

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

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Chapter 5.04

BUSINESS LICENSE TAX

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5.04.010 Definitions. For the purpose of this chapter, the following words shall have the following meanings:

A. "Business" means professions, trades and occupations, and all and every kind of calling carried on for profit or livelihood.

B. Gross Receipts.

1. "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 act, service or employment is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in gross receipts shall be all receipts, cash, credits and property of any kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction there from on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from gross receipts shall be cash discounts allowed and taken on sales, any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, and such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit.

2. Businesses doing business both inside and outside the city may apply to the city clerk to apportion gross receipts to fairly reflect those portions of taxed activities actually carried on in the city. In such cases "gross receipts" as used in this chapter shall be those portions of taxed activities specified in subdivision 1 of this subsection actually carried on in the city.

C. "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. (Ord. 84-18 §1, 1984; Ord. 71-68 §1, 1971)

5.04.020 Revenue measure. The ordinance codified in this chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation; nor is the licensing of any business, trade or calling under this chapter to be construed as authorizing or sanctioning any departure or failure to comply with the licensing provisions of the state of California or the United States of America. (Ord. 71-68 §2, 1971)

5.04.030 Substitute for other revenue ordinances. Any person required to pay a license tax for transacting and carrying on any business under this chapter shall be relieved from the payment of any license tax for the privilege of doing such business which has been required under any other ordinance of the city, but shall remain subject to the regulatory provisions of such other ordinances. This section shall not apply to inspection fees. (Ord. 71-68 §3, 1971)

5.04.040 Effect of ordinance on past actions and obligations previously accrued. Neither the adoption of the ordinance codified in this chapter or its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any ordinance committed prior to the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license or any penal provisions applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and any and all rights and obligations thereunto appertaining shall continue in full force and effect. (Ord. 71-68 §4, 1971)

5.04.050 License required. License taxes are levied upon all businesses, trades, professions, callings and occupations in the city in the amounts prescribed in this chapter, and it shall be unlawful for any person to transact and carry on any business in the city without first having procured a license from the city to do so or without complying with any and all applicable

provisions of this chapter. Contractors who do not maintain a fixed place of business within the city shall be required to obtain a license and pay the tax specified by this chapter with respect to any contract performed by said contractor within the city. (Ord. 71-68 §5, 1971)

5.04.060 Separate licenses for branch establishments. A separate license must be obtained for each branch establishment or location of the business transacted and carried on, for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed; provided, that the warehouses and distributing plants used in connection with or incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. (Ord. 71-68 §6, 1971)

5.04.070 Enforcement. It shall be the duty of the chief of police, and he is directed to enforce each and all of the provisions of this chapter, and it shall be his duty to cause a complaint to be filed against any and all persons found to be violating any of the provisions of this chapter. (Ord. 71-68 §31, 1971)

5.04.080 Tax amount deemed debt to city. The amount of any license tax imposed by the provisions of this chapter shall be deemed to be a debt to the city, and any person carrying on any business without first having procured a license to do so from the city, shall be liable in an action in the name of the city brought in any court of competent jurisdiction, for the amount of the license tax imposed upon such business. (Ord. 71-68 §32, 1971)

5.04.090 Official acts performed by city clerk. All of the provisions of this chapter providing for the performance of official action on the part of the tax collector, shall be performed by the city clerk. (Ord. 71-68 §33, 1971)

5.04.100 License issuance--Copy to clerk. The license collector immediately upon the issuance of any license under the provisions of this chapter shall forward a copy thereof to the city clerk, who may cause an investigation to be made of the person and premises licensed to ascertain that all applicable laws of the state of California and provisions of the municipal code of the city are being observed. (Ord. 71-68 §34, 1971)

5.04.110 Police clearance and investigative report--Fee. Any person who is required to receive a clearance and investigative report from the police department, including fingerprinting and/or other investigation, shall pay a fee of three dollars for this service. It is expressly provided that this fee is not a license tax or fee; it shall be solely to cover the cost of enforcement of the regulatory act and procedure. (Ord.71-68 §35, 1971)

5.04.120 Certain applicants required to obtain clearance. All solicitors, hawkers, peddlers and itinerant vendors shall be required to obtain police clearance. (Ord. 71-68 §36, 1971)

5.04.130 Exemptions.

A. Constitution or Statutes of the United States or the state of California. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business except by virtue of the Constitution or applicable provisions or statutes of the United States or of the state of California from the payment to municipal corporations of such license taxes as are prescribed in this chapter.

B. Produce of Farmers. No license tax shall be required of any person for the sale of fruits or vegetables raised by such person upon the lands located within the county.

C. Claim for Exemption. Any person claiming an exemption pursuant to this section shall file a verified statement with the city clerk stating the facts upon which exemption is claimed. The city clerk shall upon a proper showing contained in said verified statement, issue a license to such person claiming exemption without payment to the city of the license tax required by this chapter.

D. Charitable Institutions. Organizations of a nonprofit or charitable nature shall be exempt from the payment to the city of a license tax required by this chapter, upon the filing of a verified statement with the city clerk stating the facts upon which exemption is claimed. Exemption shall not be granted where the profits of the organization or group go to or are for the benefit of any particular individual. To qualify for exemption, an applicant organization or group must be able to qualify as a nonprofit and/or charitable organization as such terms are used in the Constitution and statutes of the state of California. (Ord. 71-68 §7, 1971)

5.04.140 Application. Every person required to have a license under the provisions of this chapter shall make application for the same to the tax collector of the city, and upon the payment of the prescribed law, the tax collector shall issue to such person a license which shall contain:

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

D. The date of expiration of said license; and

E. Such other information as may be necessary for the enforcement of the provisions of this chapter. (Ord. 71-68 §8, 1971)

5.04.150 Affidavit for first license.

A. Upon a person making application for the first license to be issued under this chapter or for a newly established business, in all cases where the amount of the license tax to be paid is based upon gross receipts, such person shall furnish to the tax collector for his guidance in ascertaining the amount of license tax to be paid by the applicant, a written statement, upon a form provided by the city clerk, sworn to before a person authorized to administer oaths, setting forth such information as may be therein required and as may be necessary properly to determine the amount of the license tax to be paid by the applicant.

B. If the amount of the license tax to be paid by the applicant is based upon the gross receipts, he shall estimate the gross receipts for the period to be covered by the license to be issued. Such estimate, if accepted by the tax collector as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall within thirty days after the expiration of the period for which such license was issued, furnish the tax collector with a sworn statement, upon a form furnished by the city clerk, showing the gross receipts during the period for such license and the license tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due, the amount paid at the time such first license was issued.

