

ORDINANCE NO. 493

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, AMENDING CHAPTER 8.70 TO THE CITY OF LA QUINTA CHARTER AND MUNICIPAL CODE ENTITLED "SURFACE WATER MANAGEMENT AND DISCHARGE CONTROLS"

WHEREAS, the Federal Water Pollution Control Act (commonly known as the "Clean Water Act" or "CWA"), 33 U.S.C. section 1251 *et seq.*, as amended, prohibits the discharge of any "Pollutant" (as defined in the Clean Water Act) to waters of the United States from a point source, unless the discharge is authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES"); and

WHEREAS, the State of California is authorized to administer various aspects of the NPDES program under the Clean Water Act within the State; and

WHEREAS, the State Water Resources Control Board regulates the discharges of pollutants into waters of the State through the California Regional Water Quality Control Boards, and specifically through the Colorado River Basin Regional Water Quality Control Board ("Regional Board") for the area within the jurisdiction of the City of La Quinta; and

WHEREAS, pursuant to the CWA, the United States Environmental Protection Agency ("US EPA") has defined the term "Municipal Separate Storm Sewer System" or "MS4" to mean a conveyance, or system of conveyances, including roads with drainage systems, municipal streets, curbs, gutters, catch basins, and storm drains owned or operated by a city, used for collecting stormwater; and

WHEREAS, CWA section 402(p) (33 U.S.C. § 1342(p)), requires that the City obtain an NPDES permit for the discharge of pollutants from the City's MS4; and

WHEREAS, CWA section 402(p) (33 U.S.C. § 1342(p)) further provides that NPDES permits shall require controls to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, including management practices and such other provisions as may be appropriate for the control of pollutants; and requires the City to effectively prohibit non-stormwater discharges to the MS4; and

WHEREAS, on May 21, 2008, the Regional Board issued Order No. R7-2008-0001, (NPDES No. CAS617002) concerning Waste Discharge Requirements for, among other entities, various incorporated cities in Riverside County, for stormwater discharges from the Municipal Separate Storm Sewer System within the White Water River Watershed ("MS4 NPDES Permit"); and

WHEREAS, the MS4 NPDES Permit and U.S. EPA regulations implementing the CWA, require the City to demonstrate that it has adequate legal authority, through ordinance or other authority, to prohibit illicit discharges and to otherwise require compliance with the MS4 NPDES Permit; and

WHEREAS, under the California Constitution and California statutory law, the City has the authority to define public nuisances and to protect the public health and safety of the residents of and visitors to the City, and the environment; and

WHEREAS, surface runoff is one step in the cycle of water. However, human activities, such as agriculture, construction and the operation and maintenance of an urban infrastructure may result in undesirable discharges of pollutants and certain sediments, which may accumulate in local drainage channels and waterways and eventually may be deposited in the waters of the United States; and

WHEREAS, the purpose of this Ordinance is to assist in improving water quality within the White Water River Watershed, and to comply with Federal and State requirements for the control of urban pollutants to surface runoff entering the network of storm drains throughout the Watershed; and

WHEREAS, the City is authorized by Article XI, sections 5 and 7 of the State Constitution to exercise the police power of the State by adopting regulations promoting the public health, public safety and general prosperity; and

WHEREAS, a reduction in surface runoff borne pollution should promote the public health and protect the general welfare of the locality by reducing the level of artificial and naturally occurring constituents from entering the waters in this Watershed; and

WHEREAS, the land use authority exercised by the City, pursuant to California Government Code section 65300 *et seq.*, requires regional planning and the adoption of policies protecting the environment through the imposition of reasonable conditions on the use of land; and

WHEREAS, this Ordinance conforms to the policies and goals of the General Plan adopted by the City, pursuant to California Planning and Zoning Law, for the

protection of the White Water River Watershed by implementing measures to control erosion and prevent the pollution of streams and other waters; and

WHEREAS, the Subdivision Map Act, California Government Code section 66411, authorizes the City to regulate and control the design and improvement of subdivided lands and mitigate the burdens of proposed development by imposing reasonable conditions on map approval; and

