. 4269, 1984; Ord. 3710, 1974; Ord. 3001, 1964.)

28.87.190 Storage.

A. No portion of any front yard or any required interior setback, open yard, private outdoor living space or front porch shall be used for the permanent storage of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, appliances, loose rubbish or garbage, junk, tents, garbage or rubbish receptacles, building materials, compost pile, or any similar item, except as hereinafter provided. Permanent storage, as used in this section, shall mean storage for a period of forty-eight (48) or more consecutive hours.

B. No portion of any vacant or undeveloped lot in a residential zone where no main building exists shall be used for permanent storage.

C. Building materials for use on the same premises may be stored thereon during the time that a valid permit is in effect for construction on the premises. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3115, 1966.)

28.87.200 Landscape or Planting Plan Approvals - Standards.

Whenever in the Zoning Ordinance, as amended, the administrative duty of reviewing and approving landscaping or planting plans is placed upon any officer or employee of the City, such officer or employee may disapprove such plans, or any part of them, if:

1. Any or all of the proposed plant materials are of the type having root structures which, in their natural and anticipated extension and growth and in relation to their location as shown on the plans, may damage or interfere with the normal use and enjoyment of:

a. Public or private lines, cables, conduits, pipes or other underground structures; or

b. Public or private sidewalks, curbs, gutters or hard surfaced roads, streets, driveways, parking and turn around areas, easements or like things designed and constructed to accommodate vehicles; or

c. Contiguous, adjacent or abutting structures, foundations or landscape materials.

2. Any or all of the proposed plant materials:

a. Are noxious or dangerous to persons or domestic animals; or

b. Exude or emit substances or things which because of proposed location will probably injure or damage real or personal property in the area of their effect; or

c. Are weeds which bear seeds of a downy or wingy nature.

3. Any or all of the proposed plant materials, because of proposed location and type, will contribute to the spread of or make more hazardous the possibility of a brush or forest fire; or

4. Any or all of the proposed plant materials which are designed for relatively permanent emplacement will probably die because of proposed locations unrelated to their ecological requirements; or

5. Any or all of the proposed plant materials, as affected by normal growth, will probably block the view, sunlight or fresh air flow otherwise available at a window or other opening in the walls of a building on the property or of a building on adjacent property; or

6. Any or all of the proposed plant materials are so arranged or placed so as not to produce the aesthetic result desired by the property owner; or

7. Any or all of the proposed plant materials are in such combinations as to promote a natural competition for the elements necessary to their healthy growth and thus seriously affect their stability or permanence; or

8. Any or all of the proposed plant materials, as affected by normal growth, will tend to become a nuisance to or otherwise interfere with the free use and enjoyment of neighboring property; or

9. Any or all of the proposed plant materials, as affected by normal growth, and with reference to their proposed location, will probably become obstructions to the vision of vehicle operators or to other uses of public streets and places, as such obstructions are defined and regulated under provisions contained in the Code of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3008, 1964.)

28.87.205 Automobile Service Stations - Site Development Regulations.

For the promotion and preservation of the health, safety, peace and general mental, economic and physical welfare, the following regulations, in addition to other requirements of law, are established for automobile service station site development, primarily to provide opportunity for the dissipation of and to reduce noise, glare or lights and gas and oil fumes, to provide safe barriers between adjacent pedestrian ways and vehicle maneuvering areas on the site, and to provide adequate separation from adjoining residential properties so as to preserve their residential amenities and incidentally, to carry out such primary purposes in a manner that will enhance and assure maintenance of the aesthetic appeal of service station sites to aid and preserve the unique character and quality of the environment of the City which draws tourists and visitors, consequently, both directly and indirectly promoting the business of service station owners and operators as well as benefitting the general economy of the City of which the tourist and visitor element is of predominant importance.

1. When a lot is developed for automobile service station purposes, the following requirements shall be met:

a. Where such lot abuts property used or zoned for residential purposes, such lot shall be separated from such abutting property by an ornamental masonry wall six feet (6') high; provided that from the front property line to a depth along the abutting lot line of twenty feet (20') such wall shall be three feet (3') high. There shall also be provided individual planting areas no less than five feet (5') square along and adjacent to the side of such wall which faces the service station facilities, such planting areas to be planted with trees.

b. Where such lot abuts property other than that used or zoned for residential purposes there shall be provided individual planting areas no less than five feet (5') square along and adjacent to such property, such planting areas to be planted with trees.

c. Along and abutting all street rights-of-way, except in those areas encompassed within the driveway exits and entrances, there shall be provided planted planter areas three (3) or more feet wide.

d. No part of any building or structure or any part of a parked vehicle shall be permitted to protrude or intrude into any required planting areas from ground level up. Parking spaces shall be provided with approved tire stops, bumper stops or other barriers for this purpose.

e. Except where buildings abut planting areas, all planting areas shall be separated from adjoining unplanted areas by a curb that is no less than four inches (4") above pavement level.

f. All planting areas shall be maintained in a manner that will sustain normal growth.

2. Prior to the issuance of a building permit for an automobile service station, a planting plan showing above required planting areas, showing that the requirements of this section have been met, and showing compliance with the following additional matters shall be submitted to the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, for a determination that all of such requirements and matters have been met and upon such determination, approved:

a. The plan shall show the botanical and common names of the plants to be used, their number, and proposed spacing and location.

b. The plan shall show combinations of trees and shrubs or ground cover. Ground covers or shrubs alone are not acceptable as a separation from adjoining residential property, but will be sufficient for areas abutting streets.

c. The plan shall show all parking spaces, paved areas and driveways.

d. The plan shall show an adequate method of irrigating all planted areas. Irrigation may be by a permanent watering system or by hose.

3. Approval upon final inspection under a building permit shall not be given until the approved planting has been completed to the satisfaction of the Chief of Building and Zoning or his delegate.

4. Compliance with Section 28.87.205 shall not be required for automobile service stations and automobile service station/mini-markets that have a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code. (Ord. 5380, 2005; Ord. 4851, 1994; Ord. 4033 §7, 1980; Ord. 3710, 1974; Ord. 3034, 1965.)

28.87.210 Substandard Lots Created by Action of Public Agency.

Where any existing parcel of land is reduced in size or lot dimensions below those required by this title by reason of the acquisition of a portion thereof along any perimeter of such parcel for any public purpose by any public agency, such parcel as so reduced shall be considered as conforming to the provisions of this title as a legal lot. In such case, minimum lot area and lot dimensions required by this title shall not apply. Lot area per dwelling unit requirements and all other provisions of this title shall apply. This section shall not apply to property acquired by a public agency as part of subdivision or lot split proceedings. (Ord. 3710, 1974; Ord. 3040, 1965.)

28.87.220 Zoning Information Report.

A. **STATEMENT OF LEGISLATIVE INTENT.**

These regulations are intended to require a Zoning Information Report for purchasers of residential property, setting forth matters of City record pertaining to the authorized use, occupancy, zoning and the results of a physical inspection of the property. Primary purpose of the report is to provide information to the potential buyer of residential property concerning the zoning and permitted use of the property.

B. **DEFINITIONS.**

1. "Owner" shall mean any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

2. "Residential property" shall mean any improved real property, designed or permitted to be used for any residential purpose, situated in the City and shall include the building or structures located on said improved real property.

3. "Agreement of sale" shall mean any agreement or written instrument which provides that title to any property shall thereafter be transferred for consideration from one (1) owner to another owner.

C. **REPORT REQUIRED.**

1. **Application.** Except where a sale is exempt from the requirements of this section pursuant to Subsection G below, no later than five (5) days after entering into an "agreement of sale" of any residential property, the owner or owner's authorized representative shall make application to the City for a Zoning Information Report to the Community Development Director on a form provided, and pay a fee as established by resolution of the City Council.

Under normal circumstances the report will be available no later than fifteen (15) working days after the application is received by the Community Development Director.

2. **Copy to Buyer.** Said owner or owner's authorized representative shall provide a copy of the report to the buyer or buyer's authorized representative no later than three (3) days prior to consummation of the transfer of title. The buyer or buyer's authorized representative may waive in writing the requirement for delivery three (3) days prior to consummation of the transfer of title but in any event the report shall be provided to the buyer or buyer's authorized representative prior to the consummation of the transfer of title.

3. **Proof of Receipt.** Proof of receipt of a copy of the report shall be obtained by the owner or owner's authorized representative prior to consummation of the transfer of title. Said proof shall consist of a statement signed by the buyer or buyer's authorized representative stating that the report has been received, the date of the report and the date it was received. City shall provide a receipt form with each zoning information report. The original of the signed proof of receipt shall be mailed or delivered to the Community Development Director of the City no later than the consummation of the transfer of title.

D. **CONTENTS OF ZONING INFORMATION REPORT.**

The Community Development Director shall review the applicable City records and provide the applicant the following information on the Zoning Information Report:

1. Street address and parcel number of the property.

2. The zone classification and permitted uses as set forth in the Zoning Ordinance of the City of Santa Barbara.

3. Occupancy and use permitted as indicated and established by records.

4. Variance, special use permits, conditional use permits, modifications and other administrative acts of record.

5. Any special restrictions in use or development which are recorded in City records and may apply to the property.

6. Any known nonconformities or violations of any ordinances or law.

7. The results of a physical inspection for compliance with the Zoning Ordinance and for compliance with Chapter 14.46 of this Code.

8. A statement of whether the real property has had a Building Sewer Lateral Report prepared for the real property pursuant to the requirements of Santa Barbara Municipal Code Chapter 14.46 within the five (5) year period prior to the preparation of the Zoning Information Report and, if so, that a copy of the Building Sewer Lateral Report is available from the City for the buyer's inspection. All Zoning Information Reports shall also contain an advisory statement (in bold not less than 10 point typeface) prepared by the Public Works Director which advises a purchaser of residential real property regarding the potential problems and concerns caused by an inadequate, failing, or poorly-maintained Building Sewer Lateral. In addition, the standard required advisory statement shall indicate the advisability of a purchaser obtaining a recently-prepared Building Sewer Lateral Inspection Report.

E. **VIOLATION OF LAW NOT PERMITTED.**

Any report issued pursuant to this section shall not constitute authorization to violate any ordinance or law, regardless of whether the report issued pursuant to this section purports to authorize such violation or not.

F. **EXPIRATION OF REPORT.**

Each report shall be valid for a period of twelve (12) months after date of issue or until a transfer of title occurs, whichever is sooner.

G. **EXEMPTIONS.**

The provisions of this section shall not apply to the following sales:

1. The first sale of each separate residential building located in a subdivision where the final subdivision or parcel map has been approved and recorded in accordance with the Subdivision Map Act not more than two (2) years prior to the first sale.

2. The sale of any residential property on which a new home is under construction pursuant to a valid building permit; or

3. The sale of any residential property where the final building permit inspection on a new home was issued within three (3) months of the date on which the owner entered into the agreement for the sale of a home to the buyer.

4. The sale of a condominium unit.

H. **EFFECT OF NONCOMPLIANCE.**

It shall be unlawful for any owner to consummate the transfer of title to any residential property without providing the transferee with a Zoning Information Report as required in this Section 28.87.220. The failure to comply with the provisions of this Section shall not invalidate the transfer or conveyance of real property to a bona fide purchaser or encumbrancer for value. (Ord. 5537, 2010; Ord. 5396, 2006; Ord. 4932, 1995; Ord. 4106, 1981; Ord. 3986, 1979; Ord. 3843, 1976; Ord. 3826, 1976.)

28.87.230 Zoning Plan Check - Fee.

Prior to issuance of a building permit, the development and construction plans shall be reviewed to determine consistency with the Zoning Ordinance. Application for a zoning plan check shall be accompanied by the fee in the amount established by resolution of the City Council. (Ord. 3955 §4, 1978.)

28.87.240 Drive-Through Facility.

No new or expanded drive-through facility shall be permitted in any zone of the City. Existing financial institution drive-through facilities may be replaced in kind with automated teller machines as long as the number of drive-through lanes does not increase. (Ord. 4837, 1993; Ord. 4001, 1979.)

28.87.250 Development Along Creeks.

A. Legislative Intent. The purpose of this Section is to provide controls on development adjacent to the bed of Mission Creek within the City of Santa Barbara. These controls are necessary:

1. to prevent undue damage or destruction of developments by flood waters;

2. to prevent development on one parcel from causing undue detrimental impact on adjacent or downstream properties in the event of flood waters;

3. to protect the public health, safety and welfare.

B. Limitation on Development. No person may construct, build, or place a development within the area described in Subsection 28.87.250.C unless said development has been previously approved as provided in Subsection 28.87.250.E.

C. Land Area Subject to Limitation. The limitations of this Section shall apply to all land within the banks and located within twenty-five (25) feet of the top of either bank of Mission Creek within the City of Santa Barbara.

"Top of bank" means the line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the upper generally level ground along the watercourse; or, if the existing sloping side of the watercourse is steeper than the angle of repose (critical slope) of the soil or geologic structure involved, "top of bank" shall mean the intersection of a plane beginning at the toe of the bank and sloping at the angle of repose with the generally level ground along the watercourse. The angle of repose is assumed to be 1.5 (horizontal) : 1 (vertical) unless otherwise specified by a geologist or soils engineer with knowledge of the soil or geologic structure involved.

"Toe of bank" means the line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the bed of the watercourse.

D. Development Defined. Development, for the purposes of this Section, shall include any building or structure requiring a building permit; the construction or placement of a fence, wall, retaining wall, steps, deck (wood, rock, or concrete), or walkway; any grading; or, the relocation or removal of stones or other surface which forms a natural creek channel.

E. Approval Required. Prior to construction of a development in the area described in Subsection 28.87.250.C, the property owner shall obtain approvals as follow:

1. Any development subject to the requirement for a building permit shall be reviewed and approved by the Chief of Building and Zoning or the Planning Commission on appeal prior to the issuance of a building permit.

2. Any development not requiring a building permit shall be reviewed and approved by the Chief of Building and Zoning or his designated representative or the Planning Commission on appeal. A description of the development shall be submitted showing the use of intended development, its location, size and manner of construction.

F. Development Standards. No development in the area subject to this Section shall be approved unless it is found that it will be consistent with the purposes set forth in Subsection 28.87.250.A.

1. The Chief of Building and Zoning or the Planning Commission on appeal shall consider the following in determining whether the development is consistent with Subsection 28.87.250.A:

a. That the proposed new development will not significantly reduce existing floodways, re-align stream beds or otherwise adversely affect other properties by increasing stream velocities or depths, or by diverting the flow, and that the proposed new development will be reasonably safe from flow-related erosion and will not cause flow-related erosion hazards or otherwise aggravate existing flow-related erosion hazards.

b. That proposed additions, alterations or improvements comply with Subparagraph 1.a above.

c. That proposed reconstruction of structures damaged by fire, flood or other calamities will comply with Subparagraph 1.a above, or be less nonconforming than the original structure and will not adversely affect other properties.

d. The report, if any, of a qualified soils engineer or geologist and the recommendations of the Santa Barbara County Flood Control and Water Conservation District.

e. After review of that report, whether denial of approval would cause severe hardship or prohibit the reasonable development and use of the property.

2. The Chief of Building and Zoning, or the Planning Commission on appeal may consider the following factors as mitigating possible hazards which might otherwise result from such development:

a. Where the development is located on a bank of the creek which is sufficiently higher than the opposite bank to place the development outside a flood hazard area.

b. Where the creek bed adjacent to the development is sufficiently wide or the creek bank slope sufficiently gradual that the probability of flood hazard is reduced.

c. Where approved erosion or flood control facilities or devices have been installed in the creek bed adjacent to the development.

d. Where the ground level floor of the development is not used for human occupancy and has no solid walls.

e. Where the development is set on pilings so that the first occupied floor lies above the 100-year flood level, and such pilings are designed to minimize turbulence.

3. The Chief of Building and Zoning or the Planning Commission on appeal may allow development into required setbacks if he makes the finding that the encroachment would not be necessary except for the development controls required by this section and that the modification of the required setback is necessary to secure an appropriate improvement on a lot, to prevent unreasonable hardship or to promote uniformity of improvement.

G. Procedures. The following procedures shall apply to developments in the area defined in Subsection 28.87.250.C:

1. All applicants shall receive an environmental assessment.

2. All applications shall be referred to the Santa Barbara County Flood Control and Water Conservation District and the City Public Works Department for review and comment.

3. Upon completion of the above review and comment, the proposed development shall be reviewed by the Chief of Building and Zoning as provided in Subsection 28.87.250.E. The Chief of Building and Zoning shall give the applicant and any other person requesting to be heard, an opportunity to submit oral and/or written comments to him prior to his decision. The Chief of Building and Zoning shall send by mail notice of his decision to the applicant. The decision of the Chief of Building and Zoning shall be final unless appealed by the applicant or any interested person to the Planning Commission within ten (10) days by the filing of a written appeal with the Department of Community Development. The Department of Community Development shall schedule the matter for a hearing by the Planning Commission and shall mail the applicant and any interested person requesting notice written notice of the hearing ten (10) days before the hearing. The decision of the Planning Commission shall be final. (Ord. 5459, 2008; Ord. 4056, 1980.)

28.87.260 Antenna Height Limitation.

A. Basic Height Limitation. Except as otherwise conditionally permitted herein, no radio, television or other antenna or mast or related screening shall be permitted if at the highest point the height above grade is more than forty-five (45) feet in any one-family or two-family residence zone, fifty-five (55) feet in any multiple-family residence, office, restricted or limited commercial zone or seventy (70) feet in any other commercial, commercial-manufacturing or limited manufacturing zone.

B. Exceptions. Permitted exceptions to height limits:

1. Amateur or Citizen's Band Antennas. Amateur or Citizen's Band transmitting or receiving antennas used in the Amateur Radio Service or the Citizen's Radio Service by licensed amateur or citizen's band radio operators may exceed the basic height limitation provided that:

a. No antenna tower shall extend to a height above grade of more than sixty-five (65) feet in any residential, office, restricted or limited commercial zone or one hundred (100) feet in any other commercial or manufacturing zone.

b. No antenna support which is not a tower or part of a tower shall be installed and thereafter maintained whose height above grade is more than forty-five (45) feet unless such support is a part of an approved structure or a naturally existing object.

2. Cellular Telephone and Emergency Service Antennas. A Cellular Telephone or Emergency Service Antenna and related screening may exceed the basic height limitation provided that it is placed on an existing building and the top of the antenna is no more than fifteen (15) feet above the highest point of the building. (Ord. 4891, 1994; Ord. 4851, 1994; Ord. 4147, 1982.)

28.87.270 Emergency Service Antennas.

Emergency Service antennas shall be a permitted use in all zones. (Ord. 4891, 1994.)

28.87.280 Automated Teller Machines.

A. PROHIBITION ADJACENT TO RESIDENTIAL ZONES. Except as provided in Subsection B. of this Section, Automated Teller Machines (ATMs) shall not be installed, operated or maintained under the following circumstances:

1. Where the ATM is located on a parcel that is immediately adjacent to a parcel zoned for residential purposes, and

2. Where the ATM is less than one hundred feet from the lot line of the adjacent residentially zoned lot, and

3. Where the ATM is either:

a. Located on an exterior wall of a structure, which wall is visible from the adjacent residential lot, or

b. Accessible through a door installed in such an outside wall which is open other than during normal hours of the business which otherwise is conducted in said building.

B. NONCONFORMING ATMs; AMORTIZATION PERIOD. Any Automated Teller Machine existing on the effective date of the ordinance first enacting this Section 28.87.280 and which is located as described in Subsection A hereof shall be either removed, or moved to a location that conforms to the provisions of Subsection A hereof within six years of the date of its original installation. During such six (6) year period, such ATM must also comply with the following conditions:

1. Such ATM shall not be replaced, improved or upgraded during said period, and

2. Such ATM and associated security lighting shall not be operated between the hours of 10:00 p.m. and 7:00 a.m. daily.

3. An illuminated sign stating the hours of operation of the ATM shall be placed in a location visible to potential users of the ATM, subject to Chapter 22.70 (Sign Ordinance) of this Title. (Ord. 5072, 1998.)

28.87.290 Seasonal Holiday Sales.

Notwithstanding any provisions of this Title to the contrary, the annual retail sale of Christmas trees or Halloween pumpkins (holiday sales) is permitted in the C-P, C-2, C-M, M-1, and P-D zones subject to the following requirements:

A. The person, firm, or organization conducting holiday sales shall first obtain a permit from the Community Development Department. The Community Development Department shall develop appropriate application requirements for holiday sales permits.

B. No holiday sales permitted under this section shall be maintained or operated for more than six weeks.

C. The space in which holiday sales are conducted shall not displace any parking spaces or loading areas required for other uses on the lot pursuant to this Code.

D. The operator of the holiday sales shall comply with all other applicable provisions of the Santa Barbara Municipal Code, including, but not limited to, the Sign Ordinance, the Outdoor Lighting Ordinance, applicable Building and Fire Codes, and any applicable design review of buildings or structures.

E. The lot on which the holiday sales are conducted shall be restored to the condition in which it existed prior to the conduct of the holiday sales within one week following the respective holiday. (Ord. 5459, 2008.)

28.87.300 Cannabis Cultivation.

A. Definitions.

For the purposes of this section, the following words and phrases shall be defined as set forth below:

1. "Cannabis" shall have the meaning set forth in California Business and Professions Code section 19300.5(f), the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in A.B. 266.

2. "Commercial" shall have the meaning set forth in section 28.04.180 of the Zoning Ordinance.

3. "Cultivation" shall have the meaning set forth in California Business and Professions Code section 19300.5(l) of the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in A.B. 266.

4. "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

5. "Parcel" shall have the meaning set forth in section 28.04.515 of the Zoning Ordinance.

6. "Personal Medical Use" shall mean non-commercial cannabis cultivation by a qualified patient for their personal use.

7. "Qualified Patient" shall have the meaning set forth in California Health and Safety Code section 11362.7, and shall not include primary caregivers.

8. "Residential unit" shall have the meaning set forth in section 28.04.590 of the Zoning Ordinance.

B. Cannabis Cultivation for Personal Medical Use. A qualified patient is permitted to engage in indoor or outdoor cannabis cultivation for personal medical use on a single contiguous cultivation site, existing in a horizontal plane not exceeding a footprint of one hundred (100) square feet in area, in any zone, provided that the parcel is occupied by the qualified patient living in a lawful residential unit, but in no event may more than one cultivation site be permitted at any single lawful residential unit.

C. Commercial Cannabis Cultivation Prohibited. Commercial cannabis cultivation for any purpose or use is prohibited in all zones.

D. All Other Cannabis Cultivation Prohibited. Except to the extent expressly permitted by this section, cannabis cultivation of any kind and for any purpose shall not be construed as a permitted agricultural or other use in any zone under the Zoning Ordinance.

E. Permissive Zoning. For the purposes of California Health and Safety Code section 11362.777(b)(3), the Zoning Ordinance shall be construed as establishing permissive zoning so that cannabis cultivation is permitted only where expressly allowed by this section.

F. Nuisance. Nothing in this section shall be construed to permit the establishment or maintenance of any use which constitutes a public nuisance. (Ord. 5733, 2016.)

28.87.360 Abandonment and Revocation of Staff Hearing Officer or Planning Commission Approvals.

A. ABANDONMENT OR NON-USE OF APPROVAL. The validity of a Staff Hearing Officer or Planning Commission action approving a modification, conditional use permit, variance, or Performance Standard Permit shall terminate if (i) a building permit for the use authorized by the approval is not issued within twenty-four (24) months of granting the approval, unless an extension is granted by the Community Development Director, and the construction authorized by the permit diligently pursued to completion and issuance of a Certificate of Occupancy, or (ii) the use authorized by the approval is discontinued, abandoned or unused for a period of six (6) months following the earlier of (a) issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

B. SUSPENSION OF TIME DURING LITIGATION. The period of time specified in Subsection A shall not include the period of time during which a lawsuit involving the approval of the modification, conditional use permit, variance, or Performance Standard Permit or related approvals is or was pending in a court of competent jurisdiction. After service of the initial petition or complaint in the lawsuit upon the City, the applicant may advise the City of the need for a litigation tolling pursuant to the City's adopted procedures.

C. VIOLATION OF CONDITIONS OF APPROVAL. If the conditions of approval of any variance, modification, conditional use permit or performance standard permit have not been met within any time limits established in such conditions, or have been violated as determined by the Community Development Director, the Staff Hearing Officer or Planning Commission may revoke these permits or approvals. A decision to revoke shall be made following a hearing, using the same noticing requirements that were applicable to the original permit or application.

D. APPEALS.

1. A decision of the Staff Hearing Officer to revoke a permit or other approval under this Section may be suspended or appealed pursuant to Section 28.05.020.

2. A decision of the Planning Commission to revoke a permit or other approval under this Section may be appealed to the City Council pursuant to Chapter 1.30. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5537, 2010; Ord. 5380, 2005; Ord. 4532, 1988).

28.87.370 Timelines for Projects with Multiple Approvals.

A. **TIMELINES TRACK LONGEST LAND USE APPROVAL.** If a project requires multiple discretionary applications pursuant to Titles 22, 27 or 28 of this Code, the expiration date of all discretionary approvals (i.e., such as Title 22 design review, Title 27 subdivision map approval, or Title 28 land use approvals) shall correspond with the longest expiration date specified by any of the land use discretionary applications (including any extensions that are granted for such approval and any applicable tolling or suspensions granted pursuant to this Chapter), unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

B. **EXCLUSIONS OF TIME.** The periods of time specified in this Section 28.87.370 shall not include any period of time during which either: 1. a moratorium ordinance on the issuance of building permits, imposed by the City after the project received project design approval, is or was in effect; or 2. a lawsuit involving the project design approval or the land use approvals for the project is or was pending in a court of competent jurisdiction. The maximum length of any exclusion of time under this subsection shall be five (5) years. If the project requires the approval of a tentative subdivision or parcel map pursuant to Title 27 of this Code, the length of any exclusion of time pursuant to this subsection shall be equal to the length of the exclusion approved by the local agency upon a request of the subdivider pursuant to Government Code Section 66452.6(c) and subsection (F) of SBMC 27.07.110.

C. **APPROVALS RUN CONCURRENTLY.** When any City discretionary approval is extended by operation of this Section 28.87.370, such approval shall run concurrently with, not consecutively to, the term of the longest discretionary land use approval for the project. If a building permit for the project has not been issued prior to the expiration of the longest discretionary land use approval for the project (including any extensions granted for that approval), all discretionary approvals for the project shall expire and become null and void upon the expiration of the longest discretionary land use approval. A design review approval shall not operate to extend a land use approval.

D. **COMMENCEMENT OF TIMING FOR APPROVALS CONTINGENT UPON ACTION OF OTHER GOVERNMENTAL BODIES.** When a discretionary approval by the City made pursuant to Titles 27 or 28 is contingent upon an action by another governmental body (i.e., for example, the approval of an annexation by the Local Agency Formation Commission or certification of an amendment to the Local Coastal Plan by the California Coastal Commission), the timeline for all discretionary approvals related to the project shall not commence until all such outside agency contingencies are satisfied. The suspension of project timelines allowed in this subsection shall not exceed two (2) years from the date of the final City action on the discretionary approval that is contingent upon the action of another governmental body. This suspension shall not run consecutively to a moratorium or litigation exclusion unless the moratorium or litigation legally prevented the applicant from processing the application before the other governmental body. (Ord. 5537, 2010; Ord. 5380, 2005.)

28.87.380 Notice of Hearing.

When a provision of this Code requires notice of a public hearing to be given pursuant to this Section, said notice shall comply with the following provisions:

A. REQUIRED MANNER OF NOTICE. Notice shall be given in each of the following ways:

1. Notice of the hearing shall be sent by first class mail at least 10 calendar days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant; and

2. Notice of the hearing shall be sent by first class mail at least 10 calendar days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. If the number of owners to whom notice would be mailed pursuant to this paragraph is greater than 1,000, the City, in lieu of mailed notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 calendar days prior to the hearing; and

3. Notice of the hearing shall be published once in a newspaper of general circulation within the City at least 10 calendar days prior to the hearing.

B. ADDITIONAL NOTICING METHODS. In addition to the required manners of notice specified in Subsection A above, the City may also require notice of the hearing in any other manner it deems necessary or desirable, including, but not limited to, posted notice on the project site. However, the failure of any person or entity to receive notice given pursuant to these additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

C. CONTENT OF NOTICE. The notice shall include all of the following information:

1. The date, time, and place of the public hearing;
2. The identity of the hearing body or officer;
3. A general explanation of the matter to be considered; and
4. A general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

D. REQUEST FOR NOTICE. When a provision of this Code requires notice of a public hearing to be given pursuant to this Section, the notice shall also be mailed at least 10 days prior to the hearing to any person who has filed a written request for notice with either the City Clerk or with any other person designated to receive such requests. The City may charge a fee for providing this service as set by resolution of the City Council. Any request to receive such notice shall be renewed annually. The members of the Planning Commission shall receive notice of all public hearings scheduled before the Staff Hearing Officer.

E. CONTINUANCES. Any public hearing noticed pursuant to this Section may be continued to a time certain without further notice. (Ord. 5380, 2005.)

28.87.400 Density Bonus and Development Incentives.

A. INTENT. The intent of this section is to provide incentives for the development of housing affordable to very-low income, low income, senior and other qualifying households. State law mandates the provision of density bonuses to senior, very-low, and low income households under certain circumstances. The City of Santa Barbara has created a separate density bonus program for certain other households. Both the State mandated and City created density bonus programs use terms defined in this section.

B. DEFINITIONS. The following words and phrases have the meaning indicated unless the context or usage clearly requires a different meaning:

1. Density. The number of residential units allowed on a parcel based on the lot area requirements specified in the zone and General Plan.

2. Density Bonus. A density increase over the otherwise maximum allowable residential density under the applicable Zoning Ordinance and Land Use Element of the General Plan as of the date of application by the developer to the City.

C. PROJECTS WHICH MEET THE CRITERIA SET FORTH IN STATE DENSITY BONUS LAW.

1. Qualifying housing developments as defined in Government Code Section 65915. When a developer of housing agrees or proposes to construct at least:

a. 20% of the total units of a housing development for low income households; or

b. 10% of the total units of a housing development for very low income households; or

c. 50 percent of the total dwelling units of a housing development for senior citizens;

The applicant must submit the project for review by the Community Development Director or his/her designee to determine whether the project meets the criteria set forth in State density bonus law. If the Director determines that the project meets the criteria of State law, the project may be granted a density bonus and at least one other incentive as required by State law, and processed as required by State law unless otherwise requested by the applicant. The incentives and processing provisions required by State law are described in Government Code Section 65915.

2. Procedure for review of projects submitted under State density bonus law. A project which meets all the requirements of State law shall be processed according to the usual discretionary review procedure, subject to the following exceptions:

a. LOT AREA MODIFICATION. Notwithstanding any other section in this Code, when a proposed project complies with all of the requirements of State density bonus law, and the density bonus requested is no more than the density bonus mandated by State law, the Community Development Director or his/her designee shall deem the project's density consistent with the Zoning Ordinance, and exempt from the requirement for a lot area modification as set forth in Section 28.92.110.

b. NOTICE OF DESIGN REVIEW BOARD HEARING. When the Community Development Director determines that a proposed project meets all the requirements of State law and the requirements of the residential zoning category in which the project is proposed, and does not cause any unavoidable, significant, environmental impacts, and requires design review as its only City discretionary approval, the appropriate Design Review Board (Historic Landmarks Commission or Architectural Board of Review) will review the project. Notice of the meeting at which the project is considered by the Design Review Board will be provided in accordance with the requirements for noticing of public hearings in Municipal Code Section 28.92.060.

D. PROJECTS WHICH DO NOT MEET THE CRITERIA SET FORTH IN STATE DENSITY BONUS LAW.

1. Qualifying housing developments. When a developer proposes a development which does not meet the criteria listed above and requests a density bonus, the Community Development Director or his/her designee will review the project for consistency with the criteria of the City's density bonus program, described in the City of Santa Barbara Affordable Housing Policies and Procedures Manual. If the proposed project is determined to be consistent with the criteria of the City's density bonus program, it will be approved or disapproved under the provisions of that program.

2. Procedures for approval of projects which are consistent with the City density bonus program. A project which does not meet all the requirements of State law, but does meet the standards of the City density bonus program will be processed according to the discretionary review procedures in effect and applicable to the project. (Ord. 5380, 2005; Ord. 4912, 1995.)

28.87.500 Denial of Affordable Housing Projects.

A. Affordable Housing Projects May Be Denied by the Planning Commission or City Council on Appeal. If at least 20% of a housing development's units are sold or rented to low income households, and the balance of the units are sold or rented to either low- or moderate-income households, it shall not be disapproved or conditioned in a manner which renders the project infeasible for development for the use of low- and moderate-income households unless the decision making body finds, based upon substantial evidence, one of the following, pursuant to California Government Code Section 65589.5:

1. The project is not needed for the City to meet its share of the regional need of low and/or moderate income housing as outlined in the adopted Housing Element to the General Plan; or

2. The project as proposed would have a specific, adverse impact upon the public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the project unaffordable to low and/or moderate income households; or

3. Denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the project unaffordable to low and/or moderate income households; or

4. Approval of the project would increase the concentration of low income households in a neighborhood that already has a disproportionately high number of low income households and there is no feasible method of approving the development at a different site, including sites identified in the adopted Housing Element, without rendering the development unaffordable to low and/or moderate income households; or

5. The project is proposed on land zoned for resource preservation which is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project; or

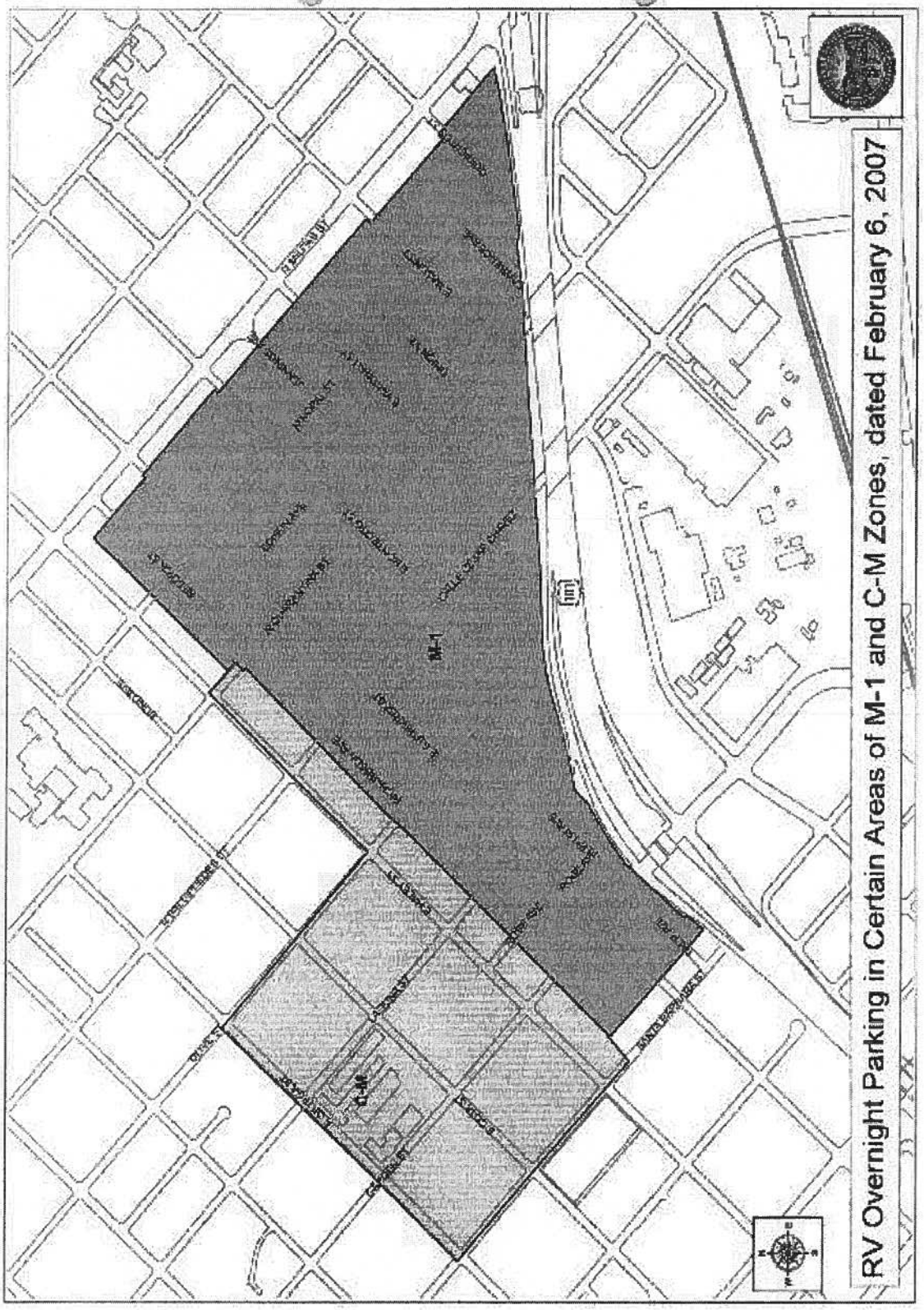
6. The project is inconsistent with the land use designation as outlined in the adopted General Plan or in any General Plan element as it existed on the date the application for the project was deemed complete.

B. Findings. When a proposed housing development project complies with the applicable General Plan, Zoning and development policies in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence in the record that both of the following conditions exist:

1. The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density, and

2. There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph 1, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(Ord. 4912, 1995.)


M-1
C-M
RV Overnight Parking in Certain Areas of M-1 and C-M Zones, dated February 6, 2007

Chapter 28.88

CONVERSION OF DWELLING UNITS TO CONDOMINIUMS, HOTELS OR SIMILAR USES

Sections:

28.88.010 Purpose.
28.88.020 Community Apartments and Stock Cooperatives.
28.88.025 Date of Conversion.
28.88.028 Permit Required; Exceptions.
28.88.029 Issuance of Permits.
28.88.030 Requirements and Procedures.
28.88.040 Physical Standards for Condominium Conversions.
28.88.045 Conversions of Dwelling Units to Hotels or Similar Uses.
28.88.050 Application Requirements for Condominium and Time Share Conversions.
28.88.055 Application Requirements for Conversions to Hotels or Similar Uses.
28.88.060 Additional Submittals for Conversions to Condominiums or Hotel Units.
28.88.070 Acceptance of Reports.
28.88.080 Copy to Buyers.
28.88.090 Hearing.
28.88.100 Tenant Protection Provisions.
28.88.110 Effect of Proposed Conversion on the City's Low- and Moderate-Income Housing Supply.
28.88.120 Findings.
28.88.130 Maximum Number of Conversions.

28.88.010 Purpose.

A. To establish criteria for the conversion of existing multiple family rental housing to condominiums, community apartments, cooperative apartments, hotels or similar uses.

B. To reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion of apartments to condominiums, community apartments, and stock cooperatives, hotels or similar uses by providing procedures for notification and adequate time and assistance for such relocation.

C. To insure that the purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase.

D. To insure that converted housing achieves high quality appearance and safety, and is consistent with the goals of the City's General Plan and conforms or is legally nonconforming with the density requirements of the General Plan's Land Use Element.

E. To attempt to balance the opportunity for housing ownership of all types, for all levels of income and in a variety of locations with the need to maintain a supply of rental housing which is adequate to meet the housing needs of the community.

F. To attempt to maintain a supply of rental housing for low and moderate income persons and families. (Ord. 4716, 1991; Ord.4606, 1989; Ord. 4199, 1983; Ord. 4014 §1, 1979; Ord. 4000 §2, 1979.)

28.88.020 Community Apartments and Stock Cooperatives.

Conversion to community apartments and stock cooperatives shall be subject to the same restrictions, conditions, and requirements as condominiums. All references to a "condominium" in this Chapter shall be deemed to include community apartment, and stock cooperative, except where specifically noted. (Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.025 Date of Conversion.

As used in this Chapter, the "date of conversion" for condominium conversions shall mean the date the final or parcel map for the project is filed with the County Recorder following its approval by the Staff Hearing Officer or Planning Commission or, if an appeal is filed, by the City Council. For hotels or similar uses, the "date of conversion" is the date of issuance of the conversion permit by the Chief Building Official after the Staff Hearing Officer or Planning Commission, or the City Council on appeal, approves the conversion. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4199, 1983;Ord. 4048, 1980; Ord. 4000 §2, 1979.)

28.88.028 Permit Required; Exceptions.

A. **PERMIT REQUIRED.** No person, firm, corporation, partnership or other entity shall convert existing dwelling units to a condominium, hotel or similar use without first having said conversion approved by the Planning Commission or the City Council on appeal, and having been issued a conversion permit by the Chief Building Official. For conversions of dwelling units to condominium units, the body that shall serve as the Advisory Agency for the required subdivision, as specified in Section 27.03.010 of this Code, shall review the application for the conversion pursuant to this Chapter 28.88.

B. **EXCEPTIONS TO REQUIREMENTS FOR CONVERSION PERMITS.**

The following shall be exempt from the provisions of this Chapter:

1. A project creating a condominium, hotel or similar use and using no more than one (1) existing dwelling unit as part of said project shall not be considered a conversion. To qualify for this exception, the number of dwelling units on the project site shall not have been previously reduced by use of this exception clause. For the purposes of this exclusion, the number of existing dwelling unit(s) shall be determined on the date of application for the permit. If the project calls for destruction of the structure housing the dwelling unit(s), those units shall not be counted as existing unit(s).

2. A stock cooperative or community apartment which has received final approval from the California Department of Real Estate or has otherwise been legally created prior to the adoption date of the ordinance establishing this Chapter.

No exception under this Subsection shall affect the applicability of the Zoning Ordinance, the California Building Code as adopted and amended by the City, or other applicable ordinances or regulations. (Ord. 5451, Section 5, 2008; Ord. 5380, 2005; Ord. 4716, 1991: Ord.4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.029 Issuance of Permits.

The Chief of Building and Zoning shall issue a conversion permit when he determines that:

A. The applicant has complied with all the applicable City or State regulations in effect at the time the conversion application was deemed to be complete, and

B. The applicant has complied with the conditions of approval.

Once issued, the conversion permit can be revoked only because of the failure of the applicant or his successors in interest to comply with the conditions of approval.

An approval shall expire if the tentative subdivision map expires. For hotels or similar uses, an approval shall expire in the same period of time as projects requiring a tentative map unless a conversion permit has been issued by the Chief of Building and Zoning. (Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4048, 1980; Ord. 4000 §2, 1979.)

28.88.030 Requirements and Procedures.

No existing building containing a dwelling unit shall be approved for conversion to a condominium or hotel unless it meets the standards set forth in the following requirements:

A. All residential buildings shall, on the date of conversion, be in compliance with the minimum standards of the Uniform Housing Code as adopted by the City of Santa Barbara and those of the State of California.

B. All buildings shall, on the date of conversion, be in compliance with the exit and occupancy requirements and the height and area requirements for the type of construction and occupancy involved as outlined in the California Building Code as adopted and amended by the City.

C. All buildings sought to be converted are, on the date of conversion, in all respects in compliance with the Zoning Ordinance and the goals and policies of the General Plan, or legally nonconforming therewith. Notwithstanding the provisions of Santa Barbara Municipal Code Section 28.87.030, any legally nonconforming building or buildings for which a condominium conversion application is approved may be remodeled or otherwise physically changed provided the changes do not increase or intensify the element of the building that is nonconforming.

D. All condominium projects differentiated from hotels or similar uses, shall be subject to all applicable provisions of the Subdivision Map Act and Title 27 of this Code.

E. Once a building permit has been issued, a building may not be converted unless the certificate of occupancy for the building was issued more than five (5) years prior to the date the owner files with the City an application for the approval of a tentative condominium map or conversion to a hotel or similar use, unless the building satisfies the City's requirements for new condominium construction. (Ord. 5451, Section 5, 2008; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.040 Physical Standards for Condominium Conversions.

To achieve the purpose of this article, the Staff Hearing Officer or Planning Commission, prior to the date of conversion, shall require that all condominium conversions conform to the Santa Barbara Municipal Code in effect at the time of approval except as otherwise provided in this Chapter. The Staff Hearing Officer or Planning Commission, prior to the date of conversion, shall require conformance with the standards of this section in approving an application for conversion.

A. **UNIT SIZE.** The enclosed living or habitable area of each unit shall be not less than 600 square feet.

B. **FIRE PREVENTION.**

1. **Smoke Detectors.** Each living unit shall be provided with approved detectors of products of combustion other than heat conforming to standards of the California Building Code as adopted and amended by the City, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.

2. **Maintenance of Fire Protection Systems.** All on-site fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protective appliances shall be retained in an operable condition at all times, maintained by the Homeowner's Association and delineated in the Covenants, Conditions and Restrictions.

C. **SOUND TRANSMISSION.**

Wall and floor-ceiling assemblies shall conform to Title 25, California Code of Regulations, Section 1092, or its successor, or permanent mechanical equipment, including domestic appliances, which is determined by the Chief Building Official to be a potential source of vibration or noise, shall be shock mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Chief Building Official to lessen the transmission of vibration and noise. Floor covering may only be replaced by another floor covering that provides the same or greater insulation. The requirements of this paragraph shall not apply to a unit in a building with no other unit(s).

D. **UTILITY METERING.**

1. The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. Each unit shall have its own electrical panel, or access thereto, for all electrical circuits which serve the unit. A gas shut-off valve shall be provided for each unit and for each gas appliance.

2. Each dwelling unit shall be served by a separate City water meter. An additional separate City meter shall be provided to serve the landscaped areas in projects that include five or more dwelling units.

3. All plumbing fixtures shall conform to the standards for water saving devices as contained in the Uniform Plumbing Code as adopted and amended by the City of Santa Barbara in Chapter 22.04 of this Code.

4. An exception to any requirement of this subsection may be granted by the Staff Hearing Officer or Planning Commission if the following requirements are met:

a. A licensed engineer has determined that compliance with the requirement cannot practically be accomplished and the applicant has included alternative measures to accomplish conservation equivalent to that which would be expected through compliance with the requirement;

b. The Public Works Director has reviewed the proposed exception and the proposed alternative measures and has concurred that equivalent conservation is likely to be accomplished as a result thereof. Measures proposed as alternatives to the water conservation requirements of this subsection may include, but are not limited to, installation of privately owned sub-meters on each dwelling unit, conversion of existing landscaped areas to conform with current standards for water conserving landscaping, and installation of additional separate City meters to serve groups of dwelling units.