C. The tax collector shall not issue to any such person another license for the same or any other business until such person shall have furnished him the written statement and paid the license tax as required in this chapter. (Ord. 71-68 §9, 1971)

5.04.160 Renewal license--Statement. In all cases, the applicant for the renewal of a license shall submit to the tax collector for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a written statement upon a form to be provided by the city clerk, sworn to before a person authorized to administer oaths, setting forth such information concerning the applicant's business during the preceding calendar year as may be required by the tax collector to enable him to ascertain the amount of the license tax to be paid by said applicant pursuant to the provisions of this

chapter. (Ord. 71-68 §10, 1971)

5.04.170 Renewal statement not conclusive. No statement shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable under this chapter. Such statement and each of the several items contained therein shall be subject to audit and verification by the tax collector, his deputies or authorized employees of the city, who are authorized to examine, audit and inspect such books and records of any licensee or applicant for amount of license fee due. All licensees, applicants for license, and persons engaged in business in the city are required to permit an examination of such books and records for the purpose stated in this section. The information furnished or procured pursuant to this section or Sections 5.04.150 and 5.04.160 shall be confidential. Any unwarranted disclosures or use of such information by any officer or employee of the city shall constitute a misdemeanor and such officer or employee shall be subject to the penal provisions of this chapter. (Ord. 71-68 §11, 1971)

5.04.180 Failure to file renewal statement. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the tax collector, he fails to file a correct statement, the tax collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain. In case such a determination is made, the tax collector shall give notice of the amount so assessed by serving it personally or depositing it in the United States Post Office, postage prepaid, addressed to the person so assessed at his last known address. Such person may within ten days after the mailing or service of such notice make application, in writing, to the tax collector for a hearing on the amount of the license tax. If such application is made within the time prescribed, the tax collector must cause the matter to be set for hearing within fifteen days before the city council. The city clerk shall give at least ten days notice to such person of the time and place of hearing in the manner prescribed above for the service of notice of assessment. The city clerk shall consider all evidence produced, and written notice of its findings thereon, which findings shall be final, shall be served upon the applicant in the manner prescribed above for service of notice of assessment. (Ord. 71-68 §12, 1971)

5.04.190 Appeals. Any person aggrieved by any decision of an administrative officer or agency in respect to the issuance or refusal to issue such license may appeal to the city council by filing a notice of appeal with the clerk of the council within thirty days of the date of said decision. The council shall thereupon fix a time and place for hearing such appeal. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post

Office, postage prepaid, addressed to such person at his last known address. (Ord. 84-18 §2, 1984; Ord. 71-68 §13, 1971)

5.04.200 Extension of time. In addition to all other powers conferred upon him, the tax collector shall have the power, for good cause shown, to extend the time required for any sworn statement for a period not exceeding thirty days, and in such case to waive the penalty that would otherwise have accrued, and shall have further power, with the consent of the city council, to compromise any claim as to the amount of license tax. (Ord. 71-68 §14, 1971)

5.04.210 Transfers. No license tax issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application therefore and paying a fee of one dollar, have the license amended to authorize the transacting and carrying on of such business under said license at some other location to which the business has or is to be moved. (Ord. 71-68 §15, 1971)

5.04.220 Unexpired licenses. Where a license for revenue purposes has been issued to any business by the city and tax paid therefore under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed by this chapter for said business shall not be payable until the expiration of the term for such unexpired license. (Ord. 71-68 §16, 1971)

5.04.230 Duplicate licenses. A duplicate license may be issued by the tax collector to replace any license previously issued hereunder which has been lost or destroyed, upon the licensee filing an affidavit attesting to such fact and, at the time of filing such affidavit, paying to the tax collector the sum of one dollar. (Ord. 71-68 §17, 1971)

5.04.240 Posting and keeping licenses. All licensees must post and keep their licenses in the following manner:

A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on.

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business. (Ord. 71-68 §18, 1971)

5.04.250 License tax--How and when payable. Unless otherwise specifically provided, all annual license taxes under the provisions of this chapter shall be due and payable in advance on the first day of July of each year; except as otherwise provided in this chapter, license taxes other than annual, required under this chapter shall be due and payable as follows:

- A. Semiannual license taxes on the first day of January and the first day of July each year;
- B. Quarterly license taxes on the first day of January, April, July and October of each year;
- C. Monthly license taxes on the first day of each and every month;
- D. Weekly license taxes on Monday of each week in advance;
- E. Daily license taxes each day in advance. (Ord. 71-68 §19, 1971)

5.04.260 License tax--Flat amount. Every person transacting and carrying on the businesses enumerated in this section shall pay a license tax as follows:

A. Auction Sales. Every person holding an auction sale in the city shall pay a minimum license tax of one hundred dollars per year. In addition, said person shall pay that portion of the gross receipts tax levied under Section 5.04.360 which exceeds the sum of one hundred dollars.

B. Barbershops and Beauty Shops. Every person engaged in the business of conducting, maintaining or carrying on a barbershop or beauty shop shall pay a license tax of five dollars per quarter for the first chair contained therein and the sum of two dollars and fifty cents for each subsequent working chair.

C. Billiard and Pool Tables. Every person engaged in the business of conducting any billiard or pool table shall pay a license tax of four dollars per quarter for each table located at said business establishment.

D. Bowling Alleys. Every person engaged in the business of conducting, maintaining or carrying on any bowling alley in the city shall pay a license tax of four dollars per quarter for such alley.

E. Christmas Tree Lots. Every applicant for a business license to operate a lot for the sale of Christmas trees shall deposit a surety bond in the amount of two hundred dollars with the city license collector to insure the lot being left

in a clean condition within seven days after discontinuance of the sale of trees.

F. Circuses and Carnivals. Every person holding, promoting, managing or giving any concert, traveling show, or exhibition for commercial purposes, whether in a tent or otherwise, shall pay a license tax of two hundred fifty dollars for the first three days or any part thereof, and fifty dollars per day thereafter; provided, however, that no license shall be required for any exhibition, show, or concert actually given and participated in by local schools, patriotic or civic organizations.

G. Dances. Every person carrying on the business of conducting public dances at which an admission fee is charged, collected or received, shall pay a license tax of five dollars for each dance with a maximum of twenty-five dollars per quarter.

H Hotels and Rooming houses. Every person carrying on the business of conducting, operating or managing a hotel or rooming house, having four or more rooms, shall pay a quarterly license tax of twenty-five cents per room for each room for which the maximum rental charge is less than one dollar and fifty cents per day, and a quarterly license tax of forty cents per room for which the maximum rental charge is one dollar and fifty cents per day or more; provided, however, that where such person carries on some other business in addition to the renting of such rooms, whether or not such other business shall be carried on in the same premises, he shall be required to obtain a license and pay the tax specified in this section.