WHEREAS, California Constitution Article XI, section 7 and Government Code section 38660 authorize the City to establish appropriate conditions for the issuance of building permits, which require the installation of improvements reasonably related to the proposed use of property; and

WHEREAS, Government Code section 38771 authorizes the City to declare as public nuisances undesirable acts which may injure health or cause interference with the comfortable enjoyment of life or property and to provide for the abatement of the same; and

WHEREAS, the City may commence civil actions, pursuant to CWA Section 505(a), (U.S.C. § 1365(a)), against any person or any governmental agency acting in violation of any requirement of the CWA or any applicable NPDES permit; and

WHEREAS, all industrial dischargers subject to the provisions of the State Industrial General Permit and State Construction General Permit (referred to collectively herein as the "State General Permits") must comply with the lawful requirements of the City, which regulate discharges to the MS4 within its jurisdiction; and

WHEREAS, the City has jurisdiction over certain MS4 facilities and watercourses within the City, and these facilities may receive discharges from properties and activities regulated under the provisions of the State General Permits; the City may, therefore, request that the regulated dischargers furnish information and records as necessary to determine compliance with the State General Permits so that it may ensure compliance with the MS4 NPDES Permit; and

WHEREAS, this Ordinance is being adopted to further ensure that the City has adequate legal authority, in accordance with the MS4 NPDES Permit, the requirements of which are exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code section 21000, *et seq.*, including but not limited to sections 21083 and 21084, *et seq.*; and

WHEREAS, this Ordinance is subject to CEQA categorical exemption classes 1 through 4, 6 through 9, 21 and 22, pursuant to the CEQA Guidelines,

respectively, Title 14, California Code of Regulations sections 15301, 15302, 15303, 15304, 15306, 15307, 15308, 15309, 15321 and 15322.

NOW, THEREFORE, the City Council of the City of La Quinta, California, hereby ordains as follows:

SECTION 1: In order to protect the public health, safety and well-being, and the environment, and to ensure compliance with any obligations imposed on the City under the Clean Water Act ("CWA") and the EPA regulations implementing the CWA, and in order to ensure compliance with the Waste Discharge Requirements imposed pursuant to State laws, and in order to "effectively prohibit" Illicit Discharges into the MS4 and to ensure the City has full authority to obtain and require compliance with the MS4 NPDES Permit, Chapter 8.70 of the City of La Quinta Municipal Code is hereby repealed and replaced with a new Chapter 8.70 entitled "Surface Water Management and Discharge Controls," which reads in its entirety as follows:

Chapter 8.70 SURFACE WATER MANAGEMENT AND DISCHARGE CONTROLS

- 8.70.010 Purpose and Intent.
- 8.70.020 Definitions.
- 8.70.030 Responsibility for Administration.
- 8.70.040 Regulatory Consistency.
- 8.70.050 Illicit Discharges Prohibited.
- 8.70.060 Illicit Connections.
- 8.70.070 New Development/Redevelopment Projects.
- 8.70.080 Best Management Practice (BMP) and Monitoring Program Requirements.
- 8.70.090 Commercial/Industrial Program Requirements.
- 8.70.100 Inspections.
- 8.70.110 Notification.
- 8.70.120 Administrative Remedies.
- 8.70.130 Nuisance.
- 8.70.140 Criminal Sanctions.
- 6.70.150 Consecutive Violations.
- 8.70.160 Nonexclusive Remedies.
- 8.70.170 Citations.
- 8.70.180 Violations of Other Laws.
- 8.70.190 Injunctions.
- 8.70.200 Other Civil Remedies.
- 6.70.210 Coordination With Other Agencies.
- 8.70.220 Compliance With Chapter is Not Compliance With Other Laws.
- 8.70.230 Severability.

8.70.010 Purpose and Intent.

The purpose of this Chapter is to protect public health and safety and the environment, and to promote the welfare of the community by:

- A. Effectively prohibiting Non-Stormwater Discharges into the MS4.
- B. Reducing Pollutants in Urban Runoff, including those Pollutants taken up by Stormwater and Non-Stormwater, as it flows over urban areas, to the maximum extent practicable.
- C. Establishing minimum requirements for surface runoff management, including source control requirements to prevent and reduce pollution, and requirements for New Development and Redevelopment Projects.
- D. Protecting and enhancing the quality of surface waters in a manner pursuant to and consistent with the CWA.