E. **PRIVATE STORAGE SPACE.** Each unit shall have at least 200 cubic feet of enclosed weatherproofed and lockable private storage space, in addition to guest, linen, pantry, and clothes closets customarily provided. Such space shall be for the sole use of the unit owner. Such space shall be accessible from the garage or parking area for the units it serves.

F. **LAUNDRY FACILITIES.** A laundry area shall be provided in each unit; or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and dryer for each five units or fraction thereof.

G. **CONDITION OF EQUIPMENT AND APPLIANCES.** The applicant shall provide written certification to the buyer of each unit on the initial sale after conversion that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, and air-conditioners that are provided are in working condition as of the close of escrow. At such time as the Homeowner's Association takes over management of the development, the applicant shall provide written certification to the Association that any pool and pool equipment and any appliances and mechanical equipment to be owned in common by the Association is in working condition.

H. **PUBLIC EASEMENTS.** The applicant shall make provisions for the dedication of land or easements for street widening, public access or other public purpose in connection with the project where necessary and in accordance with established planned improvements.

I. **REFURBISHING AND RESTORATION.** All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, irrigation systems, and additional elements as required by the Staff Hearing Officer or Planning Commission shall be refurbished and restored as necessary to achieve high quality appearance and safety.

J. **PARKING STANDARDS.** The off-street parking requirements for a conversion project shall be one and one-half (1½) parking spaces per unit for one bedroom or efficiency units and two (2) parking spaces per unit for units containing two or more bedrooms.

K. **PHYSICAL ELEMENTS.** Any physical element identified in the Physical Elements Report as having a useful life of less than two (2) years shall be replaced.

L. **OUTDOOR LIVING SPACE.** Outdoor living space for a conversion project shall be provided as required in MC §28.21.081.

M. **HANDICAPPED ACCESSIBILITY AND ADAPTABILITY.** All conversions involving five or more units shall meet the accessibility and adaptability requirements of the State Housing and Community Development Commission.

N. **EXCEPTIONS.** The Staff Hearing Officer or Planning Commission may grant an exception to the physical standards set forth in Subsections A, E, F, J , L, and M of this Section if it makes any of the following findings:

1. The economic impact of meeting the standard is not justified by the benefits of doing so.

2. The project includes design features or amenities which offset the project's failure to meet the standard.

3. The project includes provisions for low-, or moderate-income sales restrictions on the converted units beyond what is otherwise required in this Chapter that offset the project's failure to meet the standard.

4. The project's proximity to public open space could partially offset the project's lack of on-site open space. (Ord. 5380, 2005; Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4000 §2, 1979.)

28.88.045 Conversions of Dwelling Units to Hotels or Similar Uses.

Conversion of existing dwelling units to hotels or similar uses in the R-4 Zone and zones in which R-4 uses are allowed shall be subject to all applicable Sections of this Chapter and of Chapter 28.21 of this Code. In addition, the following standards shall apply:

A. **LIGHTING.** All outdoor lighting shall be hooded or shielded so that no direct beams fall on adjacent property. When outdoor lighting is provided, indirect soft lighting and low garden lighting shall be used whenever possible, and shall be required as necessary to assure compatibility with adjacent and surrounding properties.

B. **PARKING.** Off-street parking shall be provided as required in Chapter 28.90 or Subsection 28.88.045.C.5 of this Chapter if applicable, subject to Subsection 28.88.120.I.4 of this Chapter.

C. **TIME SHARE PROJECTS.** If a proposed time share project retains kitchens in the individual units, they shall be subject to all physical standards under Section 28.88.040 of this Code. The conversion of a dwelling unit to a time share project, wherein the converted unit consists of a suite of no more than two (2) rooms and provides no individual kitchens or cooking facilities is exempt from the following Subsections of Section 28.88.040:

1. 28.88.040A. Unit Size:
2. 28.88.040D.1. Utility metering, if a water shut-off valve is provided for each unit or for each plumbing fixture in that unit;
3. 28.88.040E. Private Storage Space;
4. 28.88.040F. Laundry Facilities; and
5. 28.88.040J. Parking Standards, provided that there shall be provided one-and-one quarter (1¼) spaces for each unit. This requirement may be modified if the applicant can demonstrate that additional parking is not needed.

D. **USE OF AMENITIES - TIME SHARE PROJECTS.**

A provision shall be included in the "Declaration of Time Share Plan" or similar instrument restricting the use of the project or its amenities by individual owners/users of a unit to the period of the time share interval(s) or right-to-use. (Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983)

28.88.050 Application Requirements for Condominium and Time Share Conversions.

In addition to such other application requirements as the Staff Hearing Officer or Planning Commission may deem necessary and those requirements as set forth in Section 28.88.030 above, no application for a conversion to condominiums or time share projects shall be accepted for any purpose unless the application includes the following:

A. A development plan of the project including:

1. The location, height, gross floor area, and proposed uses for each existing structure to remain and for each proposed new structure;
2. The location, use, and type of surfacing for all open storage areas;
3. The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;
4. The location, height, and type of materials for walls or fences;
5. The location of all landscaped areas, the type of landscaping, and a statement specifying the method by which the landscaped areas shall be maintained;
6. The location and description of all recreational facilities and a statement specifying the method of the maintenance thereof;
7. The location and size of the parking facilities to be used in conjunction with each unit;
8. The location, type and size of all drainage pipes and structures depicted or described to the nearest public drain or watercourse;
9. The location and type of the nearest fire hydrants;
10. The location, type and size of all on-site and adjacent street overhead utility lines;
11. A lighting plan of the project;
12. Existing and proposed exterior elevations;
13. The location of any provisions for any unique natural or vegetative features.

B. A physical elements report which shall include but not be limited to:

1. A report detailing the condition and estimating the remaining useful life of each element of the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, including sewage systems, swimming pools, sprinkler systems for landscaping, utility delivery systems, central or community heating and air-conditioning systems, fire protection systems including automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. Such report shall be prepared by an appropriately licensed contractor or architect or by a registered civil or structural engineer other than the owner. For any element whose useful life is less than five (5) years, a replacement cost estimate shall be provided.
2. A structural pest control report. Such report shall be prepared by a licensed structural pest control operator pursuant to Section 8516 of the Business and Professions Code.
3. A building history report including the following:
   a. The date of construction of all elements of the project;
   b. A statement of the major uses of said project since construction;

c. The date and description of each major repair or renovation of any structure or structural element since the date of construction. For the purposes of this subsection a "major repair" shall mean any repair for which an expenditure of more that $1,000 was made;

d. Statement regarding current ownership of all improvements and underlying land;

e. Failure to provide information required by subsections a. through d., inclusive, shall be accompanied by an affidavit, given under penalty of perjury, setting forth reasonable efforts undertaken to discover such information and reasons why such information cannot be obtained. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.055 Application Requirements for Conversions to Hotels or Similar Uses.

In addition to such other application requirements as the Planning Commission may deem necessary and those requirements as set forth in Section 28.88.030 of this Code, no application for conversion of a building containing a dwelling unit to a hotel or similar use shall be accepted for any purpose unless the application includes a development plan of the project containing:

A. The location, height, gross floor area, and proposed uses for each existing structure to remain and for each proposed new structure;

B. The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;

C. The location, use, and type of surfacing for all open storage areas;

D. The location, height, and type of materials for walls or fences;

E. The location of all landscaped areas, the type of landscaping, and any proposed changes thereto;

F. The location and description of all recreational and other hotel-related facilities, and any proposed changes thereto;

G. The location and size of the parking facilities to be used in conjunction with each guest room and other related uses on-site;

H. A drainage plan for the site;

I. A lighting plan of the project;

J. Existing and proposed exterior elevations; and

K. The location of and provisions for any unique natural or vegetative site features. (Ord. 4606, 1989; Ord. 4199, 1983.)

28.88.060 Additional Submittals for Conversions to Condominiums or Hotel Units.

A. A statement of any unique provisions of the proposed Covenants, Conditions and Restrictions which would be applied on behalf of any and all owners of condominium units within the project. With regard to stock cooperatives, this submission shall consist of a summary of proposed management, occupancy and maintenance policies on forms approved by the City Attorney.

B. Specific information concerning the characteristics of any conversion project, including but not limited to the following:

1. Square footage and number of rooms in each existing and proposed unit or guest room;
2. Rental rate history for each type of unit for previous five (5) years;
3. Monthly vacancy rate for each month during preceding two (2) years;
4. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;
5. Names and addresses of all tenants; and
6. Applications for conversion to time share projects shall include the length of every time share interval and maintenance period.

When the developer can demonstrate that such information is not available, this requirement may be modified by the Community Development Department.

C. The developer shall submit evidence that notification of intent to convert was sent to each tenant in accordance with Section 28.88.100.

D. Any other information which, in the opinion of the Community Development Department, will assist in determining whether the proposed project will be consistent with the purposes of this article. (Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.070 Acceptance of Reports.

The final form of the Physical Elements Report and other documents shall be as approved by the Chief Building Official. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall be referenced in the subdivision report to the Staff Hearing Officer or Planning Commission. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4000 §2, 1979.)

28.88.080 Copy to Buyers.

The seller shall provide each purchaser of a condominium or time share unit with a copy of all reports (in their final, acceptable form), along with the Department of Real Estate Final Subdivision Public Report, when required, except the information required by Subsections B. and C. of Section 28.88.060, prior to the purchaser completing an escrow agreement or other contract to purchase a unit in the project, and the developer shall give the purchaser sufficient time to review the reports. Copies of the reports shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site. (Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000, 1979.)

28.88.090 Hearing.

A. **TENANT NOTICE.** Prior to action on the application, the Staff Hearing Officer or Planning Commission shall hold a hearing. Notice of the hearing shall be mailed at least ten (10) days prior to the hearing date to tenants of the proposed conversion and posted on the property. The public hearing notice shall include, in addition to the notice of the time and place of the public hearing, notification of the tenant's rights to appear and be heard.

B. **STAFF REPORT.** Any report or recommendation from the staff on a proposed tentative map for a residential condominium conversion submitted to the Staff Hearing Officer or Planning Commission or City Council on appeal shall be in writing and a copy shall be sent to the subdivider at least six (6) calendar days prior to any hearing or action on the map by the Staff Hearing Officer or Planning Commission and City Council. The subdivider shall be responsible for providing a copy of any such report to each tenant of the subject property at least three (3) days prior to any hearing or action on such map by the Staff Hearing Officer, Planning Commission or City Council. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4199,1983; Ord. 4000, 1979.)

28.88.100 Tenant Protection Provisions.

A. **NOTICE OF INTENT.** A notice of intent to convert shall be provided to each tenant a minimum of sixty (60) days prior to the filing of the application for Tentative Map approval. Notice shall be provided either by (i) personal delivery, or (ii) mailing the notice, postage prepaid, by certified letter with return receipt requested. Evidence of compliance with this Section shall be submitted with the application for conversion. The form of the notice shall be as approved by the Community Development Department and shall contain at a minimum the following:

1. Name and address of current owner;
2. Name and address of the proposed subdivider;
3. Approximate date on which the tentative map/conversion permit application is proposed to be filed;
4. Tenant's right to purchase condominium, if applicable;
5. Tenant's right of notification to vacate;
6. Tenant's right of termination of lease;
7. Statement of limitations on rent increase;
8. An explanation of all provisions made by the subdivider for special cases;
9. An explanation of all provisions made by the subdivider for moving expenses of displaced tenants;
10. Tenant's right to receipt of notice for each hearing and right to appear and be heard at any such hearing; and
11. Other information as may be deemed necessary by the Community Development Department.

B. **TENANT'S RIGHT TO PURCHASE.**

1. As provided in Government Code Section 66427.1 (d) any present tenant or tenants of any unit shall be given an exclusive right to contract for the purchase of the unit occupied or equivalent unit at a price no greater than the price offered to the general public or terms more favorable to the tenant, whichever is less. The exclusive right to contract shall extend for at least ninety (90) days from the date of issuance of the Subdivision Public Report or commencement of sales, whichever date is later, unless the tenant gives prior written notice of his or her intention not to exercise the right.

2. In addition, the present tenant or tenants shall have the right of first refusal to purchase the unit occupied or equivalent unit at the same price as that offered by a buyer and accepted by the applicant, whenever such accepted price is lower than the price required to be offered to the tenant under Paragraph B.1 of this Subsection. The tenant must exercise the tenant's right of first refusal within forty-five (45) days of receipt of notice from the applicant.

3. If the tenant exercises his right to purchase under this Subsection, then the applicant is not required to provide moving expenses as outlined in Subsection G of this Section, except to the extent required by State law.

4. The manner in which any exclusive right to contract or right of first refusal shall be exercised shall be in accordance with regulations established by resolution of the City Council. This Subsection does not apply to conversions to hotels or similar uses.

C. **VACATION OF UNITS.** Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which the unit is occupied, shall have not less than one hundred eighty (180) days from the date of approval of the conversion by the Staff Hearing Officer or Planning Commission or, if an appeal is filed, by the City Council, to find substitute housing and to relocate. Applicant shall give written notice of the approval containing an explanation of any and all conditions of approval which affect the tenants to each tenant within fifteen (15) days of the approval. Such notice shall be prepared in accordance with procedures established by resolution of the City Council setting forth the manner and contents of such notice.

D. **TENANT'S RIGHT OF TERMINATION OF LEASE.** Any present tenant or tenants of any unit shall be given the right to terminate their lease or rental agreement without penalty, following the receipt of the notification from the owner of the intent to convert.

E. **SPECIAL CASES.** For purposes of this Section, a "special case" tenant is one who is over age 62, handicapped, low income, a single parent with custody of minor children, or otherwise likely to experience difficulty finding suitable replacement housing. The subdivider shall afford special consideration to each "special case" tenant which special consideration, at a minimum, shall include the following:

1. Each "special case" tenant shall be allowed an additional period of time, not exceeding six (6) months beyond the period specified in Subsection C of this Section, in which to relocate.

2. A tenant with school age children shall not be required to vacate the unit prior to the end of the school year in which the one hundred eighty (180) day period specified in Subsection C begins to run.

F. **INCREASE IN RENTS.** From the date of approval of the application to convert until the date of conversion, no tenant's rent shall be increased more frequently than once annually nor at a rate greater than the rate of increase in the Consumer Price Index (all items, Los Angeles - Long Beach), on an annualized basis, for the same period. This limitation shall not apply if rent increases are provided for in leases or contracts in existence prior to the filing date of the application to convert.

G. **MOVING EXPENSES.** The subdivider shall provide moving expenses of one and one-half (1½) times the monthly rent or $2000, whichever is greater, to any tenant who relocates from the building to be converted after approval of the condominium conversion by the City, except when the tenant has given notice of intent to move prior to receipt of notification from the subdivider of the intent to convert.

H. **NOTICE TO NEW TENANTS.** After the issuance of the Notification of Intent to Convert, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit and shall not be subject to the provisions of subsections B.2, F and G. The form of the notice shall be as approved by the Community Development Department, subject to Government Code Section 66452.8(b) and 66452.8(c). Failure by a subdivider to give such notice shall not be grounds to deny the proposed conversion. Further, the subdivider shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who did not receive such notice, an amount equal to the sum of: (1) actual moving expenses incurred when moving from the subject property, but not to exceed $1000, and (2) the first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed $1000.

I. **NOTICE OF FINAL MAP.** Each of the tenants of the proposed condominium conversion shall be given written notification within ten (10) days of approval of a final map for the proposed conversion and proof of such notification shall be submitted to the Public Works Department.

J. **NOTICE OF DEPARTMENT OF REAL ESTATE REPORT.** Each of the tenants of the proposed condominium conversion shall be given written notification that an application for a public report will be, or has been submitted to the Department of Real Estate, and that such report will be available upon request. (Ord. 5380, 2005; Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4086, 1980; Ord. 4000 §2, 1979.)

28.88.110 Effect of Proposed Conversion on the City's Low- and Moderate-Income Housing Supply.

A. If any of the units in the project have been "affordable rental units" for at least twenty-four of the previous forty-eight months preceding the conversion application, the application for condominium conversion may be approved only if a condition is imposed requiring that the same number and type of units in the project after conversion will be subject to a recorded affordability covenant placing maximum sales price limits on each such unit in accordance with the City's affordability criteria. For purposes of this Chapter, "affordable rental unit" shall be defined by resolution of the City Council. All units subject to this affordability restriction shall be owner-occupied, except as otherwise set forth by Council resolution. Any such units that are retained by the original owner and not sold shall be subject to affordable rental restrictions as defined by resolution of the City Council.

B. If the Staff Hearing Officer or Planning Commission determines that vacancies in the project have been increased for the purpose of preparing the project for conversion, the conversion shall be disapproved. In evaluation of the current vacancy level under this subsection, the increase in rental rates for each unit over the preceding five (5) years and the average monthly vacancy rate for the project over the preceding two (2) years shall be considered. (Ord. 5380, 2005; Ord. 4716, 1991: Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.120 Findings.

The Staff Hearing Officer or Planning Commission shall not approve an application for condominium conversion unless the Staff Hearing Officer or Planning Commission finds that:

A. All provisions of this Chapter are met and the project will not be detrimental to the health, safety, and general welfare of the community.

B. The proposed conversion is consistent with the General Plan of the City of Santa Barbara or legally nonconforming with the density requirement of its Land Use Element.

C. The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed to be complete, except as otherwise provided in this Chapter.

D. The overall design (including project amenities) and physical condition of the conversion will result in a project which is aesthetically attractive, safe and of quality construction.

E. If required by Subsection 28.88.110 A above, the proposed conversion has mitigated impacts to the City's low and moderate income housing supply through an agreement to record affordability control covenants on the specified number of units.

F. The applicant has not engaged in coercive retaliatory action regarding the tenants after the submittal of the first application for City review through the date of approval. In making this finding, consideration shall be given to:

1. Rent increases at a rate greater than the rate of increase in the Consumer Price Index (all items, Los Angeles - Long Beach) unless provided for in leases or contracts in existence prior to the submittal of the first application for City review, or

2. Any other action by applicant which is taken against tenants to coerce them to refrain from opposing the project. An agreement with tenants which provides for benefits to the tenants after the approval shall not be considered a coercive or retaliatory action.

G. The owner has made a reasonable effort to assist those tenants wishing to purchase their units for purposes of minimizing the direct effect on the rental housing market created by relocating such tenants.

H. The requirements of Section 28.88.130 have been met.

I. The following additional findings shall be made by the Staff Hearing Officer or Planning Commission in order to approve conversions to hotels or similar uses:

1. The use will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially decrease property values in the neighborhood involved;

2. The total area of the site and the setbacks and location of all facilities in relation to property and street lines are adequate in view of the characteristics of the site.

3. The conversion will not have a significant adverse impact on the surrounding properties.

4. Adequate access and off-street parking, including parking for guests and employees, are provided so that there is no adverse impact on the character of the public streets in the neighborhood. (Ord. 5380, 2005; Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4014, 1979; Ord. 4000, 1979.)

28.88.130 Maximum Number of Conversions.

A. **MAXIMUM NUMBER OF CONVERSIONS.**

1. Annual Quota. The maximum number of conversions to condominiums to be approved during any calendar year shall not exceed the greater of:

a. fifty (50) units; or

b. the number of unassisted new dwelling units in two family and multiple family rental projects issued certificates of occupancy during the previous calendar year minus the number of dwelling units in two family and multiple family rental units to be demolished pursuant to permits issued in that same year.

2. In the event that the annual conversion quota determined pursuant to paragraph 1 of this Subsection A exceeds the aggregate number of units approved for conversion to condominiums during any year any excess shall be available in the following twelve (12) month period for conversions to hotels or similar uses only, after which time any remaining excess shall not be included in the annual conversion quota permitted for any following year.

3. A condominium project consisting of more dwelling units than the maximum number which can be approved in the applicable calendar year, may be approved for a phased conversion. The approval of a phased conversion shall specify the number of units which may be converted in each year (which number may not exceed the annual conversion quota for that year), and shall specify that the units approved for conversion in a given year shall have priority for conversion over units in other projects approved for conversion in that year.

B. **PROCESSING OF APPLICATIONS.** Applications shall be processed in accordance with procedures established by resolution of the City Council setting forth the manner and method of prioritizing applications for conversions.

C. **EXCEPTIONS.**

1. This section shall not be applicable to:

a. A project consisting of four (4) or less units.

b. A project as to which the tenants of more than fifty percent (50%) of the rental units have made a commitment to purchase their units.

c. A project involving conversions for a non or limited equity cooperative or condominium for low-to-moderate income residents.

d. A project involving the conversion of dwelling units which, at the time the application for condominium conversion was filed, were legally rented as hotel units.

e. A project involving conversions in which not less than 75% of the dwelling units are subject to the City's standard affordability controls. (Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4014 §1, 1979; Ord. 4000 §2, 1979.)

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Chapter 28.89

TENANT DISPLACEMENT ASSISTANCE ORDINANCE

Sections:

28.89.010 Definitions.
28.89.020 Submittal Requirements.
28.89.030 Displacement Assistance.
28.89.040 Certification of Displacement Assistance.
28.89.050 Protections for Resident Households.

28.89.010 Definitions.

Except where the context or particular provisions require otherwise, the following definitions shall govern the construction of this Chapter.

A. **Application**. Any application required to be submitted to the City of Santa Barbara for discretionary or ministerial approval of a land use change or improvement of real property that will result in a displacement of a resident household.

B. **Displacement**. The vacating of a rental unit by a resident household upon notice from the property owner as the result of or to enable any of the following: 1. the demolition of any rental unit on the lot, 2. the alteration of any structure on the lot in a manner that requires a permit from the City and which reduces the number of rental units on the lot, 3. the conversion of a single residential unit to a condominium unit, or 4. a change of use of real property from a residential use to a non-residential use that requires a permit from the City. For purposes of this Chapter, a displacement does not include a vacation of a rental unit as the result of the following: 1. a condominium conversion regulated and processed pursuant to Chapter 28.88 of this Code, 2. a conversion of any portion of a mobilehome park or a permanent recreational vehicle park regulated and processed pursuant to Chapter 28.78 of this Code, 3. a property owner's compliance with an enforcement order of the City Building Official for which the property owner has been ordered to pay relocation expenses pursuant to Health and Safety Code section 17980.7 or any other state or federal law, or 4. a vacation of a rental unit resulting from the damage or destruction of the unit which is caused by a natural disaster.

C. **Eligible Resident Household**. A resident household occupying a rental unit at the time an application is filed with the City. There shall be a rebuttable presumption that any resident household which received a notice to quit pursuant to Section 1946 of the Civil Code within the six (6) month period preceding the filing of an application is an eligible resident household for purposes of receiving displacement assistance pursuant to this Chapter. The presumption specified in the preceding sentence shall not apply where the property owner provides evidence of either of the following: 1. the resident household's occupancy ended due to the expiration of a term lease and the tenancy was not extended by the operation of Section 1945 of the Civil Code, or 2. the resident household was found to have committed an unlawful detainer pursuant to Subdivisions 2, 3, 4 or 5 of Section 1161 of the Code of Civil Procedure as evidenced by a final judgment of a court of competent jurisdiction.

D. **Immediate Family**. Immediate family includes a spouse, registered domestic partner, children, parents, and the spouses or registered domestic partners of children of a property owner.

E. **Median Advertised Rental Rate**. An estimate of rental rates for residential rental units within the City prepared annually by the staff of the Community Development Department. For the purposes of this Chapter, the median advertised rental rate shall be calculated annually based on the median of a representative sample of rental units advertised in a newspaper of general circulation for one Sunday during the month of April. The median advertised rental rate shall be published by the City each May 1 and shall remain in effect for the next twelve (12) months or until a new median advertised rental rate is provided by the City. The median advertised rental rate shall be calculated and published for the following categories of rental units: 1. studio units (no bedrooms), 2. one bedroom units, 3. two bedroom units, and 4. units with three or more bedrooms. As used in this Chapter, the applicable median advertised rental rate shall be determined based on the number of bedrooms in the rental unit to be vacated by the residential household. The methodology for calculating the median advertised rental rate shall be approved by the Community Development Director and described in detail in the City's Affordable Housing Policies and Procedures.

F. **Rental Unit**. A structure (or part thereof) used as a place of permanent or customary and usual abode of a resident household. A rental unit shall not include a room or any other portion of any residential unit which is occupied by the property owner or a member of the property owner's immediate family.

G. **Resident Household**. Any person or group of persons entitled to occupy a rental unit under a valid lease or rental agreement (written or oral) including all persons who are considered residents under the Civil Code, but not including the owner of the rental unit or members of the owner's immediate family.

H. **Special Needs Resident Household**. An eligible resident household with any of the following characteristics: 1. at least one member who is 62 years of age or older, 2. at least one member qualifies as a disabled person pursuant to section 295.5 of the Vehicle Code, or 3. the household qualifies as a low income household pursuant to the City's Affordable Housing Policies and Procedures. (Ord. 5401, 2006.)

28.89.020 Submittal Requirements.

A. **Notice of Intent**. At least sixty (60) days prior to filing an application, either the property owner or the owner's agent shall notify each resident household residing on the subject real property of the owner's intent to file an application. The notice shall be provided by either: 1. personal delivery, or 2. certified mail, postage prepaid, with return receipt requested. Evidence of compliance with this section must be submitted to the City in order for the application to be deemed complete. The form of the notice shall be approved by the Community Development Department and shall contain at least the following information:

1. The name and address of current owner;
2. The name and address of the proposed applicant;
3. The approximate date on which the application is to be filed;
4. The resident's right to purchase a resulting residential unit, if applicable;
5. The resident's right of notice before being required to vacate the rental unit;
6. The resident's right to terminate lease without obligation for future rent;
7. A statement regarding the applicable limitations on rent increases;
8. An explanation of displacement assistance available for eligible resident households and special needs resident households under this Chapter (i.e., monetary assistance, relocation counseling, contact information for the Rental Housing Mediation Task Force, qualifications for Special Needs Resident Households, etc.);
9. The resident household's right to receive written notice for each hearing and right to appear and be heard at land use hearings, if applicable; and
10. Other information as may be deemed necessary or desirable by the Community Development Department.

B. **Resident Information**. Concurrent with the filing of the application, either the property owner or the owner's agent shall provide the Community Development Department with all of the following information for each rental unit that will be subject to a displacement as a result of the application:

1. The name of every member of the resident household who is a signatory on a written lease or the name of every person the property owner considers to be a resident under an oral lease; and
2. The names of all members of resident households that were issued a notice to vacate within the six (6) months preceding the filing of the application. (Ord. 5401, 2006.)

28.89.030 Displacement Assistance.

A. **Monetary Assistance**. As a condition of the City approval of any application that will result in a displacement, the property owner is obligated to pay to each eligible resident household monetary displacement assistance in an amount equal to four (4) times the median advertised rental rate or $5,000, whichever is greater. The displacement assistance to be paid to an eligible special needs resident household shall be equal to five (5) times the median advertised rental rate or $6,000, whichever is greater.

The displacement assistance shall be calculated on a "per rental unit" basis and shall be paid jointly, in one lump sum, to all members of the eligible resident household occupying the rental unit.

B. **Waiver of Assistance**. The payment of the monetary displacement assistance required pursuant to subsection A above, or the right of first refusal provided for in Section 28.89.050, may be waived or otherwise altered by mutual written agreement of the property owner and all members of the eligible resident household; provided, the waiver is executed after the members of the resident household have received notice of the application and notice of the provisions of this Chapter pursuant to Section 28.89.020. (Ord. 5401, 2006.)

28.89.040 Certification of Displacement Assistance.

Prior to any displacement or the issuance of any permit pursuant to the application, whichever occurs first, the property owner shall provide the Community Development Director with either: 1. a copy of a cancelled check evidencing payment of the displacement assistance required by this Chapter to the members of the eligible resident household or 2. a copy of a written waiver or modification of the displacement assistance obligation executed by the property owner and all of the members of the eligible resident household. In order to satisfy the requirements of this Section 28.89.040, the written waiver must be executed after the members of the resident household have received notice of the application and the provisions of this Chapter pursuant to Section 28.89.020. (Ord. 5401, 2006.)

28.89.050 Protections for Resident Households.

A. **Right to Purchase (Right of First Refusal)**. The members of any eligible resident household or eligible special needs resident household shall be given an exclusive right to contract for the purchase of a residential unit within any resulting development upon the same terms and conditions that the residential unit will be initially offered to the general public or on terms more favorable to the members of the eligible resident household or eligible special needs resident household. The exclusive right to contract shall be valid for at least ninety (90) days from the date of issuance of a Subdivision Public Report or the commencement of sales, whichever date is later. The manner in which any exclusive right to contract shall be exercised shall be in accordance with administrative rules established by the Community Development Department in the City's affordable housing policies and procedures. This Subsection shall not apply to applications for conversions of rental units to hotels or similar commercial uses.

B. **Right to Terminate Lease**. After receipt of the notice required pursuant to subsection 28.89.020.A and until the applicant's withdrawal of the application or the displacement of the resident household, the resident household shall have the right to terminate the lease or rental agreement without obligation for any rent that would accrue under the lease or rental agreement after the vacation of the residential unit by the resident household. An eligible resident household's election to terminate the lease and relinquish possession of the rental unit following receipt of the notice required pursuant to subsection 28.89.020.A shall not constitute a waiver of the eligible resident household's right to assistance pursuant to subsection 28.89.030.A.

C. **Notice to New Residents**. Any prospective resident household that applies for residency after an application has been filed shall be notified in writing of the pending application and the potential for displacement prior to occupying any rental unit. The form of this notice shall be approved by the Community Development Department. The failure of the property owner or applicant to give notice in accordance with this subsection shall not be a ground to deny the proposed land use action; however, the property owner shall pay monetary displacement assistance in the manner specified in Section 28.89.030 to each resident household that was entitled to notice pursuant to this subsection and who did not receive such notice. (Ord. 5401, 2006.)

Chapter 28.90

AUTOMOBILE PARKING REQUIREMENTS

Sections:

28.90.001 In General.
28.90.045 Parking Design Standards.
28.90.050 Landscaping and Lighting.
28.90.060 Availability of Parking Spaces and Maneuvering Areas.
28.90.070 Handicapped Facilities.
28.90.100 Parking Requirements.

28.90.001 In General.

A. MINIMUM REQUIREMENTS. This chapter provides the minimum requirements and standards for the provision of off-street parking for all buildings, structures and uses in the City of Santa Barbara.

B. EXISTING PARKING SPACE. Where automobile parking space provided and maintained on a lot in connection with a main building or structure at the time this title becomes effective is insufficient to meet the requirements for the use with which it is associated, or where no such parking has been provided, said building or structure may be altered or enlarged, provided additional automobile parking spaces are provided to meet the standards for use in conformity with the requirements set forth in this chapter for the enlargement, extension or addition proposed. However, if an enlargement is more than fifty percent (50%) of the existing net floor area (excluding the garage), then parking shall be brought up to the current standards for the entire lot.

C. COLLECTIVE USE OF SPACE. Nothing in this Title shall prohibit the collective use of space for off street parking. The collective space shall remain available to all occupants and users of structures for which said permit is issued.

D. PROGRAM FOR ALTERNATIVE TRANSPORTATION MODES. A method for reducing the number of parking spaces required by this chapter for any land use is by granting a modification in accordance with Municipal Code Section 28.92.110 if the property owner files and obtains approval of a program of alternative transportation modes or other approved measures for employees working on the parcel and pays the City for any periodic verification procedures and expenses associated therewith.

E. No building permit for any structure referred to in the preceding subsections (C) and (D) shall be issued without the written approval of the Community Development Director as to compliance with the provisions of this chapter. In connection with the issuance of any modification, building permit, variance or conditional use permit, the City of Santa Barbara shall have continuing jurisdiction over any such permit for the purpose of requiring, upon thirty (30) days written notice given, off-street parking of like kind and quantity, whenever it appears to the Community Development Director that any collective parking rights or privileges of any permittee under any modification, variance, conditional use permit or building permit previously granted have expired or are about to do so. Any failure of any such permittee to provide such substitute off-street parking, effective as of the date of such expiration, together with the filing of documentary evidence of the right to the same with the Building and Safety Division, as herein provided, shall be deemed to be grounds for the revocation of any such permit, or in the alternative, the City of Santa Barbara may enforce such parking requirements by any legal remedy available to it.

F. LOADING SPACE. On the same premises with every building, structure or part thereof erected or occupied for any use, truck loading space shall be required if loading interferes with short-term or visitor parking. The requirements for such loading space shall be determined and approved in writing by the City's Transportation Engineer.

G. DRIVEWAY ACCESS. In any zone, for other than single- or two-family dwellings, driveway access from a public street to the required off-street parking area shall be as follows, provided that in no zone shall minimum access to the premises be by paved driveway of lesser width than is required by the California Fire Code as amended and adopted by ordinance of this City.

1. Where such parking area contains less than twenty-five (25) parking spaces, driveway access shall be not less than ten feet (10') in width plus a minimum of three feet (3') in width of planting strip abutting any main building on the same lot or served by such driveway.

2. Where such parking area contains twenty-five (25) or more parking spaces, or a projected total of twenty-five (25) or more parking spaces, a two-way driveway shall be required with a minimum paving surface width of at least eighteen feet (18') plus a three foot (3') width of planting strip abutting any main building on the same lot or served by such driveway. Two (2) one-way driveways may be substituted for one (1) two-way driveway, in which event the requirements of Paragraph 1. above shall be applicable to each such driveway.

The design review body that reviews the project may reduce or waive the requirement regarding the three (3) foot planting strip where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.

H. PARKING IN SETBACK PROHIBITED. In any zone, there shall be no parking space provided in any setback, except that uncovered parking or turnaround areas may be allowed in interior setbacks in an R-3 or less restrictive zone for lots containing three or more residential units, commercial buildings, or office buildings if at least five percent (5%) of the total area used for parking, turnaround and driveway is landscaped.

I. PARKING IN FRONT SETBACK PROHIBITED. Parking is prohibited in the front setback in any zone. Parking may be allowed in the remaining front yard, whether covered or uncovered, if screened by a decorative wall or fence and planting.

J. HARD-SURFACED DRIVEWAYS REQUIRED. All required off-street automobile parking areas and driveways shall be fully hard surfaced with asphaltic concrete of minimum thickness of two inches (2"), or other techniques or materials providing equivalent service. In order to comply with this subsection, such alternative techniques and materials must be approved in writing by the Fire Department and Transportation Engineer.

K. ENTRANCES AND EXITS - PARKING LOTS. Each entrance and exit to a parking lot shall be constructed and maintained so that a pedestrian within ten feet (10 ') of the driveway is visible to the driver when the vehicle is stopped at the property line.

L. DESIGN REVIEW. All plans for improvement of parking areas shall be specifically reviewed and approved in accordance with the provisions of Chapter 22.22, 22.68, or 22.69 where applicable.

M. MOTOR VEHICLES INCAPABLE OF MOVEMENT UNDER THEIR OWN POWER, UNREGISTERED VEHICLES. All motor vehicles incapable of movement under their own power, other than in cases of emergency, and vehicles not currently registered for use on the street shall be stored in an entirely enclosed space. This provision shall not apply in the case of auto wrecking establishments.

N. CHANGE OF USE. Whenever the type of use of any existing building is changed to another type of use that requires more parking spaces under this Chapter than were required for the prior use, there shall be provided additional permanently maintained parking spaces as required by this chapter for said building and any other existing buildings located on the parcel or parcels. The number of required additional parking spaces under this subsection shall be computed by determining if the number of parking spaces required for the new use is greater than that required for the previous use under this Chapter. If there is an increased number of parking spaces required for the new use, that increased number of additional parking spaces shall be added to the number of parking spaces required for the prior legal conforming or non-conforming use and the total of these two numbers shall be the number of parking spaces required for the new use.

O. CONVERSION OF GARAGES. Where required off-street parking spaces for one-family and/or two-family dwellings are provided in a garage or carport, and where it is proposed by the owner to convert said garage or carport to other use and to provide the required parking spaces elsewhere, a building permit for such conversion shall not be issued until all necessary clearing and grading of the new parking area has been accomplished and access has been provided thereto from a public street and such work has been approved by the Chief Building Official.

P. BICYCLE PARKING. Bicycle parking spaces shall be provided for all commercial and industrial uses as indicated herein.

Q. PARKING OF COMMERCIAL VEHICLES. The parking of commercial vehicles off-street in A, R, and E zones, that are developed with dwelling units, is not permitted except for those times it is necessary in the course of transacting business at the residence and then only for such time as is necessary to complete deliveries or provide services. For the purpose of this section, a commercial vehicle is defined as any truck, bus, truck-tractor, cargo trailer, or other motorized or towed vehicle which has a rated capacity of more than fifteen (15) passengers, a rated capacity of more than one (1) ton by the manufacturer, or which exceeds a length of 20 feet or a height of 10 feet.

R. OFF SITE PARKING. Required off street parking spaces shall be located on the same lot as the use served, or for office, commercial, industrial and mixed use developments only, on a lot within a walking distance of five hundred (500) feet. Walking distance of up to 1,250 feet may be approved by the Transportation and Parking Manager. Walking distance shall mean the distance from an outside entrance of a structure or use or part thereof to each off street parking space which serves such structure or use or part thereof, along the shortest, most convenient public pedestrian walkway available for such purpose. Whenever any off street automobile parking spaces required by this Chapter are provided on a different lot from that on which the use they are to serve is located, as a prerequisite to the issuance of any required building permit or certificate of occupancy, the following shall occur:

1. An agreement, in a form satisfactory to the City Attorney, shall be executed and recorded by each owner of the lot on which the parking is to be provided and each owner of the lot on which the use the off site parking spaces are to serve is located. The agreement may be in the form of an easement, covenant running with the land, or other satisfactory agreement, and shall provide that the off site parking spaces shall be maintained so long as the use they are intended to serve is maintained. The agreement shall not be amended, modified or rescinded without the prior written consent of the City.

2. The certificate of occupancy for the use served by the off site parking spaces shall bear a notation that it is valid only while each such parking space is so maintained. The Community Development Director shall keep a record of each lot on which the required automobile parking spaces are provided for a use located on another lot, and whenever it is found that each required automobile parking space is no longer so maintained, the persons having ownership of the lot on which the use served by the off site parking shall be notified of that fact.

If at any time each automobile parking space required by this Code is not maintained, the certificate of occupancy shall automatically be cancelled and the building or use served by the off site parking spaces shall not there-after be occupied or used until each required automobile parking space is again provided and a new certificate of occupancy is issued. (Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5380, 2005; Ord. 4946, 1996; Ord. 4912, 1995; Ord. 4851, 1994; Ord. 4427, 1986; Ord. 4063, 1980; Ord. 3947, 1978; Ord. 3705, 1974; Ord. 3556, 1972; Ord. 3341, 1969; Ord. 2585, 1957.)

28.90.045 Parking Design Standards.

A. REQUIREMENTS. All parking facilities must be designed and constructed pursuant to the following:

1. Backing out onto a public street or sidewalk from a parking space shall be permitted only for a one-family or two-family dwelling, where not more than four (4) spaces are provided.

2. All turnaround movements shall be accomplished in one (1) maneuver. One (1) maneuver is considered to be one (1) back up and one (1) forward movement.

3. The required dimensions and criteria for parking plans and vehicle ramps shall be as shown in the current City Standard for Parking Design as prepared by the Transportation Engineer and on file with the Public Works Department.

4. It shall be the duty of the Transportation Engineer to review and approve all parking plans.

B. VARIATION. Any variation from the above requirements must be approved pursuant to a waiver by the Public Works Director or his designee.

C. VEHICLE RAMPS.

1. A vehicle ramp is defined to be a sloping connection between a street level and a parking level or two (2) parking levels.

2. For multiple-family dwellings or nonresidential uses, all parking plans involving ramps shall be accompanied by a profile showing the ramp, ramp transitions and overhead and adjacent wall clearances.

3. The length of a ramp is defined as that portion of the ramp from the beginning of the transition at one end of the ramp to the end of the transition at the opposite end thereof.

4. For ramps longer than sixty-five feet (65'), the ramp grade shall not exceed twelve percent (12%) with the first and last eight feet (8') of the ramp not exceeding six percent (6%).

5. For ramps sixty-five feet (65') or less, the ramp grade shall not exceed sixteen percent (16%) with the first and last ten feet (10') of the ramp not exceeding eight percent (8%).

6. The slopes of all parking areas shall not exceed five percent (5%), excluding ramps. (Ord. 3113, 1966.)

7. The maximum grade for the driveway (vehicle ramp) serving a one-family dwelling shall not exceed sixteen percent (16%), except when the distance from the street pavement to the rearmost portion of any structure on the subject parcel is one hundred fifty feet (150') or less in which case the maximum grade shall not exceed twenty percent (20%).

D. TANDEM PARKING. Notwithstanding any other provision in this Title, parking for mixed use developments may be provided in a tandem configuration (one parking space behind the other) if each set of tandem parking spaces is assigned to a single residential unit, and the tandem parking spaces are provided either on the subject lot or on an immediately adjacent lot. Vehicle movements necessary to move cars parked in a tandem arrangement shall not take place on any public street or alley. Guest parking spaces shall not be provided in a tandem configuration.

E. BICYCLE PARKING. All bicycle parking facilities must be designed and constructed pursuant to the following:

1. All facilities intended for permanent use shall provide a method for securing or locking the bicycle. A rack or space shall be provided for locking both the frame and the wheels.

2. All bicycle areas shall be accessible and lighted, on an all-weather surface.

3. A typical bicycle space shall be a minimum of two and one-half (2-1/2) feet in width and six (6) feet in length or less, if a permanent device is provided to stand the bicycle on end. A backout or maneuvering space of approximately five feet (5') shall be provided. (Ord. 5459, 2008; Ord. 4946, 1996; Ord. 4945, 1996; Ord. 4063, 1980; Ord. 3834, 1976; Ord. 3710, 1974; Ord. 2585, 1957.)

28.90.050 Landscaping and Lighting.

1. GENERAL. In an effort to encourage the development of more attractive parking lots in commercial, industrial, and multiple-family use areas, to provide for attractive and durable screening between such parking lots and adjoining areas, and to lessen the effect of commercial and industrial uses upon adjoining residential uses, the following requirements shall be met. Landscape plans shall be prepared by an architect or landscape architect registered in the State of California, unless said requirement is waived by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, in projects containing fewer than twenty (20) parking spaces. The landscaping standards set forth below are required for all parking areas, parking lots, automobile service stations and automobile service stations/mini-markets except for one- or two-family dwellings.

2. FENCES AND WALLS. Where any parking area is for commercial, multiple-family residential, or industrial use, and the parking area or driveway abuts property used for residential purposes, it shall be separated therefrom by an approved wall or fence at least six (6) feet in height, except no fence or wall shall exceed a height of three and one-half feet (3-1/2') within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line. The design of the wall or fence shall be subject to approval by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district, or if the structure is a designated City Landmark, said walls or fences may be lowered or eliminated in proportion to the degree of screening provided by differences in elevation, mounding, existing planting, and other similar factors.

3. PERIMETER PLANTERS. Where such parking areas and/or driveways abut a street, a planting area at least five (5) feet in depth shall be provided and an ornamental wall or fence three-and-one-half (3-1/2) feet in height shall be provided, except if the planting area is eight (8) feet or greater in depth and suitable screen planting is provided, the ornamental fence or wall may be omitted. Where parking areas or driveways abut a neighboring building or a property line not adjoining a street, a planting area at least five (5) feet in depth shall be provided. The Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, may reduce or waive the requirement regarding the five (5) foot planting area where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.

4. INTERIOR PLANTERS. In addition to the perimeter planters, there shall be planting areas to relieve the expanse of paving. Said interior planters shall be at least four (4) feet in width, and shall be located in such a way that there will be not more than eight (8) parking spaces without an intervening planter. Said planters shall have trees and either shrubs or ground cover. The Architectural Board of Review, or Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, may reduce or waive the requirement regarding the four (4) foot interior planter where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.

5. GRADING. Grading should be utilized as much as possible to screen parking lots, by lowering or raising the parking area or by providing earth mounds or berms. If approved by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, mounding or berms may be substituted for an ornamental wall or fence.

6. ORNAMENTAL WALLS OR FENCES. Ornamental walls or fences shall be subject to approval by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, and shall be constructed of materials compatible with adjacent buildings and surroundings.

7. PLANTING. Planting shall consist of trees, shrubs and ground cover. The use of drought tolerant plants is encouraged, as is the use of flowering vines on fences and walls. Trees shall be planted on a minimum ratio of one (1) tree per five (5) parking spaces, with at least two-thirds of the trees fifteen (15) gallon size or larger, and the balance not less than five (5) gallon.

8. CURB PROTECTION. Planters adjoining vehicular traffic areas shall be protected by concrete curbs or the equivalent, as approved by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. The minimum dimensions listed herein may include the protecting curb.

9. RETAINING WALLS. Retaining walls shall be set back at least three (3) feet from parking areas and driveways and the footing design shall allow for appropriate planting in such intervening spaces.

10. PARKING LOT LIGHTING. Parking lot light fixtures placement shall be subject to approval by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. Excessive glare shall not be permitted and the lights shall be arranged to reflect light away from adjoining residential property and streets.

11. IRRIGATION PLAN. A sprinkler system or drip irrigation system designed to provide complete coverage of all planted areas is required. (Ord. 5650, 2014; Ord. 4912, 1995; Ord. 4851, 1994; Ord. 4192, 1983; Ord. 4063, 1980.)

28.90.060 Availability of Parking Spaces and Maneuvering Areas.

All required parking spaces and areas for maneuvering of vehicles on all parking lots shall be available for parking and maneuvering of motor vehicles and shall not be used for storage of any items inconsistent with such availability. (Ord. 4063, 1980.)

28.90.070 Handicapped Facilities.

A. All parking areas, for other than one- and two-family dwellings, shall provide parking spaces which are accessible to handicapped persons in accordance with the requirements of the Public Works Department as set forth in the City Standard for Parking Design.

B. The conversion of an existing parking space to an accessible parking space or access aisle for an accessible parking space does not require a modification of the parking requirement pursuant to Section 28.92.110, even if the conversion results in fewer parking spaces on the lot than required under Section 28.90.100, as long as the accessible parking requirement is not triggered by a change of use or an expansion of the existing use. (Ord. 5459, 2008; Ord. 4063, 1980.)

28.90.100 Parking Requirements.

A. GENERAL. Parking shall be provided for any use in the City of Santa Barbara.

B. DEFINITIONS. As used in this section of the code, certain words and phrases have the following meanings:

1. INDUSTRIAL USE. An industrial use is a use permitted in the C-M or M-1 zones, but not permitted in more restrictive zones.

2. SENIOR HOUSING. Senior Housing is housing that is restricted to residential uses by elderly and senior persons, sixty-two (62) years of age or older. In order to qualify, such restrictions must be made by recorded instrument, regulations of the United States Department of Housing and Urban Development or by similar enforceable methods.