I. Motion Pictures. Every person engaging in the filming, videotaping, production or manufacture of any motion picture, film or videotape for commercial purposes shall pay a license tax of two hundred fifty dollars for the first three days, or any part thereof, and fifty dollars per day thereafter.

J. Movie Theaters and Concert Halls. Every person carrying on the business of conducting a concert hall, or a theater containing a permanent stage upon which scenery and theatrical appliances are used, where regular theatrical or vaudeville performances are given and to which an admission is charged, collected, or received, or conducting a moving picture theater where moving or motion pictures are exhibited and an admission fee is charged, collected or received, shall pay a quarterly license tax equal to three dollars and fifty cents per one hundred seats or fraction thereof.

K. Nonappurtenant Outdoor Advertising Structures. All persons, firms or corporations owning nonappurtenant outdoor advertising structures shall pay a license fee of ten cents per square foot of reader board area per

annum.

L. Pawnshops and Pawnbrokers. All establishments operating as pawnshops and/or persons operating as pawnbrokers and/or businesses which loan money on pledged tangible personal property shall pay a license tax of one hundred dollars per annum. Such license shall not be issued until and unless applicant presents a certificate of clearance from the chief of police certifying that the business conforms in all respects with the laws and regulations of the city and state.

M. Peddlers and Itinerant Vendors. Every person carrying on the business of peddling or selling or soliciting orders for services or goods, wholesale orders excepted from this section, not having a regularly established place of business in the city, shall pay a license tax of three dollars per day with a maximum of twelve dollars per month.

N. Pinball Machines and Jukeboxes. Every person possessing or maintaining, on premises owned or leased by him, any mechanical game, pinball machine, music box, jukebox, or similar game or machine operation solely for amusement shall pay a license tax of ten dollars per quarter for each game or machine.

O. Retail Liquor and Beverage Stores. All establishments selling liquor and other beverages and/or retail food items in conjunction with the sale of retail liquors for off-site consumption as the principal sales items shall pay a license tax of fifty dollars per annum. This rate shall not apply to retail food establishments and similar establishments which do not sell liquor or alcoholic beverages as the principal item. (Ord. 76-79 §1, 1976; Ord. 75-79 §3, 1975; Ord. 71-68 §27, 1971)

5.04.270 Contractor's offices and/or storage. Every person maintaining an office and/or a storage yard for any business requiring a contractor's license shall pay a minimum license tax of one hundred and fifty dollars per year. In addition said person shall pay that portion of the gross receipts tax levied under Section 5.04.360 which exceeds the sum of one hundred and fifty dollars per year. (Ord. OTP-2-87 §3, 1987; Ord. 75-79 §1, 1975; Ord. 71-68 §29(a), 1971)

5.04.280 Public utilities. Every person transacting or carrying on the business of supplying electric power, telephone service, water service, gas service or other public utilities that are not otherwise licensed in this chapter, shall pay a license tax based upon the annual gross receipts resulting from the operation of said business, in accordance with the following scale:

At Least	But Less Than	The License Tax	Is
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\$1	\$100,000	\$25.00
100,000	200,000	100.00
200,000	300,000	175.00
300,000	400,000	275.00
400,000	500,000	350.00
500,000	600,000	450.00
600,000	800,000	550.00
800,000	1,000,000	650.00
1,000,000	or over	1,000.00

If any person transacting the business enumerated in this section shall carry on a retail, wholesale or jobbing business or any other business, he shall be required to obtain a license and pay the tax specified for such other business in addition to the license and tax specified in this chapter. The receipts enumerated herein from services performed wholly outside of the city shall not be included in their gross receipts for the purpose of computing the license tax. Every person herein taxed who does not maintain a fixed place of business within the city shall be required to obtain a license and pay the tax specified in this section with respect to any service performed by him within the city. Any franchise to use the streets of the city, heretofore or hereinafter granted to any public utility, shall not be deemed to waive or be in lieu of any of the licensing provisions of this chapter. (Ord. 75-79 §2, 1975; Ord. 71-68 §22, 1971)

5.04.290 Real property rental.

A. Every person engaged in the business of owning, conducting, or operating an apartment house, dwelling house, house court, bungalow, or other accommodations for dwelling, sleeping or lodging in such place shall pay a license fee for each fiscal year in the amount of five dollars per rental unit.

B. For the purpose of this section, rental unit shall mean each portion of any facility hereinbefore described customarily rented to or occupied by a person or family to the exclusion of others, and shall include the portion of the premises occupied by the manager thereof or any other person if such portion contains dwelling or sleeping facilities. (Ord. 71-68 §26, 1975)

5.04.300 Storage--Closed. Every person maintaining a closed storage facility shall pay an annual license tax equal to the greater of:

- A. Fifty (\$50.00) Dollars; or,
- B. An amount equal to twelve (\$.12) cents multiplied by the total amount of

square footage of storage area. (Ord. OPT-2-87, 1987; Ord. 82-3 §3, 1982; Ord. 71-68 §24, 1971)

5.04.310 Storage--Open. Every person maintaining an open storage facility shall pay an annual license tax equal to the greater of:

A. Fifty (\$50.00) Dollars; or,

B. An amount equal to twelve (\$.12) cents multiplied times the total amount of square footage of storage area. (Ord. OPT-2-87 §3, 1987; Ord. 82-3 §2, 1982; Ord. 71-68 §23, 1971)

5.04.320 Vehicle license tax. Every person carrying on the business enumerated in this section shall pay an annual license tax per vehicle as follows:

<u>Business</u>	<u>Annual Fee</u>
Ambulance service	\$30.00
Automobiles or trucks for hire or rent	30.00
Cleaning and/or laundry trucks (no fixed place of business)	30.00
Dairy products--Retail (no fixed place of business)	30.00
Delivery of gasoline, oil or other petroleum products	60.00
Scooters or motorbikes--Rental	30.00
Taxicabs	30.00
Towing truck service	30.00
Wholesale delivery (other than produce)	40.00
Wholesale pickup	40.00

Retail delivery and sales	30.00
Mobile service vehicles	30.00

For the purpose of this section, a truck-trailer and semi-trailer shall be considered one vehicle. Every vehicle licensed under this section shall have conspicuously displayed thereon the license device or plate furnished by the city clerk. (Ord. 83-4 §1, 1983; Ord. 71-68 §25, 1971)

5.04.330 Vending machines--Fees. License fees for vending machines shall be as follows:

A. All vending machines selling products priced at or under nine cents each, one dollar per machine per year.

B. All vending machines selling products priced at ten cents each or more, five dollars per machine per year. (Ord. 71-68 §28, 1971)

5.04.340 Vending machines--Liability for license. The owner of the business establishment and/or premises where vending machines are located shall be liable and responsible for the licensing of such machines. (Ord. 71-68 §29, 1971)

5.04.350 Impounding unlicensed vending machines. Unlicensed vending machines shall be impounded and held under the direction of the chief of police at such location as he may designate. Such machines are subject to redemption upon the payment of the license fee which is delinquent together with a penalty of five dollars per machine. At the time of such redemption, the owner of the machine shall exhibit credentials or proof establishing ownership and shall further sign a receipt agreeing to hold the city and/or its employees harmless by reason of the delivery of the machine. In the event that any machine remains unredeemed for ninety days, notice of sale shall be sent to the owner of the machine, if his identity can be ascertained, at his last known address by certified mail. When ten days have elapsed after the mailing of said letter, the machine may be sold at public auction and the proceeds shall be paid into the general fund of the city. (Ord. 71-68 §30, 1971)

5.04.360 Other businesses--Rate of taxes.

A. Except as provided in Section 5.04.360.C every person transacting or carrying on any business other than those businesses enumerated in Sections 5.04.260 and 5.04.280 through 5.04.350 shall pay a minimum annual license tax of One Hundred and Fifty (\$150.00) Dollars.