8.70.020 Definitions.

For purposes of this Chapter, the following terms shall have the meanings set forth in this Section:

“Allowable Non-Stormwater Discharges” shall mean those Discharges not prohibited by this Chapter, and shall include only the following:

- a. Discharges covered by and in compliance with NPDES permits or other written clearances, waste discharge requirements or authorizations prescribed by the Regional or State Boards;
- b. Potable water line flushing and other potable water sources;
- c. Passive footing drains;
- d. Water from crawl space pumps;
- e. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters;
- f. Dechlorinated swimming pool Discharges;
- g. Non-commercial vehicle washing; (*e.g.* residential car wash (excluding engine degreasing) and car washing fundraisers by non-profit organizations);
- h. Diverted stream flows;
- i. Rising ground waters and natural springs;

- j. Groundwater infiltration as defined in 40 CFR 35.2005(20) and uncontaminated pumped ground water;
- k. Flows from riparian habitats and wetlands;
- l. Street washing activities;
- m. Emergency water flows (*i.e.*, fire-fighting flows and other flows necessary for the protection of life and property) do not require BMPs and need not be prohibited. However, appropriate BMPs shall be considered, but only where practicable, and when not interfering with emergency public health and safety;
- n. Waters not otherwise containing "Wastes," as defined in CWC Section 13050(d).

In any action to enforce this Chapter, the burden shall be on the person or entity who is the subject of such action to establish that a Discharge was within the scope of an Allowable Non-Stormwater Discharge.

"Basin Plan" shall mean the operative "Water Quality Control Plan for the Colorado River Basin," and any and all amendments thereto.

"Best Management Practices" or "BMPs" shall mean "BMPs," as defined in the federal regulations, 40 CFR section 122.2, such terms shall include schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the Discharge of Pollutants to waters of the United States. The term "Best Management Practices" or "BMPs" shall also include treatment requirements, operating procedures and practices to control surface runoff, including spillage or leaks, sludge or waste disposal, and/or drainage from raw material storage.

"CEQA" shall mean the California Environmental Quality Act, California Public Resource Code section 21000 *et seq.*, and the regulations thereunder.

"City" shall mean the City of La Quinta, Riverside County, California.

"City Manager" shall mean the City Manager of the City of La Quinta, or his/her designee.

"Clean Water Act" or "CWA" shall mean the federal Clean Water Act (33 USC § 1251 *et seq.*, as amended, including § 1342(p) therein), inclusive of those provisions requiring municipal and industrial dischargers to obtain NPDES permits for their Discharges, and for purposes of this Chapter, inclusive of all federal regulations issued thereunder.

"CWC" shall mean the California Water Code.

"Development" shall mean any and all New Development or Redevelopment Projects involving land disturbing activities or structural development, including construction or installation of a building or structure, and/or the creation of Impervious Surface Areas (*a/so see "New Development" and "Redevelopment Projects" defined below*).

"Development Planning and Permitting Program of the SWMP" shall mean Section 4.0 of the Stormwater Management Plan and the Water Quality Management Plan requirements set forth therein, as all such documents/requirements may be amended from time to time.

"Discharge" shall mean any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance.

"Director" means the City of La Quinta Director of Public Works or his or her designee.

"Enforcement Officer" shall mean any City employee assigned to conduct inspections or issue approvals or take enforcement action under this Chapter.

"Enforcing Attorney" shall mean the City Attorney, acting as counsel to the City of La Quinta and his or her designee, or the District Attorney, as any such counsel may be authorized to take enforcement action under this Chapter herein.

"EPA" shall mean the United States Environmental Protection Agency.

"Hazardous Substance" shall mean any "Hazardous Substance" as that term is defined under California Health and Safety Code sections 25281(h), 25501(q) and 25501.1, and under Title 42, section 9601(14) of the United States Code; any "hazardous waste" as that term is defined under Title 42 section 6903(5) of the United States Code, and under California Health and Safety Code section 25117; any "hazardous material" as that term is defined under California Health and Safety Code section 25501(p); and any chemical which the Governor of California has identified as a chemical known to the State to cause cancer or reproductive toxicity, pursuant to California Health and Safety Code section 25249.8; and any crude oil or refined or unrefined petroleum product, or any fraction or derivative thereof, and any asbestos or asbestos-containing material. The term "Hazardous Substance" includes any waste, substance or material added as a result of any amendments to the above-referenced statutes and regulations.