3. LOW INCOME SENIOR HOUSING. Low income Senior Housing is housing that is restricted to residential uses by low income elderly and senior persons, sixty-two (62) years of age or older, and/or disabled or handicapped persons at affordable low income rents or sale prices in conformance with the City's adopted affordability criteria. In order to qualify, such restrictions must be for at least thirty (30) years, and be made by recorded instrument, regulations of the United States Department of Housing and Urban Development or by similar enforceable methods.

C. CUMULATIVE REQUIREMENTS. All standards set forth herein are cumulative in nature. For properties containing more than one use, the requirements for each use shall be met.

D. BUILDINGS IN EXCESS OF 10,000 SQUARE FEET. For industrial and office uses, a reduction of the required parking will be allowed for those buildings or building complexes containing in excess of 10,000 square feet of net floor area at the following rate:

1. Buildings containing 10,000 to 30,000 square feet of net floor area shall provide 90% of the required parking.

2. Buildings containing 30,000 to 50,000 square feet of net floor area shall provide 80% of the required parking.

3. Buildings in excess of 50,000 square feet of net floor area shall provide 70% of the required parking.

E. FRACTIONS. Fractions of one-half (½) or greater shall be considered to require one space.

F. SMALL CARS. Thirty percent (30%) of all required parking may be for small cars for parking lots containing more than 10 spaces with the layout to be approved by the City Transportation Engineer.

G. RESIDENTIAL PARKING REQUIREMENTS. In any zone, for every residential unit or units, and every residential building or structure occupied or intended to be occupied as sleeping quarters or dwellings, all of the required parking spaces shall be made available for all occupants to use as parking spaces on an assigned or unassigned basis. There shall be provided on the same lot or parcel of land a minimum ratio of parking space for each unit or occupant as follows:

1. Single Residential Unit or Group Home.

a. General Rule. Two (2) required. Both of the required spaces shall be provided within a garage or carport located on the lot. If two or more single family dwellings legally exist, or are proposed on a single lot in any zone except the A, E, or R-1 zones, one covered space and one uncovered space may be provided for each single family dwelling.

b. Exception for One Uncovered Space. Any lot developed with less than 85% of the maximum net floor area for the lot (as calculated pursuant to Section 28.15.083), whether or not the maximum net floor area specified in Section 28.15.083 applies to the lot as a standard, may provide the required parking in one covered space and one uncovered space under the following conditions:

(1) The uncovered space shall not be located in any front yard on the lot, and

(2) If new pavement is proposed for the uncovered space and the site has an appropriate slope for permeable paving, then the new pavement shall be permeable.

(3) If the lot is located in the A, E, or R-1 zones and has less than 15,000 square feet of net lot area, the uncovered space may encroach up to three feet (3') into a required interior yard if a landscaped buffer is provided between the uncovered space and the adjacent interior lot line.

(4) All other provisions of this Title shall apply to the required parking.

c. Exception for Two Uncovered Spaces. Any lot developed with less than 80% of the maximum net floor area for the lot (as calculated pursuant to Section 28.15.083), whether or not the maximum net floor area specified in Section 28.15.083 applies to the lot as a standard, may provide the required parking in two uncovered spaces under the following conditions:

(1) The uncovered spaces shall not be located in any front yard on the lot,

(2) The uncovered spaces shall be screened from public view,

(3) If new pavement is proposed for any of the uncovered spaces and the site has an appropriate slope for permeable paving, then the new pavement shall be permeable,

(4) Storage space with exterior access of at least 150 square feet of net floor area shall be provided on the lot, and

(5) The location of the parking and the design of the screening shall be reviewed and approved by the Single Family Design Board or Historic Landmarks Commission, as applicable.

(6) If the lot is located in the A, E, or R-1 zones and has less than 15,000 square feet of net lot area, the uncovered spaces may encroach up to three feet (3') into a required interior yard if a landscaped buffer is provided between the uncovered spaces and the adjacent interior lot line.

(7) All other provisions of this Title shall apply to the required parking.

2. Two-Residential Unit. Four (4) required. Two (2) of the required spaces shall be provided within a garage or carport located on the lot. A development in which 100% of the units are rental units which are affordable to very low or low income households may reduce the number of parking spaces to one uncovered parking space per unit if the following conditions are met:

a. Each unit shall have at least 200 cubic feet of enclosed weatherproofed and lockable private storage space in addition to guest, linen, pantry, and clothes closets customarily provided. Such space shall be for the sole use of the unit tenant. Such space shall be accessible from the exterior of the unit it serves;

b. A covenant is recorded in the County Land Records against the title, which states that all of the dwelling units on the Real Property shall be rented to very low or low income households; the maximum rent and the maximum household income of tenants shall be determined as set forth in the Affordable Housing Policies and Procedures Manual of the City of Santa Barbara, which is adopted by City Council Resolution from time to time. The rents shall be controlled through recorded documents to assure continued affordability for at least thirty (30) years from the initial occupancy of the dwelling unit. The City shall be a party to the covenant; and

c. A covenant is recorded in the County Land Records against the title which states that the development has received a reduction in the amount of parking required because it is a 100% affordable project. In the event that the Real Property, or any portion thereof, is not or cannot be used solely for very low or low income rental housing, either (i) the structure(s) shall be redesigned and possibly reconstructed and the number of dwelling units shall be reduced so that the maximum number of dwelling units on the Real Property does not exceed the number of dwelling units that would be allowed if there is compliance with the City's parking requirements then in effect, or (ii) the owner shall provide the number of spaces required by the Zoning Ordinance for the new use pursuant to Chapter 28.90. The City shall be a party to the covenant.

3. Multiple Residential Unit.

a. Studio: one and one quarter (1-1/4) spaces per residential unit.

b. One bedroom: one and one-half (1-1/2) spaces per residential unit.

c. Two (2) or more bedrooms: two (2) spaces per residential unit.

d. When there are six (6) or more residential units on a lot or parcel, one (1) space for every four residential units shall be provided for guests.

e. When the parking referred to in Subsections 28.90.100.G.3.a-d. is provided for a condominium, community apartment or stock cooperative, at least one parking space that is in a garage or carport shall be allocated to each residential unit.

f. A development in which 100% of the units are rental units which are affordable to very low or low income households: one uncovered parking space per unit if the following conditions are met:

(1) A covenant is recorded in the County Land Records against the title, which states that all of the residential units on the Real Property shall be rented to very low or low income households; the maximum rent and the maximum household income of tenants shall be determined as set forth in the Affordable Housing Policies and Procedures Manual of the City of Santa Barbara, which is adopted by City Council Resolution from time to time. The rent shall be controlled through recorded documents to assure continued affordability for at least thirty (30) years from the initial occupancy of the residential unit. The City shall be a party to the covenant; and

(2) A covenant is recorded in the County Land Records against the title which states that the development has received a reduction in the amount of parking required because it is a project with 100% affordable units. In the event that the Real Property, or any portion thereof, is not or cannot be used solely for very low or low income rental housing, either (i) the structure(s) shall be redesigned and possibly reconstructed and the number of residential units shall be reduced so that the maximum number of residential units on the Real Property does not exceed the number of residential units that would be allowed if there is compliance with the City's parking requirements then in effect, or (ii) the owner shall provide the number of spaces required by the Zoning Ordinance for the new use pursuant to Chapter 28.90. The City shall be a party to the covenant.

4. Planned Unit Developments for Residential Uses.

a. For each residential unit, not less than two (2) parking spaces, either in a garage or a carport and one-half (1/2) uncovered space.

5. Senior Housing: one (1) uncovered space per residential unit.

6. Low Income Senior Housing: one-half (1/2) uncovered space per residential unit.

7. Mobilehomes and Recreational Vehicles.

a. Mobilehome on a permanent foundation: two (2) covered spaces for each mobilehome.

b. Mobilehome or permanent recreational vehicle park: two (2) parking spaces on each mobilehome and recreational vehicle space. Tandem parking is acceptable. Guest parking shall be provided at the ratio of one (1) parking space per four (4) mobilehome and recreational vehicle spaces. Each mobilehome and recreational vehicle space shall be within one hundred (100) feet of at least one (1) guest parking space. On-street parking on internal roadways may be counted toward meeting the guest parking requirement.

8. Boarding House, club, fraternity house, sorority house, and dormitory: one (1) space for each bedroom.

9. Community care facility: one (1) space for each two (2) bedrooms.

H. MIXED USE DEVELOPMENTS.

1. Residential Uses. Parking spaces shall be provided in accordance with Subsection 28.90.100.G, subject to the following exceptions:

a. In any mixed use development, where residential uses occupy up to fifty percent (50%) of the development, residential parking requirements may be reduced by fifty percent (50%) and covered parking will not be required, although it will be encouraged. If the residential use is changed to a non-residential use, the full number of parking spaces as required in this Chapter shall be added.

b. In the delineated areas of the Central Business District (CBD) shown on the map (Figure A) which is part of this code, the residential parking requirement for mixed use developments is one uncovered parking space per dwelling unit, and guest parking is not required. If the residential use is changed to a non-residential use, the full number of parking spaces as required in this Chapter shall be added.

2. Nonresidential Uses. Parking spaces shall be provided in accordance with Subsections 28.90.100.I., 28.90.100.J. and 28.90.100.K.

I. OFFICE, COMMERCIAL AND INDUSTRIAL USES. In any zone, except as provided in Sections 28.90.100.J and 28.90.100.K of this Chapter, for all office and commercial buildings, one (1) parking space shall be provided for each two hundred fifty (250) square feet of net floor area or fraction thereof. For all general industrial uses, one (1) parking space shall be provided for each five hundred (500) square feet of net floor area or fraction thereof.

J. PARKING REQUIREMENTS FOR SPECIFIC USES. In any zone, for the following uses parking spaces shall be in the following ratios for specific types of use:

1. CENTRAL BUSINESS DISTRICT. Any nonresidential use in the delineated areas of the Central Business District (CBD) shown on the map (Figure A) which is a part of this code: one space per 500 square feet of net floor area. However, any property located in whole or in part in the Central Business District (CBD) and which has a designated "zone of benefit" as shown on Figure A shall also be exempt from the requirements of this chapter (as to the number of parking spaces required) to the extent of the percentage of the zone of benefit shown for such property on Figure A.

In other words, in applying this subsection, the parking space requirement for the property shall be computed on the basis of floor area ratios as initially required herein. The resulting number of required spaces shall then be reduced by the percentage applicable to the zone of benefit designated for that property, rounded to the nearest whole number. Bicycle parking shall also be required as necessary.

2. Automobile service stations: three (3) parking spaces for each grease rack. Grease racks, pump blocks and other service areas shall not be considered as parking spaces. Bicycle parking not required.

3. Auto repair: As much paved area for outside storage and parking of vehicles as there is area used for servicing of vehicles. Bicycle parking not required.

4. Car wash: Four (4) spaces per washer unit. Bicycle parking not required.

5. Churches, theaters, auditoriums, funeral parlors, stadiums, arenas and similar places of assembly: One (1) parking space shall be provided for every four (4) seats provided in such building. A seat shall mean eighteen (18) lineal inches of seating space when seats are arranged in rows or pews. For auditoriums with no permanent seats, a seat shall mean seven (7) square feet of net floor area. Bicycle parking required.

6. Amusements:

a. Dance halls and clubs: One (1) parking space shall be provided for each two hundred (200) square feet of net floor area or fraction thereof. Bicycle parking required.

b. Bowling alleys, tennis courts and similar recreation facilities: Two (2) parking spaces shall be provided for each alley, tennis court or similar activity unit. For any restaurant, retail or assembly use within the building, the requirements for that use shall apply in addition to the requirements for each activity unit. Bicycle parking required.

c. Spas and skating rinks: Three (3) spaces per 1000 square feet. Bicycle parking required.

7. Fast food restaurant: one (1) space per 100 square feet. Bicycle parking required.

8. Furniture and antique stores: one (1) space per 1000 square feet. Bicycle parking not required.

9. Hospitals: At least one (1) parking space shall be provided for each bed in the total capacity of such institution. Bicycle parking required.

10. Hotels, motels, and resort hotels: one (1) space per sleeping unit. Bicycle parking required.

11. Liquor store: three (3) spaces per 1000 square feet. Bicycle parking required.

12. Lumber yard: one (1) space per 250 square feet of retail and office space only. Bicycle parking not required.

13. Manufacturing: one (1) space per 500 square feet. Bicycle parking required.

14. Mini-warehouse: one (1) space per 5000 square feet, except that any office space associated therewith must meet the standard office requirement. Bicycle parking not required.

15. Landscape nursery: one (1) space per 2000 square feet of lot area. Bicycle parking not required.

16. Restaurant: the greater of four (4) spaces per 1000 square feet or one (1) space per three (3) seats. Bicycle parking required.

17. Skilled nursing facilities, hospices serving more than six individuals, and similar institutions: one-half (1/2) space per bed. Bicycle parking required.

18. Schools, both public and private:

a. Child Care Centers: one (1) space for each member of the faculty and employee, plus one additional space for every ten (10) children enrolled. In the case of part-time personnel, the requirement shall be equal to the maximum number of personnel present at the facility at any one time. Bicycle parking required, but at a rate determined by the school.

b. Elementary and junior high schools: one (1) space for each member of the faculty and employee, plus one (1) additional space for each one hundred (100) students regularly enrolled. Bicycle parking required, but at a rate determined by the school.

c. High schools: One (1) space for each member of the faculty and employee, plus one (1) additional space for each ten (10) students regularly enrolled. Bicycle parking required, but at a rate determined by the school.

d. Colleges, universities and similar institutions: one (1) space for every two (2) employees, plus one (1) space for every two (2) full-time or equivalent regularly enrolled students in graduate or undergraduate courses. For places of assembly, the requirements of Subsection 28.90.100.J.5 shall apply. Where a university or college presents a development plan which conforms in general with the general parking requirements for employees, students and places of assembly, said plan may be approved by the Zoning Administrator as satisfying the requirements of this chapter. Consideration shall be given to parking spaces that can be utilized by the users of two (2) or more buildings. Bicycle parking required, but at a rate determined by the governing body of the educational institution.

19. Warehousing: one (1) space per 5000 square feet. Any office or retail space associated therewith must meet the standard office or retail requirements. Bicycle parking required.

20. Overnight Recreational Vehicle Parks. There shall be at least one (1) parking space on each recreational vehicle space. Guest parking shall be provided at the ratio of one (1) parking space per ten (10) recreational vehicle spaces. Each recreational vehicle space shall be within one hundred fifty (150) feet of at least one (1) guest parking space. On-street parking on internal roadways may be counted toward meeting the guest parking requirement.

K. PARKING REQUIREMENTS FOR SPECIFIC ZONES. For the following zones, parking spaces shall be on the same lot with the main building or on lots contiguous thereto, and shall be provided in the following ratios unless otherwise provided in Section 28.90.100.J.

1. C-P Zone: One (1) parking space for each two hundred (200) square feet of net floor area.

2. C-X Zone: One (1) parking space for each two hundred fifty (250) square feet of net floor area. No parking area shall be constructed or used within twenty-five feet (25') of any street adjacent to the premises and there shall be no loading or delivery facilities in a front yard on such premises.

3. S-H Zone: For units restricted to Low Income Senior Housing, one (1) parking space for each two (2) residential units. For other units, one (1) space per unit.

4. S-D-2 Zone: One (1) parking space for each two hundred fifty (250) square feet of net floor area. In the event the property is located in a zone or has a use with a requirement for more parking, the greater requirement shall apply.

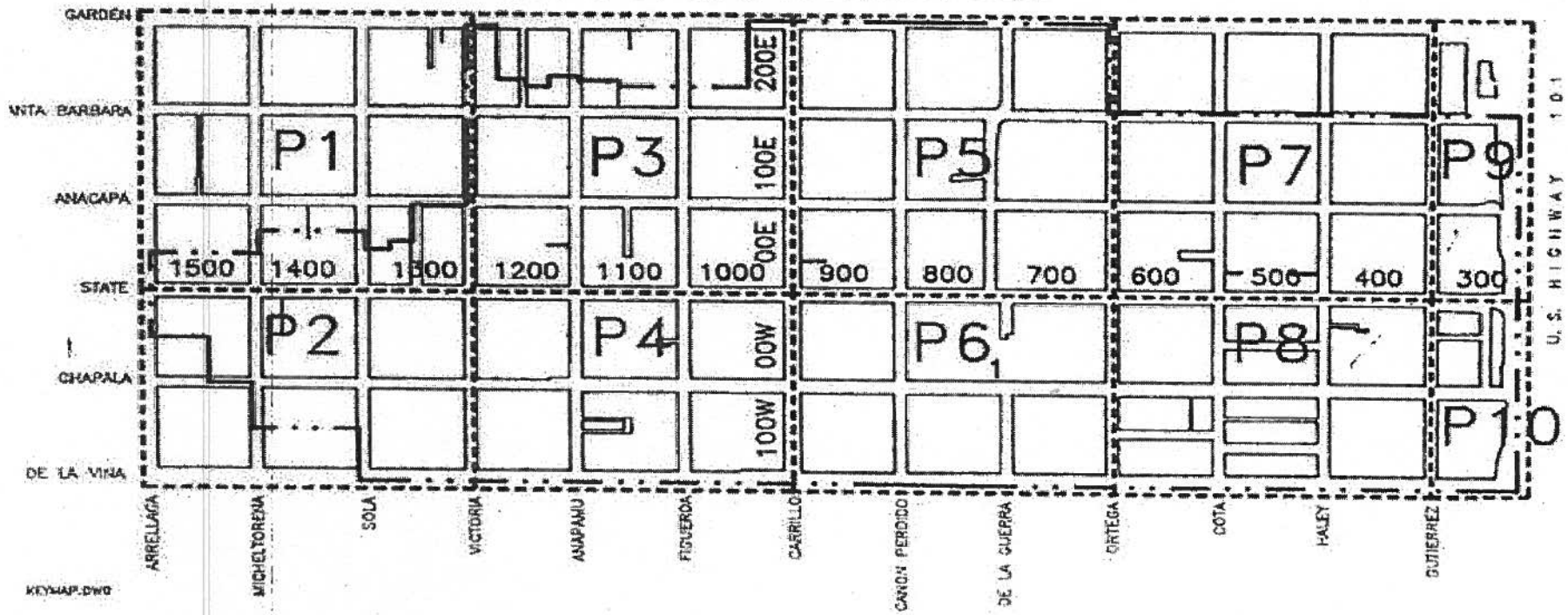
5. HWMF Overlay Zone: Parking space requirements for Offsite Hazardous Waste Management Facilities shall be determined by the City Transportation and Parking Manager.

6. PR Zone: Except as otherwise provided in Section 28.90.100.J, parking space requirements for park and recreation facilities shall be determined by the City Transportation and Parking Manager in consultation with the Community Development Director.

L. BICYCLE PARKING. In addition to the vehicle parking spaces required under Sections 28.90.100.I, 28.90.100.J and 28.90.100.K, one (1) bicycle parking space shall be required for each seven (7) vehicle parking spaces required therein. (Ord. 5518, 2010; Ord. 5459, 2008; Ord. 5416, 2007; Ord. 4946, 1996; Ord. 4924, 1995; Ord. 4919, 1995; Ord. 4912, 1995; Ord. 4858, 1994; Ord. 4825, 1993; Ord. 4750, 1992; Ord. 4427, 1986; Ord. 4269, 1984; Ord. 4121, 1981; Ord. 4085, 1980; Ord. 4063, 1980; Ord. 3989, 1979; Ord. 3710, 1974; Ord. 3602, 1972; Ord. 3552, 1972; Ord. 3546, 1972; Ord. 3519, 1972; Ord. 2585, 1957.)

FIGURE A
KEYMAP
CITY OF SANTA BARBARA
PARKING ZONES OF BENEFIT

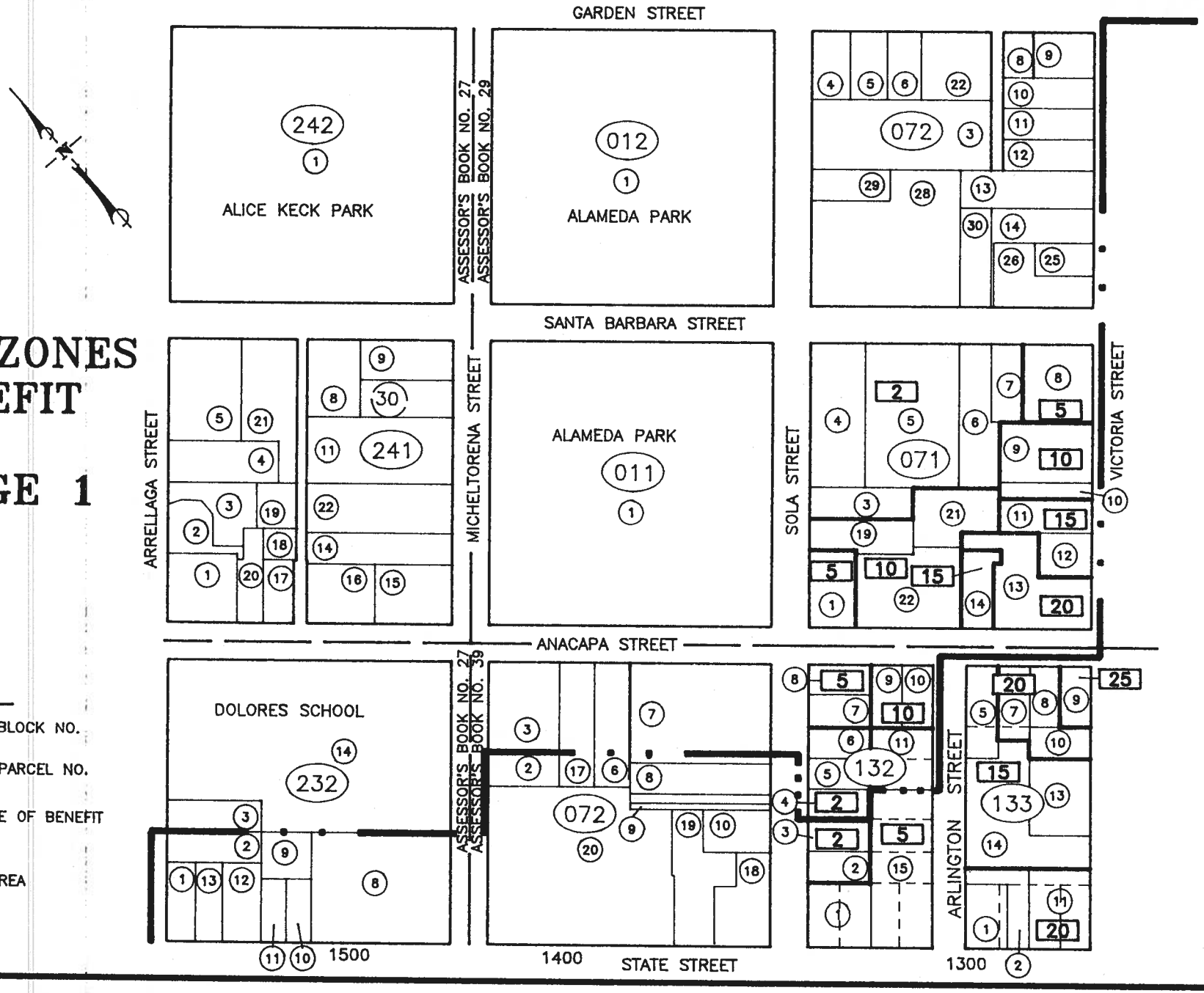
Locate the block in which the property is located and consult the appropriate following page for details on the Parking Zone of Benefit credit.



rev. 6/30/10

PARKING ZONES OF BENEFIT

MAP PAGE 1



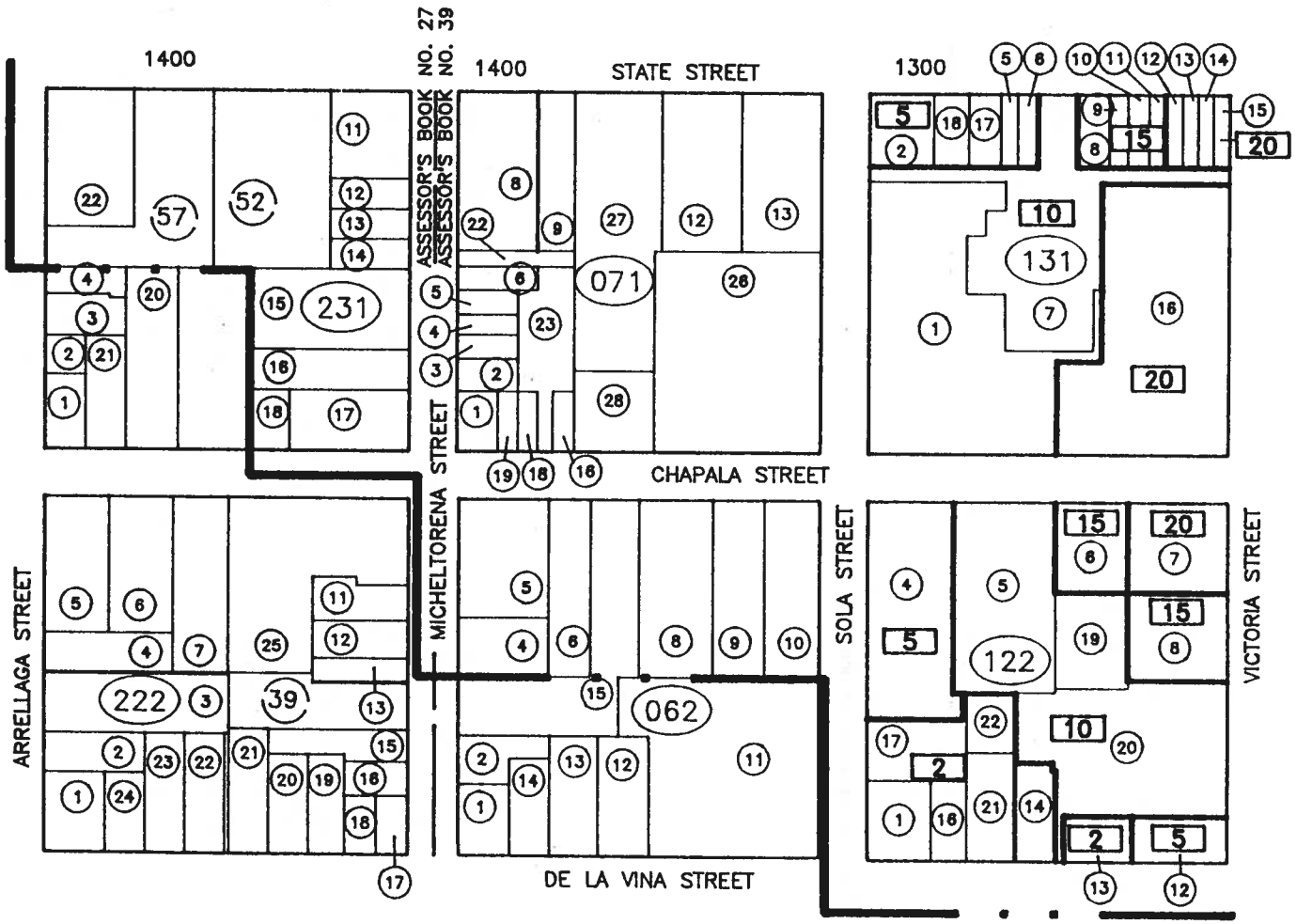
LEGEND

- (123) ASSESSOR'S BLOCK NO.
- (12) ASSESSOR'S PARCEL NO.
- [25] PARKING ZONE OF BENEFIT % CREDIT
- DELINEATED AREA

MAPPAGE1.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 2



LEGEND

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(12) ASSESSOR'S PARCEL NO.

[25] PARKING ZONE OF BENEFIT % CREDIT

DELINEATED AREA

MAPPAGE2.DWG

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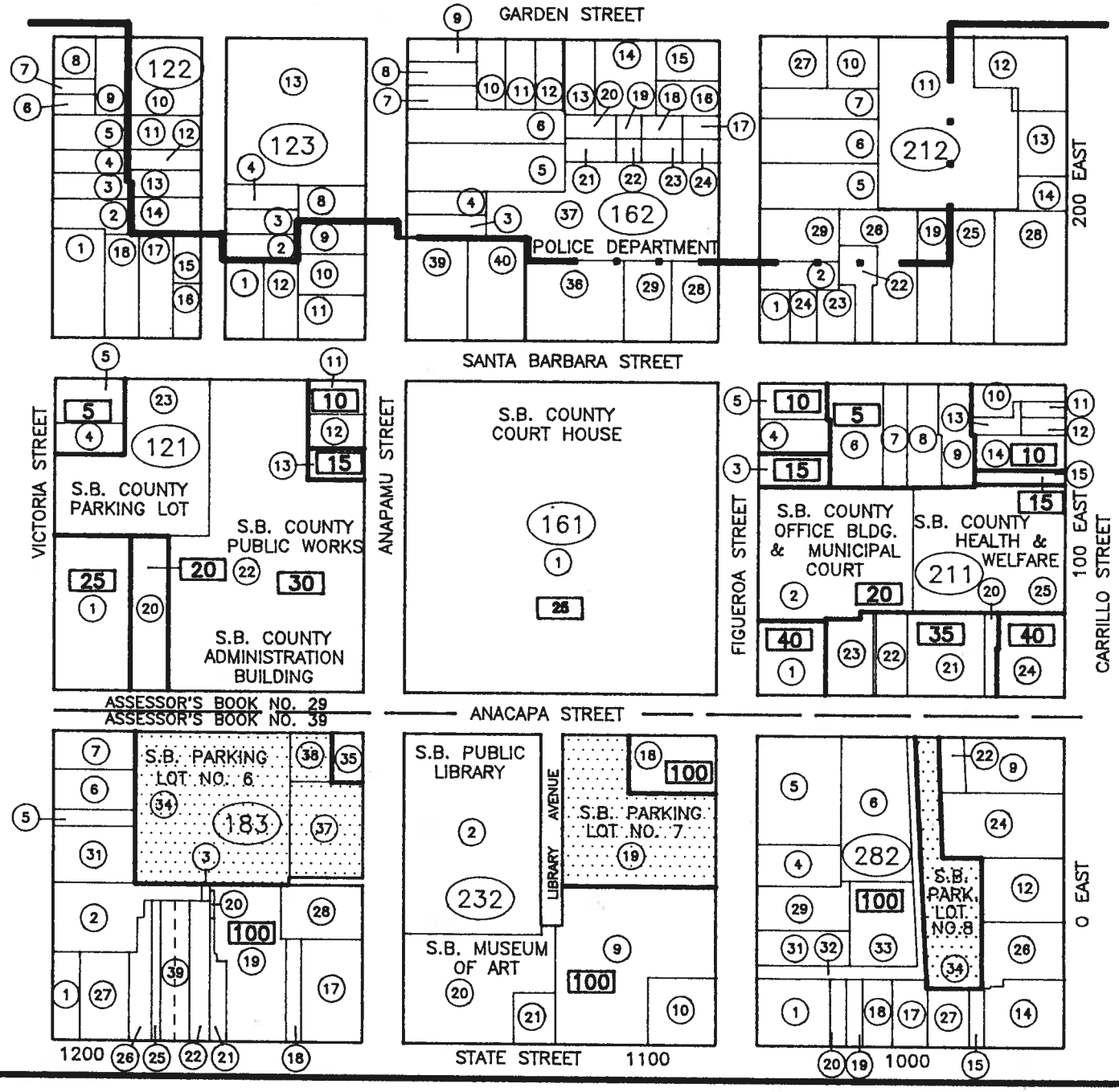
PARKING ZONES OF BENEFIT

MAP PAGE 3



LEGEND

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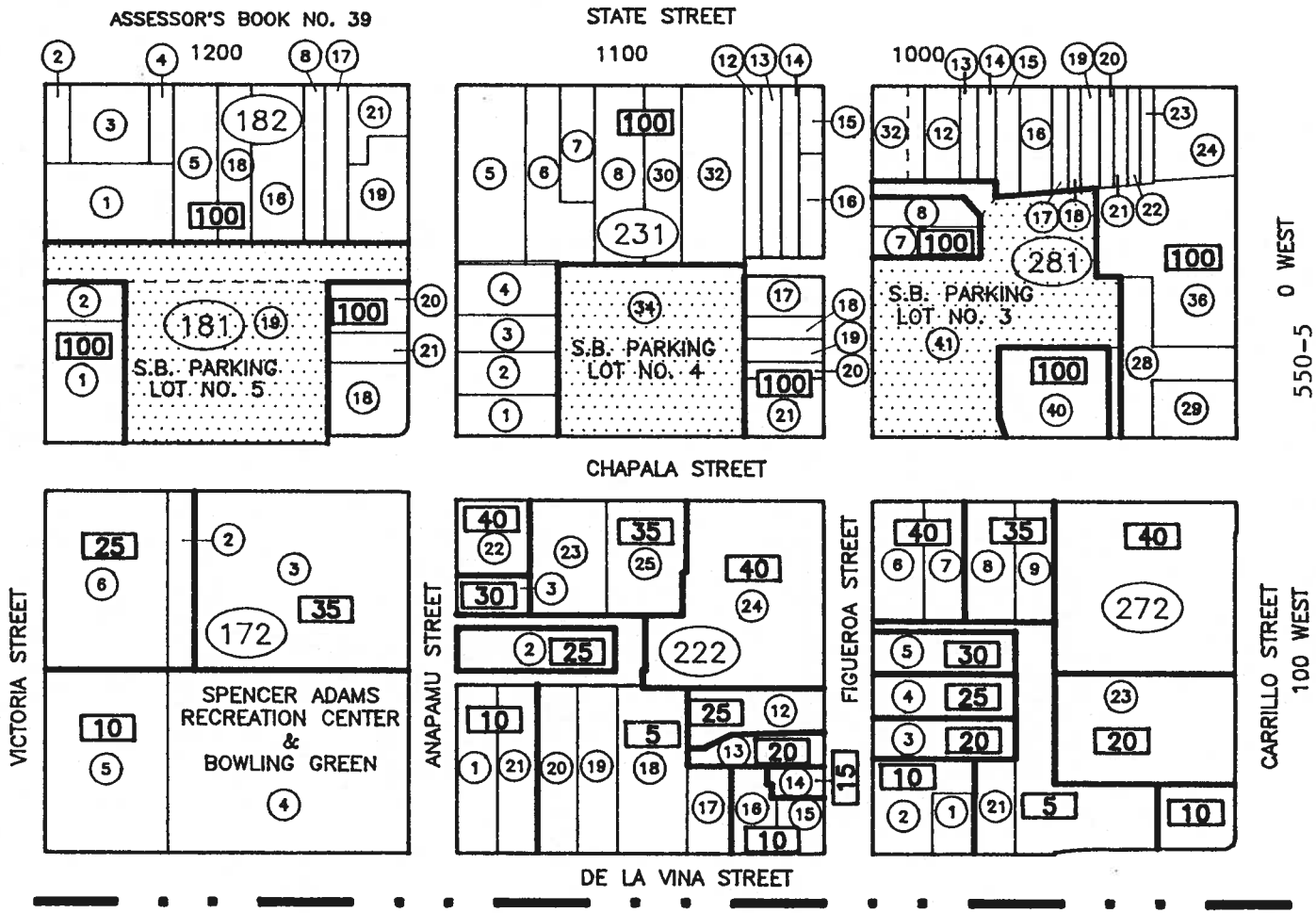
(12)	ASSESSOR'S PARCEL NO.
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE3.DWG

rev. 9/30/92

PARKING ZONES OF BENEFIT

MAP PAGE 4



LEGEND

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(12) ASSESSOR'S PARCEL NO.

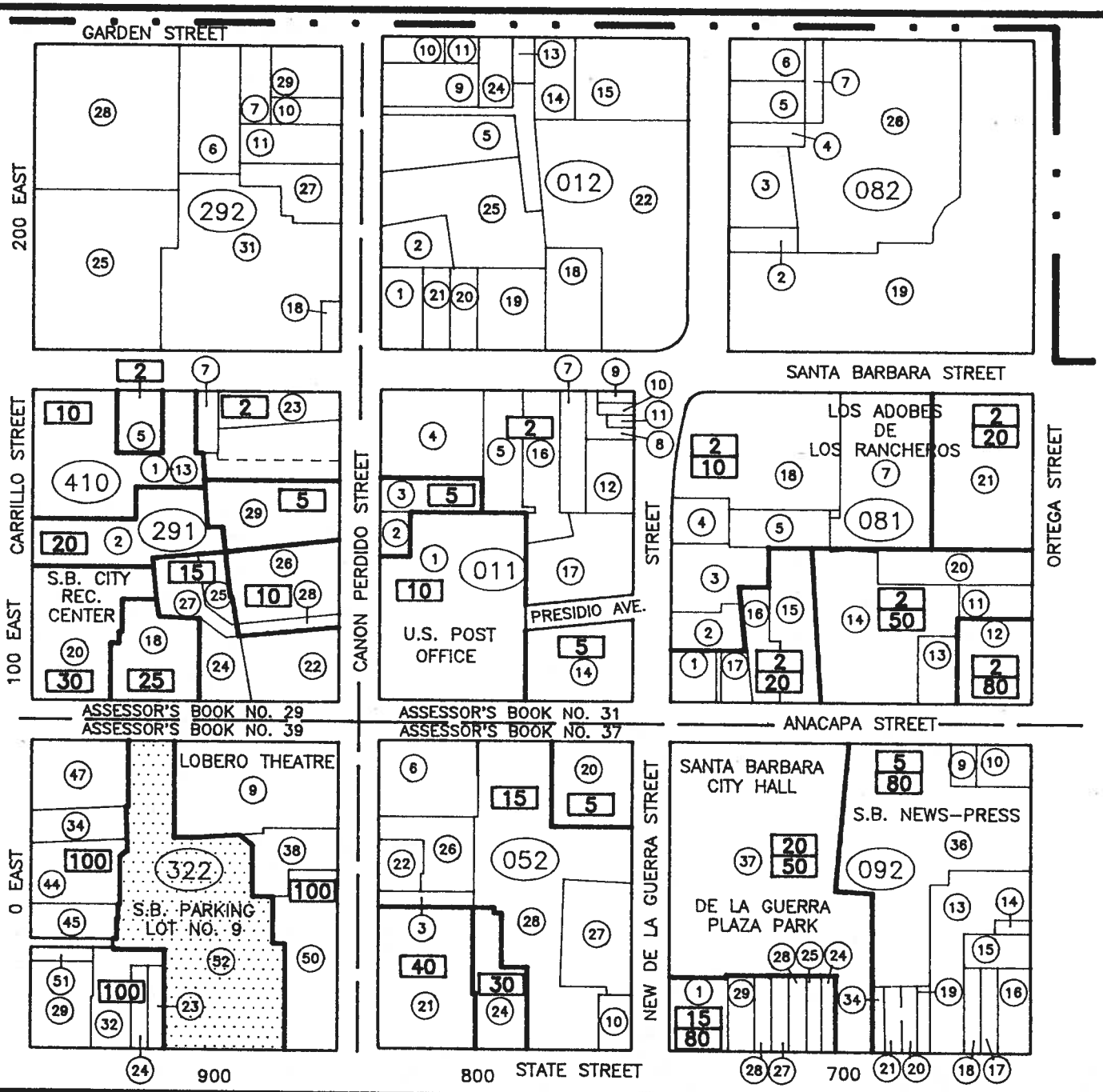
[25] PARKING ZONE OF BENEFIT % CREDIT

DELINEATED AREA

MAPPAGE4.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 5



LEGEND

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(12) ASSESSOR'S PARCEL NO.