B. In addition to paying the annual minimum license tax referred to in Section 5.04.360.A, each person described in Section 5.04.360.A shall pay an annual license tax based upon the annual gross receipts at the rate of .11 percent (11/100 of 1%); provided, however, that the first One Hundred Thousand (\$100,000) Dollars resulting annually from the operation of such business shall be exempt from the application of said tax rate.

C. Subcontractors and other itinerant businesses not maintaining an office in the City of Sand City shall be entitled to obtain a business license for one job at the minimum fee of Fifty (\$50.00) Dollars. Such person shall remain liable for the tax based on gross receipts described in Section 5.04.360.B. (Ord. OTP-2-87 §3, 1987; Ord. 82-3 §1, 1982; Ord. 77-85 §1, 1977; Ord. 71-68 §21, 1971)

5.04.370 Civil penalties for failure to pay license tax when due. For failure to pay license tax when due, the tax collector shall add a penalty of twenty-five percent of said license tax on the last day of each month after the due date thereof; provided, that the amount of such penalty to be added shall in no event exceed fifty percent of the amount of the license tax due. (Ord. 71-68 §20, 1971)

5.04.380 Criminal penalty. Any person violating any part of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment for a term not exceeding six months, or both. (Ord. 71-68 §37, 1971)

5.04.390 Amendment of Business Tax Rates. The City Council may, by Ordinance adopted by four (4) of its members, amend the rates of taxation set forth herein. (OTP-2-92)

Chapter 5.08

BINGO

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5.08.010 Generally. Bingo games shall be allowed in the incorporated area of the city pursuant to the terms of this chapter. (Ord. 76-82 §1, 1976)

5.08.020 Defined. As used in this chapter, "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. (Ord. 76-82 §12, 1976)

5.08.030 Who shall benefit. Bingo games shall be only for the benefit of organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g and 23701(l) of the Revenue and Taxation Code and by mobile home park associations and senior citizens organizations; and provided the receipts of such games are used only for charitable purposes. (Ord. 86-7 Art. 3 §5.1, 1986; Ord. 76-82 §2, 1976)

5.08.040 Personal profit disallowed. No person shall receive a profit, wage or salary from any bingo game authorized by Section 1.9 of Article IV of the State Constitution and the ordinance codified in this chapter. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games as provided in subdivisions (j) and (k) of Section 326.5 of the Penal Code. (Ord. 86-7 Art. 3 §5.2, 1986; Ord. 76-82 §3, 1976)

5.08.050 Minors. No minor shall be allowed to participate in any bingo game. (Ord. 76-82 §4, 1976)

5.08.060 Where games held. A nonprofit, charitable organization shall

conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purpose for which the organization is organized. (Ord. 76-82 §5, 1976)

5.08.070 Open to public. All bingo games shall be open to the public, not just to the members of the nonprofit charitable organization. (Ord. 76-82 §6, 1976)

5.08.080 Operation and staff. A bingo game shall be operated and staffed only by members of the nonprofit charitable organization which organized it. Such members shall not receive a profit, wage or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision or any other phase of such game. (Ord. 76-82 §7, 1976)

5.08.090 Outside financial interest prohibited. No individual, corporation, partnership or other legal entity except the organization authorized by license to conduct a bingo game shall hold a financial interest in the conduct of such bingo game. (Ord. 76-82 §8, 1976)

5.08.100 Profits to be held in special fund. All profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. (Ord. 76-82 §9, 1976)

5.08.110 Physical presence required for participation. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted. (Ord. 76-82 §10, 1976)

5.08.120 Prize limits. The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars in cash or kind, or both, for each separate game which is held. (Ord. 76-82 §11, 1976)

5.08.130 License required. No bingo game shall be conducted except pursuant to a license issued by the city clerk. Applications for such license shall be made upon forms supplied by the city clerk, and shall be filed with the clerk accompanied by a license fee of one hundred dollars. The license, if issued, shall be for a period of twelve months. If the city council finds that the applicant does not qualify under the terms of this chapter, or that the conducting of bingo games at the particular location stated in the application will violate some other ordinance of the city, the council shall deny said application. (Ord. 76-82 §13, 1976)

5.08.140 License revocation. The license to operate any bingo game conducted or operated contrary to the terms and provisions of this chapter

and/or any participation therein contrary to the provisions of this chapter, shall be revoked and any further operation shall be, and the same is declared to be unlawful and a public nuisance and the district attorney of the county shall, upon order of the city council immediately commence an action or proceeding for the abatement and enjoinder thereof in the manner provided by law. (Ord. 76-82 §16, 1976)

5.08.150 Remedies. The remedies provided for in this chapter shall be cumulative and not exclusive. (Ord. 76-82 §17, 1976)

5.08.160 Violation of Section 5.08.040--Penalty. It is a mis demeanor for any person to violate the provisions of Section 5.08.040 and upon conviction thereof is punishable by a fine not to exceed ten thousand dollars. (Ord. 76-82 §14, 1976)

5.08.170 Violation--Penalty. It is a misdemeanor for any person to violate any provision of this chapter, other than Section 5.08.040, and upon conviction thereof is punishable by a fine of not to exceed one thousand dollars or by both such fine and imprisonment. (Ord. 86-7 Art. 3 §5.3, 1986; Ord. 76-82 §15, 1976)

Chapter 5.12

CABLE TELEVISION

Sections:

5.12.010 Definitions.

5.12.020 Franchise to install and operate

5.12.030 Cable Television Service.

5.12.040 Franchise Payments.

5.12.050 Franchise term-Duration and termination.

5.12.060 Application for new franchise or renewal.

5.12.070 Deposits-bonds-Indemnification-Insurance.

5.12.080 Acceptance of franchise.

5.12.090 Limitations of franchise.

5.12.100 Rights reserved to the City.

5.12.110 Council may adopt rules and regulations.

5.12.120 Permits and construction.

5.12.130 Technical Standards.

5.12.140 Inspection of property and records.

5.12.150 Right to purchase system.

- 5.12.160 Right of intervention.**
- 5.12.170 Safety requirements.**
- 5.12.180 Removal of facilities upon request.**
- 5.12.190 Repair of streets and public ways.**
- 5.12.200 Erection of poles.**
- 5.12.210 Services.**
- 5.12.220 Special service area.**
- 5.12.230 Receivership.**
- 5.12.240 Authority of city to terminate in the event of condemnation.**
- 5.12.250 Continuity of service.**
- 5.12.260 Financial disclosure of independent consultant.**
- 5.12.270 Miscellaneous provisions.**
- 5.12.280 Violations.**

5.12.010 Definitions. For the purpose of this chapter, the following terms, phrases, words, abbreviations and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in plural number include the plural number.