"Illicit Connection" shall mean any man-made physical connection to the MS4 which has not been authorized by the agency with jurisdiction over the

system at the location at which the physical connection is made, or any such authorized connection which conveys an Illicit Discharge to the MS4.

"Illicit Discharge" shall mean any "Prohibited Discharge" as such term is defined in this Chapter.

"Impervious Surface Area" means the ground area covered or sheltered by an impervious surface, measured in plain view (*i.e.*, as if directly above). For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

"Impervious Surfaces or Covers" shall mean a constructed or modified surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks and driveways.

"Invoice of Costs" shall mean an invoice of the actual costs and expenses of the City, including but not limited to, administrative overhead, salaries and other expenses not prohibited from being recovered under State Law and incurred during any inspection, enforcement and/or cleanup action conducted pursuant to this Chapter, or where an administrative citation, notice of non-compliance, administrative compliance order or other enforcement action under this Chapter is utilized to obtain compliance with this Chapter.

"Maximum Extent Practicable" or "MEP" shall mean the that standard established by Congress in CWA section 402(p)(3)(B)(iii) for MS4 discharges, as defined in the MS4 NPDES Permit.

"MS4" or "Municipal Separate Storm Sewer System" shall mean the conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over the discharge of surface runoff, sewage, industrial waters or other wastes, including special districts under State law, such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under Section 208 of the CWA that Discharges to waters of the United States; (ii) designated or used for collection or conveying surface runoff; (iii) which is not a combined sewer; and (iv) which is not part of a Publically Owned Treatment Works ("POTW") as defined in 40 CFR 122.26.

"MS4 NPDES Permit" shall mean the currently applicable MS4 NPDES permit issued by the Regional Board to the City.

"New Development" shall mean new construction on a previously undisturbed parcel. New development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of a facility; nor does it include emergency new developments required to protect public health and safety.

"NPDES" shall mean the National Pollutant Discharge Elimination System permitting requirements as set forth under the Clean Water Act.

"Non-Stormwater" shall mean all Discharges to and from the MS4 that do not originate from precipitation events.

"Permittee" or "Permittees" shall mean one or more of the following entities who are Permittees under the MS4 NPDES Permit: Riverside County Flood Control and Water Conservation District, County of Riverside, Coachella Valley Water District, and all incorporated Cities of Riverside County within the White Water River Basin.

"Person" shall mean any natural person as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of the above.

"Planning Director" shall mean the Director of the City's Planning Department, or his or her designee.

"Pollutant" shall mean "Pollutant" as defined in the MS4 NPDES Permit.

"Priority Development Project" shall mean any of the following categories of New Development and Redevelopment Projects (as also described in the MS4 NPDES Permit), requiring any form of discretionary permit to be issued by the City:

1. Single-family hillside residences that create 10,000 square feet, or more, of impervious area where the natural slope is twenty-five percent (25%) or greater, and including single-family hillside residences that create 10,000 square feet of impervious area where the natural slope is ten percent (10%) or greater where erosive soil conditions are present;
2. 100,000 square foot or more commercial and/or industrial development;
3. Automotive repair shops (with Standard Industrial Classification ("SIC") codes 5013, 7532, 7533, 7534, 7537, 7538, and 7539);
4. Retail gasoline outlets disturbing greater than 5,000 square feet;

5. Restaurants disturbing greater than 5,000 square feet;
6. Home divisions with ten or more housing units; and
7. Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to Urban Runoff.

Where a New Development project feature, such as a parking lot, falls into a Priority Development Project category, the entire project shall become a Priority Development Project.