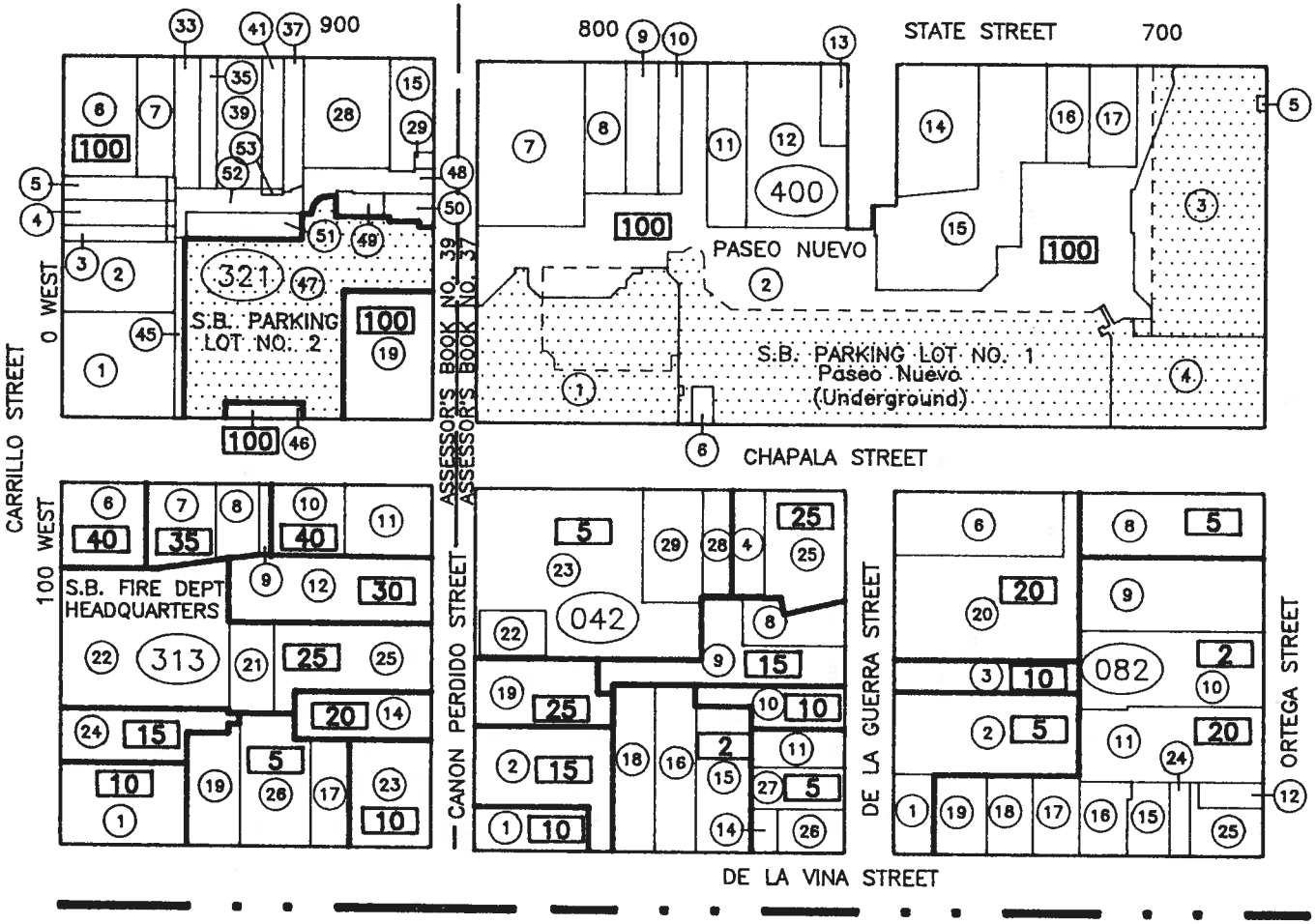
[25] PARKING ZONE OF BENEFIT % CREDIT

DELINEATED AREA

MAPPAGE5.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 6



LEGEND

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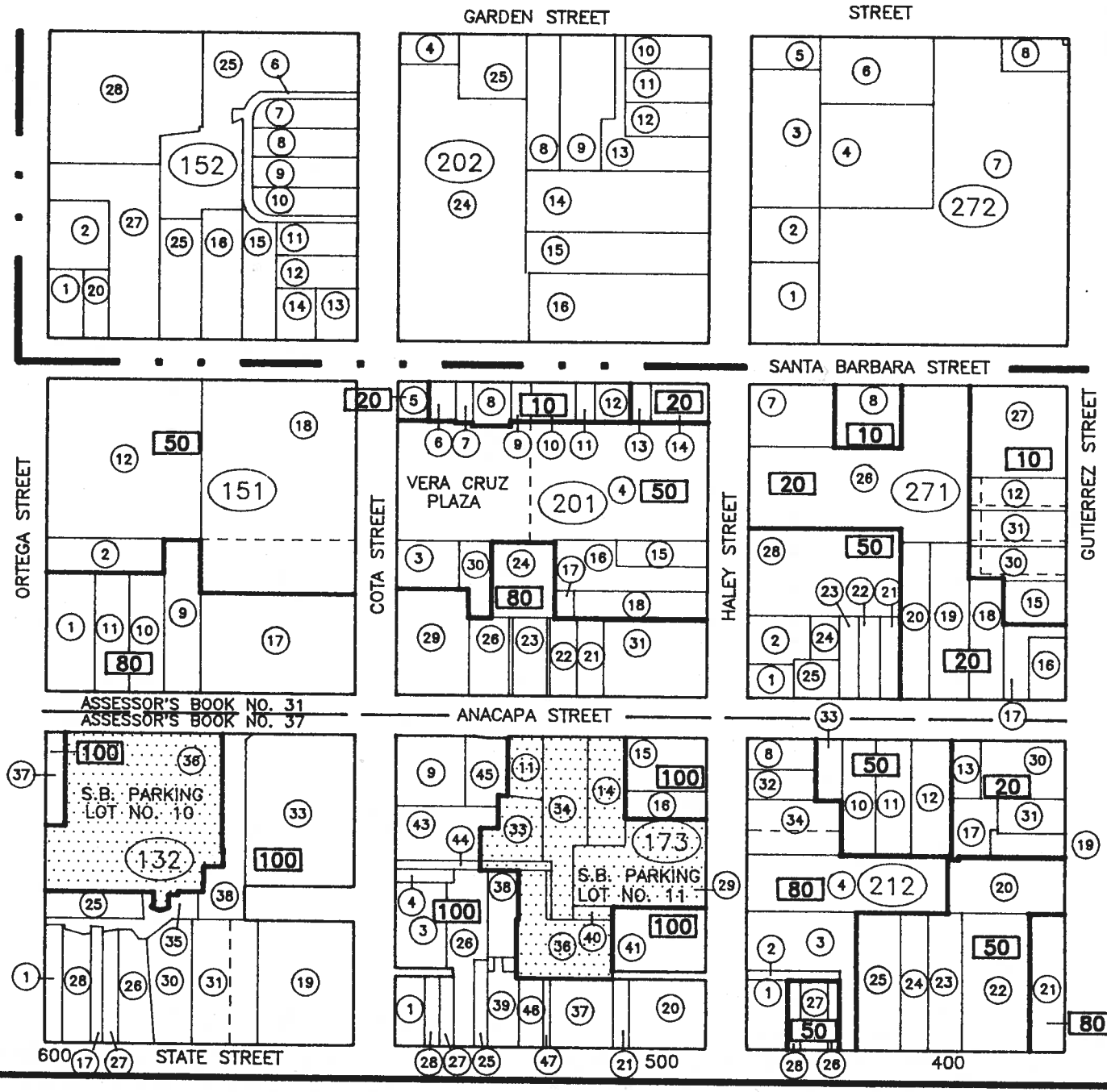
(12)	ASSESSOR'S PARCEL NO.
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE6.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 7



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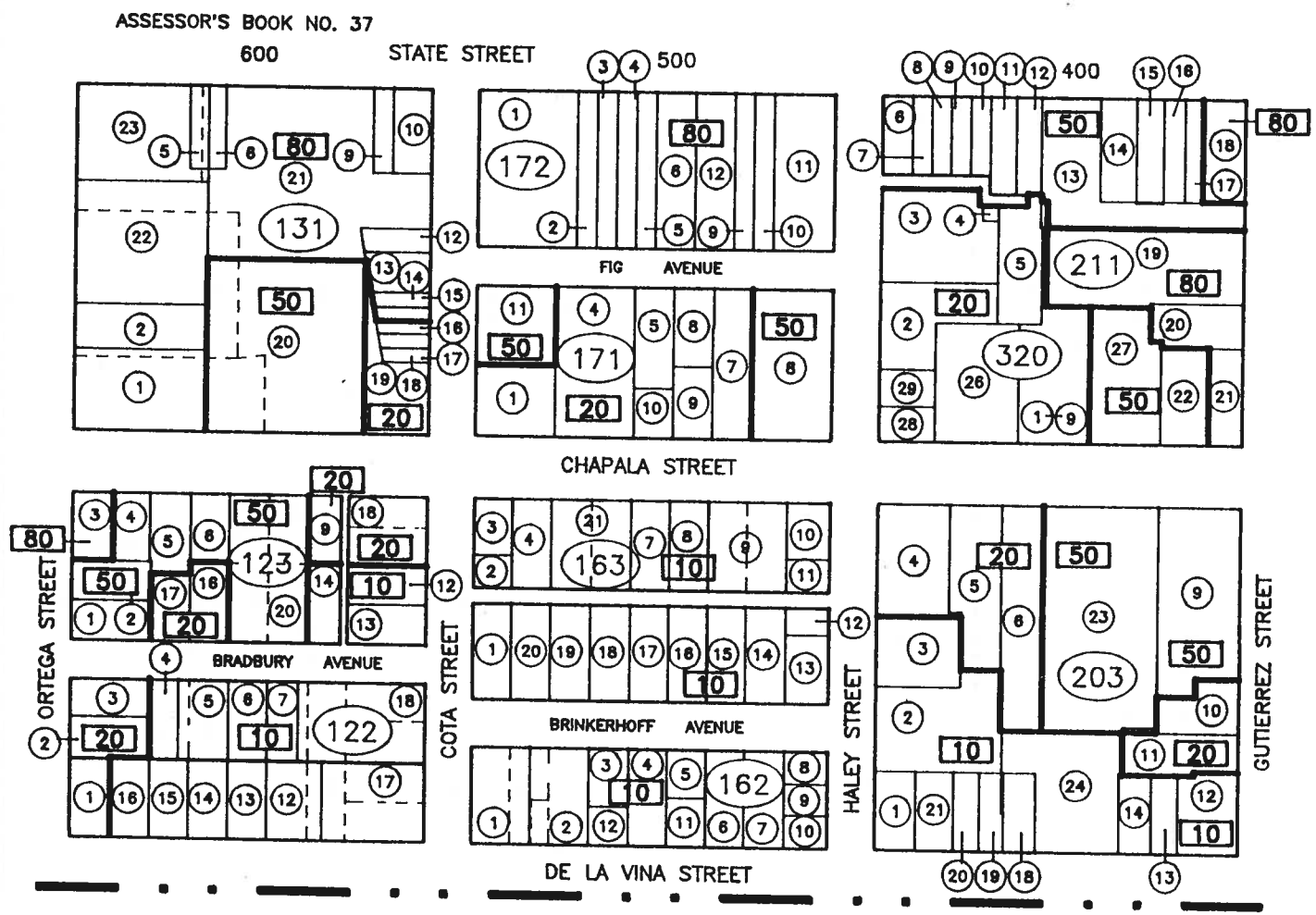
(12)	ASSESSOR'S PARCEL NO.
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE7.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 8



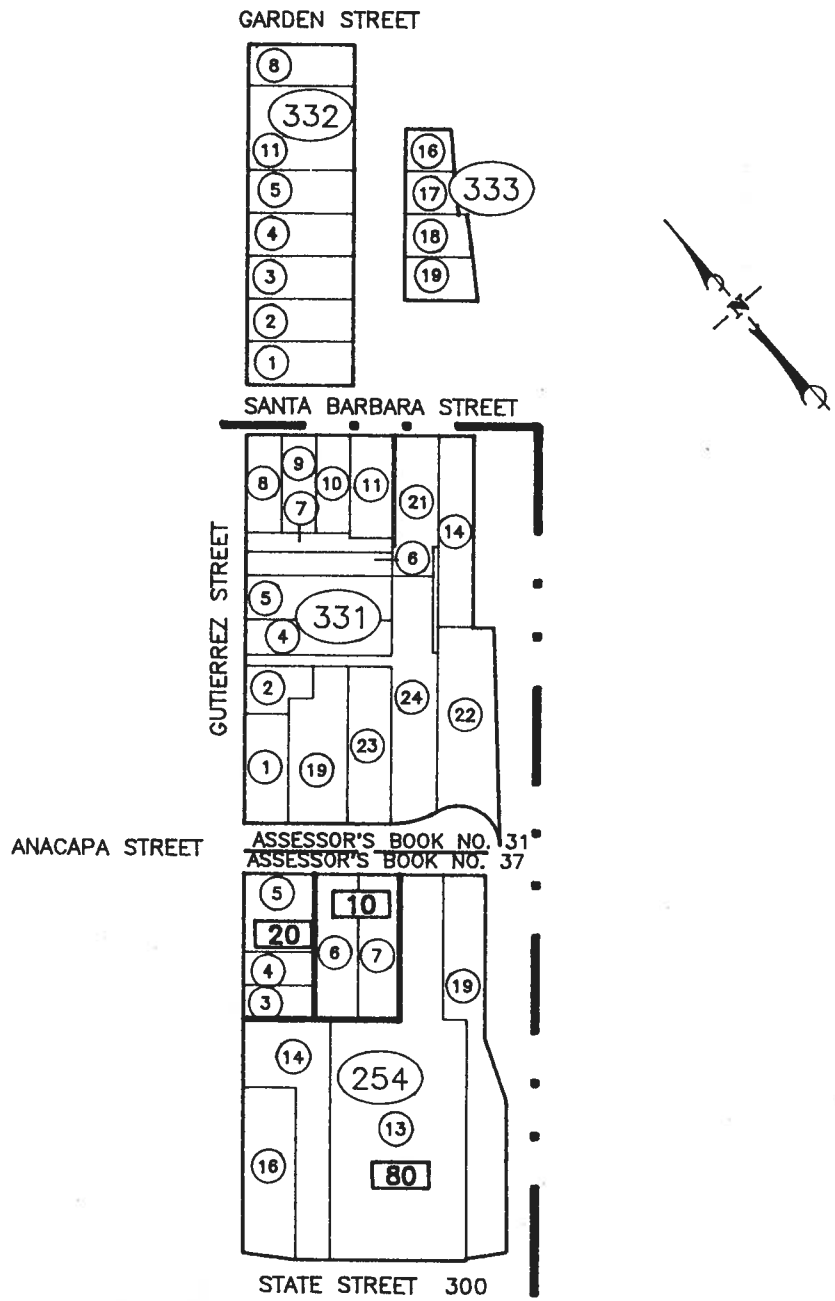
LEGEND

- (123) ASSESSOR'S BLOCK NO.
- (12) ASSESSOR'S PARCEL NO.
- [25] PARKING ZONE OF BENEFIT % CREDIT
- DELINEATED AREA

MAPPAGE8.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 9



LEGEND

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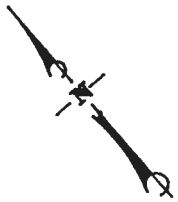
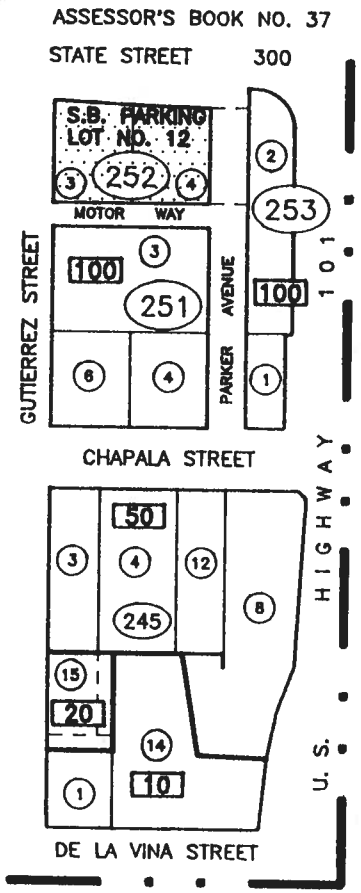
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE9.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 10





LEGEND

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12	ASSESSOR'S PARCEL NO.
25	PARKING ZONE OF BENEFIT % CREDIT
— · · —	DELINEATED AREA

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Chapter 28.92

VARIANCES, MODIFICATIONS AND ZONE CHANGES

Sections:

28.92.010 In General.
28.92.020 Initiation of Amendments and Changes of Zone Boundaries.
28.92.030 Applications.
28.92.040 Filing Fees.
28.92.050 Public Hearings.
28.92.060 Notices.
28.92.070 Community Development Department Report.
28.92.080 Resolution of Decision.
28.92.090 Variances.
28.92.100 Required Findings for Approval of Variances.
28.92.110 Modifications.
28.92.120 Limitations on Refiling.
28.92.130 Minor Zoning Exceptions for Errors in Zoning Information Reports.

28.92.010 In General.

The following regulations shall apply to the granting of variances, modifications and zone changes. (Ord. 5380, 2005.)

28.92.020 Initiation of Amendments and Changes of Zone Boundaries.

Whenever the public necessity, convenience, general welfare or good zoning practice justify such action, either the Planning Commission or City Council may, upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent and following a public hearing, may initiate proceedings to amend, supplement or change the zones, regulations or districts established by this title.

With the exception of amendments changing property from one zone to another, or changing the boundary of any zone, amendments may be made in the same manner as this title was adopted. (Ord. 5380, 2005.)

28.92.030 Applications.

Applications for variances, modifications and changes of zone shall be made in writing to the Community Development Director. The Community Development Director may provide forms for such purposes and may prescribe the type of information to be provided thereon. No application shall be received unless it complies with such requirements. Applications filed pursuant to this chapter shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the City of Santa Barbara. (Ord. 5380, 2005.)

28.92.040 Filing Fees.

Before accepting any application for filing pursuant to this chapter, the City shall charge and collect the fees established by resolution of the City Council. (Ord. 5380, 2005.)

28.92.050 Public Hearings.

Prior to taking any action on an application for a variance, change of zone, or modification, a public hearing shall be held before the Staff Hearing Officer or Planning Commission as specified below:

A. VARIANCES. All applications for variances shall be heard and approved, conditionally approved or denied by the Planning Commission.

B. CHANGE OF ZONE. All applications for changes of zone shall be approved, conditionally approved or denied by the Planning Commission, which shall make a recommendation to the City Council regarding the change of zone, if approved or conditionally approved.

C. MODIFICATIONS. Unless the application for a modification requires a discretionary action by the Planning Commission under another provision of this Code, all applications for modifications shall be heard and approved, conditionally approved or denied by the Staff Hearing Officer. (Ord. 5380, 2005.)

28.92.060 Notices.

Notice of public hearings required pursuant to this Chapter 28.92 shall be provided in accordance with Section 28.87.380 of this Code. (Ord. 5380, 2005.)

28.92.070 Community Development Department Report.

At the public hearing, the Staff Hearing Officer, Planning Commission, or City Council on appeal, shall receive a report from the Community Development Department regarding the application and the application's consistency with the intent and purpose of this Title and with previous variances, changes of zone or modifications. (Ord. 5380, 2005.)

28.92.080 Resolution of Decision.

The decisions of the Staff Hearing Officer or Planning Commission shall be announced and recorded by a resolution reciting the findings on which the decision is based.

A. VARIANCES: Within five (5) days after final decision by the Planning Commission on an application for a variance, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department. The decision of the Planning Commission may be appealed in accordance with Chapter 1.30 of this Code. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a variance shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

No permit or license shall be issued for any use involved in an application for a variance until same shall have become final by reason of the failure of any person to appeal or by reason of the action of the City Council.

B. AMENDMENTS AND CHANGES OF ZONE: Within five (5) days after final decision by the Planning Commission on an application for an amendment or change of zone, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department.

1. Approval. Upon approval of an application for an amendment or change of zone by the Planning Commission, the Planning Commission shall submit its recommendation and complete record of the application to the City Council. The City Council shall hold a public hearing to consider the application for the amendment or change of zone and may approve, reverse or modify the action of the Planning Commission and may approve, reject or modify said ordinance accordingly. The City Attorney shall prepare an ordinance providing for the approved amendment or change of zone to the City Council for introduction and subsequent adoption.

2. Denial. The denial of an application for an amendment or change of zone by the Planning Commission shall be final unless appealed in accordance with Chapter 1.30 of this Code. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a change of zone shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

No permit shall be issued for any use involved in an application for a change of zone until the same shall have become final by the effective date of the ordinance.

C. MODIFICATIONS. Within five (5) days after final decision by the Staff Hearing Officer or Planning Commission on an application for a modification, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department.

1. Staff Hearing Officer. Decisions of the Staff Hearing Officer regarding modifications shall be final unless suspended or appealed in accordance with Section 28.05.020 of this Code.

2. Planning Commission. Decisions of the Planning Commission shall be final unless appealed in accordance with Chapter 1.30 of this Code. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a modification shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

No permit or license shall be issued for any use involved in an application for a modification until same shall have become final by reason of the failure of any person to appeal or by reason of the action of the City Council. (Ord. 5380, 2005.)

28.92.090 Variances.

When practical difficulties, unnecessary hardships or results inconsistent with the general purposes of this Title occur by reason of a strict interpretation of any of the provisions of this Title, either the Planning Commission or City Council may upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent, may, in specific cases, initiate proceedings for the granting of a variance from the provisions of this Title under such conditions as may be deemed necessary to assure that the spirit and purposes of this chapter will be observed, public safety and welfare secured, and substantial justice done. All acts of the Planning Commission and City Council under the provisions of this section shall be construed as administrative acts performed for the purpose of assuring that the intent and purpose of this Title shall apply in special cases, as provided in this section, and shall not be construed as amendments to the provisions of this Title or map. Individual economic circumstances are not a proper consideration for the granting of a variance. (Ord. 5380, 2005.)

28.92.100 Required Findings for Approval of Variances.

Before a variance may be granted, all of the following findings shall be made:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.

2. That the granting of such variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in such zone or vicinity in which the property is located.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone and vicinity.

4. That the granting of such variance will not adversely affect the Comprehensive General Plan.

(Ord. 5380, 2005.)

28.92.110 Modifications.

Modifications may be granted by the Planning Commission or Staff Hearing Officer as follows:

A. **BY THE PLANNING COMMISSION**. The Planning Commission may permit the following:

1. **Parking**. A modification or waiver of the parking or loading requirements where, in the particular instance, the modification will not be inconsistent with the purposes and intent of this Title and will not cause an increase in the demand for parking space or loading space in the immediate area.

2. **Setbacks, Lot Area, Floor Area, Street Frontage, Open Yard, Outdoor Living Space, and Distance Between Buildings.** A modification of setback, lot area, floor area, street frontage, open yard, outdoor living space, or distance between buildings requirements where the modification is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement, or (iv) the modification is necessary to construct a housing development containing affordable dwelling units rented or owned and occupied in the manner provided for in the City's Affordable Housing Policies and Procedures as defined in subsection (A) of Section 28.43.020 of this Code.

3. **Fences, Screens, Walls, and Hedges**. A modification of fence, screen, wall and hedge regulations where the modification is necessary to secure an appropriate improvement on a lot and is consistent with the purposes and intent of this Title.

4. **Solar Access**. A modification of height limitations imposed by Section 28.11.020 to protect and enhance solar access where the modification is necessary to prevent an unreasonable restriction. The Rules and Regulations approved pursuant to Section 28.11.040 shall contain criteria for use in making a finding of unreasonable restriction.

5. **Building Height**. A modification of building height limitations for existing buildings or structures that exceed the current building height limit, to allow the exterior of the portion of the building or structure that exceeds the building height limit to be improved or upgraded, provided that the improvements increase neither the height nor the floor area of any portion of the building or structure that exceeds the building height limit, except as otherwise allowed in the Code.

6. **Net Floor Area (Floor to Lot Area Ratio)**. A modification of the net floor area standard imposed by Section 28.15.083 to allow a development that would otherwise be precluded by operation of Subsection 28.15.083.D where the Planning Commission makes all of the following findings:

a. Not less than five (5) members of the Single Family Design Board or six (6) members of the Historic Landmarks Commission (on projects referred to the Commission pursuant to Section 22.69.030) have voted in support of the modification following a concept review of the project;

b. The subject lot has a physical condition (such as the location, surroundings, topography, or the size of the lot relative to other lots in the neighborhood) that does not generally exist on other lots in the neighborhood; and

c. The physical condition of the lot allows the project to be compatible with existing development within the neighborhood that complies with the net floor area standard.

7. **Accommodation of Disabilities.** A modification of any zoning regulation where the modification is necessary to allow improvements to an existing building in order to provide reasonable accommodations to individuals with disabilities. This modification is not available in the case of new buildings, demolitions and rebuilds, or additions where the proposed construction precludes a reasonable accommodation that would not require a modification.

B. BY THE STAFF HEARING OFFICER. The Staff Hearing Officer may permit modifications in accordance with subsections 1., 2., 3., 4., 5., and 7. above, if the Staff Hearing Officer finds that:

1. The requested modification is not part of the approval of a tentative subdivision map, conditional use permit, development plan, site plan, plot plan, or any other matter which requires approval of the Planning Commission; and

2. If granted, the modification would not significantly affect persons or property owners other than those entitled to notice. (Ord. 5488, 2009; Ord. 5416, 2007; Ord. 5380, 2005.)

28.92.120 Limitations on Refiling.

Whenever the Staff Hearing Officer, Planning Commission or City Council has rendered a decision under the provisions of this chapter upon any application, petition or appeal, which has become final after hearing before the Staff Hearing Officer or Planning Commission, or if appeal is taken to the City Council, after hearing on such appeal, or after hearing before the City Council on matters required to be heard by said body, the party or parties presenting such application, petition or appeal, shall not thereafter file another application or petition for the same purpose or relief unless:

1. Twelve (12) months have elapsed from and after the date of the final decision in said matter; or
2. New evidence or proof of changed conditions is furnished to the Staff Hearing Officer, Planning Commission or City Council in the new application or petition. (Ord. 5380, 2005.)

28.92.130 Minor Zoning Exceptions for Errors in Zoning Information Reports.

A. Purpose.

A Minor Zoning Exception is a method of resolving a discrepancy or error in a Zoning Information Report (ZIR) prepared by the City pursuant to Section 28.87.220 of this Code. If a discrepancy or error in a ZIR involves one or more of the zoning violations specified in Subsection B, the property owner may request a Minor Zoning Exception to obtain relief from the zoning standard up to the maximum amount of relief specified for the particular zoning standard, subject to the findings specified in Subsection C.

In order to qualify, the discrepancy or error in the ZIR must involve a failure of City staff to properly identify a zoning violation, or a mischaracterization of the legality or illegality of an existing improvement on the real property, that is related to the relief requested. A decision on a requested Minor Zoning Exception is an administrative action of the Staff Hearing Officer, without public notice or hearing. In order to grant a Minor Zoning Exception, the Staff Hearing Officer must make the findings specified in Subsection C.

The actions of the Staff Hearing Officer pursuant to this Section 28.92.130 are not subject to the provisions of Chapter 28.05 of this Code.

B. Unpermitted Improvements Eligible for Minor Zoning Exceptions.

If a discrepancy or error in a ZIR involves one of the unpermitted improvements listed below, the property owner may request a Minor Zoning Exception:

1. Unpermitted Alterations to Properties with Legal Nonconforming Buildings. The following unpermitted additions or alterations to existing structures that are legal nonconforming as to setbacks, open yard area, residential density, or distance between buildings are eligible to apply for a Minor Zoning Exception, subject to the findings specified in Subsection C:

a. Conversion of an Encroaching Garage or Carport to Other Parking. Where a carport or garage encroaches into any setback or required open yard or does not meet the minimum separation between buildings, the conversion of the carport to a garage or the garage to a carport may be granted a Minor Zoning Exception, provided the number of parking spaces provided in the garage or carport is not increased and the proposed garage or carport meets required minimum interior dimensions or an exception from that standard is approved by the Public Works Director or his or her designee.

b. Conversion of an Encroaching Garage to Another Use. The conversion of a garage that encroaches into a setback to a use other than parking (such as storage, workshop, bedroom, or similar) may be granted a Minor Zoning Exception, subject to the finding specified below in Section 28.92.130.C.2.b.

c. Encroaching First Story Windows. If a building encroaches into an interior or rear setback, the addition of new windows to, or the enlargement or relocation of existing windows on, the first story of the encroaching wall may be granted a Minor Zoning Exception.

d. Exterior Alterations in the Front Setback. If a building encroaches into the front setback, exterior alterations (i.e., windows, doors, skylights, façade changes, etc.) to the portion of the building that encroaches within the front setback may be granted a Minor Zoning Exception.

e. Façade Alterations in the Interior Setback. If a building encroaches into the interior setback, façade alterations, excluding new doors and second floor windows, to the portion of the building that encroaches within the interior setback may be granted a Minor Zoning Exception.

f. Encroaching Ground Floor Additions. If a building encroaches into an interior setback, a ground floor addition that encroaches into the same interior setback may be granted a Minor Zoning Exception, so long as the total square footage of the addition does not exceed 250 square feet and the addition does not result in a new residential unit or an increase in residential density.

g. Alterations to Roof Height. If a structure encroaches into a setback, alterations to the roof height of the portion of the structure that is within a setback may be granted a Minor Zoning Exception as long as the alteration does not increase the building height of the portion of the building within the setback by more than one foot.

h. Cantilevered Architectural Features and Chimneys. New or altered cantilevered architectural features (such as awnings, cornices, canopies, or eaves) that are unsupported from the ground below and do not provide additional floor area within the building, or chimneys that encroach no more than an additional two feet into a setback may be granted a Minor Zoning Exception. However, no cantilevered architectural feature or chimney shall be located closer than three feet from any interior lot line or five feet from any front lot line, except roof eaves, which may be located as close as two feet from any lot line.

i. Uncovered Balcony in the Front Setback. An uncovered balcony within the front setback that does not provide additional floor area within the building and which does not extend more than an additional two feet into the front setback may be granted a Minor Zoning Exception. However, no balcony shall be located closer than five feet from the front lot line.

j. Bay Window in the Front Setback. A bay window within the front setback, that is at least three feet above adjacent grade or finished floor (whichever is higher), does not provide additional floor area within the building, and does not extend more than an additional three feet into the front setback may be granted a Minor Zoning Exception. However, no bay window shall be located closer than five feet to the front lot line.

k. Addition of an Encroaching Landing or Front Porch. In the front setback, a covered or uncovered front porch and any associated steps, not extending above the finished floor level of the ground floor, and not exceeding six feet wide by four feet deep may be granted a Minor Zoning Exception, as long as it is no closer than five feet from the front lot line. In the interior setback, an unenclosed, uncovered, entrance landing and outside steps not extending above the finished floor level of the ground floor may be granted a Minor Zoning Exception to encroach an additional three feet into a setback. However, no entrance landing shall be closer than two feet from the interior lot line, and the size of the landing and steps may not exceed the minimum area required by the building code.

2. "As-Built" Addition or Expansion of Hardscape, Landscape or Site Improvements. The "as-built" addition or expansion of the following hardscape, landscape, or site improvements that encroach into setbacks, required open yard area, or the minimum distance between buildings may be granted a Minor Zoning Exception, subject to the findings specified in Subsection C:

a. Decks with a total area of not more than 200 square feet, attached to a main building, not extending above the finished floor level of the ground floor, and no closer than two feet to an interior lot line;

b. Fountains, ponds, and similar water features;

c. Trash enclosures that are no closer than ten feet from a front lot line and two feet from an interior lot line; and,

d. Decorative features, mailboxes, flagpoles, sculptures. The cumulative area of all such features shall not exceed 50 square feet in the front yard or cover more than 20% of the required open yard. However, the exceptions under this paragraph 2 are not available to allow the encroachment of BBQs, exterior fireplaces, or raised fire pits into setbacks.

3. "As-Built" Detached Accessory Buildings. An "as-built" detached accessory building that encroaches into an interior or rear setback may be granted a Minor Zoning Exception if it satisfies all of the following criteria and subject to the findings specified in Subsection C:

a. The floor area of the building is not more than 120 net square feet; and

b. The accessory building is not a separate residential unit; and

c. The building was constructed prior to August 1, 1975; and

d. The building is not located within the front yard or required open yard or outdoor living space.

4. Oversized Accessory Buildings. Accessory building(s) or garage(s) which exceed the size limits established by Section 28.87.160.C of this Code by no more than 100 square feet and were built prior to August 1, 1975, may be granted a Minor Zoning Exception, provided the accessory building meets the open yard and building height standards of the Zoning Ordinance and subject to the findings specified in Subsection C.

5. Additions Exceeding the Maximum FAR. Additions of floor area to a residence that exceeded the maximum allowed Floor to Lot Area Ratio (FAR) in effect at the time the errant ZIR was prepared may be granted a Minor Zoning Exception, if the additional floor area is contained within the volume of the legally permitted building (i.e., a loft, cellar, etc.) and subject to the findings specified in Subsection C.

C. Findings.

1. In order to grant a Minor Zoning Exception, the Staff Hearing Officer must make all of the following five findings:

a. A material discrepancy or error has occurred in the preparation of a Zoning Information Report regarding the subject property, and the discrepancy or error directly involves the zoning standard from which relief is sought.

b. Substantial evidence has been provided that indicates the improvement for which relief is sought existed in its current form on the site prior to January 1, 1980, or, in the case of accessory structures, August 1, 1975.

c. The Minor Zoning Exception does not involve the permanent removal of a significant component or a character defining element from a historic resource, potential historic resource, or an un-surveyed building located in a Demolition Review Study Area which is more than 50 years old.

d. Any as-built additions that are uniform extensions of the legal nonconforming portion of the building and are generally no closer to the lot line in question than the legal non-onforming portions of the building.

e. The improvement is located in general compliance with the Single Family Design Board's Good Neighbor Guidelines.

2. The following additional findings shall be made, if applicable to the requested Minor Zoning Exception:

a. For improvements in the required open yard or minimum distance between buildings, the site will maintain adequate yard areas to provide light and air, separation of buildings, and privacy and enjoyment of occupants.

b. For garage conversions, the number and configuration of parking space(s) required at the time of the conversion is provided on site.

c. For improvements that increase the height of the building, the final height of the altered building complies with the maximum building height and building story limitations for the applicable zone.

d. For improvements within the front setback, the height and location shall comply with the corner lot and driveway sight line standards established by the Public Works Director.

D. Conditions.

In granting a Minor Zoning Exception, the Staff Hearing Officer may prescribe conditions necessary to minimize potential adverse impacts on neighboring properties that relate to the requested Minor Zoning Exception and are proportionate to the potential impacts on neighboring properties.

E. Decisions.

The Staff Hearing Officer shall issue a written decision on the Minor Zoning Exception request pursuant to this Section. The decision of the Staff Hearing Officer is final and effective when the decision is made, subject to appeal to the Community Development Director.

F. Appeals.

The decision of the Staff Hearing Officer regarding a Minor Zoning Exception may be appealed to the Community Development Director by the applicant. The appeal must be filed in writing with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The appellant shall state specifically in the appeal how the decision of the Staff Hearing Officer is not in accord with the provisions of this Title or how it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Director shall review the appellant's written appeal letter and the Staff Hearing Officer's written decision and shall affirm, reverse, or modify the decision of the Staff Hearing Officer. No hearing shall be conducted on the appeal. When granting a Minor Zoning Exception, the Community Development Director must make all applicable findings specified in Section 28.92.130.C. The Community Development Director shall issue a written decision on the appeal within ten (10) calendar days of receipt of the appeal. The decision of the Community Development Director is final without any right of further appeal. (Ord. 5730, 2016.)

Chapter 28.93

PERFORMANCE STANDARD PERMITS

Sections:

28.93.001 In General.
28.93.005 Legislative Intent.
28.93.010 Filing of Applications.
28.93.015 Filing Fees.
28.93.020 Performance Standard Permit Procedures.
28.93.030 Uses Permitted Upon Issuance of a Performance Standard Permit.

28.93.001 In General.

The following regulations shall apply to the granting of Performance Standard Permits. (Ord. 4858, 1994.)

28.93.005 Legislative Intent.

It is hereby declared that the uses permitted under this Chapter are relatively minor in nature but have unique features that make it impractical to establish their suitability in a given location prior to their proposal. Because of their nature, these uses warrant individual consideration and review for which performance standards specific to that use are applied. This Chapter establishes a process which allows for individual consideration and review of each project and which requires public notice to neighbors and an opportunity for a public hearing while providing an expedient and economical review process consistent with the proposed degree of development. (Ord. 4858, 1994.)

28.93.010 Filing of Applications.

Applications for Performance Standard Permits shall be made to the Community Development Director in such form as approved by the Community Development Director. The Community Development Director may provide forms for such purposes and may prescribe the type of information to be provided thereon, provided that such information is reasonably related to meeting the requirements of this Chapter. No application shall be accepted unless it complies with such requirements. (Ord. 4858, 1994.)

28.93.015 Filing Fees.

Before accepting any application for filing pursuant to this Chapter, the City shall charge and collect the fees established by resolution of the City Council. (Ord. 4858, 1994.)

28.93.020 Performance Standard Permit Procedures.

A performance standard permit is granted subject to the following procedures:

A. The Staff Hearing Officer may grant a performance standard permit if the Staff Hearing Officer finds that the proposed use complies with all standards for the proposed use set forth in Section 28.93.030 and all requirements of the Zoning Ordinance, and may revoke a performance standard permit if compliance with any such standards and requirements is discontinued.

B. Notice of the proposed use shall be given pursuant to Section 28.87.380 of this Code.

C. The denial or approval of any application for a permit under this Section may be suspended or appealed pursuant to Section 28.05.020 of this Code. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.93.030 Uses Permitted Upon Issuance of a Performance Standard Permit.

The following use(s) may be permitted subject to the approval of a Performance Standard Permit:

A. State-licensed Large Family Day Care Homes in the A, E, R-1, R-2, R-3, R-4 and PUD zones and in the HRC-2 zone where residential uses are permitted provided that the following performance standards are met:

1. There are no other State-licensed Large Family Day Care Homes within a 300 foot radius of the proposed Large Family Day Care Home measured from the nearest property lines of the affected Large Family Day Care Homes. A waiver from the 300-foot spacing requirement may be granted if it can be found that certain physical conditions exist and if the waiver would not result in significant effects on the public peace, health, safety and comfort of the affected neighborhood. Examples of physical conditions that may warrant granting of a waiver include intervening topography that creates a barrier or separation between the facilities such as hillsides or ravines, the presence of major non-residential uses or structures between facilities or the presence of a major roadway between the facilities.

2. The City finds that adequate off-street area or on-street area in front of the residence is available for passenger loading and unloading. The passenger loading and unloading area shall be of adequate size and configuration and shall allow unrestricted access to neighboring properties.

3. Outdoor play shall be limited to the hours between 8:00 a.m. and 6:00 p.m.

4. One additional parking space for employee parking shall be provided unless a finding is made that adequate on-street or off-street parking is available to support the proposed use.

B. Community care facilities, residential care facilities for the elderly, and hospices serving 7 to 12 individuals in the A, E, R-1, R-2, R-3, R-4, and PUD zones and in the HRC-2 zone where residential uses are permitted, provided that the following performance standards are met:

1. Adequate off-street parking is provided pursuant to Section 28.90.100 or as modified pursuant to Section 28.92.110.

2. The facility conforms to the extent feasible to the type, character and appearance of other residential units in the neighborhood in which it is located. This provision shall in no way restrict the installation of any special feature(s) necessary to serve disabled residents (e.g., ramps, lifts, handrails).

3. The intensity of use in terms of number of people, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use. (Ord. 4858, 1994.)

C. Public works treatment and distribution facilities that are greater than 500 square feet and no more than 1,000 square feet in the R-3, R-4, and P-R zones subject to the requirements of Section 28.37.010.B., and less restrictive zones, provided that the following performance standards are met:

1. The setbacks of the proposed facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding residential properties is avoided.

2. The operation of the proposed facility is such that the character of the area is not significantly altered or disturbed.

3. The design and operation of non-emergency outdoor security lighting and equipment will not be a nuisance to the use of property in the area.

4. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays, and holidays observed by the City of Santa Barbara.

5. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

6. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

D. Rehabilitation of existing water storage reservoirs or sludge basins in any zone, that are owned and operated by the City, provided that the following performance standards are met:

1. That the design and operation of non-emergency outdoor lighting and equipment will not be a nuisance to the use of property in the area.

2. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara.

3. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

4. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

E. Additional dwelling units. Notwithstanding any other provisions of this title, where a lot in an A-1, A-2, E-1, E-2, E-3, or R-1 Zone has an area of more than the required lot area for that zone and adequate provisions for ingress and egress, a Performance Standard Permit may be granted by the Staff Hearing Officer for the construction of additional one-family dwellings and allowable accessory buildings in these zones. However, the minimum site area per dwelling unit in these zones shall be the minimum lot area required for that zone, and the location of such additional dwellings shall comply with the provisions of all other applicable ordinances. (Ord. 5380, 2005; Ord. 4858, 1994.)

F. Solar Energy Systems. In the case where the Building Official makes a finding, based on substantial evidence, that a solar energy system could have a specific, adverse impact upon the public health and safety (as defined in Chapter 22.91 of this Code), the solar energy system shall not be issued a building permit until a Performance Standard Permit has been issued for the solar energy system.

1. Conditions of Approval. The Performance Standard Permit shall require the installation or incorporation of measures or conditions necessary to minimize or avoid the specific, adverse impact.

2. Grounds for Denial. The City shall not deny an application for a Performance Standard Permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily minimize or avoid the specific, adverse impact. If the applicant proposes any potentially feasible alternatives for preventing the specific adverse impact, the findings accompanying the denial of the Performance Standard Permit shall include the basis for the rejection for potential feasible alternatives of preventing the specific, adverse impact.

3. Appeal. The decision of the Staff Hearing Officer to deny an application for a Performance Standard Permit is appealable according to the following procedures:

a. Who May Appeal. The decision of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant. No other persons can appeal.

b. Timing for Appeal. The applicant may appeal a decision of the Staff Hearing Officer by filing an appeal with the Community Development Director no more than 10 calendar days following the decision. The application shall include the grounds for appeal.

c. Grounds for Appeal. The decision of the Staff Hearing Officer may be appealed on the grounds that the stated findings to deny the permit are not supported by substantial evidence.

d. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

e. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Staff Hearing Officer's decision to deny a solar energy system in accordance with the following:

i. A decision to affirm the decision of the Staff Hearing Officer shall require a finding based on substantial evidence in the record that the proposed solar energy system would have a specific, adverse impact upon the public health and safety.

ii. If the Planning Commission determines that there is not substantial evidence that the solar energy system would have a specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be approved.

iii. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

f. The decision of the City Planning Commission is final. (Ord. 5713, 2015; Ord. 5380, 2005; Ord. 4858, 1994.)

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Chapter 28.94

CONDITIONAL USE PERMITS

Sections:

28.94.001 In General.
28.94.005 Legislative Intent.
28.94.017 Filing of Applications.
28.94.020 Findings.
28.94.030 Uses Permitted in Specific Zones.
28.94.034 Uses Prohibited.
28.94.035 Mobilehome and Permanent Recreational Vehicle Parks.
28.94.040 Standards for Mobilehome Parks and Permanent Recreational Vehicle Parks.
28.94.045 Standards for Mobilehome and Permanent Recreational Vehicle Spaces.
28.94.050 Overnight Recreational Vehicle Parks.
28.94.055 Overnight Recreational Vehicle Park Standards.
28.94.060 Standards for Overnight Recreational Vehicle Spaces.
28.94.065 Findings.
28.94.070 Development Potential.
28.94.080 Notice of Decision; Appeals from the Planning Commission to the City Council.

28.94.001 In General.

Uses permitted by Conditional Use Permits and all matters directly related thereto are hereby declared to be special uses, and authority for the location and operation thereof, in certain zones, shall be granted only under the provisions of and upon compliance with the procedure outlined herein. (Ord. 4152, 1982.)

28.94.005 Legislative Intent.

It is hereby declared that in addition to being special uses, the uses permitted under this section are of such a nature that it is impractical in many cases to establish, prior to development, the minimum requirements for parking, site area, setbacks, landscaping or other standards usually applied to classes or types of uses, and that distinct and different performance and development standards must be applied to each individual facility proposed to be established under these provisions. Setback requirements for individual projects shall be established by the Planning Commission by increasing the basic setback requirements of the zone in proportion to the mass of the proposed building or buildings. This declaration is based on the fact that the type of use permitted by these provisions will usually be unique to the zone in terms of the facilities provided, activities conducted, method and intensity of operation, relationship to topography and impact on surrounding urban development and potential, and that meaningful minimum standards can only be established in relation to the particular features of each individual development. (Ord. 4152, 1982.)

28.94.017 Filing of Applications.

The procedure for filing applications, filing fees, investigation, notices, public hearings, findings and appeal shall be the same as herein provided for variances. The amount of fees shall be set by resolution of the City Council. (Ord. 4152, 1982; Ord. 3955 §2, 1978; Ord. 3710, 1974.)

28.94.020 Findings.

In keeping therewith, the Planning Commission may permit, by issuance of a conditional use permit, any of the uses specifically enumerated in Section 28.94.030 upon a finding that:

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan;
2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;
3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.
4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title.

6. Compliance with any additional specific requirements for a conditional use permit.

The Planning Commission may impose such other conditions and restrictions upon the proposed use consistent with the Comprehensive General Plan and may require security to assure satisfactory performance of all conditions and restrictions. (Ord. 4945, 1996; Ord. 4152, 1982; Ord. 3710, 1974; Ord. 3045, 1965.)

28.94.030 Uses Permitted in Specific Zones.

The following uses may be permitted in the zones herein indicated upon the granting of a Conditional Use Permit, except that where another section of this Title specifically allows such use in a zone in conflict with this section, the provision of such other section shall apply and a Conditional Use Permit shall not be required.

A. Church in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, C-1, C-P, C-L, C-O, R-O, C-X, H-C, HRC-1, HRC-2, OM-1 and OC zones.

B. Convent and monastery in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, C-X, H-C, HRC-1, HRC-2, OC, M-1, and OM-1 zones.

C. Educational institution in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, C-1, C-P, C-L, C-O, R-O, C-X, H-C, HRC-1, HRC-2, OC, M-1, and OM-1 zones.

D. Golf course or driving range (but excluding miniature golf) in any zone.

E. Outdoor tennis club and lawn bowling club in the A, E and R Zones. Normal clubhouse facilities such as pro shop, coffee shop, administrative offices, lounge, etc. may be allowed in connection with a private club only, provided that such uses shall be clearly shown to be incidental and accessory to the outdoor recreational use of the premises, and that the clubhouse facilities shall be available only to the club members and their guests.

It is hereby declared that in addition to being special uses as set forth in Sections 28.94.001 and 28.94.005, the uses permitted under this subsection are of such a nature that it is impractical to establish in advance of development the minimum requirements for parking, site area, setbacks, hours or manner of operation, lighting, landscaping, or other standards usually applied to classes or types of use, and that distinct and different performance and development standards must be applied to each individual facility proposed to be established under these provisions.

This declaration is based on the fact that the type of club permitted by these provisions will usually be within the City area, unique in terms of the facilities provided, activities conducted, method and intensity of operation, relationship to topography and impact on surrounding urban development and potential, and that meaningful minimum standards can only be established in relation to the particular features of each individual development.

In lieu of prescribing herein minimum performance and development standards, the Planning Commission shall, as a part of any Conditional Use Permit issued to permit the establishment of outdoor tennis or lawn bowling clubs under this subsection, make the following findings and impose conditions necessary to secure and perpetuate the bases for such findings:

1. That the total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

2. That the prescribed hours and days of operation of the various facilities of the club are such that the character of the area is not altered or disturbed.

3. That the design and operation of outdoor lighting equipment will not be a nuisance to the use of property in the area.

4. That adequate access and off-street parking is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

5. That the appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area.

F. Planned unit development in A, E and R-1 Zones in accordance with the provisions of Chapter 28.36 of this Title.

G. Planned residence development in the A, E and R-1 Zones, subject to provisions of Chapter 28.33 of this Title.

H. Child care centers in the A, E, R-1, R-2, R-3, R-4, R-O, C-O and C-X zones, subject to the following conditions, standards and limitations:

1. Location of play areas. Outdoor play areas shall be located in a manner that is compatible with the character of the surrounding area, that minimizes significant detrimental noise impacts to adjacent properties, and that complies with the minimum standards of State Law.

2. Passenger loading. Facilities shall be provided for loading and unloading passengers, and shall be subject to the review and approval of the Planning Commission taking into consideration the recommendation of the Transportation Engineer.

I. Driveways and parking areas for nonresidential uses in residential zones.

J. Boarding house in the R-2, R-3 and R-4 Zones.

K. Club and lodge in the R-3, R-4 and R-O Zones.

L. Garden apartments in the R-2 Zone, subject to the provisions of Chapter 28.30 of this Title.

M. Hospitals, skilled nursing facilities and other similar buildings and facilities for the treatment of human ailments where facilities are provided for the keeping of patients overnight or longer, in the R-4, C-O, C-P, C-1, C-2 and C-M Zones.

N. Restaurant in the R-4 Zone, provided there is a minimum of one hundred (100) established hotel-motel guest rooms within five hundred feet (500') from the boundary of the proposed restaurant site. The one hundred (100) established hotel-motel guest rooms within five hundred feet (500') may be used to support any number of restaurants within the affected area.

O. Establishment or enterprises which involve large assemblages of people on more than four occasions per year, including, but not limited to, any open air theater, Certified Farmers Market, street market, trade fair, trade exchange, recreational or sport center, in the C Zones.

P. Automobile wrecking in the C-M and M-1 Zones.

Q. Car wash, auto polishing, auto steam cleaning establishment in the C-1, C-P and C-2 Zones, provided that such installation shall be subject to the noise restrictions established in Chapter 28.60 of this Title.

R. State-licensed residential care facilities for the elderly, community care facilities and hospices serving more than 12 individuals in the A, E, R, and C Zones.

1. STANDARDS.

a. If a new residential care facility for the elderly, community care facility or hospice which is subject to a Conditional Use Permit includes a staffed congregate kitchen and dining facility providing regular meals to residents, living units may include modular cooking units without being counted as residential units.

b. If an existing residential care facility for the elderly, community care facility or hospice as of the effective date of this Ordinance, which is subject to a Conditional Use Permit includes a staffed congregate kitchen and dining facility providing regular meals to residents, living units may be converted to include modular cooking units without being counted as residential units under the provisions of a new Conditional Use Permit.

c. If a new or existing residential care facility for the elderly, community care facility or hospice as of the effective date of this Ordinance, which is subject to a Conditional Use Permit does not include a congregate dining facility, but does include kitchens in its living units, living units shall be counted as residential units.

d. Recreational facilities and skilled nursing facilities intended primarily for the residents may be allowed in connection with residential care facilities for the elderly, community care facilities or hospices provided that such uses are incidental and accessory thereto. The use of the facilities by persons other than residents and staff may be limited.

2. FINDINGS:

a. For new State licensed residential care facilities for the elderly, community care facility or hospice, in addition to the findings required under Section 28.94.020, the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

(1) The facility will generate a demand for resources such as water, traffic, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, and such resources are available in amounts adequate to service the proposed facility.

(2) The intensity of use in terms of the number of people, hours of operation, hours of major activities, and other operational aspects of the proposed facility is compatible with any neighboring residential use.

(3) The proposed facility shall be able to be converted to a density which conforms to the residential unit density of the underlying zone. Sufficient land area has been shown to be available to meet the parking demand of a future use.

b. For existing State-licensed residential care facilities for the elderly, community care facility or hospice as of the effective date of this Ordinance requesting an alteration or modification, in addition to the findings required under Section 28.94.020, the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

(1) The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official.

(2) The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use.

(3) The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use.

S. Facilities and equipment, not to include offices, used by public utilities or quasi-public utilities, e.g., cable television, to provide services to the general public in any zone, except for Radio and Television Antennas, Cellular Telephone Antennas and Emergency Service Antennas and any facilities or equipment expressly permitted in the zone or authorized pursuant to Chapter 28.93 of this Code.

T. Medical equipment and supply stores of more than 3,000 square feet of net floor area in the C-O Zone, subject to the following special provisions:

The Planning Commission shall find that the use is supportive and directly related to the providing of medical and related services. The Commission may permit a portion of the space to be used for non-medically related sales and/or a percentage of dollar volume of business for non-medically related sales, provided that said amount of non-medically related use is set forth in the Conditional Use Permit.

U. Banks of more than 1,000 square feet of net floor area in the C-O Zone, subject to the following:

The intent is to allow branch banks as a convenience to the medical community and neighborhood, so that there will be less traffic into the commercial areas for deposits, and as a cash source for patients in the area. It is not the intent to establish a banking community in the area. As a result, the limitations set forth below shall apply.