A. "Ancillary services" means those services provided to subscribers other than basic services, satellite services and pay television (such as alarm, banking and other non-entertainment services).

B. "Basic service" where referred tot in this chapter, means a minimum of twelve television channel retransmission by grantee receivable by all television sets via the standard twelve-channel VHF tuner.

C. "Cable television system," "CATV," "CTV," and "broadband two-way communication system" for the purpose of this chapter, are terms describing a system employing antennae, microwave, wires, waveguides, coaxial cables or other conductors, equipment or facilities, designed, constructed or used for the purpose of:

1. Collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;
2. Transmitting original cablecast programming not received through television broadcast signals;
3. Transmitting television pictures, film and videotape programs not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers;
4. Transmitting or receiving two-way signals or transmissions;

5. Transmitting and receiving all other signals: digital, voice, and audio-visual; provided, however, that any of the services permitted hereunder to be performed as described above shall be those performed by the grantee for subscribers, as defined in this chapter, in the operation of a cable television or CATV system franchised by the city and not otherwise.

D. "City" means the City of Sand City in its present form or in any later reorganized, consolidated, enlarged or modified form.

E. "City Clerk" means the City's Chief Executive Officer, or other designation of the City's Chief Executive Officer or any designee thereof.

F. "Council" means the governing body of the City, or any future body constituting the legislative body of the City.

G. "Franchise" means and includes any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area in the City.

H. "Grantee" means the person, firm or corporation granted a franchise by the council under this chapter, and the lawful successor, transferee or assignee of said person, firm or corporation.

I. "Gross revenue" means any kind and all compensation and other consideration in any form whatever and contributing grant or subsidy received directly or indirectly by a grantee from:

1. Subscribers or users in payment for video, audio, or other electrical signals, reception or service received within the City including installation;

2. Any other person or utilization of or connection to the property of grantee to the extent the City from time to time locally impose a franchise payment on account thereof. Notwithstanding the above, gross annual receipts shall not include line extension charges or any taxes on services furnished by any city, county state, or other governmental unit; or Federal Copyright Tribunal, fees paid to program suppliers, advertising revenues and charges made to subscribers for ancillary services; provided, however, that the city reserves the right to review, consider and negotiate with grantee to impose payment to the city of up to three percent of the revenues deemed from ancillary services as defined in this section. Such payment requirement may be imposed no sooner than five years after the award of the franchise hereunder, and only after a public hearing.

J. Line Extension Charge. A "line extension charge" is that additional capital

improvement cost, passed on to the subscriber at the time of construction, for bringing service beyond one hundred fifty feet from an existing main trunk or line cable.

K. "Person" means any natural person and all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common-law trusts and societies.

L. "Property of Grantee" means all property owned, installed or used within the city by a grantee in the conduct of a cable television system business under the authority of a franchise granted pursuant to this chapter.

M. "Special service area" means area(s) of the city designated by the council, if it so means area(s) of the city agreement, where the franchise may charge different rates, or provide different service (s), than in the remainder of the city.

N. "Street" means the surface, the air space above the surface and the area below the surface of any public place, including public utility easement.

O. "Subscriber" or "user" means any person or entity receiving for any purpose any service of the grantee's cable television system including, but not limited to, the conventional cable television system service of retransmission of television broadcast, radio signals, grantee's original cable casting and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television and police, fire and similar public service communication. (Ord. 81-14 §1, 1984)

5.12.020 Franchise to install and operate.

A. A non-exclusive franchise to install, construct, operate and maintain a cable television system on roads or streets within all or a specific portion of the City may be granted by the council to any person, whether operating under an existing franchise, who or which offers to furnish and provide such system under and pursuant to the terms and provisions of this chapter. No provision of this chapter may be deemed or construed as to require the granting of a franchise when in the opinion of the council it is in the public interest to restrict the number of grantees to one or more.

B. When in the event that the grantee of any franchise granted hereunder uses in his cable television system distribution channels furnished tot he grantee by a telephone company pursuant to tariff or contract on file with a regulatory body having jurisdiction and said grantee makes no use of the streets independent of such telephone company-furnished facilities, said

grantee shall be required to comply with all the provisions hereof as a "licensee" and in such event whenever the term "grantee" is used in this chapter it shall be deemed to mean and include "licensee."

5.12.030 Cable Television Service.

A. Basic Service. The cable television system permitted to be installed and operated hereunder shall:

1. Be operationally capable of relaying to subscriber terminals those television and signals for the carriage of which the grantee is now or hereafter authorized by the Federal Communications Commission;
2. Be constructed or reconstructed to be capable of becoming two-way operational;
3. Distribute color television signals which it receives in color;
4. Be constructed and maintained so as to consist of currently used technology which is economically and technically feasible.

B. Nonbasic Services. The cable television system permitted to be installed and operated hereunder, shall have the right to engage in the business of:

1. Transmitting original cablecast programming not received through television broadcast signals;
2. Transmitting television pictures, FM radio signals, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers;
3. Transmitting and receiving all other signals: digital, voice and audio-visual.

C. Subscribers Complaints. In addition to other service regulations adopted by the council, and excepting circumstances beyond grantee's control such as acts of God, riots and civil disturbances and in providing the foregoing services, the grantee shall:

1. Limit system failures to minimum time duration by locating and correcting malfunctioning promptly, but in no event longer than twenty-four hours after occurrence, irrespective of holidays or other non business hours;
2. Upon complaint by subscriber, make a demonstration satisfactory to the city clerk that a signal is being delivered which is of sufficient strength and

quality to meet the standards set forth in the regulations of the Federal Communications Commission;

3. Render efficient service, making repairs promptly and interrupting service only for good cause and for the shortest time possible. Planned interruptions, insofar as possible, shall be preceded by notice given to subscribers twenty-four hours in advance and shall occur during periods of minimum use of system. Notice may be by newspaper advertisement of a reasonable number of notices over the cable system itself to subscribers;

4. Maintain an office in the city or within thirty miles of the city boundary, which office shall be open during all the usual business hours, with its telephone number listed in the directories of the telephone company serving the city. The phone system shall be so operated that complaints and requests for repairs or adjustment may be received at any time, day or night, seven days a week, or provide a local telephone directory listing and "toll free" telephone service maintained on a seven-day, twenty-four hour basis for the receipt of consumer complaints.