"Prohibited Discharge" shall mean any Discharge from the MS4 to Waters of the United States containing Pollutants, which have not been reduced to the MEP. The term "Prohibited Discharge" includes:

1. The Discharge of waste to waters of the State in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance, as defined in CWC section 13050;
2. The Discharge of Pollutants or dredged or fill material to waters of the United States, except as authorized by an NPDES permit or a dredged or fill material permit subject to the exemption described in CWC section 13376;
3. Any Discharge to the MS4 that is not composed entirely of Stormwater is prohibited, unless authorized as an Allowable Non-Stormwater Discharge;
4. The unauthorized Discharge of treated or untreated sewage to waters of the State or to the MS4;
5. The Discharge of oil, gasoline, diesel fuel, or any other petroleum derivative or any toxic chemical or Hazardous Substance into the MS4;
6. Urban Runoff Discharges to the MS4 which cause or contribute to an exceedance of a water quality standard for a Receiving Water. (a "water quality standard" consists of the designated "beneficial uses," combined with the identified "water quality objectives," both of which are referenced in the Basin Plan for the subject Receiving Water);
7. Wash water to the MS4 resulting from the hosing or clean of gas stations, auto repair garages, or other types of automotive services facilities;
8. Discharges to the MS4 resulting from the cleaning, repair, or maintenance of any type of equipment or machinery, including motor vehicles, cement-related equipment, and port-a-potty servicing;

9. Wash water to the MS4 from mobile operations such as oily or greasy Discharges from mobile automobile washing, and/or Discharges from steam cleaning, power washing, and carpet cleaning and other similar Discharges;
10. Discharges, including Stormwater Discharges, from material storage areas containing chemicals, fuels, grease, oil, or other Hazardous Substances; and
11. Discharges of food-related wastes (*e.g.*, grease, fish processing, and restaurant kitchen mat and trash bin wash water and other similar types of wastes).
12. Any Discharge to the MS4 from an Illicit Connection.

"Receiving Water(s)" shall mean all surface water bodies as defined in the MS4 NPDES Permit, including, but not limited to, the White Water River Basin.

"Redevelopment Project" shall mean a project where major modifications to an existing site or structure requiring a permit to be issued by the City for the creation, addition, and/or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of Impervious Surfaces. Replacement of Impervious Surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing existing roadways; new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair. Routine maintenance, interior remodeling, re-roofing, and parking lot maintenance are similarly not included in the definition of a "Redevelopment Project." A Redevelopment Project is not to be confused with the projects undertaken by a redevelopment agency.

"Regional Board" shall mean the California Regional Water Quality Control Board, Colorado River Basin Region.

"State Board" shall mean the California State Water Resources Control Board.

"State General Permit(s)" shall mean the State General Industrial Stormwater Permit, the State General Construction Permit, or any other State General Permit that has been or will be issued by the State Board, including all terms and requirements under any such permit. In the event the EPA revokes the in-lieu permitting authority of the State Board, then the term "State General Permit" shall

also refer to any EPA-administered NPDES permit for industrial and/or construction activities.

"Stormwater" shall mean "storm water runoff, snow melt runoff and surface runoff and drainage." See 40 CFR 122.26(b)(13).

"Stormwater Management Plan" or "SWMP" shall mean the White Water River Region Stormwater Management Plan on file with the Director, as such SWMP may be amended from time to time.

"Treatment Control BMPs" shall mean those structural BMPs designed to infiltrate, filter or treat runoff volume of flow prior to the discharge of any such runoff to a Receiving Water. Treatment Control BMPs shall include those Treatment Control BMPs as described in the MS4 NPDES Permit in connection with the regulation of New Development and/or Redevelopment Projects.

"Urban Runoff" shall mean those Discharges from residential, commercial, industrial, and construction areas within the White Water River Region MS4 permit area, but excluding Discharges from feed lots, dairies, farms, POTWs and open space. The term "Urban Runoff" is to include Discharges that consist of Stormwater and Non-Stormwater surface runoff from drainage sub-areas with various, often mixed, land uses located within any of the hydrologic drainage areas that discharge into the waters of the United States.

"Water Quality Management Plan" or "WQMP" shall mean a water quality management plan that is designed to minimize Pollutant Discharges, and/or accelerated erosion and sediment runoff, during construction and/or post-construction use of the property.