Prior to issuance, the Planning Commission shall find the following:

1. No similar facility is located on adjacent property or on a parcel within three hundred (300) feet of the subject property.
2. There shall not be more than one thousand (1,000) square feet of space accessible to customers for services.
3. There shall be no drive-up window, but a walk-up window may be permitted.
4. The signing of the operation is in a manner as to identify but not advertise, and to blend in with the neighborhood.
5. Services are limited to deposits, check cashing, cashier and travelers checks, acceptance of loan applications, and night deposits. The following services are excluded: loan applications processing and safety deposit boxes.
6. The permitted number of employees is consistent with the above.

V. Automobile service station, automobile service station/mini-market or conversion to an automobile service station/mini-market shall be subject to the following conditions, standards and limitations:

1. Conditions. Specific conditions may be imposed to carry out the purposes of this Code.
2. Lot Area. The minimum area of the parcel or lot shall not be less than eight thousand (8,000) square feet.
3. Street Frontage. Each lot shall have a minimum frontage of not less than one hundred (100) feet on one abutting street.
4. Architecture. The architecture of the service station structures and landscaping shall be reviewed and approved by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. The architectural theme shall be integrated into the design of all improvements of the site including canopies and fencing.
5. Driveways.
   a. New Service Stations. For service stations constructed after the effective date of this Subsection, driveway entrances to the service station shall not be within twenty (20) feet of the curb return (beginning of curve) on corner lots.
   b. Existing Service Stations. For driveway entrances of service stations that have been constructed prior to the effective date of this Subsection, relocation of driveway entrances may be required to minimize interference with the movement and safety of vehicular and pedestrian traffic.
6. Internal Circulation. Where access from an internal circulation system of a shopping center or public parking area is available, direct street access to a service station may be prohibited or restricted.
7. Parking. Parking shall conform to the minimum parking requirements as outlined in Section 28.90.100 or a minimum of five (5) parking spaces shall be provided or one (1) parking space for each two hundred fifty (250) square feet of gross floor area used for mini-market use and one (1) space for each employee shall be provided; whichever is greater.
8. Lighting. Any perimeter flood lighting shall be hooded or shielded so that no direct beams fall upon adjacent residential property. Indirect soft lights and low garden lights shall be used wherever possible, and shall be required as necessary to assure compatibility with adjacent and surrounding properties.
9. Landscaping. All landscaped areas shall be as follows:
   a. A planter shall be provided along all street-side property lines except for driveway openings.
   b. On corner lots, a minimum of one hundred fifty (150) square feet of planter area shall be provided on the property adjacent to the corner intersection.
   c. At least ten percent (10%) of the area not covered by buildings on the parcel shall be landscaped.
10. Restrooms. The entrance to all restrooms shall be screened from abutting properties by a decorative screen.
11. Fencing. A decorative fence six (6) feet in height from finished grade shall be provided on all property lines that do not abut a street, alley or parking area, with the exception that a fence may not be required for a service station that is an integral part of a commercial, industrial or office center or where combined landscaping will be achieved with such adjacent properties.
12. Operations and Storage.
   a. Repair of vehicles is only permitted within an enclosed building.
   b. All servicing of vehicles other than minor servicing shall be conducted within an enclosed building.

c. All materials, products and merchandise shall be stored and displayed only within an enclosed building.

d. No used or discarded automotive parts or equipment or visible junk or wrecked vehicles shall be located or stored outside the service station building.

e. Trash shall be stored in areas screened from public view by a fence with a minimum height of six (6) feet. Trash shall not be stored or piled above the height of the fence.

13. Fire Department Approval. Prior to the issuance of any building permit for a service station or any portion thereof, the Fire Department shall review the plans and approve said plans if they comply with applicable Fire Department ordinances and regulations.

W. Public or quasi-public facility, including homeless shelters providing services and programs beyond the definition of minimal supportive services specified in Section 28.04.273 (subject to a separation of at least 300 feet from another emergency shelter or homeless shelter), in any zone, except those expressly permitted in the zone or authorized pursuant to Chapter 28.93 of this Code, and Radio and Television Antennas, Cellular Telephone Antennas and Emergency Service Antennas.

X. Any use other than those permitted by Section 28.73.030.A of the OM-1 Zone and permitted in the M-1 Zone and subject to those findings required in Section 28.73.030.B and Section 28.94.020.

Y. General office uses in the HRC-2 Zone as permitted by Subsection 28.22.030.2.c, and subject to the findings required in Subsection 28.22.030.2.c and Section 28.94.020.

Z. Secondary Dwelling Units in any A, E or R-1 Zone, subject to the following provisions:

1. The minimum lot size for any parcel containing a Secondary Dwelling Unit shall be seven thousand (7,000) square feet.

2. There shall be no more than one (1) existing single-family dwelling, hereinafter referred to as the primary dwelling, on the parcel.

3. The Secondary Dwelling Unit shall be attached to the primary dwelling by a common wall, floor or ceiling and not simply by an attached breeze-way or porch. Said unit shall involve no more than a ten percent (10%) increase in the square footage of the primary dwelling nor shall it constitute more than forty percent (40%) of the combined floor area of the primary dwelling and Secondary Dwelling Unit, exclusive of the garage or carport.

4. The maximum floor area of the Secondary Dwelling Unit shall not exceed six hundred (600) square feet.

5. Setbacks and height limitations for the Secondary Dwelling Unit shall be the same as for the primary dwelling.

6. One (1) off-street parking space, covered or uncovered, shall be required for a Secondary Dwelling Unit. In addition, if the primary dwelling does not provide parking as required by Subsection 28.90.100.G.1 of this Title, such parking shall be provided. The garage or carport for the primary dwelling shall not be converted to provide a Secondary Dwelling Unit.

7. There shall be no more than four (4) separate rooms in a Secondary Dwelling Unit, one of which shall be a kitchen and one a bathroom. The total number of rooms on the parcel shall not be increased by more than two (2), including the bathroom and kitchen for the Secondary Dwelling Unit. The Secondary Dwelling Unit shall also provide a separate entrance.

8. Both the primary dwelling and the Secondary Dwelling Unit shall comply with all requirements of the housing code in effect on the date of issuance of the building permit for the Secondary Dwelling Unit. Any alteration or addition shall comply with all requirements of the California Building Code as adopted and amended by the City.

9. A separate water meter shall be provided for the Secondary Dwelling Unit. The primary dwelling shall be retrofitted with water-conserving devices to the same extent as if the dwelling were being built under the California Building Code as adopted and amended by the City.

10. Before obtaining a building permit for a Secondary Dwelling Unit, the property owner shall file with the County Recorder, upon approval by the City Attorney as to form and content, a covenant containing a reference to the deed under which the property was acquired by the present owner and stating that:

a. The Secondary Dwelling Unit shall not be sold separately from the primary dwelling.

b. The Secondary Dwelling Unit is restricted to the approved size.

c. The conditional use permit for the Secondary Dwelling Unit shall be in effect only so long as either the primary dwelling or the Secondary Dwelling Unit is occupied by the owner of the lot on which the Secondary Dwelling Unit is located, except for bona fide temporary absences. The conditional use permit shall remain valid if disability or infirmity require the institutionalization of the owner.

d. The Secondary Dwelling Unit shall be rented at a rate that is affordable to low and moderate income families or to immediate family members as required under Subsection 28.94.030.Z.12 of this Title.

e. The conditional use permit, and any conditions imposed by said permit, shall lapse upon removal of the Secondary Dwelling Unit.

f. There shall be no more than two (2) inhabitants in any Secondary Dwelling Unit.

g. The above declarations are binding upon any successors in ownership of the property; any lack of compliance shall revoke the conditional use permit.

11. Secondary Dwelling Units shall be prohibited in High Fire Hazard Areas (as defined in the Fire Master Plan.)

12. The Secondary Dwelling Unit, or the primary dwelling if the owner chooses to live in the Secondary Dwelling Unit, shall be leased or rented to a person or persons falling within one or more of the following categories:

a. A household whose head is a member of the owner's immediate family. For purposes of this Section, "immediate family" shall be defined as parents, grandparents, children, grandchildren, sisters, brothers, and equivalent in-laws.

b. Low income households (incomes less than 80 percent of the median income for the City), as determined by the United States Department of Housing and Urban Development (HUD). The rent level will be no more than the Fair Market Rent levels for the City as determined and adjusted from time to time by HUD, and the owner shall give priority for occupancy to households referred by the Santa Barbara Housing Authority. If the unit is rented or leased to households not referred by the Housing Authority, the income level of the renter selected must be certified by the Housing Authority as to eligibility and this certification must be submitted to the Community Development Director. The Housing Authority may assess a fee for certification of renters other than those referred by the Housing Authority. The rent level for such low-income renters shall not exceed one twelfth (1/12) of thirty percent (30%) of the certified income of the renter. In addition, the owner must submit annually to the Housing Authority a copy of the lease or rental agreement in effect that identifies the rent level and the name and income level of the lessee/renter.

c. Moderate income households (incomes between 81 and 120 percent of the median income of the City), if the owner chooses not to rent to a family member and a sworn declaration supported by written documentation, such as loan documents, setting forth the financial reasons why the unit will not be rented to a low-income household is submitted to the City. Generally, the only acceptable financial reason would be that higher rent is required in order to meet the carrying costs of new construction. The rent levels will be not more than one-twelfth (1/12) of thirty percent (30%) of the median income for a family of four in the City adjusted for household/unit size according to the following factors:

Unit Size	Factor
Studio	.70
One-Bedroom	.80
Two-Bedroom	.95
Three-Bedroom	1.065

Prior to the rental or leasing of the unit, the income level of the household shall be certified by the Housing Authority. The Housing Authority may assess a fee for certification of renters other than those referred by the Housing Authority. In addition, the owner must submit annually to the Housing Authority a copy of the lease or rental agreement in effect that identifies the rent level and name and income of the lessee/renter.

13. Approved Secondary Dwelling Units shall be subtracted from the Density Reserve established by Policy 5-1.0 of the City's Housing Element, as adopted by the City of Santa Barbara on June 8, 1982. When there are no units available in the Density Reserve, no conditional use permits shall be granted for Secondary Dwelling Units.

14. Secondary Dwelling Units shall be prohibited if there is an accessory building containing additional dwelling space, an additional dwelling unit approved under Section 28.93.030.E, caretaker's residence or similar use on the parcel. Furthermore, no accessory building intended to provide additional dwelling space, additional dwelling unit under Section 28.93.030.E, caretaker's residence or similar use shall be constructed on a lot where there is an approved Secondary Dwelling Unit.

15. The Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, shall review all Secondary Dwelling Units which require exterior change to the primary dwelling to assure that there is minimal evidence of occupancy of the parcel by more than one (1) family and that any changes or additions to the exterior of the primary dwelling necessary to establish the Secondary Dwelling Unit blend architecturally with the primary dwelling.

16. In order to encourage the development of housing opportunities for disabled and handicapped individuals, the Planning Commission may allow reasonable deviation from the stated physical requirements where necessary to install features that facilitate access and mobility for disabled persons. Otherwise, no modification of the requirements for a Secondary Dwelling Unit shall be allowed unless specifically stated in this Section.

17. In addition to the findings required under Section 28.94.020, the Planning Commission, or City Council on appeal, must find that:

a. The Secondary Dwelling Unit does not overload the capacity of the neighborhood to absorb it or cause a concentration of such units sufficient to change the character of the single-family neighborhood in which it is located.

b. The Secondary Dwelling Unit does not detract from the privacy of the surrounding residents.

18. Modifications.

a. Parking. No modification of the required number of parking spaces shall be allowed. Modification of other parking-related requirements may be allowed subject to the provisions of Section 28.92.110 of this Code.

b. Setbacks and height limitations. Modification of these requirements may be allowed subject to the provisions of Section 28.92.110 of this Code.

AA. Any interim use deemed appropriate by the Planning Commission in those areas identified by resolution of the City Council as impacted by governmental action. Such interim uses shall be limited in duration as specified by the Planning Commission, provided all such uses are discontinued within two (2) years of the completion of the governmental action. Any authorization granted by the conditional use permit shall terminate at that time.

The conditional use permit granted pursuant to this Subsection shall not be effective until the property owner has duly executed and recorded an instrument binding itself, its successors in interest and any person holding thereunder, which contains (i) notice of the conditional use permit, (ii) notice of any conditions established thereunder, (iii) an agreement to comply with the terms and conditions of the conditional use permit, (iv) a waiver of any claim that a temporary use or any improvements on real property creates any vested right to continue a non-conforming use after completion of the governmental action, and (v) any other conditions as deemed necessary to comply with the purposes and intent of this Subsection. This instrument shall be subject to the review and approval of the City Attorney and the Community Development Director.

BB. Bed and Breakfast Inns in Designated Historic Structures.

1. R-O Zone

a. Bed and Breakfast Inns in Structures of Merit or Landmarks in the R-O zone, in accordance with the provisions of Chapter 22.22 of this Title.

b. Bed and Breakfast Inns in a structure located on a lot in the R-O zone, on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is also located.

2. R-3 Zone

a. Bed and Breakfast Inns in Structures of Merit or Landmarks in the R-3 zone, in accordance with the provisions of Chapter 22.22 of this Title, subject to the following conditions.

(1) The owner or manager of the Bed and Breakfast Inn shall maintain his or her primary residence on the property that contains the Bed and Breakfast Inn.

(2) No meals shall be served to persons other than guests and residents of the Bed and Breakfast Inn.

(3) No conference or meeting rooms/facilities shall be provided.

(4) No outdoor swimming pool shall be provided; however, outdoor spas, hot tubs or similar facilities may be provided.

(5) Other conditions imposed by the Planning Commission in order to ensure compatibility with the surrounding neighborhood.

b. Bed and Breakfast Inns in a structure located on a lot in the R-3 zone, on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is also located, subject to the conditions listed in §28.94.030.BB.2.a. above.

3. Review by the Historic Landmarks Commission. Plans for new structures or alterations to existing structures under 1 and 2 above shall be submitted to the Historic Landmarks Commission for review and action in accordance with the provisions of Chapter 22.22 of this Title.

CC. Offsite Hazardous Waste Management Facilities in the C-M, M-1, and OM-1 zones, subject to the provisions in Chapter 28.75, HWMF Overlay Zone.

DD. Television, Radio and Cellular Telephone Antennas in all zones, subject to the following provisions:

1. Exemptions. The following are exempt from the requirement of a Conditional Use Permit, and shall be considered a permitted use in all zones:

a. Repairs and maintenance of existing facilities, whether emergency or routine, or replacement of transmitters, antennas, or other components of existing permitted facilities, provided there is little or no change in the visual appearance or any increase in radio frequency emission levels.

b. Satellite Dish Antennas designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite.

c. One or more cellular telephone antennas or paging antennas, provided that the Community Development Director finds as follows:

(1) Height: The height of the antenna and supporting structure does not exceed Municipal Code height limits set forth in Sec. 28.87.260, except where said antenna is being installed on an existing structure, in which event the height limit is measured from the highest point of the building and cannot exceed 15 feet above the building height.

(2) Separation: There is at least 100 feet between the base of the antenna support structure and the nearest dwelling unit.

(3) Access Control: The applicant establishes that the general public will be excluded from an area at least 50 feet in all directions from the antenna if antenna is not at least 10 feet off the ground. If the antenna is at least 10 feet above grade, this distance may be reduced to 30 feet.

(4) No Resource Impacts: The project will have no significant impact on any biological or archeological resources and will not generate additional traffic. The applicant may be required to provide information to the Community Development Director regarding these matters.

(5) No Visual Impacts: The project has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property contains a designated City Landmark. The Board and Commission may take action regarding the location of the antenna(s) on the site, color and size of the proposed antennas so as to minimize any adverse visual impacts.

d. A microcell, provided it has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property or a structure thereon is a designated City Landmark. The Board and Commission may take action regarding the location of the antenna(s) on the site, color and size of the proposed antennas so as to minimize any adverse visual impacts.

2. Conditional Use Permit by Planning Commission. A Radio or Television Antenna shall be permitted only upon issuance of a conditional use permit by the Planning Commission, and only if each of the following findings has been made:

a. Shared Use of Support Structure. The applicant had made a good faith effort to demonstrate that no existing or planned support structure, including an antenna tower, is available to accommodate the proposed antenna.

b. Site Size. The site is of a size and shape sufficient to provide an adequate setback from the base of the antenna support structure to any property line abutting a residential use.

c. Visual Impact. The project has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property contains a designated City Landmark. The Board and Commission may take action on the location of the antenna(s) on the site, color and size so as to minimize any adverse visual impacts by requiring that the antenna and its supporting structure be designed and placed so as to be as visually unobtrusive as feasible, taking into consideration technical engineering and other pertinent factors. The Planning Commission may grant a waiver from height limitations if it finds that no feasible alternative location or design would not require such a waiver.

d. Non-ionizing Electromagnetic Radiation (NIER) Emissions. Any new transmitters and/or antennas, when combined with existing sources of NIER emissions on or adjacent to the site and when operating as designed and licensed, shall not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard (if the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply).

EE. Outdoor performance areas involving structures such as bandshells or amphitheaters in the PR Zone. (Ord. 5662, 2014; Ord. 5459, 2008; Ord. 5451, Section 5, 2008; Ord. 5380, 2005; Ord. 5072, 1998; Ord. 4919, 1995; Ord. 4912, 1995; Ord. 4891, 1994; Ord. 4878, 1994; Ord. 4858, 1994; Ord. 4851, 1994; Ord. 4827, 1993; Ord. 4825, 1993; Ord. 4751, 1992; Ord. 4697, 1991; Ord. 4582, 1989; Ord. 4429, 1986; Ord. 4414, 1986; Ord. 4413, 1986; Ord. 4374, 1986; Ord. 4320, 1985; Ord. 4225, 1983; Ord. 4172, 1982; Ord. 4171, 1982; Ord. 4152, 1982; Ord. 4068, 1980; Ord. 4033 §8, 1980; Ord. 3943, 1978; Ord. 3882, 1977; Ord. 3862, 1976; Ord. 3854, 1976; Ord. 3710, 1974; Ord. 3613, 1974; Ord. 3546, 1972; Ord. 3539, 1972; Ord. 3399, 1970; Ord. 3398, 1970; Ord. 3272, 1968; Ord. 3060, 1965; Ord. 3045, 1965; Ord. 3025, 1965; Ord. 2967, 1964; Ord. 2892, 1962.)

28.94.034 Uses Prohibited.

Shooting clubs, any activities involving the discharge of firearms, and clubs providing primarily indoor recreation facilities rather than outdoor facilities are prohibited. (Ord. 4152, 1982; Ord. 3710, 1974.)

28.94.035 Mobilehome and Permanent Recreational Vehicle Parks.

The construction or expansion of a mobilehome or permanent recreational vehicle park (as those terms are defined in Sections 28.04.470 and 28.04.570 of this code, respectively) may be permitted in all zones where residential uses are allowed, except a city-designated high fire hazard area and a city landmark district established under Chapter 22.22 of this Code upon the granting of a conditional use permit. (Ord. 5459, Section 3, 2008; Ord. 4269, 1984.)

28.94.040 Standards for Mobilehome Parks and Permanent Recreational Vehicle Parks.

The following standards shall apply to the construction of a new mobilehome or permanent recreational vehicle park or the expansion of an existing park in the City.

A. MINIMUM SIZE. Any mobilehome or permanent recreational vehicle park developed under the provisions of this Chapter shall be located on a site of not less than two (2) acres.

B. DENSITY. Maximum density in a mobilehome or permanent recreational vehicle park shall not exceed the density allowable for any residential use in the same zone. Any restrictions applicable to standard residential development (for example, the slope density provisions of Section 28.15.080 of this Code) shall also apply when computing density for a mobilehome or permanent recreational vehicle park, except that Section 28.21.080.7 of this Code shall not apply in the R-3 and R-4 zones.

C. SETBACKS AND PERMITS. A mobilehome or permanent recreational vehicle park shall comply with the minimum setback regulations applicable to other residential developments in the zone in which the development is located.

D. INTERNAL ROADWAY WIDTH. Internal roadways shall provide direct access to each mobilehome or recreational vehicle space and shall be provided in such a pattern as to provide convenient and safe traffic circulation within the mobilehome or permanent recreational vehicle park. Such roadways shall be built to the following standards:

1. No roadway shall be less than twenty-six (26) feet in width if automobile parking is not permitted on the roadway; not less than thirty-two (32) feet if automobile parking is allowed on one (1) side of the roadway and not less than forty (40) feet in width if automobile parking is permitted on both sides of a roadway.

2. There shall be rolled concrete curbs and gutter installed on both sides of the roadway in accordance with standards established by the Public Works Department.

3. The roadways shall be paved according to standards established by the Public Works Department.

E. LIGHTING. Internal roadways and walkways shall be lit using low-intensity lighting directed away from surrounding residential uses.

F. LANDSCAPING REQUIREMENTS.

1. Wall, fence or screen. An ornamental wall, fence or screen planting acceptable to the Planning Commission and not less than six (6) feet in height shall be erected and maintained along the side and rear boundaries of a mobilehome or permanent recreational vehicle park. Where, in the opinion of the Planning Commission, it is unreasonable to require a wall, fence or screen planting due to the nature of the existing topography or other existing conditions that might render such wall, fence or screen ineffective, the Commission, at its discretion, may waive or modify the requirements as specified in this Section.

2. Ornamental planting. Ornamental planting at least six (6) feet in depth along the full width of the front of the mobilehome or permanent recreational vehicle park property, and acceptable to the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, shall be installed and maintained whether or not the property fronts along a public street. An ornamental wall or fence may be erected in conjunction with the above-mentioned ornamental planting, but shall not take the place of said ornamental planting.

3. Street trees and parkway planting. Street trees and parkway planting shall be installed and maintained along the full width of the front of the mobilehome or permanent recreational vehicle park property when said property fronts on a public street. All trees and plants installed within the street right-of-way shall be approved by the Parks Department.

G. GUEST PARKING. Guest parking shall be provided in accordance with Section 28.90.100.7 of this Code.

H. LAUNDRY FACILITIES. Common laundry facilities shall be provided. Such facilities shall consist of one (1) automatic washer and one (1) dryer for each ten (10) mobilehome or recreational vehicle spaces or fraction thereof. In such cases where the applicant can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Planning Commission. (Ord. 4851, 1994; Ord. 4269, 1984.)

28.94.045 Standards for Mobilehome and Permanent Recreational Vehicle Spaces.

The following standards shall apply to any newly constructed mobilehome or permanent recreational vehicle park.

A. SPACE DIMENSIONS. Each mobilehome and recreational vehicle space shall be a minimum of twenty-six (26) feet wider and ten (10) feet longer than the mobilehome or recreational vehicle placed in that space.

B. SPACE SETBACKS. Each mobilehome and recreational vehicle space shall have a minimum side setback of not less than three (3) feet and a front and rear setback of not less than five (5) feet.

C. LOT COVERAGE. In no case shall the area of a mobilehome or recreational vehicle space occupied by a mobilehome, recreational vehicle, cabana, carport, ramada or any accessory structure or awnings or combination thereof exceed sixty percent (60%) of the total area of that space.

D. ONE (1) MOBILEHOME OR RECREATIONAL VEHICLE PER SPACE. Not more than one (1) mobilehome or recreational vehicle shall be allowed on any mobilehome or recreational vehicle space.

E. DISTANCE BETWEEN STRUCTURES. The minimum distance required between mobilehomes or recreational vehicles and a building, or between mobilehomes or recreational vehicles and other mobilehomes or recreational vehicles shall be as established by Section 18611 of the California Health and Safety Code, as amended from time to time.

F. OBSTRUCTIONS. No obstruction of any kind shall be erected, placed or maintained on or about the mobilehome or recreational vehicle space which would impede the movement of a mobilehome or recreational vehicle to or from a space or prevent inspection of plumbing or electrical facilities.

G. OPEN SPACE. All mobilehome and recreational vehicle parks and spaces shall meet the minimum open space requirements of the zone in which the development is proposed.

H. PAD AND SURFACE. Each mobilehome and recreational vehicle shall be placed on a pad at least large enough to cover the entire area underneath any mobilehome or recreational vehicle placed thereon. Each such pad shall be surfaced with asphaltic concrete of minimum thickness of two inches, or an equivalent surfacing material to the length and width of the mobilehome or recreational vehicle placed on the space. There shall be provided on each mobilehome and recreational vehicle space a concrete patio of at least one hundred forty (140) square feet in area, and in no event less than nine (9) feet in width.

I. PARKING. Parking shall be provided in accordance with Section 28.90.100.7 of this Code.

J. SKIRTING. The underneath of all mobilehomes and recreational vehicles shall be enclosed from the bottom of the mobilehome or recreational vehicle to the ground with a solid metal skirt, wood skirt, block wall or equivalent material approved by the Community Development Director. (Ord. 5459, 2008; Ord. 4269, 1984.)

28.94.050 Overnight Recreational Vehicle Parks.

The construction or expansion of an overnight recreational vehicle park, as that term is defined in Section 28.04.565 of this Code, may be permitted in P-D, C-P, C-L, C-1, C-2, C-M and R-4 zones upon the granting of a conditional use permit subject to the requirements of this section and Sections 28.94.055, 28.94.060 and 28.94.065. (Ord. 5459, Section 3, 2008; Ord. 4269, 1984.)

28.94.055 Overnight Recreational Vehicle Park Standards.

The following standards shall apply to the construction of a new overnight recreational vehicle park or the expansion of an existing park in the City.

A. TEMPORARY USE. No overnight recreational vehicle park shall be occupied for more than thirty (30) days within a 60 day period by any park guest, nor shall any recreational vehicle space be occupied by other than a recreational vehicle or tent, except that a mobilehome, apartment or other dwelling unit may be located in the park for residential use by one park manager or caretaker and his family.

B. MINIMUM SIZE. Any overnight recreational vehicle park developed under these provisions shall be located on a site of not less than two (2) acres.

C. DENSITY. Maximum density in an overnight recreational vehicle park shall not exceed thirty (30) recreational vehicle spaces per acre.

D. SETBACKS. All recreational vehicles, buildings, and other structures shall be set back a minimum of twenty (20) feet from any street right-of-way and a minimum of ten (10) feet from any interior lot line, except that an ornamental screen wall or fence may be constructed within the setback area.

E. LANDSCAPING AND SCREEN PLANTING.

1. An ornamental wall, fence or screen planting acceptable to the Planning Commission and not less than six (6) feet in height shall be erected and maintained along the side and rear boundaries of an overnight recreational vehicle park. Where, in the opinion of the Planning Commission, it is unreasonable to require a wall, fence or screen planting due to the nature of the existing topography or other existing conditions that might render such wall, fence or screen ineffective, the Commission, at its discretion, may waive or modify the requirements as specified in this Subsection.

2. Ornamental planting, acceptable to the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, shall be installed and maintained in all setback areas. Along the front property line, an ornamental wall or fence may be erected in conjunction with the above-mentioned ornamental planting.

3. Street trees and parkway planting shall be installed and maintained along the full width of the front of the overnight recreational vehicle park property when said park fronts on a public street. All trees and plants within the street right-of-way shall be approved by the Parks Department.

F. INTERNAL ROADWAY WIDTH. Internal roadways shall provide direct access to each recreational vehicle space and shall be provided in such a pattern as to provide convenient and safe traffic circulation within the overnight recreational vehicle park. Such roadways shall be built to the following standards:

1. No roadway shall be less than twenty (20) feet in width if automobile parking is not permitted on the roadway, not less than twenty-six (26) feet if automobile parking is allowed on one (1) side of the roadway only, and not less that thirty-two (32) feet in width if automobile parking is allowed on both sides of the roadway.

2. The roadways shall be paved according to standards established by the Public Works Department.

3. There shall be rolled concrete curbs and gutters installed on both sides of the roadway in accordance with standards established by the Public Works Department.

G. RECREATIONAL FACILITIES. Recreational facilities may be provided as part of the recreational vehicle park. If said facilities are constructed, they shall be available for use only by the occupants and their guests.

H. GUEST PARKING. Guest parking shall be provided in accordance with Section 28.90.100.9 of this Code.

I. LAUNDRY FACILITIES. Shall be required in the park at a ratio of one (1) washer/dryer combination per ten (10) recreational vehicle spaces or fraction thereof.

J. LIGHTING. Internal roadways and walkways shall be lit using low-intensity lighting directed away from surrounding uses. (Ord. 4851, 1994; Ord. 4269, 1984.)

28.94.060 Standards for Overnight Recreational Vehicle Spaces.

The following standards shall apply to any newly constructed overnight recreational vehicle space:

A. SPACE DIMENSIONS. Recreational vehicle spaces shall be a minimum of sixteen (16) feet wide and fifty (50) feet long.

B. SETBACKS. Each recreational vehicle space shall have a minimum setback of not less than three (3) feet on all sides.

C. LOT COVERAGE. In no case shall the area of a recreational vehicle space occupied by a recreational vehicle, automobile, storage locker or any accessory structure or awnings or combination thereof exceed seventy-five percent (75%) of the total space area.

D. ONE RECREATIONAL VEHICLE PER SPACE. Not more than one (1) recreational vehicle shall be allowed on a single recreational vehicle space, except that a camper or motor home towing another recreational vehicle may occupy a single space.

E. DISTANCE BETWEEN STRUCTURES. The minimum separation between recreational vehicles or between a recreational vehicle and a building shall be six (6) feet.

F. PARKING. Parking shall be provided in accordance with Section 28.90.100.9 of this Code.

G. LANDSCAPING. Any portion of a recreational vehicle space not occupied by an automobile or recreational vehicle parking space or other structure shall be planted with grass or other plant material approved by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark. A minimum of one (1) shade tree of a minimum fifteen (15) gallon size shall be planted on each space. In addition, the use of landscaping to screen spaces from each other is encouraged. (Ord. 5459, 2008; Ord. 4851, 1994; Ord. 4269, 1984.)

28.94.065 Findings.

In addition to the findings required by Section 28.94.020 of this Chapter, the Planning Commission shall, prior to approving the construction, expansion or enlargement of an overnight recreational vehicle park, find that said park is located in close proximity to major streets and highways and will not encourage park occupants or prospective occupants to travel through residential neighborhoods or on streets with parking or traffic circulation problems in order to arrive at or to depart from said park. (Ord. 4269, 1984.)

28.94.070 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a conditional use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

28.94.080 Notice of Decision; Appeals from the Planning Commission to the City Council.

A. NOTICE OF DECISION. Within five (5) days after final decision by the Planning Commission on an application for a conditional use permit, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department.

B. APPEALS FROM THE PLANNING COMMISSION TO THE CITY COUNCIL. Any decision of the Planning Commission made pursuant to this Chapter 28.94 may be appealed to the City Council in accordance with Chapter 1.30 of this Code.

C. NOTICE OF APPEAL. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a variance shall be provided in the same manner as notice was provided for the hearing before the Planning Commission.

D. FEE FOR APPEAL. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5380, 2005.)

Chapter 28.95

TRANSFER OF EXISTING DEVELOPMENT RIGHTS

Sections:

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28.95.020 Definitions.
28.95.030 Approval of Transfer of Existing Development Rights.
28.95.040 Amount of Existing Development Rights That Can Be Transferred from a Sending Site to a Receiving Site.
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28.95.110 Appeal Procedures.
28.95.115 Waterfront Hotel Development Agreement.
28.95.120 Enforceability.
28.95.130 Penalty.

28.95.010 Purposes.

A. To ensure a strong economy by providing a voluntary mechanism which would allow the transfer of existing nonresidential development rights from certain properties to certain other properties within the City, thereby encouraging economic vitality.

B. To encourage new development, but not new floor area, in a manner consistent with the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85) and Traffic Management Strategy (as approved by City Resolution No. 13-010 and dated as of March 12, 2013).

C. To promote the efficient use of under used space, and creative re-use of existing buildings.

D. To encourage uses compatible with surrounding areas.

E. To provide flexibility and opportunities for redirecting growth within the growth cap.

F. To encourage the development of a balanced community with economic diversity.

G. To stimulate revitalization of existing commercial areas of the City.

H. To accommodate large scale development that is consistent with the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85) and Traffic Management Strategy (as approved by City Resolution No. 13-010 and dated as of March 12, 2013).

I. To encourage the construction of housing. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.020 Definitions.

A. Existing Development Rights consist of the following:

1. Existing Floor Area. The amount of nonresidential floor area of existing structures on a sending site; and

2. Approved Floor Area. Nonresidential floor area which has received all discretionary approvals from the City prior to the date of application for a transfer, provided that none of those approvals has expired prior to the date of such application; and

3. Demolished Floor Area. Nonresidential floor area of a structure, demolished after October 1988 and not subsequently reconstructed, and

4. Converted Floor Area. Nonresidential floor area of a structure, which has been permanently converted from nonresidential use to a residential use after October 1988.

Existing Development Rights may be aggregated from the above four categories but not so as to increase floor area above the amount allowed by the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85).

A transfer of Existing Development Rights shall transfer to the receiving site only nonresidential floor area regulated by the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85), and shall not transfer any other right, permit or approval. A transfer of Existing Development Rights shall not transfer credit for resource use by existing development on the sending site to the receiving site for purposes including, but not limited to, environmental review, development fees, or conditions of approval. The traffic impacts of a proposed transfer of Existing Development Rights shall be analyzed using the approved "City of Santa Barbara Traffic Model" as such Model has most recently been approved by a resolution of the City Council. Existing Development Rights shall be measured in square feet of floor area, except that hotel and motel rooms may be measured by room when Existing Development Rights are developed as hotel or motel rooms on the receiving site. Hotel and motel rooms which are approved but not constructed at the time of transfer approval shall be measured only in square feet of floor area.

B. Floor Area. "Floor area" is defined in Section 28.85.020.

C. Hotel or Motel Room. A hotel or motel room includes only that floor area within the walls of rooms let for the exclusive use of individuals as a temporary abiding place, and does not include any other areas. No replacement room shall be designed for rental or rented as more than one separate accommodation.

D. Nonresidential Floor Area. Floor area is "nonresidential" if the Community Development Director determines that the floor area was used exclusively for nonresidential purposes in October, 1988; or that the floor area was vacant in October of 1988, and the last use of the floor area prior to the proposed transfer was nonresidential; or that the floor area was approved for nonresidential purposes as described in Paragraph A.2 above.

E. Receiving Site. A site to which Existing Development Rights are transferred.

F. Sending Site. A site from which Existing Development Rights are transferred.

G. Transfer of Existing Development Rights. The transfer of Existing Development Rights as defined in Subsection A above from a sending site to a receiving site. Existing Development Rights may be transferred by sale, exchange, gift or other approved legal means, but such transfer shall not be effective until the City has approved the transfer in accordance with the provisions of this Chapter and the City's Nonresidential Growth Management Program, as specified in SBMC Chapter 28.85, and the conditions of the transfer have been duly satisfied. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.030 Approval of Transfer of Existing Development Rights.

A. Application Review. The application(s) and supporting documentation submitted by the applicant(s) shall be reviewed by the Community Development Department. If the application(s) for processing are determined to be complete by the Community Development Department, the applicant(s) shall proceed in accordance with the standard application process in place at the time of submittal.

B. Transfer Approval. Existing Development Rights may be transferred from Sending Site(s) to Receiving Site(s) pursuant to the provisions of this Chapter and any guidelines adopted by a resolution of the City Council in order to effectuate the purposes of this Chapter.

After approval, any change in the project, at either the Sending Site(s) or Receiving Site(s), which is not determined by the Planning Commission and/or the Community Development Director to be in substantial conformity with the approved project, shall be a new project and require a new application, review, and approval and/or disapproval. No transfer or receipt of Existing Development Rights shall be valid or effective unless the transfer and receipt, and development plans for both the Sending Site(s) and Receiving Site(s) comply with all requirements of this Municipal Code and have been reviewed and approved by the City in accordance with the provisions of this Chapter and the City's Nonresidential Growth Management Program, as specified in SBMC Chapter 28.85, and all applicable conditions to the transfer have been satisfied.

C. Community Priorities. Any Existing Development Rights approved as a community priority on a sending site may be transferred only if the new development on the receiving site is also approved as a community priority.

D. Multiple Sending and Receiving Sites. Existing Development Rights may be transferred from more than one sending site to a single receiving site. Existing Development Rights may be transferred from one sending site to more than one receiving site.

E. Compliance with Approved Traffic Management Strategy. Every transfer of Existing Development Rights must comply with the City's Council-approved Traffic Management Strategy as implemented in Section 28.85.050 of this Code. Any Existing Development Rights proposed for transfer must qualify for allocation at the Receiving Site. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.040 Amount of Existing Development Rights That Can Be Transferred from a Sending Site to a Receiving Site.

A. The total amount of Existing Development Rights that can be transferred to a receiving site is subject to the applicable zoning of that receiving site, provisions of the Municipal Code, and any and all other applicable City rules and regulations.

B. The total amount of Existing Development Rights that can be transferred from a sending site is equal to the difference between the eliminated floor area on the sending site and the floor area of all nonresidential structures constructed or proposed to be constructed on the sending site. (Ord. 4790, 1992.)

28.95.050 Development Plan Approval.

The following Transfers of Existing Development Rights must receive Development Plan approval by the Planning Commission or the City Council on appeal:

A. Any transfer of more than 1,000 square feet of Existing Development Rights from a sending site,

B. Any transfer that involves the transfer of a hotel room on a room-for-room basis, and

C. Any project that is constructing, adding, or converting more than 1,000 square feet of nonresidential floor area on a Receiving Site and which includes any amount of transferred Existing Development Rights. Once a Development Plan is approved for a Sending Site, the Sending Site Development Plan approval may be used for subsequent transfers of Existing Development Rights from the Sending Site as long as the Community Development Director determines that the condition of the Sending Site following such subsequent transfers will substantially conform to the original Development Plan approval. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.060 Review and Findings.

The Planning Commission, or the City Council on appeal, shall review each application for a transfer of Existing Development Rights and shall not approve any such transfer unless it finds that:

A. The proposed development plans for both the sending and receiving sites are consistent with the goals and objectives of the General Plan of the City of Santa Barbara and the Municipal Code; and

B. The proposed developments will not be detrimental to the site(s), neighborhood or surrounding areas; and

C. The floor area of proposed nonresidential development on the receiving site does not exceed the sum of the amount of Existing Development Rights transferred when added to the amount of Existing Development Rights on the receiving site, and does not exceed the maximum development allowed by the applicable zoning of the receiving site.

D. Each of the proposed nonresidential developments on the respective Sending Site(s) and Receiving Site(s) will meet all standards for review as set forth in Section 28.85.040 of the Municipal Code and all provisions of this Chapter, and will comply with any additional specific conditions for a transfer approval.

E. Development remaining, or to be built, on a sending site is appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.070 Conditions of Approval.

A. The Planning Commission, or the City Council on appeal, shall require conditions of development plan approval for plans submitted for sending and receiving sites. Conditions may include, but are not limited to a development agreement, as defined in State law, executed by the City and the sending site owner or the receiving site owner, or both. The Planning Commission, or the City Council on appeal, may impose other conditions and restrictions upon the proposed development plans and transfer approval consistent with the General Plan and may require security to assure performance of all conditions and restrictions.

B. The Planning Commission, or City Council on appeal, shall require as conditions of development plan approval for plans submitted for the sending and receiving sites that:

1. Whenever a sending site owner is required by this Chapter to offer to dedicate the sending site to the City or other governmental entity approved by the City, and the floor area to be transferred will be eliminated by demolition, a sending site owner shall make such offer prior to issuance of a demolition permit for the sending site. If the City or other governmental entity approved by the City rejects said offer of dedication, the Planning Commission approval will be considered null and void; and

2. Any Existing Development Rights, measured in square feet of floor area, and/or number of hotel or motel rooms when appropriate, and whether such Existing Development Rights derive from existing, approved, demolished or converted floor area, shall be clearly and accurately designated on both the sending and receiving site development plans; and

3. Prior to issuance of any necessary permit relating to any Existing Development Rights approved for transfer from a sending site, the option, deed, easement, covenant, or other legal instrument by which the existing development rights are being transferred, and proof of recordation of the development plan for both sending and receiving sites shall be reviewed and approved by the Community Development Director.

4. Proof of the elimination of the transferred floor area from the sending site must be reviewed and approved by the Community Development Director prior to recordation of the approved instrument of transfer. The City shall be a party to the instrument of transfer in a manner acceptable to the City Attorney; and

5. Prior to the issuance of any building permit for the project proposed on the receiving site pursuant to this Chapter, proof of recordation of the transfer instrument, and proof of elimination of the Existing Development Rights on the sending site shall be accepted as satisfactory by the Community Development Director.

C. The Community Development Director, or the Director's designee, shall require the satisfaction of the following conditions prior to the issuance of any necessary permit relating to any transfer of existing development rights that did not require the approval of the development plan pursuant to this Chapter or Chapter 28.85:

1. Whenever a Sending Site owner is required by this Chapter to offer to dedicate the Sending Site to the City or other governmental entity approved by the City, and the floor area to be transferred will be eliminated by demolition, a Sending Site owner shall make such offer prior to issuance of a demolition permit for the Sending Site. If the City or other governmental entity approved by the City rejects said offer of dedication, the transfer will be considered null and void; and

2. Any Existing Development Rights, measured in square feet of floor area, and whether such Existing Development Rights derive from existing, approved, demolished or converted floor area, shall be clearly and accurately designated on both the Sending and Receiving Site Development Plans; and

3. The option, deed, easement, covenant, or other legal instrument by which the Existing Development Rights are being transferred shall be reviewed and approved by the Community Development Director and the City Attorney as to form. The City shall be a party to the instrument of transfer; and

4. Proof of the elimination of the transferred floor area from the Sending Site must be reviewed and approved by the Community Development Director prior to recordation of the approved instrument of transfer; and

5. Proof of recordation of the transfer instrument, and proof of elimination of the Existing Development Rights on the Sending Site shall be accepted as satisfactory by the Community Development Director.

(Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.080 Elimination of Existing Development Rights from Sending Site.

A. Prior to the transfer of Existing Development Rights from a sending site to a receiving site, all Existing Development Rights to be transferred shall be eliminated from the sending site.

1. Covenants and Methods of Elimination. The owner of a sending site shall eliminate floor area by one or more of the following methods and a covenant, in a form satisfactory to the City Attorney, shall be executed and recorded by each owner of the sending site. The covenant shall provide that such elimination shall continue until such time as the covenant may be released by the City, and the covenant shall be enforceable by the City.

a. Existing floor area shall be eliminated by demolition or by converting such floor area from a nonresidential to a permanent residential use.

b. Approved floor area shall be eliminated by relinquishing all development approvals relating to the development of such approved floor area on the sending site.

c. Demolished floor area shall be eliminated by relinquishing all rights to rebuild such floor area on the sending site.

d. Converted floor area shall be eliminated by preserving such floor area for residential use only.

2. Dedication of the Sending Site. If no nonresidential floor area is to remain on the sending site, one or more of the following conditions must be satisfied:

a. The sending site is approved for residential development or conversion; or

b. The sending site has been offered by the owner to be dedicated to the City, or other governmental entity approved by the City, for use as a park, parking lot or other public use, and the City or other approved governmental entity has accepted the dedication; or

c. The sending site shall be used as parking or open space in conjunction with an approved development, and a covenant is recorded restricting development and use of the sending site, and all improvements are completed. If the City requires an owner to offer to dedicate a sending site to the City or other governmental entity approved by the City, such site shall be free of all defects and title shall be marketable at the time of the offer to dedicate and at the time of any acceptance. The City or other governmental entity approved by the City may accept or reject such offer in its discretion. Rejection of such offer constitutes disapproval of the proposed transfer. (Ord. 4790, 1992.)

28.95.090 Recordation and Disclosure to Transferees of Transfer of Existing Development Rights.

A. The legal instrument by which the Existing Development Rights are transferred shall be submitted with the development plan at the time of application for a transfer approval. That legal instrument, and any required development agreement shall be recorded with the County recorder after City approval of the transfer.

B. Prior to any conveyance of real property which has been approved as a sending site, the owner shall deliver to the prospective owner a written disclosure statement which shall contain all of the following:

1. A legal description of the real property to be conveyed and if different, a legal description of the sending site; and

2. The total amount of Existing Development Rights on the sending site prior to the transfer of existing development rights, and whether such Existing Development Rights derived from existing, approved, demolished, and/or converted floor area; and

3. The total amount of Existing Development Rights that have been transferred from the sending site, and whether such Existing Development Rights derived from existing, approved, demolished and/or converted floor area; and

4. A certification that the information is true and correct to the best of the owner's knowledge as of the date signed by the owner. The City shall not be liable for any error, omission, or inaccuracy contained in such disclosure. (Ord. 4790, 1992.)

28.95.100 Expiration and Termination of Necessary Approvals.

A. An approved development plan for either the sending site(s), the receiving site(s), or both, may be terminated by the City, after a noticed public hearing, if any condition of the approval of transfer of Existing Development Rights is violated or any other permit or approval necessary to approved development on either the sending or receiving site(s) or both expires or is otherwise terminated.

B. Recorded Transfers of Existing Development Rights pursuant to this Chapter shall not terminate when the approved development plan for either the sending site, receiving site(s) or both, expires or is otherwise terminated, and such transferred Existing Development Rights shall remain on the receiving site, and may either be developed pursuant to a newly approved development plan, or may be transferred to a new receiving site pursuant to this Chapter. (Ord. 4790, 1992.)

28.95.110 Appeal Procedures.

Determinations by the Planning Commission are appealable to the City Council pursuant to Section 1.30.050 of the Municipal Code. (Ord. 4790, 1992.)

28.95.115 Waterfront Hotel Development Agreement.

In the case of any conflict between the terms of this Chapter 28.95 and the provisions of the Development Agreement between the City of Santa Barbara and American Tradition, LLC dated June 23, 2016 (the "Development Agreement"), the provisions of the Development Agreement shall control. (Ord. 5750, 2016.)

28.95.120 Enforceability.

Enforcement of this Chapter shall be pursuant to Chapter 28.98 of the Municipal Code. (Ord. 4790, 1992.)

28.95.130 Penalty.

The penalty for violating any provision of this Chapter shall be pursuant to Chapter 28.98.002 of the Municipal Code. (Ord. 4790, 1992.)

Chapter 28.96

ZONING UPON ANNEXATION

Section:
28.96.001 In General.

28.96.001 In General.

In any petition for the annexation of property to the City, the petitioner may request the zoning desired by him for the property described in the application in the event the property is annexed to the City. Prior to the adoption by the Council of the resolution of intention to annex uninhabited territory, or in the case of an inhabited proceeding at the time of referral to the Planning Commission pursuant to Section 35108 of the Government Code, a copy of the annexation petition or request shall be referred to the City Planning Commission for investigation and report to the City Council as to the desirability of the annexation and the zoning classification to be placed thereon whether or not a zone classification has been requested. The Planning Commission shall consider the annexation of such property and the zoning to be placed thereon in the event of annexation to the City and upon completion of such consideration, the Planning Commission shall make its report and recommendations to the Council by resolution.