5. Maintain a record, or "log," listing date of customer complaints, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by grantee in response thereto; said record shall be kept at grantee's local office for a period of one year from the date of complaint, and shall be available for inspection during regular business hours without further notice or demand, by the city clerk or his designated representative. Provided, however, the city clerk may require specific records be maintained for an additional one-year period in specific circumstances, including where complaints have been excessive. The cable operator shall provide upon request a monthly report of complaints received to the city.

D. Governmental Service. With respect to the basic television services, the grantee shall provide subscriber services, and a tie-in connection, without cost, when the system's main trunk or feeder lines pass the following facilities when requested by the grantor, subject to the requirements of federal law to:

1. Public schools and community colleges within the city; and
2. Buildings owned and/or controlled by the city, used for public purposes and not for residential use (fire stations excepted).

E. Uses Permitted. Any franchise granted pursuant to the provisions of this chapter shall authorize and permit the grantee to engage in the business of operating and providing a cable television system in the city, and for that purpose subject to the encroachment ordinance to erect, install, construct, repair, replace, reconstruct, maintain, and retain in, or over, under, upon, across and along any road, street, such poles, wires, upon, across and along any conduit, vaults, manholes, amplifiers, and appliances, attachments and

other property as may be necessary and appurtenant to the cable television system; and, in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other grantee franchised or permitted to do business in the city.

F. Notwithstanding the provisions of this section, grantor may waive specific requirements in unusual circumstances, including small systems (under five hundred subscribers) or low density (under twenty homes per mile of cable). The adequacy of an application for such waiver shall be weighed against the public interest, by the grantor. (Ord. 84-14 §3, 1984)

5.12.040 Franchise Payments.

A. In consideration

Chapter 5.16

MESSAGE BUSINESSES AND TECHNICIANS

Sections:

5.16.010 Title.

5.16.020 Purpose and intent.

5.16.030 Definitions.

5.16.040 Massage establishment-- License--Required.

5.16.050 Massage establishment-- License--Application-- Fee.

5.16.060 Off-premises massage business--License—Required.

5.16.070 Off-premises massage business --License--Application--Fee.

5.16.080 Massage technician--Permit--Required.

5.16.090 Massage technician--Permit--Application--Fee.

5.16.100 Exemptions.

5.16.110 Massage establishments-Operating requirements.

5.16.120 Operative date--Massage technicians.

**5.16.130 Operative date--Massage establishments--off—premises
massage business.**

5.16.140 Name of business.

5.16.150 Change of location.

5.16.160 Sale or transfer.

5.16.170 Inspections.

5.16.180 Suspension or revocation of license or permit.

5.16.190 Hearing.

5.16.200 Stay of suspension or revocation.

5.16.210 Appeal.

5.16.220 Violation--Penalty.

5.16.010 Title. This chapter may be cited as the city massage business and massage technicians regulatory ordinance. (Ord. 78-90 §1, 1978)

5.16.020 Purpose and intent. It is the purpose and intent of this chapter to provide for the orderly regulation of the business of massage and massage technicians in the city by establishing certain minimum standards for the conduct of this type of business to protect the public health and welfare of the residents of the city. (Ord. 78-90 §2, 1978)

5.16.030 Definitions. Whenever used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. "License" means the business license to operate a massage establishment or off-premises massage business required by this chapter.

B. "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in the practice of massage.

C. "Massage establishment" means any establishment having a fixed place of business where any individual, firm, association, partnership, or corporation, engages in, conducts, carries on or permits to be engaged in, conducted or carried on, for any form of consideration whatsoever, "massages" as defined in subsection B of this section.

D. "Massage technician" means any person who gives or administers to another person, for any form of consideration whatsoever, a "massage" as defined in subsection B of this section.

E. "Off-premises massage" means the activity of providing massage services for any form of consideration whatsoever, at a location other than premises licensed as a massage establishment.

F. "Permit" means the permit to engage in the activities of a massage technician required by this chapter. (Ord. 78-90 §3, 1978).

5.16.040 Massage establishment--License--Required. It is unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the city the operation of a "massage establishment" as defined in this chapter, without a license issued pursuant to the provisions of this chapter for each and every such massage establishment. The license required hereby shall be in addition to any business license tax required by this code. (Ord. 78-90 §4, 1978)

5.16.050 Massage establishment--License--Application--Fee.

A. Any person, association, partnership, or corporation desiring to obtain a license to operate a massage establishment shall make an application to the chief of police or his designated representative. An annual nonrefundable fee of two hundred twenty-five dollars shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this chapter; provided, however, that such fee shall not be charged to existing massage establishments presently operating in the city. The annual nonrefundable renewal fee shall be one hundred dollars.

B. Each applicant for license to operate a massage establishment shall furnish the following information to the chief of police:

1. The full true name and any other names used by the applicant;
2. The present address and telephone number of the applicant;
3. The proposed name and address of the massage establishment;
4. Each residence and business address of applicant for the three years immediately preceding the date of the application, and the inclusive dates of applicant's use of each such address;
5. Written proof that the applicant is at least eighteen years of age;
6. Applicant's height, weight, color of eyes and hair;
7. Two photographs of applicant at least two inches by two inches taken within the six months immediately preceding the date of application. One photograph shall be retained by the chief of police and one photograph shall be affixed to the license;
8. Applicant's business, occupation and employment history for the three years immediately preceding the date of application;

9. The business license or permit history of the applicant: whether such applicant has ever had any license or permit issued by any agency, board, city, county or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason therefore;

10. All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions;

11. 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 names and residence addresses of each of its current officers and directors, and of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such person shall complete and sign all application forms required of an individual applicant under this division, but only one application fee shall be charged;

12. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted, and a copy of the lease or rental agreement.

13. Such other identification and information as may be required in order to discover the truth of the matters herein required to be set forth in the application;

14. The chief of police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.

C. The chief of police shall have a reasonable time, not to exceed thirty days, in which to investigate the application and background of the applicant.