"WQMP Design Standards" shall mean those Water Quality Management Plan design standards as may be required by the City in accordance with the SWMP and/or the MS4 NPDES Permit, and may include, but are not limited to, design standards involving Peak-Urban Runoff Discharge Rates, Site Design BMPs, Source Control BMPs, Treatment Control BMPs, Treatment Control Alternatives and Waivers, and Infiltration-Based Treatment Control BMPs, all as described within the MS4 NPDES Permit and/or the SWMP.

8.70.030 Responsibility for Administration.

This Chapter shall be administered for the City by the Director.

8.70.040 Regulatory Consistency.

This Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and the California Water Code and all acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future MS4 NPDES Permits, and any amendments and revisions thereto or the reissuance thereof.

8.70.050 Illicit Discharges Prohibited.

- A. No person shall:
 - 1. Cause, permit, allow or facilitate any Prohibited Discharge.
 - 2. Act, cause, permit, allow or suffer any agent, employee, or independent contractor, to act, cause, permit, allow or facilitate any Prohibited Discharge.
- B. A civil or administrative violation of subsection 8.70.050(A) shall occur irrespective of the negligence or intent of the violator.
- C. If the Enforcement Officer reasonably determines that an Allowable Non-Stormwater Discharge may adversely affect the beneficial uses of Receiving Waters, the Enforcement Officer may give written notice to the owner of the property or facility that the Allowable Non-Stormwater Discharge shall become a Prohibited Discharge following expiration of the thirty (30) calendar day period commencing upon delivery of the notice. Upon expiration of the thirty (30) calendar day period, any remaining or continuing Prohibited Discharge shall constitute a violation of subsection 8.70.050(A).

8.70.060 Illicit Connections.

- A. No person shall construct, utilize, maintain, operate and/or allow the operation or existence of any Illicit Connection on any premises owned, operated or controlled by such person that connects directly or indirectly to the MS4. Any Illicit Connection constructed, utilized, maintained, operated, or allowed to be operated on any premises owned, controlled or operated by such person from and after the date of the ordinance codified in this Chapter, shall be terminated and removed and/or otherwise sealed by the responsible party or parties in a manner approved by the Director.

- B. A civil or administrative violation of subsection 8.70.060(A) shall occur irrespective of the negligence or intent of the violator.

8.70.070 New Development/Redevelopment Projects.

- A. All New Development and/or Redevelopment Projects within the City that disturb areas equal to or greater than one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development or sale greater than one acre, and that discharge into the MS4, shall comply with all WQMP requirements as may be set forth in the SWMP for such projects, along with all related conditions and requirements established by the Director and/or the Planning Director, that are reasonably related to the reduction or elimination of Pollutants and Urban Runoff from the project site.
- B. All Priority Development Projects shall comply with the WQMP Design Standards required by the City in connection with the Water Quality Management Plan for such project.
- C. No developer of a Priority Development Project shall commence any land disturbing activities in connection with such proposed project without first submitting and obtaining the City's approval of a WQMP for the project. The City may require a fee, to be paid by the project proponent, for the review of the WQMP.
- D. Pursuant to the issuance by the City of a grading or building permit for any New Development or Redevelopment Project, the Director and/or the Planning Director may impose terms, conditions and requirements on the project in accordance with the provisions of this Section 8.70.070(A). If the New Development or Redevelopment Project will be approved without application for a grading permit or building permit, the Director and/or Planning Director may review the project plans and impose terms, conditions and requirements on the project in accordance with this Section 8.70.070, prior to the issuance of any discretionary approval or, at the City's discretion, prior to recordation of any subdivision map.
- E. Compliance with the conditions and requirements of the WQMP shall not exempt any person from the requirement to independently comply with any other provision of this Chapter.
- F. If the Director determines that the project will have a *de minimis* impact on the quality of surface runoff from the project site, the Director may issue a written waiver of some or all of the requirements

for compliance with the provisions of Section 8.70.070, but only where such a waiver is in accordance with the terms and provisions of the MS4 NPDES Permit.