After receiving such report and recommendation, the City Council shall consider the zoning classification to be applied upon annexation to property to be annexed. The City Council may include any such zone consideration within any notice of hearing concerning the annexation of the property involved, and the hearing on the matter of zoning may be held in conjunction with any public hearing required by law to be held by the City Council in connection with the annexation proceedings.

Concurrent with or prior to final annexation of the territory, the City Council shall, by ordinance, classify the property for zoning purposes in accordance with its determination, and upon the effective date of such classification ordinance, or the annexation ordinance, whichever is the later, the zone classification shall be effective and a part of the General Plan of the City.

The Council may as an alternative to any of the foregoing proceedings for the zoning of annexed territory:

1. Allow the same to be finally annexed without zoning the land therein, and may initiate zoning thereof under other provisions of this title after annexation; or
2. The Council may provide by ordinance effective prior to completion of annexation proceedings upon recommendation of the Planning Commission that the territory to be annexed shall as a condition of annexation remain classified the same as it was classified or zoned as unincorporated territory where as such territory it was classified as to land use by the County of Santa Barbara pursuant to a general plan of zoning. (Ord. 3710, 1974; Ord. 2592, 1957.)

Chapter 28.97

OCCUPANCY

Section:
28.97.001 In General.

28.97.001 In General.

No vacant land shall be occupied or used, and no building hereafter erected, structurally altered or moved shall be occupied or used, until a Certificate of Occupancy shall have been issued by the Chief of Building and Zoning.

1. Certificates of Occupancy for a new building, or the enlargement, alteration or moving of an existing building, shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions of the ordinance.
2. Certificates of Occupancy for the use of vacant land, or the change in use of land as herein provided, shall be applied for before any such land shall be occupied or used for any purpose except that of tilling the soil and the growing therein of farm, garden or orchard products, and a Certificate of Occupancy shall be issued within ten (10) days after the application has been made provided such use is in conformity with the provisions of this title.
3. Certificates of Occupancy shall state that the building, or proposed use of a building or land, complies with all the building and health laws and ordinances and with the provisions of this title. A record of all certificates shall be kept on file in the Office of the Chief of Building and Zoning and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected. No fee shall be charged for an original Certificate; for all other Certificates or for copies of any original Certificates there shall be a charge of two dollars ($2.00) each.
4. Certificate of Occupancy for non-conforming uses existing at the time of passage of this title or any amendment thereto shall be issued by the Chief of Building and Zoning and the Certificate shall state that the use is a nonconforming use and does not conform with the provisions of this title.
5. No permit for excavation for any building shall be issued before an application has been made for a Certificate of Occupancy. (Ord. 3710, 1974.)

Chapter 28.98

ENFORCEMENT AND PENALTY

Sections:

28.98.001 Enforcement. **28.98.002 Penalty.**

28.98.001 Enforcement.

It shall be the duty of the Chief of Building and Zoning, with respect to new construction, additions, alterations, changes of use or moving of existing buildings, to enforce this title by withholding of permits and Certificates of Occupancy where plan checks and field inspections reveal that completion of the project will result in a zoning violation. A Certificate of Occupancy shall not be issued until all work required by the building permit and all other conditions imposed by any officer, board, commission or other authority have been completed or satisfactorily met by bonding or other appropriate method. After a Certificate of Occupancy has been issued, and with respect to existing construction and all other sources of violations, it shall be the duty of the Division of Land Use Controls to enforce this title. In addition, all departments, officials and public employees of the City of Santa Barbara vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license, except licenses issued for revenue purposes only, for uses, buildings or purposes in conflict with the provisions of this title; and any such permit or license issued in conflict with the provisions of this title shall be null and void.

The provisions of this title shall be interpreted by the City Attorney.

Any building or structure erected or maintained or any use of property contrary to the provisions of this title shall be, and the same is hereby declared to be, unlawful and a public nuisance and the City Attorney shall immediately commence actions and proceedings for the abatement, removal and enjoinment thereof in the manner provided by law; and shall take such other steps and shall apply to any court as may have jurisdiction to grant such reliefs as will abate or remove such building, structure or use and restrain and enjoin any person, firm or corporations from erecting or maintaining such building or structure or using any property contrary to the provisions of this title.

This title may also be enforced in injunction issued out of the Superior Court upon the suit of the City or the owner or occupant of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof. (Ord. 3710, 1974; Ord. 3547, 1972.)

28.98.002 Penalty.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day that violation of this title continues shall be considered a separate offense. (Ord. 3710, 1974.)

Chapter 28.99

VALIDITY AND REPEALS

Sections:

28.99.001 Validity.
28.99.002 Repeals.

28.99.001 Validity.

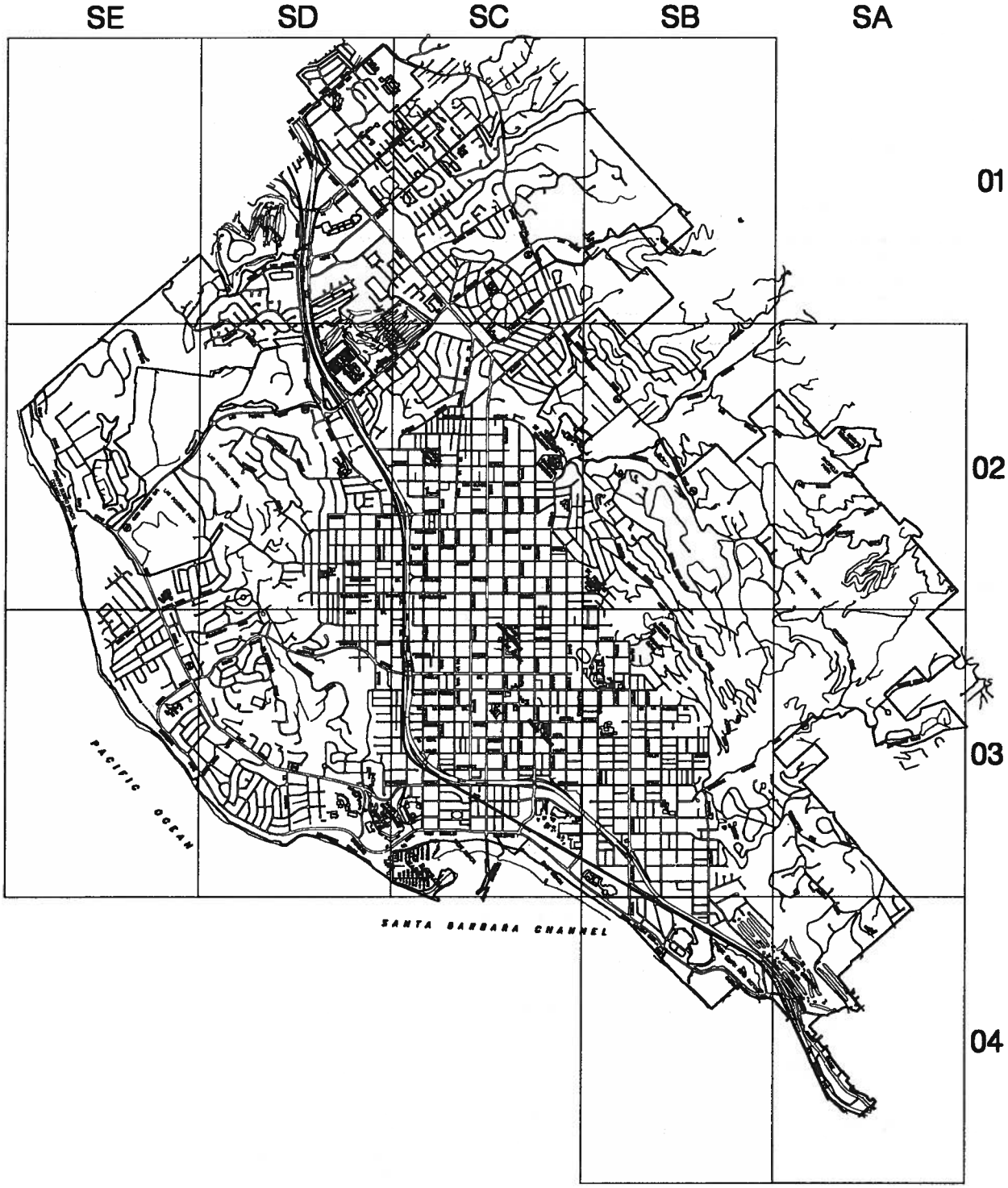
If any section, subsection, paragraph, sentence, clause or phrase of this title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 3710, 1974.)

28.99.002 Repeals.

Ordinances 1493, 1663, 2069, 2070, 2118, 2158, 2194, 2250, 2268, 2320, 2326, 2332, 2333, 2346, 2358, 2369, 2386, 2389, 2390, 2397, 2405, 2456, 2463, 2464, 2465, 2466, 2467, 2479, 2480, 2489, 2512, 2514, 2522, 2562, 2578, 2581 of the City of Santa Barbara are hereby repealed and all ordinances of the City of Santa Barbara inconsistent herewith, to the extent of such inconsistency, and no further, are hereby repealed, provided that the procedure contained in this title pertaining to consideration of applications for change of zone shall not apply to any application upon which the City Council has held the final hearing pursuant to Ordinance No. 1493 prior to the effective date hereof. In any such case if the City Council approved the zone change such change may forthwith be included in the Comprehensive General Plan or zoning effective on the date of this title.

The repeal of any of the above mentioned ordinances does not revive any other ordinance or portion thereof repealed by said ordinance.

Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any ordinance repealed hereby for any offense committed prior to the repeal. (Ord. 3710, 1974.)



SCALE IN FEET
0 1500 3000 4500

INDEX SHEET

SECTIONAL ZONING MAP OF THE CITY OF SANTA BARBARA

COMMUNITY DEVELOPMENT DEPARTMENT

CITY OF SANTA BARBARA
COMMUNITY DEVELOPMENT DEPARTMENT
630 GARDEN STREET
SANTA BARBARA, CA. 93101
(805) 564-5470
MAILING ADDRESS: P.O. BOX 1990
(93102)

Penfield & Smith
ENGINEERS • SURVEYORS
111 E. VICTORIA ST. SANTA BARBARA, CALIF. 93101
(805) 963-9532
MAILING ADDRESS P.O. BOX 99 (93102)

W.O. 12351.01

REV. 6/30/13

Sectional Map: SA02

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
R-1 - Single Residential Unit
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PUD - Planned Unit Development
R-H - Resort-Residential Hotel
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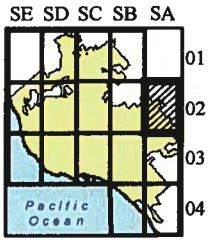
S-D-2 - Special District 2 - Outer State Street
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary



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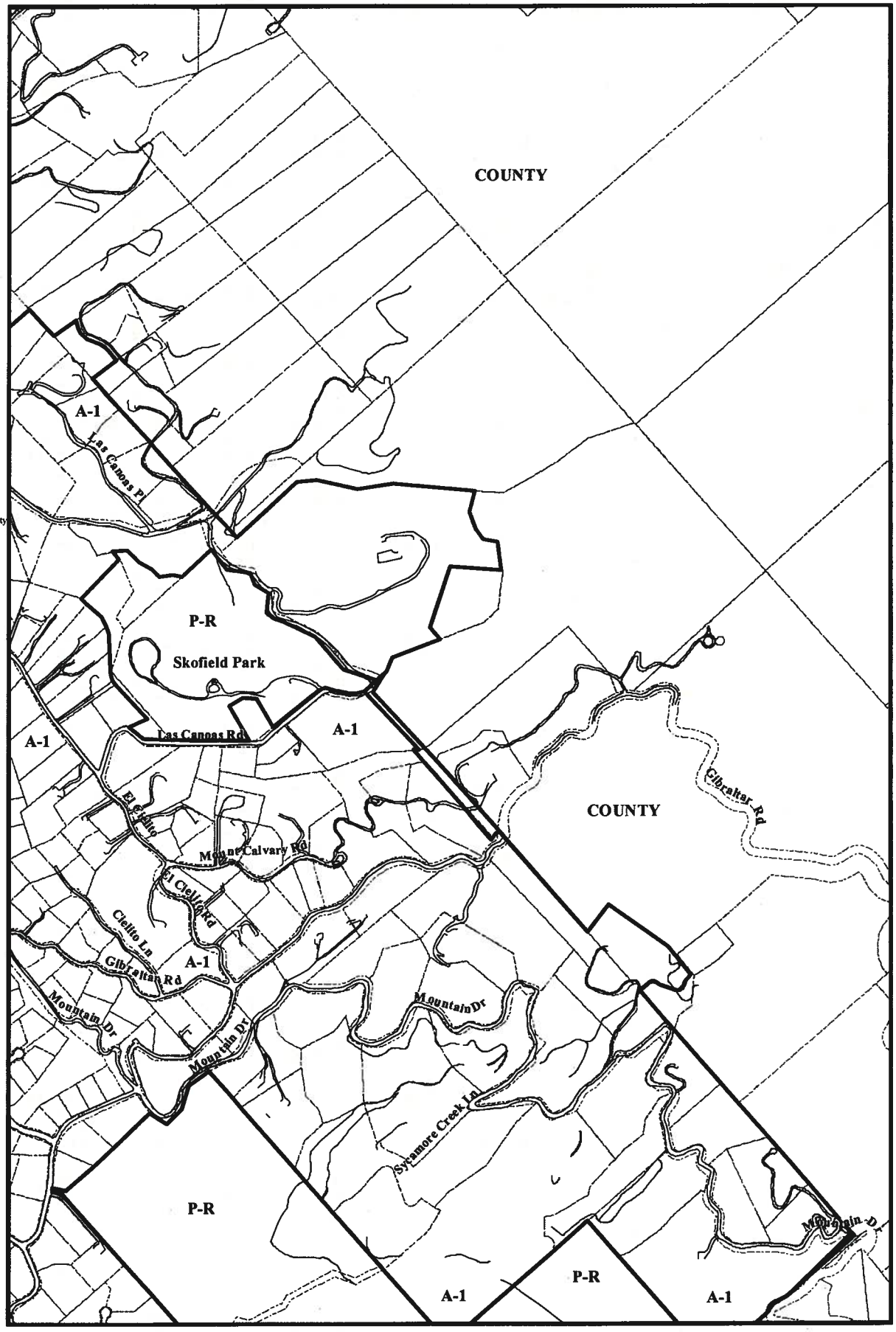

rev. 6/30/13

Sectional Map: SA03

Legend

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A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
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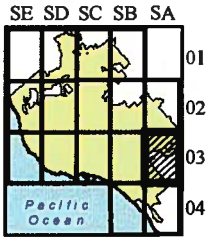

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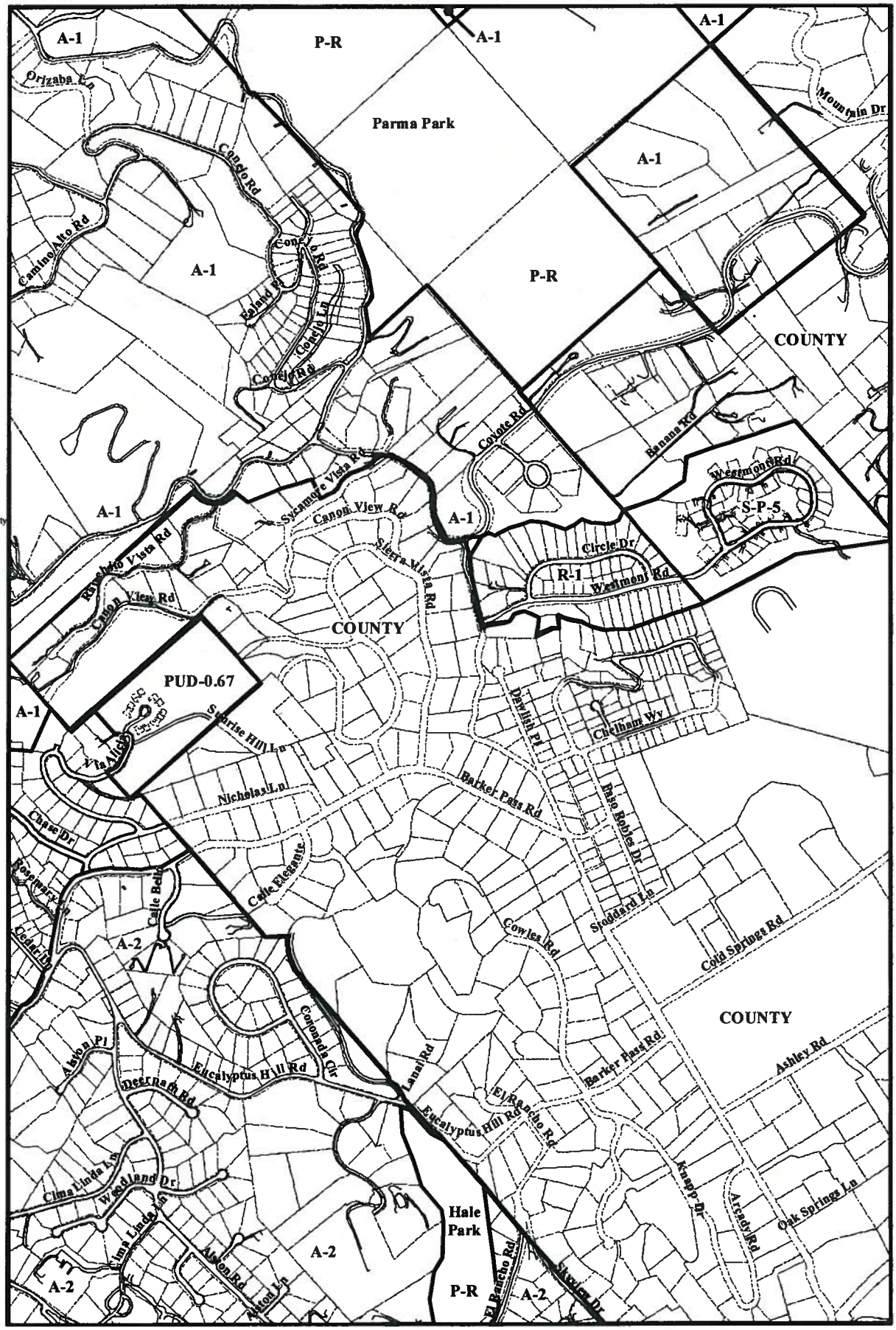

rev. 6/30/13

Sectional Map: SA04

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
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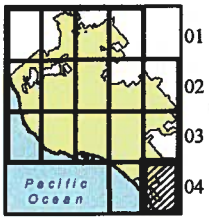

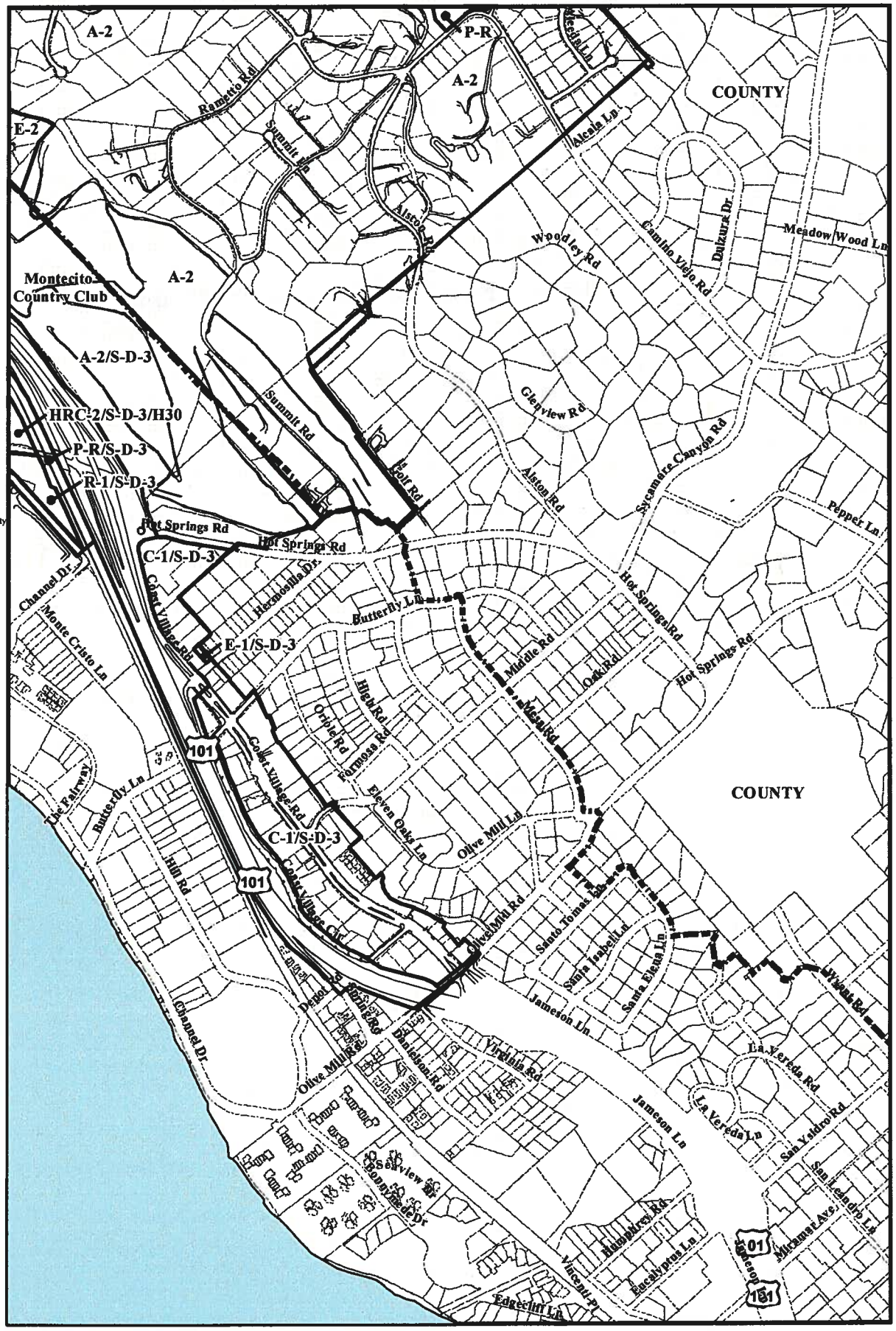

rev. 6/30/13

Sectional Map: SB01

Legend

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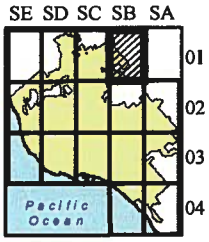

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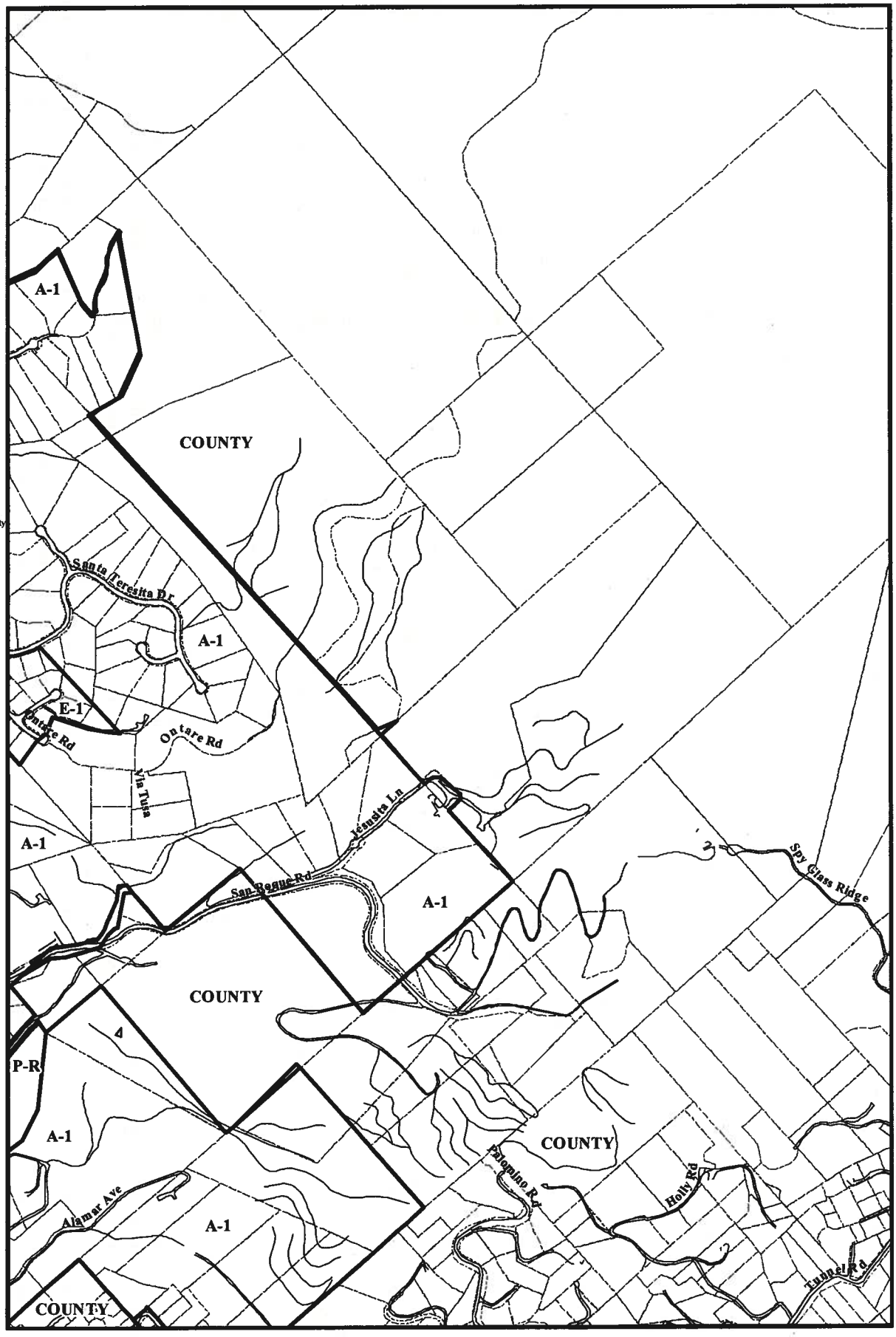

rev. 6/30/13

Sectional Map: SB02

Legend

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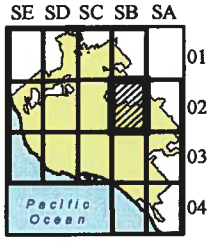

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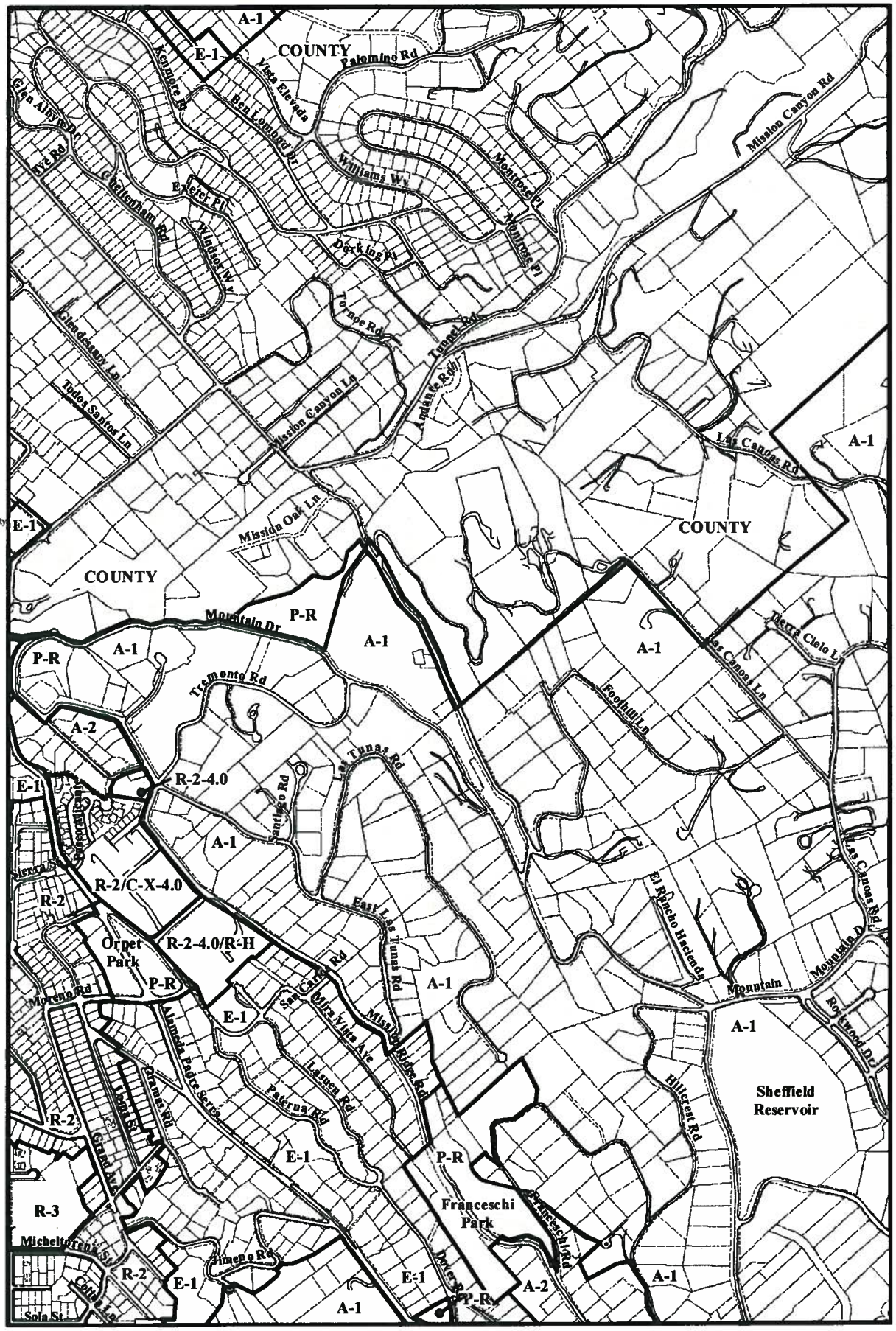

rev. 6/30/13

Sectional Map: SB03

Legend

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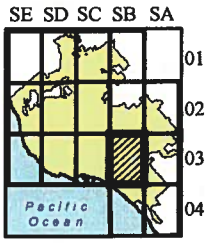

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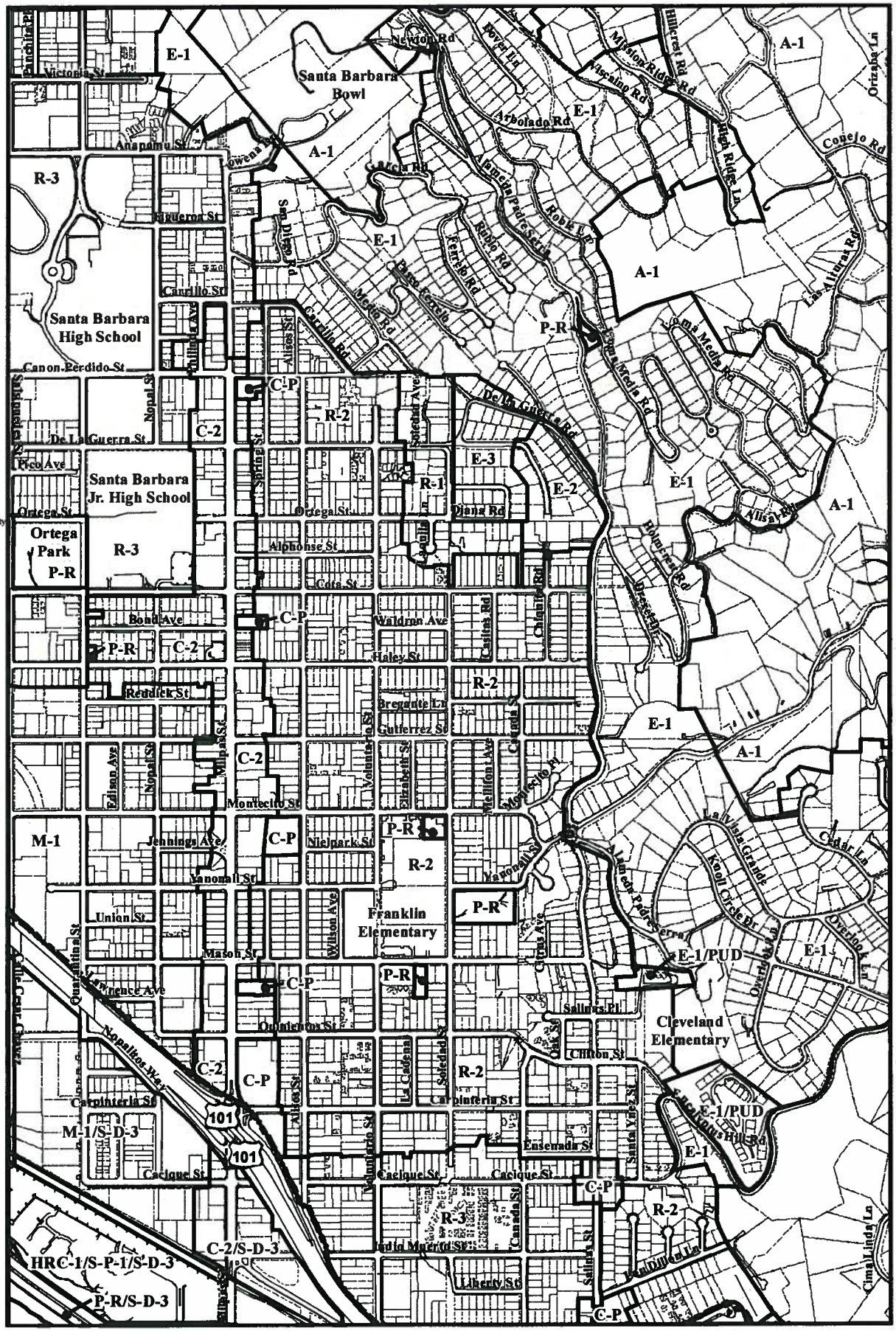
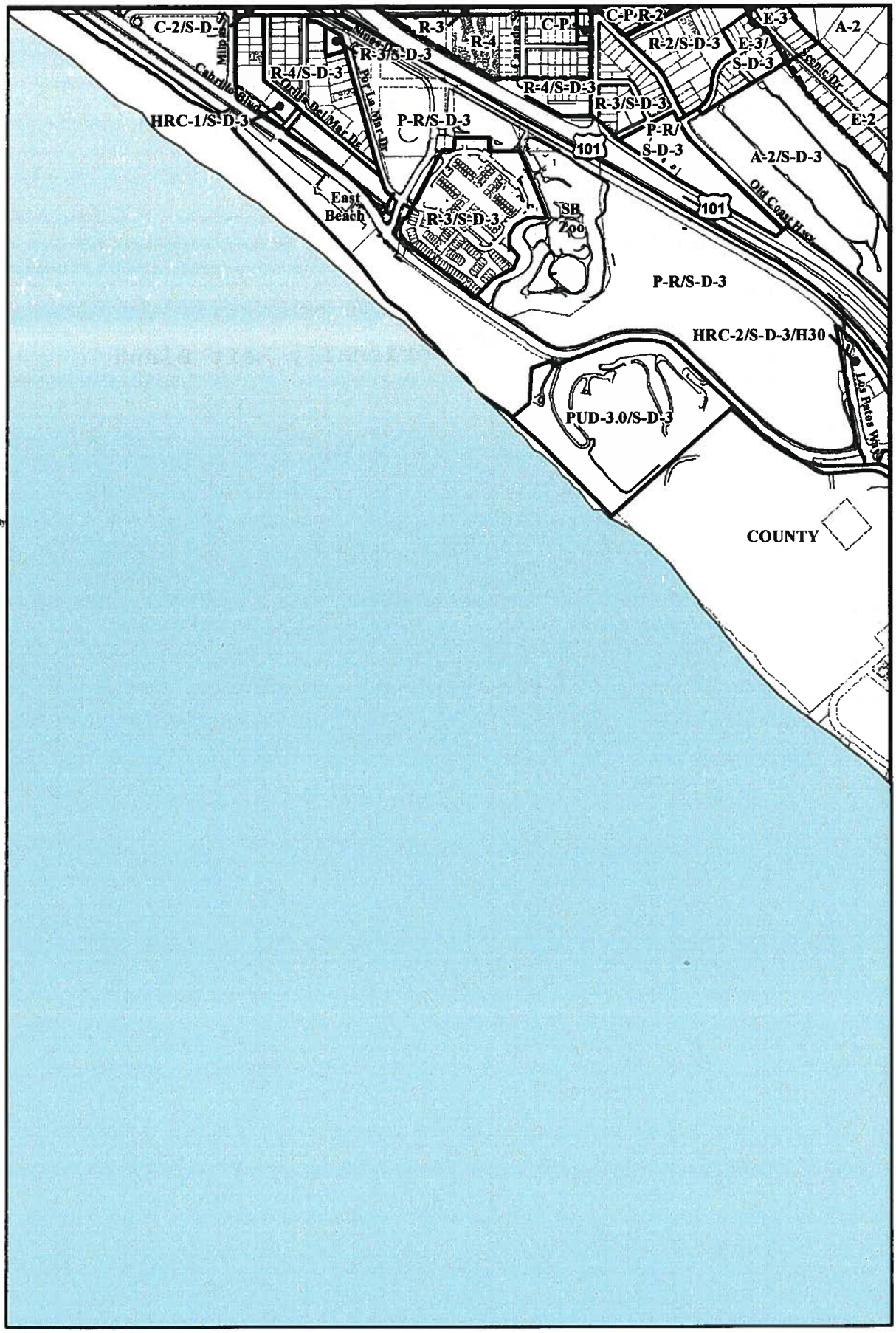

Santa Barbara Bowl
Santa Barbara High School
Santa Barbara Jr. High School
Ortega Park
Franklin Elementary
Cleveland Elementary
HRC-1/S-P-1/S-D-3
P-R/S-D-3
C-2/S-D-3
M-1/S-D-3
E-1/PUD
Newton Rd
Hillcrest Rd
Mission Ridge Rd
Arbolado Rd
Conejo Rd
Las Alturas Rd
Alisal Rd
Cima Linda Ln
Orizaba Ln
Cedar Ln
Overlook Ln
Laguna Blanca Dr
Knoll Crest Dr
Nopalitos Way
Carpinteria St
Cacique St
Ensenada St
Liberty St
Indio Muerto St
Sycamore Canyon Rd
Cliff Dr
Mason St
Union St
Jennings Ave
Yanonali St
Montecito St
Alphonse St
Ortega St
Cota St
Bond Ave
Reddick St
Haley St
Waldron Ave
Gutierrez St
Bregante Ln
Carrillo St
Canon Perdido St
De La Guerra St
Figueroa St
Anapamu St
Victoria St
Sola St
Micheltorena St
Salinas St
Chilton St
Oak St
Santa Barbara St
Anacapa St
Chapala St
Garden St
Milpas St
Nopal St
Bath St
Hope St
Calle Real
Cima Linda Ln
Las Alturas Rd
Tomás Media Rd
Cima Media Rd
Alameda Padre Serra
Roble Rd
Rebole Rd
Ferrelo Rd
Casa Ferrelo
Mesa Rd
Cabrillo Rd
La Vista Rd
San Diego Rd
Owens St
Newton Rd
Hover Ln
Mission Ridge Rd
Hillcrest Rd
High Ridge Ln
Alisal Rd
Bluff Rest Rd
Dracena Dr
Cima Linda Ln
Cedar Ln
Overlook Ln
Salinas Pl
Cliff Dr
Nopal St
Edison Ave
Milpas St
Voluntario St
Elizabeth St
Mellon Ave
Canada St
Chapala St
Santa Barbara St
Anacapa St
Bath St
Hope St
Garden St
Chapala St
Nopal St
Milpas St
Quarantina St
Lawrence Ave
Wilson Ave
Cima Linda Ln
Cima Linda Ln
Cima Linda Ln

Sectional Map: SB04



Legend

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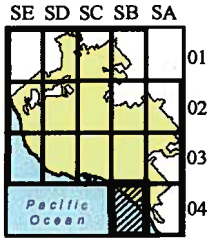
Coastal Zone Boundary



0 250 500 1,000 Feet

Sectional Map: SC01

Legend

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C-M - Commercial-Manufacturing
C-P - Restricted Commercial
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OVERLAY ZONES

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PD - Planned Development
PUD - Planned Unit Development
R-H - Resort-Residential Hotel
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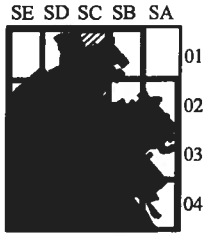
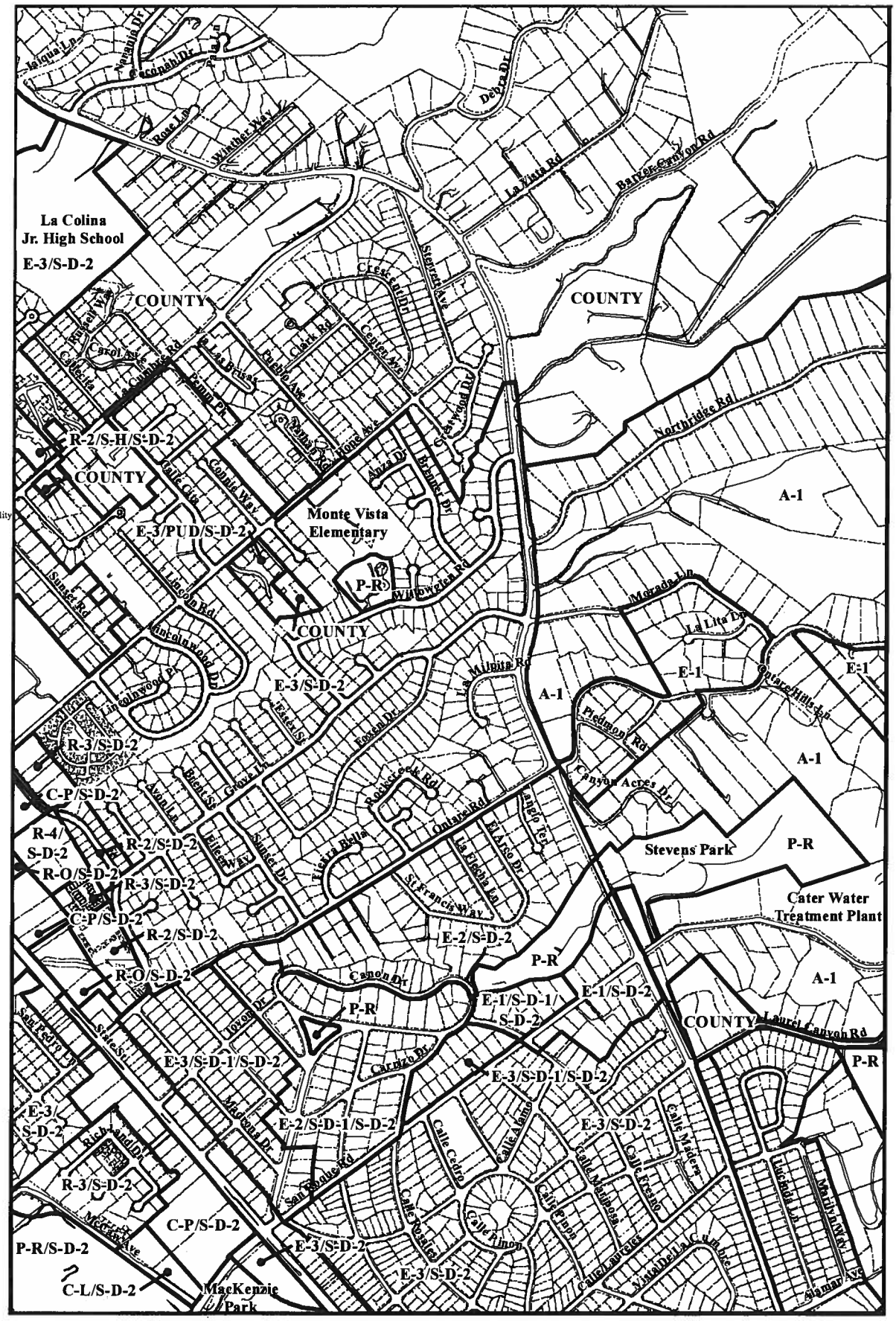
S-D-2 - Special District 2 - Outer State Street
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary





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Sectional Map: SC02

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
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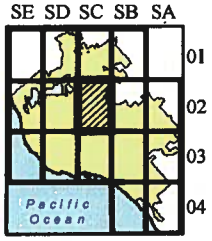
Coastal Zone Boundary