D. A license shall be issued within thirty days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such license, provided:

1. The applicant has not knowingly made a material false statement in the application for the license;

2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent or more of the corporation's stock, or partners, has not within five years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:

Section 266i, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the chief of police under Penal Code Section 290; any felony offense involving the sale of an controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

3. The massage establishment as proposed by the applicant would comply with all applicable laws including but not limited to, health, zoning, fire and safety requirements and standards;

4. The applicant is at least eighteen years of age; and

5. The applicant has fulfilled the requirements of subsections A through K of Section 5.16.110. (Ord. 87-5 Art. 2 §1.0, 1987; Ord. 78-90 §5, 1978)

5.16.060 Off-premises massage business--License--Required. It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, carry on or to permit to be engaged in, conduct, or carried on, any off-premises massage business within the city without a license issued pursuant to the provisions of this chapter for each and every such massage business. The license required hereby shall be in addition to any business license tax required by this code. (Ord. 78-90 §6, 1978)

5.16.070 Off-premises massage business--License--Application--Fee.

A. Any person, association, partnership, or corporation desiring to obtain a license to conduct an off-premises massage business shall make an application to the chief of police or his designated representative. An annual nonrefundable fee of two hundred twenty-five dollars shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this chapter. The annual nonrefundable renewal fee shall be one hundred dollars.

B. Each applicant for a license to conduct an off-premises massage business shall furnish to the chief of police all the information required by Section 5.16.050B.

C. The Chief of Police shall have a reasonable time, not to exceed thirty days, in which to investigate the application and background of the applicant.

D. A license shall be issued within thirty days of receipt of the application to any applicant who has furnished all the information required by this section in the application for such license, provided:

1. The applicant has not knowingly made a material false statement in the application for the license;

2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, and of its officers, directors, holders of five percent or more of the corporation's stock, or partners, has not within five years immediately preceding the date of filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Section 266i, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the chief of police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

3. The applicant is at least eighteen years of age.

E. Off-premises massage operations shall be carried on only between the hours of seven a.m. and twelve midnight.

F. Each off-premises massage business shall have at least one massage technician in its employ who is certificated pursuant to the provisions of Section 5.16.090B12, notwithstanding any provisions to the contrary contained in Section 5.16.090D5. (Ord. 78-90 §7, 1978)

5.16.080 Massage technician--Permit--Required. It is unlawful for any person to engage in the business of acting or act as a massage technician without a permit issued pursuant to the provisions of this chapter. (Ord. 78-90 §8, 1978)

5.16.090 Massage technician--Permit--Application--Fee.

A. Any person desiring to obtain a permit to act as a massage technician shall make application to the chief of police, or his designated representative.

An annual nonrefundable fee of twenty dollars shall accompany the submission of each application to defray, in part, the cost of investigation and examination as required by this chapter. The annual nonrefundable renewal fee shall be fifteen dollars.

B. Each applicant for a permit to act as a massage technician shall furnish the following information to the chief of police:

1. The full true name and any other names used by the applicant;
2. The present address and telephone number of the applicant;
3. Each residence and business address of applicant for the three years immediately preceding the date of the applicant, and the inclusive dates of the applicant's use of each such address;
4. Written proof that the applicant is at least eighteen years of age;
5. Applicant's height, weight, color of eyes and hair;
6. Two photographs of applicant at least two inches by two inches taken within six months immediately preceding the date of application. One photograph shall be retained by the chief of police and one photograph shall be affixed to the permit;
7. Applicant's business, occupation and employment history for the three years immediately preceding the date of application;
8. The business license or permit history of the applicant: whether such applicant has ever had any license or permit issued by any agency, board, city, county, or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended and the reason therefore;
9. All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions;
10. The massage establishment, if any, at which the applicant expects to be employed;
11. A certificate from a medical doctor, licensed to practice in the state of California, stating that the applicant has within thirty days immediately preceding the date of application been examined and had no communicable disease on the date of the examination;

12. Proof of graduation from a school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a residence course of study of not less than one hundred hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning, following the successful completion of such course of study or learning, and which school has been approved by the State Superintendent of Public Instruction pursuant to the California Education Code, Section 29025;

13. Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the applications;

14. The chief of police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.

C. The chief of police shall have a reasonable time, not to exceed thirty days, in which to investigate the application and background of the applicant.

D. A permit shall be issued within thirty days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such permit, provided:

1. The applicant has not knowingly made a material false statement in the application for the permit;

2. The applicant has not within five years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:

Section 266i, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the chief of police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

3. The applicant is at least eighteen years of age;

4. The applicant has furnished an acceptable medical certificate in compliance with this section; and,

5. The applicant has furnished proof of graduation from a school of massage as provided in this section. This requirement shall not apply to any person who had been acting or employed as a massage technician in the city on a fulltime basis for one year or on a part-time basis for three years, or anywhere else on a fulltime basis for three years, immediately preceding the date of adoption of the ordinance codified in this chapter, provided satisfactory proof of such employment can be established.

E. A permit to act as a massage technician does not authorize the operation of a massage establishment. Any person obtaining a permit to act as a massage technician who desires to operate a massage establishment must separately apply for a license therefore. A person who applies for a license to operate a massage establishment and who desires to act as a massage technician within said establishment and who pays the fee required by Section 5.16.050 shall not be required to pay the fee required by this section. (Ord. 87-5 Art. 2 §2.0, 1987; Ord. 78-90 §9, 1978)

5.16.100 Exemptions. This chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

A. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state;

B. Nurses who are registered as such under the laws of the state;

C. Barbershops and beauty parlors, barbers and beauticians who are duly licensed under the laws of the state; provided, that such massage is limited to the face and scalp;

D. Trainers of any amateur, semiprofessional or professional athlete or athletic team;

E. Accredited high schools and colleges, and coaches and trainers therein while acting within the scope of their employment;

F. Hospitals, nursing homes, sanatoriums, or other health care facilities duly licensed by the state. (Ord. 78-90 §10, 1978)

5.16.110 Massage establishments--Operating requirements. No person, association, partnership or corporation shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of a massage establishment unless each and all of the following requirements are met:

A. Each person employed or acting as a massage technician shall have a valid permit issued pursuant to the provisions of this chapter, and it shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment to employ or permit any person to act as a massage technician who is not in possession of a valid, unrevoked massage technician permit.

B. The possession of a valid massage establishment business license does not authorize the possessor to perform work for which a massage technician permit is required.

C. Each massage establishment shall have at least one massage technician in its employ who is certificated pursuant to the provisions of Section 5.16.090.B.12, notwithstanding any provisions to the contrary contained in Section 5.16.090.D.5.

D. Massage operations shall be carried on, and the premises shall be open, only between the hours of seven a.m. and twelve midnight.

E. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No owner, operator, responsible managing employee, manager, or permittee in charge of, or in control of, the massage establishment, shall permit, and no massage technician shall offer to perform, any services other than those posted.

F. The massage establishment business license, and a copy of the permit of each and every massage technician employed or working in the establishment shall be displayed in an open and conspicuous public place on the premises.