- G. The owner of a New Development or Redevelopment Project, or upon transfer of the property, the owner's successors and assigns, shall implement and adhere to the terms, conditions and requirements imposed pursuant to this Chapter on such a property both during construction and throughout post-construction use of the property. Each failure by the owner of the property or its successors or assigns, to implement and adhere to the terms, conditions and requirements imposed pursuant to this Chapter on a New Development or Redevelopment Project, shall constitute a violation of this Chapter.
- H. The Director may require that the terms, conditions and requirements imposed pursuant to this Section 8.70.070 to be recorded with the County Recorder's office by the property owner. The signature of the owner of the property, or any successive owner, shall be sufficient for the recording of these terms, conditions and requirements, and a signature on behalf of the City shall not be required for recordation.
- I. The project applicant of any New Development or Redevelopment Project shall reimburse the City for all costs and expenses incurred in the review of New Development and/or Redevelopment Project in accordance with this Section 8.70.070.

8.70.080 Best Management Practice (BMP) and Monitoring Program Requirements.

- A. Every person owning property or conducting any activity or operation on a facility shall comply with those BMPs as may be imposed by the City as necessary for the City to ensure compliance with the terms and conditions of the MS4 NPDES Permit, including as may be needed to prevent, to the MEP, Pollutants from entering the MS4.
- B. Every person owning and/or operating on property which contains a Treatment Control BMP shall:
 - 1. Ensure that each and every Treatment Control BMP is operating effectively and is being adequately maintained; and
 - 2. Provide an annual verification of the effective operation and maintenance of each Treatment Control BMP, maintaining the

annual verification records, and providing those records to any Enforcement Officer upon request.

- C. Every person owning property or conducting any activity, operation or facility thereon, with approved BMPs, shall implement any monitoring program as may be required by the Director, the Planning Director or the City Engineer, pursuant to the WQMP, the SWMP and/or the MS4 NPDES Permit.

8.70.090 Commercial/Industrial Program Requirements.

- A. **General Industrial Permit Compliance.** In order to obtain a business license, a permit to operate or a certificate of occupancy, all industrial facilities required under the Clean Water Act to comply with or obtain coverage under a State General Permit must show proof of compliance to the City with such permit through the submission of evidence of its Waste Discharge Identification Number and submitted Notice of Intent to comply with such State General Permit.
- B. **Inspection of Operations.** All industrial operations subject to a State General Permit shall provide the City a right of access to inspect such operations in accordance with the terms and conditions of the State General Permit, and the rights of inspection and access provided thereunder to the Regional or State Boards.

8.70.100 Inspections.

- A. **Inspections.** The City Manager or the Director, may, on twenty-four (24) hour oral or written notice to the owner, operator or person responsible for the day-to-day activities of such property or facility, or upon such shorter time period where justified by exigent circumstances, may enter upon and inspect any private property for the purposes of verifying compliance with the terms and conditions of this Chapter or with any NPDES permit involving the property.
- B. **Entry to Inspect.** Upon obtaining the right to inspect in accordance with subsection 8.70.100(A) above, the Enforcement Officer may enter upon such private property to: (1) investigate a violation or potential violation of this Chapter; (2) investigate the source of any Discharge of a Pollutant or the potential Discharge of a Pollutant to the MS4; (3) conduct an annual or follow-up compliance inspection; or (4) conduct an inspection to verify compliance with any BMPs identified as conditions of approval for a project and/or that were included in the project-specific WQMP.

- C. **Portable Equipment.** The right of inspection provided in this Section 8.70.100 shall include the right to inspect any vehicle, truck, trailer, tank truck or other mobile equipment on the property.
- D. **Records Review.** Inspections conducted under this Section 870.100 shall include the right to inspect all records of the owner or occupant of property relating to chemicals or processes presently or previously stored or occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, State General Permits, stormwater pollution prevention plans, monitoring program plans and any other record(s) that may be related to Illicit Connections, Illicit Discharges, or any other source of contribution or potential contribution of Pollutants to the MS4.
- E. **Sample and Test.** The Enforcement Officer may inspect, sample and/or test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of Pollutants to the MS4. The Enforcement Officer may investigate the integrity of all storm drain and sanitary sewer systems, or other pipelines on the property using appropriate tests, including but not limited to smoke and dye tests or video surveys. The Enforcement Officer may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.
- F. **Monitoring.** An Enforcement Officer may erect and maintain monitoring devices for the purpose of measuring any Discharge of a Pollutant or potential Discharge of a Pollutant to the MS4.
- G. **Test Results.** The owner or occupant of property subject to inspection may, upon submission of a written request, obtain copies, at the requesting party's sole cost and expense, of all monitoring and test results conducted by or on behalf of the City.