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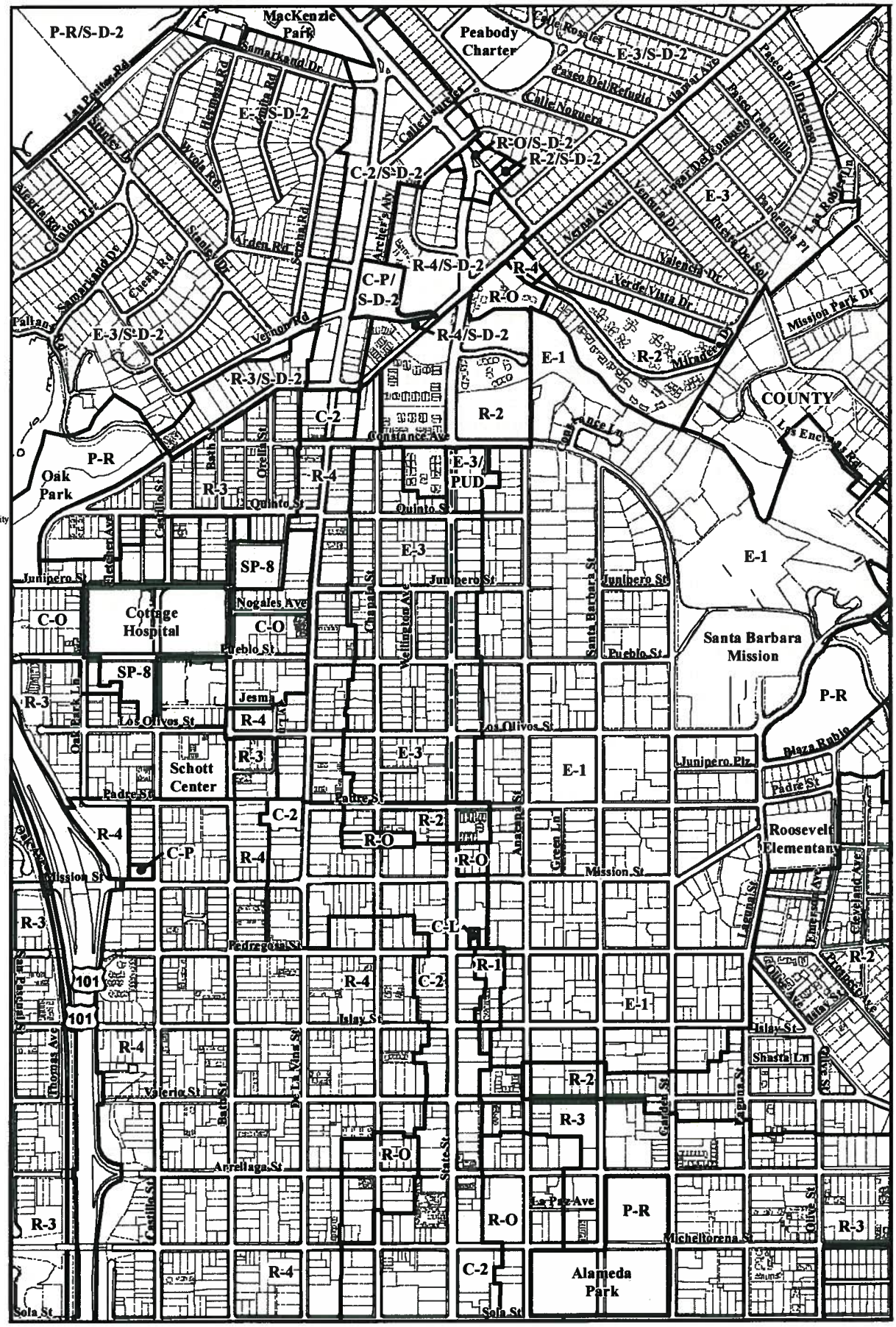

Sectional Map: SC03

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
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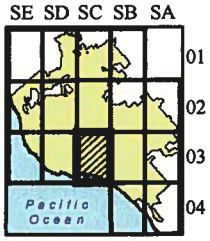

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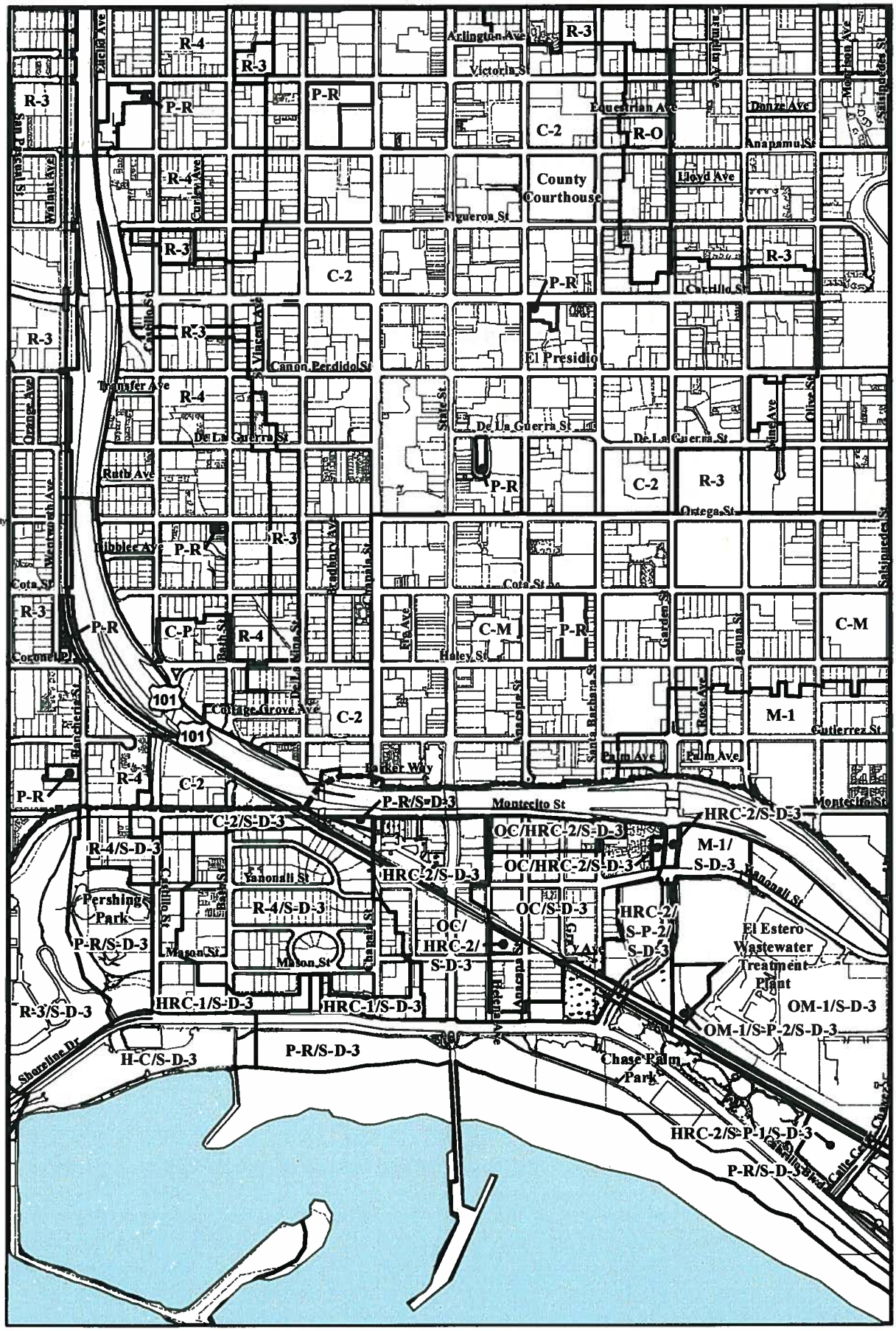

Sectional Map: SD01

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
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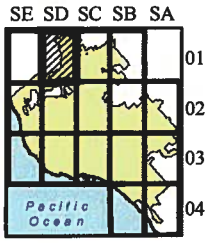

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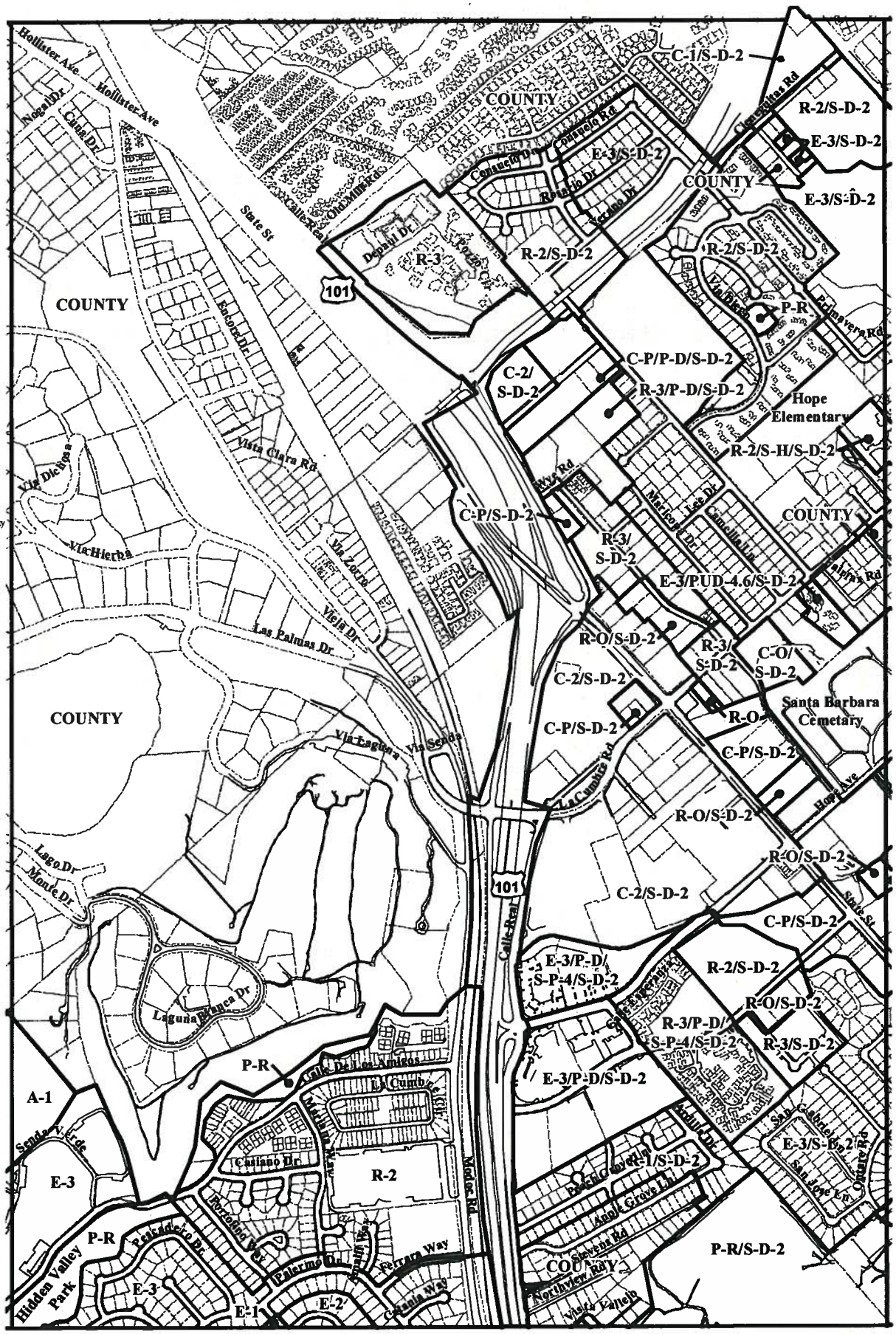

Sectional Map: SD02

Legend

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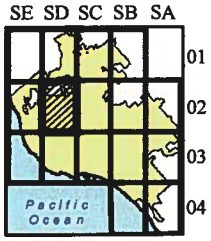

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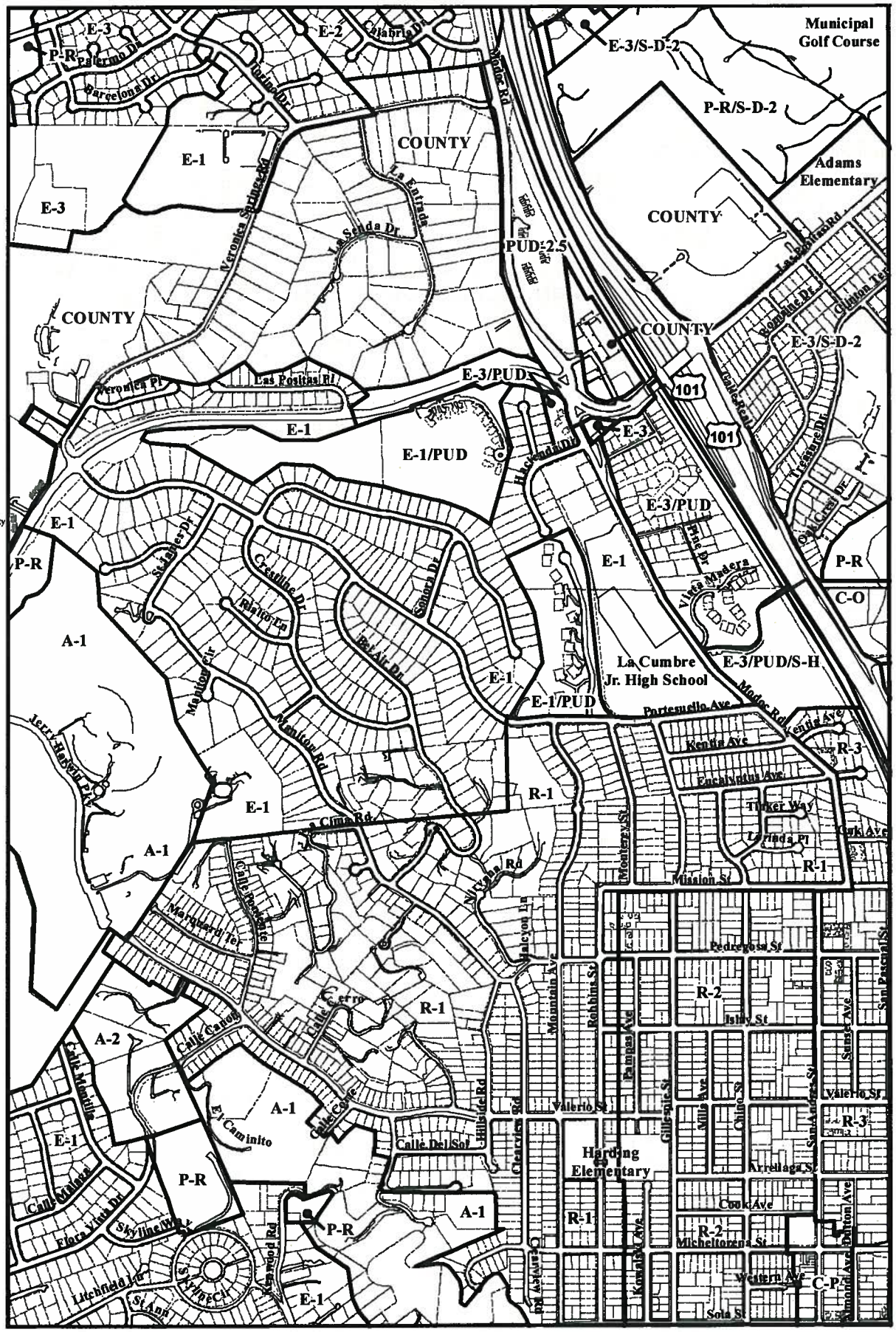

Sectional Map: SD03

Legend

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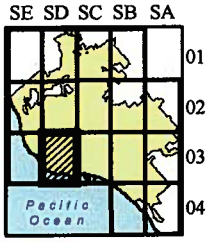

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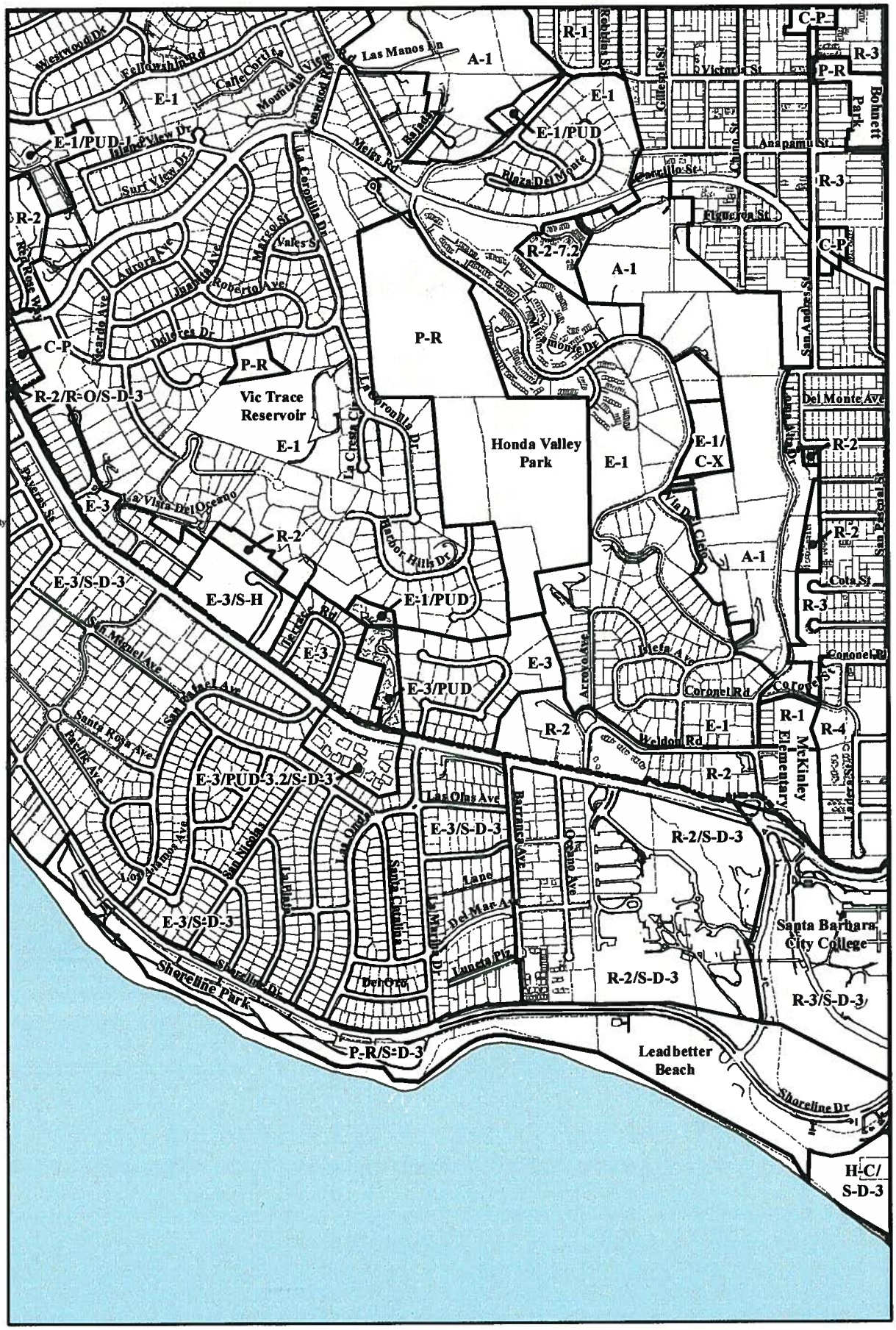

Sectional Map: SE01

Legend

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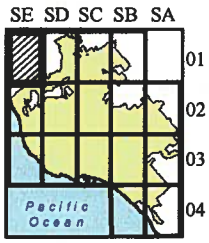

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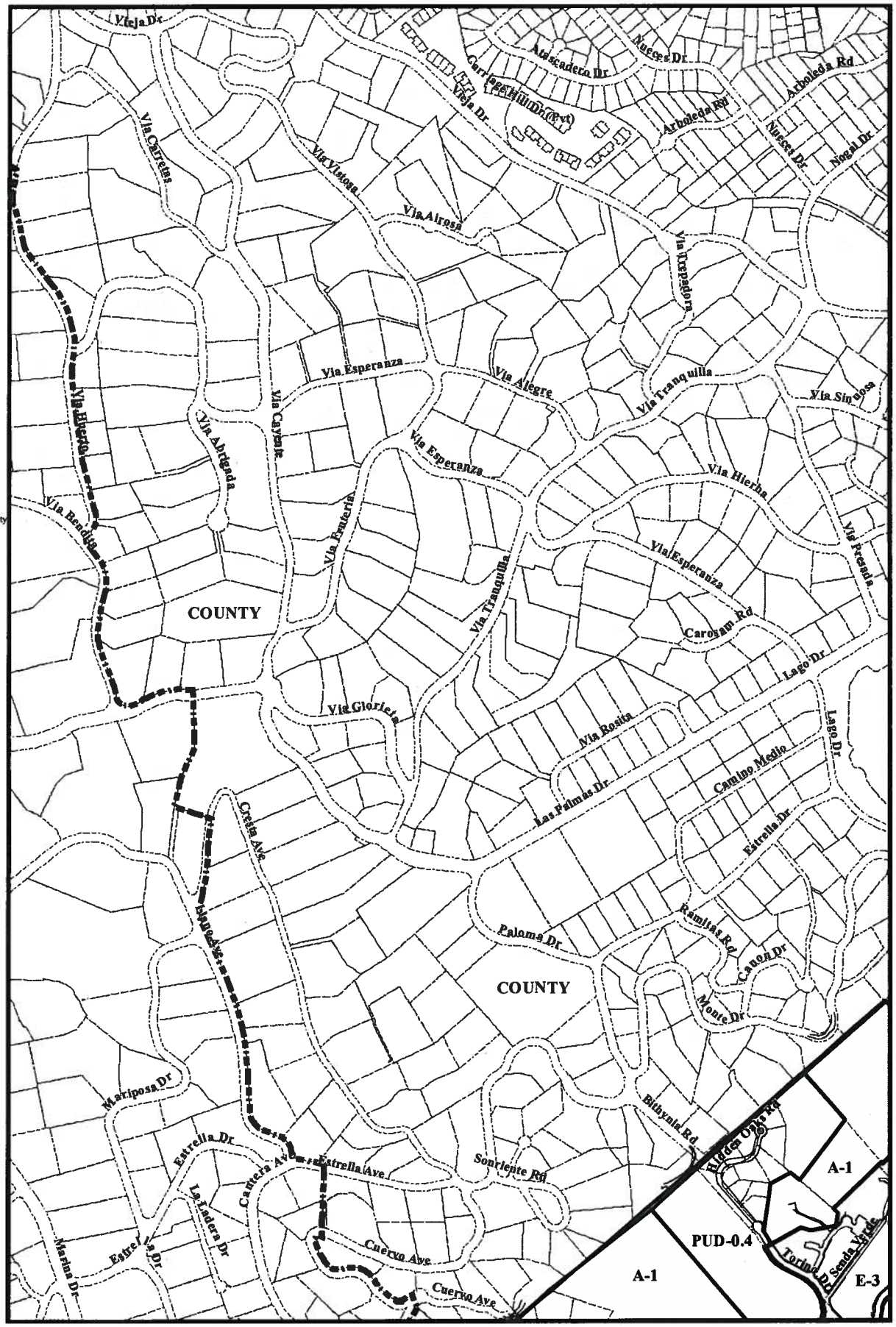

Sectional Map: SE02

Legend

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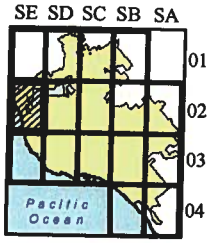
Coastal Zone Boundary



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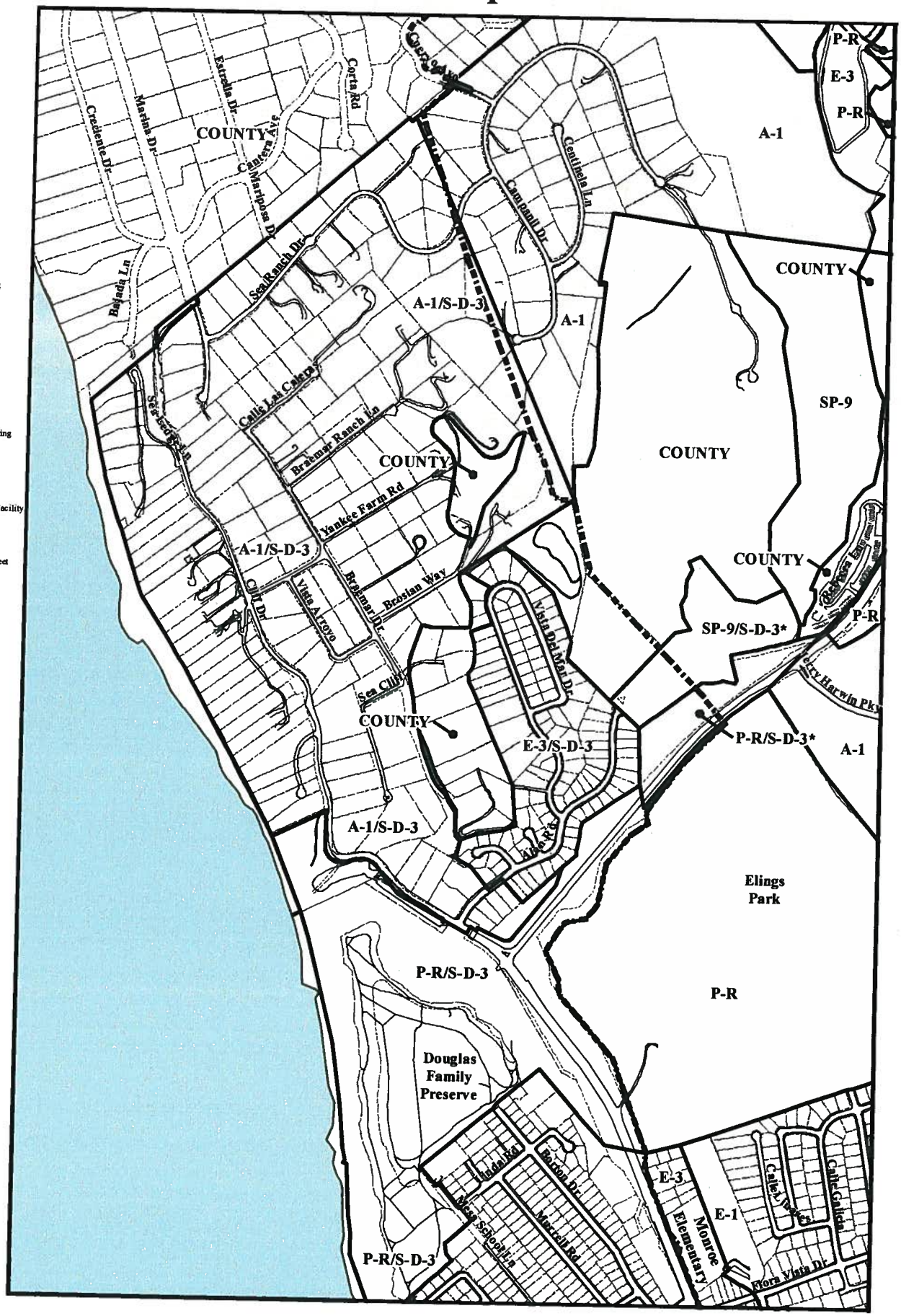

rev. 6/30/13

Sectional Map: SE03

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
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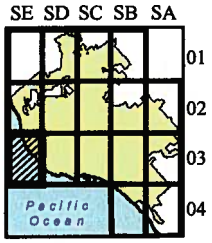

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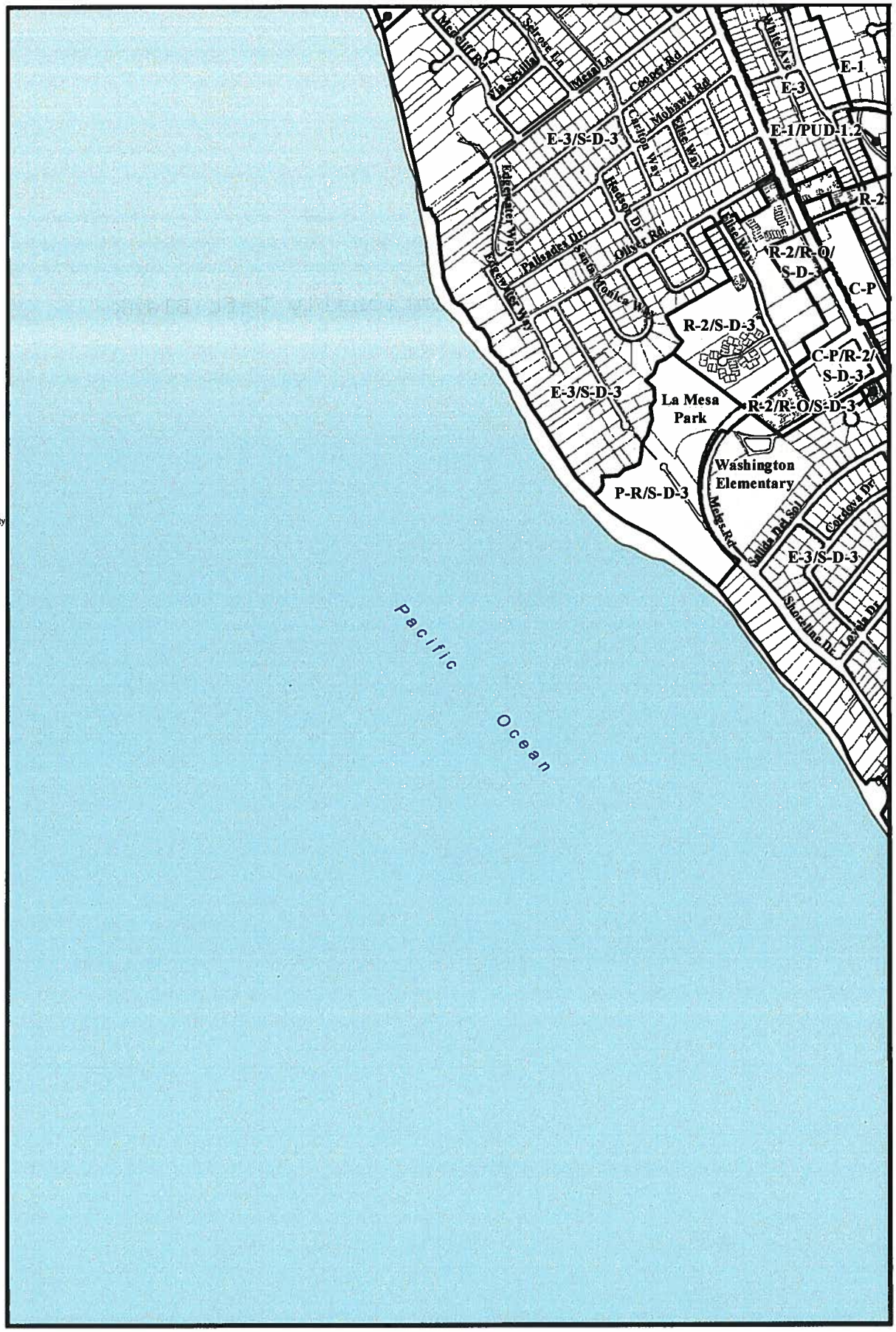
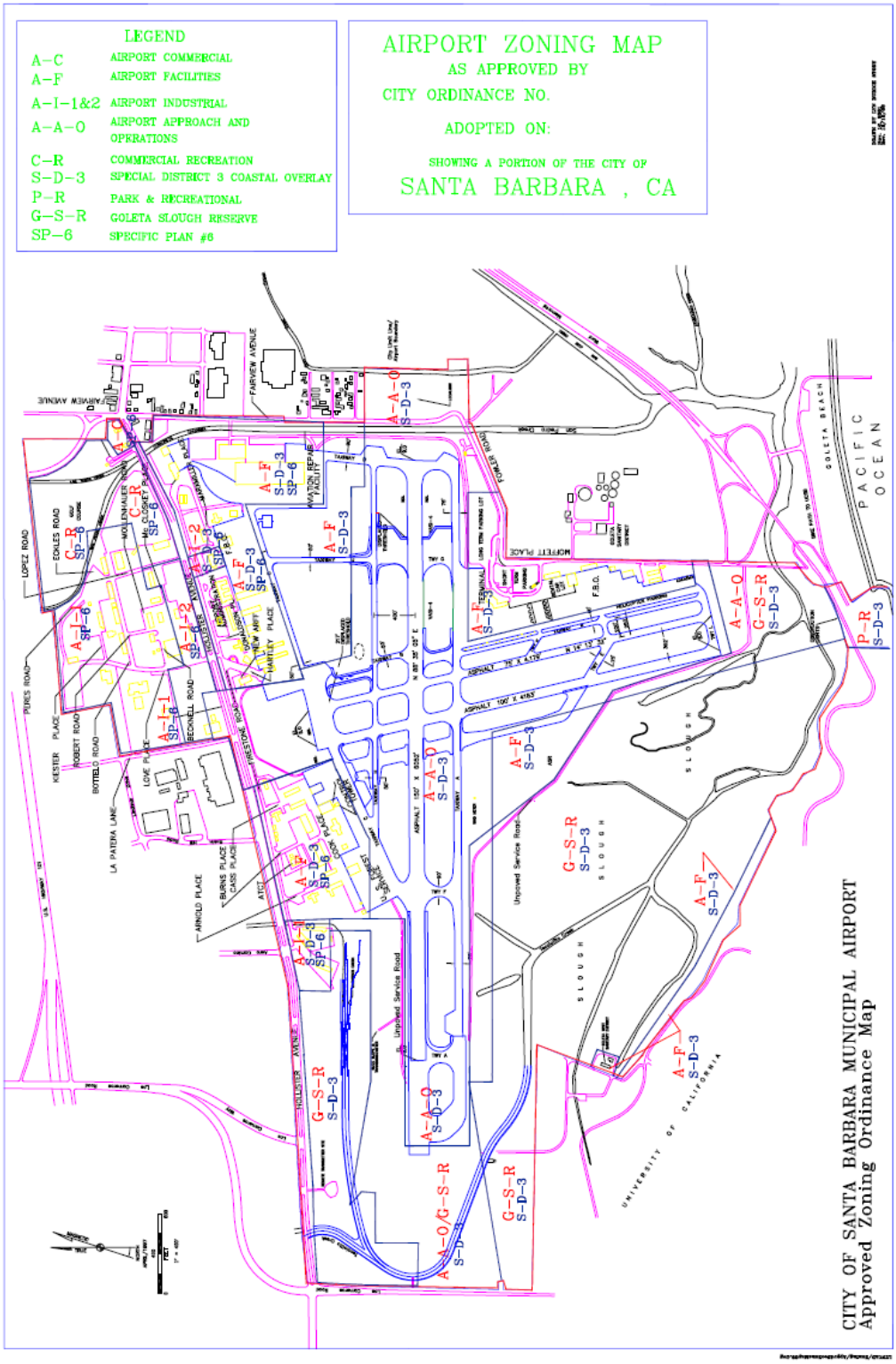


rev. 6/30/13


LEGEND
A–C AIRPORT COMMERCIAL
A–F AIRPORT FACILITIES
A–I–1&2 AIRPORT INDUSTRIAL
A–A–O AIRPORT APPROACH AND OPERATIONS
C–R COMMERCIAL RECREATION
S–D–3 SPECIAL DISTRICT 3 COASTAL OVERLAY
P–R PARK & RECREATIONAL
G–S–R GOLETA SLOUGH RESERVE
SP–6 SPECIFIC PLAN #6
AIRPORT ZONING MAP
AS APPROVED BY
CITY ORDINANCE NO.
ADOPTED ON:
SHOWING A PORTION OF THE CITY OF
SANTA BARBARA , CA
CITY OF SANTA BARBARA MUNICIPAL AIRPORT
Approved Zoning Ordinance Map
PACIFIC OCEAN
GOLETA BEACH
SLOUGH
UNIVERSITY OF CALIFORNIA
Unpaved Service Road
HOLLISTER AVENUE
FAIRVIEW AVENUE
LOPEZ ROAD
EAGLES ROAD
PERCES ROAD
KESTER PLACE
ROBERT ROAD
BOTELLO ROAD
LA PATERA LANE
LOVE PLACE
BEDWELL ROAD
FIRESTONE ROAD
ARNOLD PLACE
BURNS PLACE
CASS PLACE
HARTLEY PLACE
MOLLENHAUER ROAD
MOSLOSKEY PLACE
MOFFETT PLACE
AVIATION REPAIR FACILITY
TERMINAL
F.B.O.
A–A–O
A–F
A–I–1
A–I–2
C–R
G–S–R
P–R
S–D–3
SP–6

TITLE 29
Airport Zoning

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5609	Nonresidential Growth Management Program (clerical corrections only)	April 11, 2013	Various

TITLE 29

AIRPORT ZONING

Chapter: 29.01 Title
Chapter: 29.04 Definitions
Chapter: 29.10 Zones Established
Chapter: 29.11 Airport Zoning Map
Chapter: 29.12 A-A-O Aircraft Approach and Operations Zone
Chapter: 29.15 A-F Airport Facilities Zone
Chapter: 29.18 A-C Airport Commercial Zone
Chapter: 29.21 A-I-1 and A-I-2 Airport Industrial Zones
Chapter: 29.23 C-R Commercial Recreation Zone
Chapter: 29.25 Goleta Slough Reserve Zone
Chapter: 29.30 Airport Industrial Area Specific Plan (SP-6) Zone
Chapter: 29.87 General Provisions
Chapter: 29.90 Automobile Parking Requirements
Chapter: 29.92 Variances, Modifications, Conditional Use Permits and Zone Changes
Chapter: 29.96 Zoning Upon Annexation
Chapter: 29.97 Occupancy
Chapter: 29.98 Enforcement and Penalty
Chapter: 29.99 Validity

Chapter 29.01

TITLE

Section:
29.01.001 Generally.

29.01.001 Generally.

An official Land Use Zoning Ordinance for the Santa Barbara Municipal Airport including the Goleta Slough is hereby adopted and established to:

A. Serve the public health, safety, comfort, convenience and general welfare;

B. Provide the economic and social advantages resulting from an orderly planned use of land resources;

C. Encourage, guide and provide a definite plan for the future growth and development of said Airport;

D. Provide for the protection, maintenance and, where feasible, enhancement of the Goleta Slough and other sensitive habitats, consistent with the intent and purpose of the Local Coastal Plan and California Coastal Act;

E. Provide the community with direct access to the National Air Transportation System;

F. Ensure that the Airport continues to be a vital economic contributor to the region by maintaining the Airport's economic self-sufficiency through effective use of its existing resources; and

G. Coordinate planning for the Airport and related facilities with the surrounding community.

This Title shall be known as "The Airport Zoning Ordinance". (Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986; Ord. 3690, 1974.)

Chapter 29.04

DEFINITIONS

Sections:

29.04.010 Generally.
29.04.020 Aircraft Operations and Approach Area.
29.04.030 Airport.
29.04.040 Airport Commission.
29.04.050 Airport Elevation.
29.04.060 Airport Functions.
29.04.070 Airport Hazard.
29.04.080 Airport Reference Point.
29.04.090 Airport Zoning Commission.
29.04.100 Commercial Recreation.
29.04.110 Development.
29.04.120 Environmentally Sensitive Area.
29.04.130 Goleta Slough.
29.04.140 Hangar.
29.04.150 Hangar Height.
29.04.160 Landing Area.
29.04.170 Maintenance.
29.04.180 Oil.
29.04.190 Repair.
29.04.200 Runway.
29.04.210 Runway Protection Zone.
29.04.220 Runway Safety Area.
29.04.230 Surface.
29.04.240 Taxiway.
29.04.250 Taxiway Safety Area.
29.04.270 Wetland.

29.04.010 Generally.

For the purpose of this ordinance certain words and terms are defined.

Words used in the present tense include the future, except where the natural construction of the ordinance otherwise indicates; words in the singular number include the plural and words in the plural include the singular; the word "building" includes the word "structure", and the word "Council", when used herein shall mean the Council of the City of Santa Barbara. Words not defined herein but defined in the Municipal Code or the Zoning Ordinance of the City of Santa Barbara shall have the meanings set forth in said Code or Ordinance unless the context requires a different meaning. (Ord. 3690, 1974.)

29.04.020 Aircraft Operations and Approach Area.

Areas beneath the Approach Surface of runways and areas designated for the operation of air-craft, including runways and taxiways, runway protection zones, runway and taxiway safety areas, and other areas adjacent to the runways and taxiways. (Ord. 5025, 1997.)

29.04.030 Airport.

Santa Barbara Municipal Airport. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.040 Airport Commission.

A board consisting of seven (7) members appointed by the Council, as provided in Section 812 of the Charter of the City of Santa Barbara. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.050 Airport Elevation.

The established elevation of the highest point on the usable landing area. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.060 Airport Functions.

Any area of land or water designed and set aside for the landing and taking off of aircraft, including all necessary facilities for the housing and maintenance of aircraft and related uses. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.070 Airport Hazard.

Any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.080 Airport Reference Point.

The point established as the approximate geographic center of the airport landing area, and so designated. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.090 Airport Zoning Commission.

The Planning Commission of the City of Santa Barbara. (Ord. 5025, 1997.)

29.04.100 Commercial Recreation.

Any use or development, either public or private, providing amusement, pleasure, sport, exercise or other resource affording relaxation or enjoyment, which is operated primarily for financial gain. Typical uses may include, but are not limited to, batting cages, cinemas, theaters, skating rinks, gymnasiums, athletic clubs, miniature golf course, bumper cars and go-cart tracks. (Ord. 5025, 1997.)

29.04.110 Development.

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg'Nejedly Forest Practice Act of 1973 (commencing with California Public Resources Code Section 4511). (See Chapter 28.44.) (Ord. 5417, 2007; Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

29.04.120 Environmentally Sensitive Area.

Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. (See Section 28.04.099.4.k.) (Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

29.04.130 Goleta Slough.

The area of wetland and adjacent upland habitats generally located between the Santa Barbara Municipal Airport, the University of California at Santa Barbara, and extending toward the fresh water outlet at Goleta Beach, including but not limited to, the area designated as recreational open space on the City of Santa Barbara's Local Coastal Plan Land Use Map. (Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

29.04.140 Hangar.

A covered and usually enclosed building designed and primarily used for the purpose of parking and/or repairing aircraft. Hangars may include offices and other uses related to aircraft usage. (Ord. 5025, 1997.)

29.04.150 Hangar Height.

The intent of a hangar height definition is to allow for the security, storage and maintenance of aircraft. The calculation of the height of a hangar shall be as provided in Section 28.04.140 of the Santa Barbara Municipal Code provided that those portions of a hangar utilized exclusively for the purposes of enclosing portions of an aircraft in accordance with federal regulations shall be considered an architectural element. (Ord. 5459, Section 3, 2008; Ord. 5025, 1997.)

29.04.160 Landing Area.

The area of the Airport used for the landing, taking off or taxiing of aircraft. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.170 Maintenance.

Activities of upkeep that do not result in an addition to, or enlargement or expansion of the object of such maintenance activity. (Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

29.04.180 Oil.

Where used in this ordinance, the word "oil" shall include gas and other hydrocarbon substances. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.190 Repair.

Activities that restore something to a previous state of efficiency, but do not result in an addition to or enlargement of the object of such repair. (Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

29.04.200 Runway.

The paved surface of an airport landing strip. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.04.210 Runway Protection Zone.

Area defined by Federal Aviation Administration regulations beginning two hundred feet (200') from each end of the runway, the function of which is to enhance the protection of people and property on the ground by clearing the zone of incompatible objects and activities. The length and width of the Runway Protection Zone vary depending on the use of the runway. (Ord. 5025, 1997.)

29.04.220 Runway Safety Area.

A compacted smooth surface adjacent to a runway which is defined by Federal Aviation Ad-ministration regulations and is prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway. (Ord. 5025, 1997.)

29.04.230 Surface.

A. APPROACH SURFACE. A longitudinal surface defined by Federal Aviation Administration regulations as extending upward and outward from the ends of the runway.
B. HORIZONTAL SURFACE. A horizontal plane defined by Federal Aviation Administration regulations as being one hundred-fifty feet (150') above and parallel to the airport elevation.
C. TRANSITIONAL SURFACE. A surface defined by Federal Aviation Administration regulations as extending outward and upward at right angles to the runway centerline. (Ord. 5025, 1997.)

29.04.240 Taxiway.

A defined path established for the taxiing of aircraft from one part of an airport to another. (Ord. 5025, 1997.)

29.04.250 Taxiway Safety Area.

A compacted smooth surface which is defined by Federal Aviation Administration regulations as an area alongside the taxiway prepared or suitable for reducing the risk of damage to an airplane unintentionally departing from the taxiway. (Ord. 5025, 1997.)

29.04.270 Wetland.

Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens. (See Chapter 28.44.) (Ord. 5417, 2007; Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

Chapter 29.10

ZONES ESTABLISHED

Sections:

29.10.001 Establishing and Naming Zones.
29.10.010 Boundaries of Zones.
29.10.030 Uses Permitted in Zones.

29.10.001 Establishing and Naming Zones.

In order to classify, regulate, restrict and segregate the uses of land, buildings and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of setbacks, yards and other open spaces about buildings; the territory of the Santa Barbara Municipal Airport is hereby divided into the following zone classifications:

A-A-O	Aircraft Approach and Operation Zone
A-F	Airport Facilities Zone
A-C	Airport Commercial Zone
A-I-1	Airport Industrial-1 Zone
A-I-2	Airport Industrial-2 Zone
G-S-R	Goleta Slough Reserve Zone
C-R	Commercial Recreation Zone
P-R	Park and Recreation Zone
SP-6	Airport Industrial Area Specific Plan Zone
S-D-3	Special District 3 - Coastal Overlay Zone

(Ord. 5459, 2008; Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986; Ord. 3690, 1974.)

29.10.010 Boundaries of Zones.

The boundaries of zones and the zone symbol are designated on the Zoning Map adopted as Chapter 29.11 of this ordinance. Combining zones are also designated on the Zoning Map. (Ord. 3690, 1974.)

29.10.030 Uses Permitted in Zones.

Except as hereinafter provided:

A. No building or structure shall be erected, moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed or intended to be used for any purpose or any manner, other than is permitted in the zone in which such land, building, structure or premises are located.

B. No building or structure shall be erected, moved, reconstructed or structurally altered to exceed in height the limit established for the zone in which such building or structure is located.

C. No building or structure shall be erected nor shall any existing building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the lot area and setback regulations established for the zone in which such building or structure is located.

D. No setback or other open space provided about any building or structure for the purpose of complying with these regulations shall, by reason of change in ownership or otherwise, be considered as providing a setback or open space for any other building or structure. (Ord. 5459, 2008; Ord. 5025, 1997; Ord. 3690, 1974.)

Chapter 29.11

AIRPORT ZONING MAP

(Shown on page 561-18 of this Code)

Chapter 29.12

A-A-O AIRCRAFT APPROACH AND OPERATIONS ZONE

Sections:

29.12.001 Aircraft Approach and Operation Zone.
29.12.005 Legislative Intent.
29.12.030 Uses Permitted.

29.12.001 Aircraft Approach and Operation Zone.

The following regulations shall apply in the A-A-O Aircraft Approach and Operation Zone unless otherwise provided in this ordinance. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.12.005 Legislative Intent.

It is the intent of this Section to provide for suitable land uses in the areas beneath the approach surfaces, and the areas of aircraft operations adjacent to runways and taxiways, including Run-way Protection Zones, and Runway and Taxiway Safety Areas. These are areas where it is desirable to enhance safety by restricting incompatible objects and activities, where construction of buildings or structures is precluded by the necessity to preserve most of the air space for low flying aircraft, and where noise levels are not compatible with most land uses. (Ord. 5025, 1997; Ord. 3745, 1975; Ord. 3690, 1974.)

29.12.030 Uses Permitted.

The following uses are expressly permitted in the A-A-O Zone:

A. Runways and runway safety areas.

B. Taxiways and taxiway safety areas.

C. Lights and other aircraft control and guidance systems, but not including hangars, tie-down areas, buildings or other actively used facilities.