G. A minimum of one tub or shower and one toilet and washbasin shall be provided for the patrons in every massage establishment. Hot and cold running water under pressure shall be provided to all washbasins, bathtubs, showers and similar equipment. Each washbasin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.

H. Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for each person, then discarded into a sanitary receptacle.

I. Disinfecting agents and sterilizing equipment sufficient to assure the

cleanliness and safe condition thereof shall be provided for any instruments used in performing any massage. Instruments shall be disinfected after use on each patron.

J. Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material.

K. It is unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment unless such cubicle, room, booth or area shall have an unobstructed opening, as approved by the chief of police, capable of clear viewing into any such cubicle, room, booth or area. Such opening may consist of a door view device. All such openings shall show the work area of the cubicle, room, booth or area. The opening shall be not less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth.

L. All employees shall wear nontransparent outer garments, covering the sexual and genital area.

M. No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

N. It is unlawful for any person, in a massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

O. It is unlawful for any licensee or permittee, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

P. No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage establishment.

Q. No persons shall enter, be or remain, in any part of a massage

establishment while in the possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, or manager shall not permit any such person to enter or remain upon such premises.

R. It is unlawful and a misdemeanor for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform any acts prohibited in subsections A, M and N of this section.

S. It is unlawful and an infraction for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform any acts prohibited in this section other than those specified in subsection R of this section. (Ord. 78-90 §12, 1978)

5.16.120 Operative date--Massage technicians. All persons operating or employed as massage technicians at the time the ordinance codified in this chapter becomes effective, shall obtain a massage technician permit within ninety days of the effective date of the ordinance codified in this chapter. (Ord. 78-90 §11, 1978)

5.16.130 Operative date--Massage establishments--Off-premises massage business. Any person, association, partnership or corporation engaging in, conducting, or carrying on the operation of a "massage establishment" or "off-premises massage business" on the effective date of the ordinance codified in this chapter, shall, except as otherwise provided in this chapter, comply with all of the provisions of this chapter within ninety days of the effective date of the ordinance codified in this chapter. (Ord. 78-90 §13, 1978)

5.16.140 Name of business. No person licensed to do business as provided in this chapter shall operate under any name or conduct his business under any designation not specified in his license. (Ord. 78-90 §14, 1978)

5.16.150 Change of location. A change of location of a licensed massage establishment shall be approved by the chief of police provided all applicable provisions of this chapter are complied with and a nonrefundable change of location fee of fifteen dollars had been paid to the chief of police, and the health department and the department of building inspection have inspected

the new location and have advised the chief of police that it complies with the requirements of this chapter. (Ord. 78-90 §15, 1978)

5.16.160 Sale or transfer. Upon the sale or transfer of any interest in a massage establishment or off-premises massage business including, in the case of a corporate owner, the sale or transfer of stock to a person who would hold more than five percent of the stock of the corporation, any license heretofore issued for such establishment or business shall be null and void. A new application shall be made in accordance with and subject to all the provisions of Sections 5.16.050 and 5.16.070 by any person, firm, or entity desiring to own or operate the massage establishment or off-premises massage business. The application shall be accompanied by payment of the respective annual nonrefundable fees specified in Sections 5.16.050 and 5.16.070, in addition to the payment of a sale or transfer fee of twenty dollars.

Any such sale or transfer of any interest in any 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 subsections A through K of Section 5.16.110. (Ord. 78-90 §16, 1978)

5.16.170 Inspections. The police department and health department shall make reasonable and periodic inspections of the foyer, hallways, restrooms and other areas used or intended for use in common by customers, rooms in which massages are given (whether occupied or unoccupied), and unoccupied rooms of each and every massage establishment in the city during hours of the business operation for the purpose of determining that there is compliance with the provisions of this chapter and the laws of the state. (Ord. 78-90 §17, 1978)

5.16.180 Suspension or revocation of license or permit. In the event that any person holding a license or permit issued pursuant to this chapter shall violate or cause or permit to be violated any of the provisions of this chapter, or any provisions of any other ordinance or law relating to or regulating said business or occupation, or shall conduct or carry on such business or occupation in an unlawful manner, or is convicted of any of those crimes contained in Section 5.16.050D2, the chief of police may, in addition to other penalties provided by ordinance, suspend or revoke the license or permit after the licensee or permittee has been given the opportunity for a hearing as described in Section 5.16.190. (Ord. 78-90 §18, 1978)

5.16.190 Hearing. Any person who has been denied a license or permit, or any person whose license or permit issued pursuant to this chapter has been suspended or revoked, may request a hearing conducted by the city attorney.

The request for a hearing must be in writing and must be made within ten calendar days from the date of the decision denying, suspending or revoking the license or permit. Upon receiving a written request for a hearing, the city attorney or his delegate shall call a hearing within fourteen days thereafter and shall set forth in writing and send to the applicant, licensee, or permittee by means of registered mail, certified mail or hand delivery, notice of the date, time and place of the hearing at least five days before the hearing date. The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The hearing shall be conducted by a hearing officer, appointed by the city attorney. The applicant, licensee or permittee may have the assistance of counsel or may appear by counsel and have the right to present evidence. In the event that the applicant, licensee or permittee fails to appear at the hearing, the evidence or the existence of facts which constitute grounds for denial, suspension or revocation of the license or permit shall be considered un rebutted. A copy of the decision of the hearing officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. The hearing officer shall inform the party against whom the decision is rendered of his right of appeal pursuant to Section 5.16.210. (Ord. 78-90 §19, 1978)

5.16.200 Stay of suspension or revocation. The effect of a decision by the hearing officer shall be stayed while an appeal to the city council is pending or until the time for filing such appeal has expired. If an appeal is not timely filed, the decision of the hearing officer shall be final. (Ord. 78-90 §20, 1978)

5.16.210 Appeal. Within ten days after receipt of the decision of the hearing officer, any party affected by the decision may file with the city clerk a written request for a public hearing before the city council. Upon the filing of such a request, the city clerk shall within fourteen days thereafter set the matter for a hearing and shall notify the applicant of the date, time and place of such hearing at least five days before the hearing date. At the hearing, any person may present evidence in opposition to, or in support of, appellant's case. At the conclusion of the hearing, the city council shall either grant or deny the appeal. The decision of the city council shall be final. (Ord. 78-90 §21, 1978)

5.16.220 Violation--Penalty.

A. Any person violating or failing to comply with any of the following provisions of this chapter shall be guilty of a misdemeanor: Sections 5.16.050A, 5.16.060, 5.16.070F, 5.16.080, 5.16.110A, C, M, N and R and 5.16.120.

B. Any person violating or failing to comply with any of the other provisions of this chapter shall be guilty of an infraction. (Ord. 78-90 §22, 1978)