D. Open space, including vegetation, is also allowed provided that it does not conflict with Federal Aviation Regulations Part 77 and Part 139 and with FAA Advisory Circulars in the 150 series, or their successors.

The above-stated uses are permitted, providing they comply with allowed uses pursuant to the FAA Advisory Circulars in the 150 series, or their successors, for Runway Protection Zones and Runway and Taxiway Safety Areas. (Ord. 5025, 1997; Ord. 3745, 1975; Ord. 3690, 1974.)

Chapter 29.15

A-F AIRPORT FACILITIES ZONE

Sections:

29.15.001 Airport Facilities Zone.
29.15.005 Legislative Intent.
29.15.030 Uses Permitted.
29.15.050 Building Heights.
29.15.060 Front Setback.
29.15.100 Off-street Parking.
29.15.131 Development Potential.

29.15.001 Airport Facilities Zone.

The following regulations shall apply in the Airport Facilities Zone (A-F) unless otherwise provided in this ordinance. (Ord. 3690, 1974.)

29.15.005 Legislative Intent.

It is the intent of this zone classification to establish an area in the immediate vicinity of the flight facilities at the Airport for aircraft and airport related uses and activities and to exclude from this area activities that do not use the flight facilities as an integral and necessary part of their function. (Ord. 3690, 1974.)

29.15.030 Uses Permitted.

The following uses are expressly permitted in the A-F Zone:

A. Aircraft chartering and leasing.
B. Aircraft parking, tie-down and aircraft hangars and shelters.
C. Aircraft rescue and firefighting station.
D. Aircraft sales, manufacture, service and related administrative offices.
E. Air freight terminal.
F. Auto rentals.
G. Aviation equipment and accessories sales and/or repair.
H. Aviation storage.
I. Executive/General aviation terminal facilities with related offices and food service uses.
J. Federal Aviation Administration flight service facilities.
K. Fixed base operations.
L. Flying schools.
M. Fly-in offices.
N. Fueling facilities.
O. Museums and other cultural displays relating to aviation.
P. Passenger terminals with accessory uses such as restaurants and gift shops.
Q. Private parking lot, subject to the issuance of a Conditional Use Permit under Chapter 29.92 of this Title.
R. Public parking facilities.
S. Other aviation-related uses determined to be appropriate by the Planning Commission.
T. Non-aviation related uses consistent with the applicable regulations of the Federal Aviation Administration and determined to not be in conflict with the use of the adjacent Airport buildings as may be determined by the Community Development Director and the Airport Director. (Ord. 5025, 1997; Ord. 3965, 1978; Ord. 3690, 1974.)

29.15.050 Building Heights.

Building height shall be established as defined in Section 29.87.050 of this Title. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.15.060 Front Yard.

The front setback shall be established as defined in Section 29.87.055 of this Title. (Ord. 5459, 2008; Ord. 5025, 1997; Ord. 3690, 1974.)

29.15.100 Off-street Parking.

Off-street parking and loading space shall be provided as set forth in Chapter 29.90 of this ordinance. (Ord. 3690, 1974.)

29.15.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 29.18

A-C AIRPORT COMMERCIAL ZONE

Sections:

29.18.001 Airport Commercial Zone.
29.18.005 Legislative Intent.
29.18.030 Uses Permitted.
29.18.040 Performance Standards.
29.18.050 Building Height.
29.18.060 Front Setback.
29.18.100 Off-street Parking.
29.18.131 Development Potential.

29.18.001 Airport Commercial Zone.

The following regulations shall apply in the A-C Zone unless otherwise provided in this ordinance. (Ord. 3690, 1974.)

29.18.005 Legislative Intent.

This zone classification is designed to provide for recreational uses, general offices, automotive related commerce, certain other retail uses, and other similar places of employment characterized by a low intensity of operations. General retail commerce is excluded because these uses are adequately provided for in Old Town Goleta. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.18.030 Uses Permitted.

The following uses are expressly permitted in the A-C Zone:

A. Auto diagnostic center.
B. Automobile tire installation and repair conducted entirely within a building.
C. Branch bank or savings and loan, subject to the issuance of a Conditional Use Permit under Chapter 29.92 of this Title.
D. Commercial recreation.
E. Indoor theater.
F. Motorcycles and bicycles and accessories sales and repair.
G. Photographic shop including photographic developing.
H. Printing, lithographing, photocopying or publishing establishment.
I. Restaurant.
J. Other uses determined to be appropriate by the Planning Commission. (Ord. 5025, 1997; Ord. 4269, 1984; Ord. 3690, 1974.)

29.18.040 Performance Standards.

A. VIBRATION. No equipment, machinery or facility in such establishment shall be operated so as to produce or generate vibration which is perceptible without the aid of instruments, to a person of ordinary, normal sensibilities, at or beyond the boundary or leasehold line of the premises.

B. ODOR. No establishment shall be operated in a manner resulting in the emission of odors to an extent or degree permitting such odor to be detectable at or beyond the boundary or leasehold line of the premises.

C. ACCESSORY OUTDOOR STORAGE. There shall be no outdoor storage permitted, whether permanent or temporary. For the purpose of this Section, a storage tank, bin or other container placed outside shall be construed as constituting outside storage of the contents of such container. Trash containers may be stored outside if screened from public view. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.18.050 Building Height.

Building height shall be established as defined in Section 29.87.050 of this Title. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.18.060 Front Yards.

The front setback shall be established as defined in Section 29.87.055 of this Title. (Ord. 5459, 2008; Ord. 5025, 1997; Ord. 3690, 1974.)

29.18.100 Off-street Parking.

Off-street parking and loading space shall be provided as set forth in Chapter 29.90. (Ord. 3690, 1974.)

29.18.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 29.21

A-I-1 AND A-I-2 AIRPORT INDUSTRIAL ZONES

Sections:

29.21.001 In General.
29.21.005 Legislative Intent.
29.21.030 Uses Permitted.
29.21.040 Performance Standards.
29.21.050 Building Height.
29.21.060 Front Setback.
29.21.100 Off-street Parking.
29.21.131 Development Potential.

29.21.001 In General.

The following regulations shall apply in the A-I-1 and A-I-2 Airport Industrial Zones unless otherwise provided in this ordinance. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.21.005 Legislative Intent.

It is the intent of the Airport Industrial Zones to provide area for light industrial and manufacturing uses, such as research and development, electronic products manufacture and similar uses, subject to performance and development standards, consistent with the policies contained in the Airport Industrial Area Specific Plan, also known as Specific Plan #6. Specific Plan #6 provides for a graduated change in intensity with more intense development closer to Hollister Avenue in the A-I-2 Zone, including commercial services, such as branch bank, printing and photographic shop, convenience store, secretarial service and restaurant, and light industrial uses. Intensity decreases in the A-I-1 Zone toward the railroad tracks where open yard uses, such as outdoor storage, and contractor's, lumber, sand and brick yards, are allowed. The A-I-1 and A-I-2 Zones define where different intensities of use are allowed in accordance with the Specific Plan. Establishment of commercial services to serve employees of businesses within the Airport Specific Plan area will help reduce traffic. The City of Santa Barbara believes that it is important to minimize direct conflicts between the Airport and Goleta commercial areas; therefore, general commercial retail uses are not allowed because these uses are available in Old Town Goleta and other nearby areas. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.21.030 Uses Permitted.

Any of the following uses, provided that such operations are not obnoxious or offensive by reason of emission or odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose hazard to life or property. Whether such obnoxious or offensive qualities exist or are likely to result from a particular operation or use shall be determined from the point of view of all immediately adjoining land and uses and considering the performance and development standards to which they are subject.

A. In the A-I-1 Zone:

The following uses are expressly permitted in the A-I-1 Zone:

1. Appliance and equipment service and repair.
2. Automobile tire installation and repair performed entirely in an enclosed building.
3. Cabinet making or refinishing.
4. Electronic products manufacturing and sales.
5. Freight terminal.
6. Household hazardous waste facility, subject to issuance of a Conditional Use Permit.
7. Laboratory.
8. Manufacture, assembly, processing and distribution of products.
9. Office or retail sales incidental and accessory to any allowed use.
10. Public and quasi-public utility or maintenance facilities, including pump plant, transformer yard, switching station, service and equipment yard and similar uses.
11. Recycling business, subject to the issuance of a Conditional Use Permit.
12. Research and development establishment and related administrative operations.
13. Storage and distribution warehouse.

14. Any use allowed in the A-F Zone.
15. The following open yard uses are allowed north of Francis Botello Road only:
    a. Automobile repair and body shop.
    b. Brick yard.
    c. Concrete and asphalt products storage and manufacture.
    d. Contractor's yard.
    e. Lumber yard, including retail sales of lumber only.
    f. Metal products storage, manufacture and distribution.
    g. Open storage and rental of vehicles, trailers, recreational vehicles, mobilehomes, equipment and/or materials.
    h. Rock, sand and gravel yard.
16. The following additional uses are allowed in buildings designated as a Structure of Merit under the provisions of Chapter 22.22 of this Code or determined to be eligible for such designation:
    a. Any use allowed in the Airport Commercial (A-C) Zone.
    b. Any use allowed in the Commercial Recreation (C-R) Zone.
17. Other uses determined to be appropriate by the Planning Commission.

B. In the A-I-2 Zone:

The following uses are expressly permitted in the A-I-2 Zone:

1. Any use allowed in the A-I-1 Zone, except household hazardous waste facility, recycling business and open yard uses.
2. Auto diagnostic center.
3. Bookkeeping, accounting and/or tax service.
4. Branch bank, branch savings and loan office, credit union or automatic teller machine, subject to the following provisions:
    a. No similar facility is located within three hundred feet (300') of the subject facility.
    b. There shall be no drive-up window or drive-up automatic teller machine.
    c. Services are limited to deposits, check cashing, cashier and travelers checks issuance, acceptance of loan applications and night deposits. Loan applications processing is excluded.
5. Convenience store not exceeding 2,500 square feet in size.
6. Copying and duplicating service.
7. Courier and small package delivery service.
8. Dry cleaning establishment.
9. Mailing service and supply.
10. Motorcycle or bicycle and related accessories sales and repair.
11. New car agency, including accessory repair conducted entirely within a building or enclosed area.
12. Office supply sales.
13. Photographic shop including photographic developing.
14. Printing, lithographing, photocopying or publishing establishment.
15. Restaurant.
16. Secretarial service.
17. Temporary employment service.
18. Used car sales.
19. Any use allowed in the C-R Zone on property immediately west of Frederic Lopez Road (adjacent to the C-R Zone) when developed in conjunction with a use in the area zoned C-R, immediately east of Frederic Lopez Road, as shown in the Airport Industrial Area Specific Plan.
20. Other uses determined to be appropriate by the Planning Commission. (Ord. 5025, 1997; Ord. 4269, 1984; Ord. 3690, 1974.)

29.21.040 Performance Standards.

A. VIBRATION. No equipment, machinery or facility in such establishment shall be operated so as to produce or generate vibration which is perceptible without the aid of instruments, to a person of ordinary, normal sensibilities, at or beyond the boundary or leasehold line of the premises.

B. ODOR. No establishment shall be operated in a manner resulting in the emission of odors to an extent or degree permitting such odor to be detectable at or beyond the boundary or leasehold line of the premises.

C. ACCESSORY OUTDOOR STORAGE. There shall be no outdoor storage permitted, whether permanent or temporary, in the A-I-2 Zone. For the purpose of this Section, a storage tank, bin or other container placed outside shall be construed as constituting outside storage of the contents of such container. Trash containers may be stored outside if screened from public view. (Ord. 5025, 1997.)

29.21.050 Building Height.

Building height shall be established as defined in Section 29.87.050 of this Title. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.21.060 Front Setback.

The front setback shall be established as defined in Section 29.87.055 of this Title. (Ord. 5459, 2008; Ord. 5025, 1997; Ord. 3690, 1974.)

29.21.100 Off-street Parking.

Off-street parking and loading space shall be provided as set forth in Chapter 29.90 of this ordinance. (Ord. 3690, 1974.)

29.21.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 29.23

C-R COMMERCIAL RECREATION ZONE

Sections:

29.23.001 In General.
29.23.005 Legislative Intent.
29.23.030 Uses Permitted.
29.23.050 Building Height.
29.23.060 Front Setback.
29.23.100 Off-street Parking.
29.23.131 Development Potential.

29.23.001 In General.

The following regulations shall apply in the C-R Commercial Recreation Zone unless other-wise provided in this ordinance. (Ord. 5025, 1997.)

29.23.005 Legislative Intent.

It is the intent of this zone classification to provide areas for any use or development, either public or private, providing pleasure, sport, amusement, exercise or other resources affording relaxation or enjoyment, which is operated primarily for financial gain. Because much of the area in the C-R Zone is in the floodway, many of the uses allowed are uses that would be compatible with al-lowed development in the floodway. These include golf, miniature golf and other uses which involve minimal changes to the floodway. (Ord. 5025, 1997.)

29.23.030 Uses Permitted.

The following uses are expressly permitted in the C-R Zone:

A. Commercial Recreation, as defined in this Title.
B. Game Arcade, subject to issuance of a Conditional Use Permit as outlined in Chapter 29.92.
C. Golf course or driving range and related facilities.
D. Health club.
E. Miniature golf course.
F. Outdoor vendor, in association with a commercial recreation use.
G. Pushcart, in association with a commercial recreation use.
H. Restaurant.
I. Restaurant, fast food.
J. Reverse vending machine.
K. Skating rink.
L. As shown in the Airport Industrial Area Specific Plan, any use allowed in the A-I-2 Zone on property immediately east of Frederic Lopez Road (adjacent to the A-I-2 Zone) when developed in conjunction with a use in the area zoned A-I-2, immediately west of Frederic Lopez Road.
M. Other uses determined to be appropriate by the Planning Commission. (Ord. 5025, 1997.)

29.23.050 Building Height.

Building height shall be established as defined in Section 29.87.050 of this Title. (Ord. 5025, 1997.)

29.23.060 Front Setback.

The front setback shall be established as defined in Section 29.87.055 of this Title. (Ord. 5459, 2008; Ord. 5025, 1997.)

29.23.100 Off-street Parking.

Off-street parking and loading space shall be provided as set forth in Chapter 29.90 of this ordinance. (Ord. 5025, 1997.)

29.23.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989, unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 5025, 1997.)

Chapter 29.25

GOLETA SLOUGH RESERVE ZONE

Sections:

29.25.010 In General.
29.25.020 Requirements and Procedures.
29.25.030 Uses Permitted with a Goleta Slough Coastal Development Permit.
29.25.040 Uses Permitted Without a Goleta Slough Coastal Development Permit.
29.25.050 Findings.
29.25.060 Memorandum of Understanding Relating to the Goleta Slough Management Plan.

29.25.010 In General.

The Goleta Slough Reserve Zone is established in order to protect, preserve and maintain the environmentally sensitive habitat areas of the Goleta Slough for the benefit and enjoyment of future generations. The intent of this Chapter is to ensure that any development in or adjacent to any wetland area is designed to preserve the wetland as it exists or improve the habitat values of the Goleta Slough Reserve Zone.

Land classified in the G-S-R Zone may also be classified in another zone. Where a conflict occurs between the provisions in this chapter and other laws or other regulations effective within the City, the more restrictive of such laws or regulations shall apply. (Ord. 4674, 1991; Ord. 4375, 1986.)

29.25.020 Requirements and Procedures.

A. COASTAL DEVELOPMENT PERMIT REQUIRED. In addition to any other permits or approvals required by the City hereafter, a Goleta Slough Coastal Development Permit shall be required prior to commencement of any development within the Goleta Slough Reserve Zone, unless specifically excluded. A Coastal Development Permit under the provisions of Chapter 28.44, shall not be required if the proposed project is only in the G-S-R and S-D-3 Zones; however, a Goleta Slough Reserve Coastal Development Permit shall be required, unless specifically excluded. If a development is in another zone in addition to the G-S-R and S-D-3 zones, both a Coastal Development Permit under this Chapter and under Chapter 28.44 shall be required, unless specifically excluded. If a development is excluded from a Goleta Slough Coastal Development Permit, as stated in Section 29.25.040 of this Chapter, it shall also be excluded from a Coastal Development Permit under Chapter 28.44 of the Municipal Code.

B. PERMIT PROCESS. The regulations set forth in Chapter 28.44 of the Municipal Code, except as they pertain to the application for a separate Coastal Development Permit, shall apply to the processing of a Goleta Slough Coastal Development Permit application.

C. SUBMITTAL REQUIREMENTS. In addition to the information required to be submitted with an application for a Coastal Development Permit, or any other application requirements of the Community Development Department, the following information must be submitted with an application for a Goleta Slough Coastal Development Permit:

1. Development Plan: A development plan, clearly and legibly drawn, the scale of which shall be large enough to show clearly all details thereof and shall contain the following information:

(a) Contour lines of existing grade with a minimum of two (2) foot intervals;

(b) Dimensions of proposed development and location of proposed use with scale, date and north arrow;

(c) Finished grade contours after completion of development or use clearly showing the location of all proposed grading, cut and fill;

(d) The location of proposed access to the development site during construction and after the project is completed;

(e) The location for the stockpiling of any dredged materials or storage of supplies and equipment during or after construction;

(f) Habitat mapping and impact assessment by a qualified wetland biologist identifying all upland and wetland habitat locations within at least 100 feet from any development, access way, storage site or disturbed area and discussion of any impacts to the wetland or the 100 foot buffer along the periphery of the wetland. Wetland delineations shall be prepared in accordance with the definitions of Section 13577(b) of Title 14 of the California Code of Regulations;

(g) An identification of habitat area that supports rare, threatened, or endangered species that are designated or candidates for listing under State or Federal law, “fully protected” species and/or “species of special concern,” and plants designated as rare by the California Native Plant Society;

(h) Water Quality Mitigation Plan (WQMP) and Stormwater Pollution Prevention Plan (WQMP) and Stormwater Pollution Prevention Plan (SWPP) details consistent with the criteria of LUP Policies C-12 and C-13.

2. Written description of the project including the purpose of the project and an anticipated schedule for construction and completion.

3. Elevations of the proposed structure from all sides.

4. Written comment on the proposed use or development from the State of California Department of Fish and Game. Review by the Department of Fish and Game shall be coordinated through the City of Santa Barbara Community Development Department Staff.

5. An identification and description of rare, threatened, or endangered species, that are designated or candidates for listing under State or Federal law, and identification of "fully protected" species and/or "species of special concern," and plants designated as rare by the California Native Plants Society, and avoidance, mitigation, restoration and monitoring measures/plan details consistent with the criteria of LUP Policies C-14 and C-15; and

6. Written description and impact assessment of sensitive archaeological or other culturally sensitive resources and details of avoidance, mitigation and monitoring measures necessary to avoid potential impacts.

7. Other information reasonably required by the Community Development Department.

D. NOTICING. Refer to Chapter 28.44 for noticing requirements. (Ord. 5417, 2007; Ord. 5267, 2003; Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986.)

29.25.030 Uses Permitted with a Goleta Slough Coastal Development Permit.

The following uses are permitted in the Goleta Slough Reserve Zone upon the issuance of a Goleta Slough Coastal Development Permit unless specifically exempted.

A. Restoration projects in which restoration and enhancement are the sole purposes of the project.

B. Incidental public service purposes, including but not limited to, installation, burying cables and pipes or inspection of piers, and maintenance of existing intake and outfall lines, where the project is necessary to maintain an existing public service and where it has been demonstrated that there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

C. Nature study, bird watching, aquaculture, or other similar resource dependent activities.

D. Alteration of rivers or streams only for the following purposes:

1. Necessary water supply projects; or

2. Flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; or

3. Developments where the primary function is the improvement of fish and wildlife habitat.

E. Repair or maintenance activities of existing areas or facilities which do not result in an addition to or enlargement or expansion of the object of such repair or maintenance, unless exempted under Municipal Code Subsection 29.25.040.A.

F. Other uses deemed consistent with the intent and purposes of this Chapter and allowed under Public Resources Code Section 30233. (Ord. 5267, 2003; Ord.4674, 1991; Ord. 4375, 1986.)

29.25.040 Uses Permitted Without a Goleta Slough Coastal Development Permit.

A Goleta Slough Coastal Development Permit is not required for the following activities and uses:

A. Maintenance Activities:

1. Trimming of vegetative growth within the extended runway safety area and flight control area in accordance with FAA regulations, as required.

2. Mowing of grass and maintenance in accordance with FAA requirements of areas directly adjacent to and parallel to the runways and taxiways within 135 feet of the existing paved surface.

3. Maintaining the existing approach lighting system and access road, the existing glide slope, the existing Airport Surveillance Radar and access road, the existing Airport patrol road running along the perimeter of the Slough, and safety related facilities and uses necessary to maintain existing airport capacity and operations.

4. On-going mosquito abatement and related maintenance activities such as monitoring of adult and larval mosquito activity including weekly surveillance and collections at likely breeding locations and control measures which consist primarily of hand spraying of larvicidal oil.

5. Utilities existing at the time of the initial adoption of this Section.

B. Public access to the Slough for educational purposes or bird watching when the individual or group has complied with the following Slough Public Access procedures. Any person wishing to enter the Goleta Slough who is not an employee of the City of Santa Barbara, the Goleta Valley Mosquito Abatement District, the Santa Barbara Flood Control District or the California Department of Fish and Game shall complete a "Santa Barbara Municipal Airport/Goleta Slough Access Release, Indemnity and Assumption of Risk Agreement" and have said form approved by the Santa Barbara Municipal Airport Director prior to entering the Goleta Slough.

C. Activities In Areas Designated as SBa-52:

1. Maintenance of the Indian burial site as specified in Agreement #11,256 between the City of Santa Barbara and the Indian Center of Santa Barbara, Inc.; and

2. Re-interment of Native American human burial remains found during archaeological work or from archaeological sites as specified in Agreement #11,256 between the City of Santa Barbara and the Indian Center of Santa Barbara, Inc.

Additional activities such as the clearing of channels, digging of ditches, desilting, and dredging activities shall require a Goleta Slough Coastal Development Permit. (Ord. 5267, 2003; Ord. 4723, 1991; Ord. 4674, 1991; Ord. 4375, 1986.)

29.25.050 Findings.

Prior to the approval of a Goleta Slough Coastal Development Permit by the Planning Commission, or City Council upon appeal, all of the following must be found:

A. The project is consistent with the City's Coastal Land Use Plan and all applicable provisions of the Code.

B. The project is consistent with the policies of the California Coastal Act.

C. The proposed use is dependent upon the resources of the environmentally sensitive area or the proposed use is found to be consistent with Section 30233 of the Coastal Act.

D. Development in areas adjacent to an environmentally sensitive area shall be designed to prevent impacts which would significantly degrade such area and shall be compatible with the continuance of such habitat.

E. A natural buffer area of 100 feet will be maintained in an undeveloped condition along the periphery of all wetland areas. Where development of the Airfield Safety Projects renders maintenance of a 100 foot buffer area between new development and delineated wetlands infeasible, the maximum amount of buffer area is provided and all impacts to wetland habitat will be mitigated to the maximum extent feasible such that no net loss of wetland habitat occurs.

F. The proposed use shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific and educational purposes.

G. The proposed project includes adequate impact avoidance and mitigation measures to ensure protection of rare, threatened, or endangered species, that are designated or candidates for listing under State or Federal law, “fully protected” species and/or “species of special concern,” and plants designated as rare by the California Native Plan Society.

H. There is no less environmentally damaging alternative to the proposed development, all feasible mitigation measures have been provided to minimize adverse environmental effects and, if applicable:

1. All dredged spoils shall be removed from the wetland area to avoid significant disruption to wildlife habitat and water circulation.

2. Diking, filling or dredging in the Goleta Slough shall maintain or enhance the functional capacity of the wetland or estuary.

I. Channelizations or other substantial alteration of rivers and streams shall incorporate the best mitigation measures feasible.

J. Archaeological or other culturally sensitive resources within the Goleta Slough are protected from impacts of the proposed development.

K. The proposed use shall minimize any adverse effects of wastewater discharges, run-off and interference with surface water flow.

L. Sedimentation from the proposed development has been reduced to a minimum and is compatible with the maintenance of the wetland area.

M. The proposed project enhances public educational or recreational opportunities at the Goleta Slough including, but not limited to:

1. Providing area(s) and facilities on the periphery of the wetland for recreational and educational use of the Slough; or,

2. Developing educational tour routes and procedures for such tours in dry land areas of the Slough. Educational/explanatory signs shall be included as part of any walking tour or viewing facilities project. (Ord. 5267, 2003; Ord. 4674, 1991; 4375, 1986.)

29.25.060 Memorandum of Understanding Relating to the Goleta Slough Ecological Reserve and the Goleta Slough Management Plan.

The City shall enter into a binding agreement with the State Department of Fish and Game, or successor agency, to establish the Slough as a part of an ecological preserve system for the purpose of management, preservation, enhancement, and where feasible restoration of the Goleta Slough.

The City shall participate in a management plan for the ecological management of the Slough. The plan should provide for management, preservation, enhancement, and where feasible, restoration of the Goleta Slough. (Ord. 4674, 1991.)

Chapter 29.30

AIRPORT INDUSTRIAL AREA SPECIFIC PLAN (SP-6) ZONE

Sections:

29.30.005 Legislative Intent.
29.30.030 Uses Permitted.
29.30.090 Other Regulations.

29.30.005 Legislative Intent.

It is the purpose of the Airport Industrial Area Specific Plan (SP-6) Zone to establish the boundaries of a Specific Plan area on the northern portion of the Santa Barbara Municipal Airport property. The boundaries are included in the Specific Plan, which is a separate document and is incorporated herein by reference. This Specific Plan sets out development policies and actions for this area. (Ord. 5025, 1997.)

29.30.030 Uses Permitted.

The uses permitted in the SP-6 Zone are outlined in the various zones established at the Air-port. (Ord. 5025, 1997.)

29.30.090 Other Regulations.

A. The portion of the Specific Plan that is located north of Hollister Avenue shall be effective upon adoption of the Airport Industrial Area Specific Plan and the establishment of the SP-6 Zone. The portion of the Specific Plan that is located south of Hollister Avenue and, therefore, in the Coastal Zone, shall be effective upon certification by the California Coastal Commission.

B. For vacant parcels at the Santa Barbara Municipal Airport, development allowed on such vacant parcels under the provisions of Chapter 28.85 of this Code may be relocated to other City-owned parcels at the Airport if it can be found that the vacant parcel from which the potential square footage is being relocated shall be used for: 1) parking; 2) required open space; 3) Airport operations such as those allowed in the A-A-O Zone described in Chapter 29.12; 4) open space; or 5) wetland protection or mitigation in the G-S-R Zone described in Chapter 29.25 of this Code or other similar non-habitable uses. Otherwise, vacant land square footage is subject to all other provisions of Chapter 28.85 of Title 28 of this Code.

C. Small additions allowed at the Airport under Chapter 28.85 may be relocated to other City-owned parcels at the Airport even though such relocation may result in more than one small addition on a given parcel. Otherwise, small additions are subject to all other provisions of Chapter 28.85 of Title 28 of this Code. (Ord. 5609, 2013; Ord. 5025, 1997.)

Chapter 29.87

GENERAL PROVISIONS

Sections:

29.87.001 General Provisions.
29.87.003 Conflicting Regulations.
29.87.010 Construction and Maintenance of Site and Buildings.
29.87.031 Less Restrictive Uses Prohibited.
29.87.032 Additional Permitted Uses.
29.87.033 Exclusion of Permitted Use.
29.87.035 Nonconforming Buildings and Uses.
29.87.038 Reconstruction of Damaged Nonconforming Buildings.
29.87.040 Building Under Construction.
29.87.046 Location of Building.
29.87.050 Building Height.
29.87.055 Required Front Setbacks.
29.87.060 Setback Encroachments.
29.87.068 Landscaping in Front Setback.
29.87.150 Utilities.
29.87.170 Fences, Walls and Hedges.
29.87.180 Mobilehomes and Recreational Vehicles - Prohibited Uses.
29.87.190 Storage.
29.87.195 Landscaping Requirements.
29.87.200 Landscape or Planting Plan Approvals - Standards.

29.87.001 General Provisions.

The regulations specified in this ordinance shall be subject to the following interpretations and exceptions. (Ord. 3690, 1974.)

29.87.003 Conflicting Regulations.

Where any provisions of this ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provision of this ordinance shall govern. (Ord. 3690, 1974.)

29.87.010 Construction and Maintenance of Site and Buildings.

Following approval of the required plot plan and landscaping plan, the lessee of such site shall construct said buildings and install such landscaping in accordance with said plans and without material or substantial deviation therefrom. In addition, said buildings and landscaping shall be thereafter maintained in a clean and orderly condition in order that said leasehold or establishment, or any part thereof, shall not become offensive or obnoxious to persons occupying properties in sight or view thereof, or traveling on the adjacent streets. (Ord. 5025, 1997.)

29.87.031 Less Restrictive Uses Prohibited.

The express enumeration and authorization in this ordinance of a particular class of building, structure, premises or use in a designated zone shall be deemed a prohibition of such building, structure, premises or use in all zones of more restrictive classification, except as otherwise specified. (Ord. 3690, 1974.)

29.87.032 Additional Permitted Uses.

Uses other than those specifically mentioned in this ordinance as uses permitted in each of the zones may be permitted therein, provided such uses are similar to those mentioned and are in the opinion of the City Council not more obnoxious or detrimental to the welfare of the community than the permitted uses in the respective zones. The City Council may approve such uses by ordinance amendment after a recommendation has been received from the Airport Zoning Commission. (Ord. 3690, 1974.)

29.87.033 Exclusion of Permitted Use.

The City Council after a recommendation has been received from the Airport Zoning Commission may, by ordinance amendment, exclude any permitted use from any zone if in the opinion of the City Council it is obnoxious or detrimental to the welfare of the community. (Ord. 3690, 1974.)

29.87.035 Nonconforming Buildings and Uses.

The following regulations shall apply to all nonconforming buildings and structures or parts thereof and uses legally existing at the effective date of this ordinance:

A. Any such nonconforming building or structure may be continued and maintained provided there is no physical change other than necessary maintenance and repair in such building or structure, except as permitted in other sections of this Chapter.

B. Any such nonconforming use of a conforming building may be maintained and continued provided there is no increase or enlargement of the area, space or volume occupied or devoted to such nonconforming use, except as otherwise provided in this Chapter.

C. Any part of a building, structure or land occupied by such a nonconforming use which is changed to or replaced by a use conforming to the provisions of this Chapter shall not thereafter be used or occupied by a nonconforming use.

D. Any part of a building, structure or land occupied by such a nonconforming use, which use is abandoned, shall not again be used or occupied for a nonconforming use. Any part of a building structure or land occupied by such a nonconforming use, which use is discontinued or ceases for a period of one (1) year or more, shall not again be used or occupied for a nonconforming use.

E. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification.

F. The foregoing provisions of this Section shall also apply to building, structures, land or uses which hereafter become nonconforming due to any reclassifications of zones under this Title or any subsequent change in the regulations of this Title; provided, however, that where a period of years is specified in this Section for the removal of nonconforming uses, said period shall be computed from the date of such reclassification or change.

G. The provisions of this Chapter concerning the physical change, abandonment, structural alteration, removal, discontinuance, reconstruction, repairing or rebuilding of nonconforming buildings, structures and uses shall not apply to public utility buildings, structures and uses. Nothing in this Chapter shall be construed or applied so as to prevent the expansion, modernization or replacement of public utility buildings, structures, equipment and facilities where there is no change of use or increase in area of the property so used.

H. Nothing in the above provisions shall be construed to prohibit any additions or alterations to a nonconforming structure as may be reasonably necessary to comply with any lawful order of any public authority made in the interest of the public health, welfare, safety or morals.

I. Nonconforming uses resulting from amendments. The provisions of this Chapter shall apply to uses which become nonconforming by reason of any amendment to this Title, as of the effective date of such amendment. (Ord. 5025, 1997; Ord. 4674, 1991; Ord. 4375, 1986; Ord. 3690, 1974.)

29.87.038 Reconstruction of Damaged Nonconforming Buildings.

A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, to the extent of not more than seventy-five percent (75%) of its occupancy or use of such building, structure or part thereof which existed at the time of such partial destruction may be continued or resumed, provided the total cost of such restoration as determined by the Chief of Building and Zoning does not exceed seventy-five percent (75%) of the current market value according to the Assessor's records of the County of Santa Barbara of the building or structure at the time of such damage, and that such restoration is started within a period of one (1) year and is diligently prosecuted to completion. In the event such damage or destruction exceeds seventy-five percent (75%) of the current market value of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all the regulations for new buildings in the zone in which it is located. (Ord. 3690, 1974.)

29.87.040 Building Under Construction.

Any building or structure for which a building permit has been issued, and actual construction has begun, prior to the effective date of this ordinance, may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is diligently pursued to completion, and provided further that such building or structure shall be completed within two (2) years from the effective date of this ordinance. (Ord. 3690, 1974.)

29.87.046 Location of Building.

Except where otherwise provided for in this ordinance, every main building shall face or have frontage upon a public street or permanent means of access to a public street. (Ord. 3690, 1974.)

29.87.050 Building Height.

A. No building or structure shall contain more than three (3) stories nor exceed a height of forty-five feet (45'), as defined in Chapter 28.04 of Title 28 of this Code. In any case, if the height limit in Subsection C. below is more restrictive, it shall supersede the height limit stated in this Sub-section A.

B. Aircraft hangars may not exceed sixty feet (60') in height, as defined by Section 29.04.150 (Hangar Height) of this Title. In any case, if the height limit in Subsection C. below is more restrictive, it shall supersede the height limit stated in this Subsection B.

C. The height limits are modified by the approach, transitional and horizontal surfaces, the dimensions of which are determined by the FAA in the Federal Aviation Regulations Part 77, or their successors. No structure shall be erected, moved, altered or reconstructed, nor shall any plant or tree be allowed to grow in such a manner that the height thereof, including all superstructures and appurtenances, will exceed the height limits imposed in this Section. The Airport Director shall verify compliance with this requirement. These height limits are declared necessary in order to reduce to a minimum the hazard to safe landing and take-off of aircraft using the Airport. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.87.055 Required Front Setbacks.

A. Measurement of all front setbacks shall be taken from the face of the curb. If there is no existing curb, the measurement shall be as listed below plus one-half of the width of the adjacent street, measured from the center of the travelled way.

B. A front setback shall be required for all buildings, as follows:

1. The minimum front setback on Hollister Avenue, Fairview Avenue, Los Carneros Road and the first 200 feet north of Hollister Avenue on David Love Place and Frederic Lopez Road shall be twenty feet (20').

2. The minimum front setback on all other roads shall be ten feet (10') for the first story of any structure and twenty feet (20') for the second and third stories of all buildings. (Ord. 5459, 2008; Ord. 5025, 1997.)

29.87.060 Setback Encroachments.

Where setbacks are required in this ordinance, they shall not be less in depth or width than the minimum dimensions specified for any part, and they shall be at every point unobstructed by structures from the ground upward, except as follows:

A. Cornices, canopies, chimneys, eaves or other similar architectural features not providing additional floor space within the building may extend into any required setback not to exceed two feet (2').

B. Porches, terraces and outside stairways, unroofed, unenclosed above and below floor or steps, and not extending above the level of the first floor, may project not more than three feet (3') into any required interior setback. (Ord. 5459, 2008; Ord. 3690, 1974.)

29.87.068 Landscaping in Front Setback.

The front setback shall be used only for landscaping, except that such area may contain pedestrian walkways and reasonable vehicular ways of ingress and egress to and from abutting streets. (Ord. 5459, 2008; Ord. 5025, 1997; Ord. 3690, 1974.)

29.87.150 Utilities.

A. All utility, transmission and communication lines, wires, cables, pipes and conduits, together with all related equipment, shall be installed underground or within a building unless outside exposure is necessary to the proper functioning of such equipment (e.g., telephone utility lines and gas meters must be inside a building or underground, whereas antennae and fireplugs may be outside).

B. Antennas shall be subject to all applicable provisions of Title 28 of this Code. (Ord. 5025, 1997.)

29.87.170 Fences, Walls and Hedges.

A. In the A-C, A-F and A-A-P Zones, no fence, screen, wall or hedge located in a setback shall exceed a height of six feet (6').

B. In the A-C, A-F and A-A-P Zones, no fence, screen, wall or hedge exceeding a height of three and one-half feet (3-1/2') shall be located:

1. Within ten feet (10') of a front lot line.

2. Within ten feet (10') of either side of a driveway for a distance of twenty feet (20') back from the front lot line.

C. In the A-C and A-F Zones, no fence, screen, wall or hedge located within fifty feet (50') of a street corner and within the front setback shall exceed a height of three and one-half feet (3-1/2') measured from the edge of the vehicular travelled way as determined by the Traffic Engineer; provided that where any fence, screen, wall or hedge within fifty feet (50') of any corner impairs the visions of drivers of vehicles approaching on the intersecting street, the Community Development Director may further limit the height of construction by the terms of the permit issued to the applicant so as to prevent such impairment of vision.

D. In any zone, no barbed wire shall be used or maintained in or about the construction of a fence, screen, wall or hedge along any lines of any lot, or within three feet (3') of said lines, and no sharp wire or points shall project at the top of any fence or wall six feet (6') or less in height. (Ord. 5459, 2008; Ord. 3690, 1974.)

29.87.180 Mobilehomes and Recreational Vehicles - Prohibited Uses.

A. No recreational vehicle or mobilehome shall be used or occupied for living or sleeping purposes.

B. No recreational vehicle or mobilehome shall be used for office, retail or any other commercial purpose except in the following situations:

1. A mobilehome or commercial coach may be used as a sales office for a new or used mobile-home or recreational vehicle sales business if such mobilehome or commercial coach is on the same lot or parcel of land where the business is located and if, on such same lot or parcel of land, new or used mobilehomes or recreational vehicles, other than the mobilehome or commercial coach used for a sales office, are normally kept for display to the public.

2. A mobilehome, recreational vehicle or commercial coach may be used as a construction shack at the site of a construction project for the duration of such project.

C. The conforming use of a mobilehome, recreational vehicle or commercial coach which is made non-conforming by the provisions of this ordinance shall be terminated and discontinued by the owner or possessor of such mobilehome, recreational vehicle or commercial coach within six (6) months of the effective date of this ordinance.

D. For the purposes of this Section, commercial coach has the definition set forth in Section 18001.8 of the California Health and Safety Code, as same may be amended from time to time. (Ord. 4269, 1984; Ord. 3690, 1974.)

29.87.190 Storage.

A. No portion of any front yard shall be used for the permanent storage of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, loose rubbish or garbage, junk, tents, garbage or rubbish receptacles, or building materials except as hereinafter provided. Permanent storage, as used in this section, shall mean storage for a period of forty-eight (48) or more consecutive hours. No portion of any vacant or undeveloped lot shall be used for permanent storage.

B. Building materials for use on the same premises may be stored thereon during the time that a valid permit is in effect for construction on the premises. (Ord. 3690, 1974.)

29.87.195 Landscaping Requirements.

A. The landscape development plan shall include a landscaped area equal to not less than fifteen percent (15%) of the area of the leasehold or parcel, including landscaping, within required setbacks, walkways and bikeways, but excluding paved areas for vehicular use. At least one (1) shade tree for each two thousand (2,000) square feet of such paved area shall be provided. Paved areas used for movement and storage of aircraft shall not be included in the area of the leasehold or parcel for purposes of calculating required landscaped area.

B. All planting areas shall be maintained in a manner that will sustain normal growth. (Ord. 5459, 2008; Ord. 5025, 1997; Ord. 3690, 1974.)

29.87.200 Landscape or Planting Plan Approvals - Standards.

Whenever in the Airport Zoning Ordinance, as amended, the administrative duty of reviewing and approving landscaping or planting plans is placed upon any officer, board, commission or employee of the City, such officer, board, commission or employee may disapprove such plans, or any part of them if:

A. Any or all of the proposed plant materials are of the type having root structures which, in their natural and anticipated extension and growth, and in relation to their location as shown on the plans, may damage or interfere with the normal use and enjoyment of:

1. Clear Zones and aircraft traffic areas.
2. Public or private lines, cables, conduits, pipes or other underground structures.
3. Public or private sidewalks, curbs, gutters or hard surfaced roads, streets, driveways, parking and turnaround areas, easements or like things designed and constructed to accommodate vehicles.
4. Adjacent structures, foundations or landscape materials;

B. Any or all of the proposed plant materials:

1. Are noxious or dangerous to persons or domestic animals.
2. Exude or emit substances or things which, because of proposed location, will probably injure or damage real or personal property in the area of their effect.

3. Are weeds which bear seeds of a downy or wingy nature.

C. Any or all of the proposed plant materials, because of proposed locations and type, will contribute to the spread of or make more hazardous the possibility of a brush fire;

D. Any or all of the proposed materials which are designed for relatively permanent emplacement will probably die because of proposed locations poorly related to their ecological requirements;

E. Any or all of the proposed plant materials, as affected by normal growth, will probably block the view, sunlight or fresh air flow otherwise available at a window or other opening in the walls of a building on the property or of a building on adjacent property;

F. Any or all of the proposed plant materials are so arranged or placed so as not to produce the aesthetic result desired by the property owner or lessee;

G. Any or all of the proposed plant materials are in such combinations as to promote a natural competition for the elements necessary to their healthy growth and thus seriously affect their stability or permanence;

H. Any or all of the proposed plant materials, as affected by normal growth, will tend to become a nuisance to or otherwise interfere with the free use and enjoyment of neighboring property;

I. Any or all of the proposed plant materials, as affected by normal growth, and with reference to their proposed location, will probably become obstructions to the vision of vehicle operators or to other uses of public streets and places, as such obstructions are defined and regulated under the provisions contained in Chapter 12.08 of the Code of the City of Santa Barbara. (Ord. 3690, 1974.)

Chapter 29.90

AUTOMOBILE PARKING REQUIREMENTS

Sections:

29.90.001 General.
29.90.012 Parking Requirements.

29.90.001 General.

The standards and regulations for parking as set forth in Title 28, Chapter 28.90 of the Zoning Ordinance of the City of Santa Barbara, shall apply to the Santa Barbara Municipal Airport. (Ord. 5025, 1997; Ord. 3690, 1974.)

29.90.012 Parking Requirements.

A. PARKING REQUIREMENTS FOR SPECIFIC USES: In any zone, parking space requirements for new or expanded uses shall be provided in the following ratios for specific types of use:

PARKING REQUIREMENTS FOR SPECIFIC USES		
USE	**PARKING REQUIREMENT1**	**BICYCLE PARKING REQUIRED2**
Automobile Repair	3	No
Aviation Facilities	1 space/250 sf for office and retail square footage only	Yes
Commercial Recreation	Case by Case	
Convenience Store	1 space/250 sf	Yes
Heavy Equipment, Including Large Truck, Repair	1 space/5,000 sf of land area	No
Industrial, Manufacturing and Research and Development	1 space/500 sf	Yes
Landscape Nursery	1 space/2,000 sf of land area	Yes
Movie Theater	1 space/4 seats	Yes
New and Used Automobile Sales	Case by Case4	No
Office	1 space/250 sf	No
Open Storage Yard Uses	1 space/250 sf of office and retail plus 1 space/5,000 sf of land area	Yes
Restaurant, Fast Food	1 space/100 sf	Yes
Restaurant, Sit Down	1 space/250 sf or 1 space/3 seats, whichever is greater	Yes
Retail	1 space/250 sf	Yes
Warehouse	1 space/250 sf of office and retail plus 1 space/2,000 sf	Yes

1 Parking space requirements are for building square footage unless otherwise indicated.
2 Bicycle parking requirement is one (1) space for every seven (7) automobile parking spaces.
3 As much paved area for outside storage and parking of vehicles as there is area used for servicing of vehicles.
4 Parking requirements shall be determined on a case by case basis by the City Transportation and Parking Manager in consultation with the Community Development Director.

B. PARKING REQUIREMENTS FOR SPECIFIC ZONES:

1. A-A-O Zone: Parking is not allowed in this zone.

2. G-S-R Zone: Parking is not allowed in this zone, except in association with an allowed use which requires parking.

C. BUILDINGS IN EXCESS OF 10,000 SQUARE FEET. For industrial, manufacturing, research and development and office uses, a reduction of the required parking will be allowed for those buildings or building complexes containing in excess of 10,000 square feet of floor area at the following rate:

1. Buildings or building complexes containing 10,000 to 30,000 square feet shall provide ninety percent (90%) of the required parking.

2. Buildings or building complexes containing 30,001 to 50,000 square feet shall provide eighty percent (80%) of the required parking.

3. Buildings or building complexes containing in excess of 50,000 square feet shall provide seventy percent (70%) of the required parking.

If a project is developed in phases, parking shall be provided to meet the full demand of the initial phase or phases. The reduction will occur as later phases are built. (Ord. 5025, 1997; Ord. 3690, 1974.)

Chapter 29.92

VARIANCES, MODIFICATIONS, CONDITIONAL USE PERMITS AND ZONE CHANGES

Section:

29.92.001 Variances, Modifications, Conditional Use Permits and Zone Changes.

29.92.001 Variances, Modifications, Conditional Use Permits and Zone Changes.

The regulations set forth in Chapters 28.92 and 28.94 of Title 28, the Zoning Ordinance, shall apply to the granting of variances, modifications, conditional use permits and zone changes. (Ord. 5025, 1997; Ord. 3690, 1974.)

Chapter 29.96

ZONING UPON ANNEXATION

Section:

29.96.001 Zoning Upon Annexation.

29.96.001 Zoning Upon Annexation.

The regulations set forth in Chapter 28.96 of Title 28, the Zoning Ordinance, shall govern zoning upon annexation. (Ord. 5025, 1997; Ord. 3690, 1974.)

Chapter 29.97

OCCUPANCY

Section:
29.97.001 Certificate of Occupancy.

29.97.001 Certificate of Occupancy.

Certificates of Occupancy shall be required as set forth in Chapter 28.97 of Title 28, the Zoning Ordinance (Part 27 of Ordinance No. 2585). (Ord. 3690, 1974.)

Chapter 29.98

ENFORCEMENT

Section:
29.98.001 Enforcement.

29.98.001 Enforcement.

The duties and procedures for enforcement shall be as set forth in Chapter 28.98 of Title 28, the Zoning Ordinance. (Ord. 5025, 1997; Ord. 3690, 1974.)

Chapter 29.99

VALIDITY

Sections:
29.99.002 Validity.

29.99.002 Validity.

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 3690, 1974.)