8.70.110 Notification.

- A. **Immediate Notification.** Any person who intentionally, negligently or otherwise violates any provision of this Chapter, which violation has resulted in a Discharge of a Pollutant to the MS4, shall immediately notify the Director, either in person, by telephone, facsimile, electronic

mail, letter or other written communication, and shall identify in such notification the location of the Discharge, the date and time of the Discharge, the type, concentration and volume of the Pollutant or Pollutants discharged, as well as any corrective action or measures taken as a result of the Discharge.

- B. **Written Report.** All persons violating this Chapter shall, within ten (10) calendar days after any such Discharge of a Pollutant or Pollutants, file with the Director a detailed written report describing the cause of the Discharge, the date and time of the Discharge, the type, concentration and volume of Discharge, the location of the Discharge, any specific information needed in connection with the location to fully explain the potential impacts from the Discharge, and any corrective action or other measures taken in connection with the Discharge, including any measures taken to prevent similar Discharges in the future. Submission of this written report shall not be deemed to be a waiver or release of any person from any liability, fine or other obligations imposed under this Chapter, or otherwise in the City's Code or under State or federal law.

8.70.120 Administrative Remedies.

- A. **Administrative Citation.** In addition to all other enforcement mechanisms provided for in this Chapter, any violation of this Chapter may be enforced through the Administrative Citation procedure set forth in Chapter 1.09 of the City of La Quinta Municipal Code.
- B. **Notice of Noncompliance.** The Enforcement Officer may deliver to the owner or occupant of any property, and/or to any person or entity for violating or causing a violation of this Chapter, a Notice of Noncompliance. The Notice of Noncompliance shall be delivered in accordance with subsection 8.70.120(F).
1. The Notice of Noncompliance shall identify the provision(s) of this Chapter that have been violated. The Notice of Noncompliance may state that continued noncompliance may result in additional enforcement actions against the owner, occupant and/or person or entity responsible for the violation.
 2. The Notice of Noncompliance shall state a compliance date that must be met by the owner, occupant and/or other responsible person or entity; provided, however, that the compliance date may not exceed ninety (90) days unless the Enforcement

Officer extends the compliance deadline an additional reasonable period of time, under the circumstances, where good cause exists for the extension.

C. Administrative Compliance Orders.

1. The Enforcement Officer may issue an Administrative Compliance Order. The Administrative Compliance Order shall be delivered in accordance with subsection 8.70.120(F). The Administrative Compliance Order may be issued to:
 - a. The owner or occupant of any property or other responsible person or entity requiring abatement of conditions on the property that have caused or contributed to, a violation of this Chapter or an imminent threat of an Illicit Discharge;
 - b. Any person or entity responsible for an Illicit Connection;
 - c. The owner of property subject to the terms, conditions or requirements imposed on a project in accordance with Sections 8.70.070 and 8.70.080, so as to ensure adherence to those terms, conditions and requirements.
2. The Administrative Compliance Order may include the following terms and requirements:
 - a. Specific steps and time schedules for compliance as reasonably necessary to address the violation or to prevent the imminent threat of an Illicit Discharge, including but not limited to, an Illicit Discharge from any pond, pit, well, surface impoundment, holding or storage area;
 - b. Specific steps and time schedules for compliance as reasonably necessary to discontinue any Illicit Connection;
 - c. Specific requirements for containment, cleanup, removal, storage, installation of overhead covering, or proper disposal of any Pollutant having been discharged to or having the reasonable potential to be discharged to the MS4;

- d. Any other terms or requirements reasonably calculated to prevent the imminent threat of or continuing violations of this Chapter, including, but not limited to, requirements for compliance with best management practices guidance documents promulgated by any federal, State of California or regional agency;
- e. Any other terms or requirements reasonably calculated as being needed to achieve full compliance with the terms, conditions and requirements of this Chapter.

D. Cease and Desist Orders.

1. The Enforcement Officer may issue a Cease and Desist Order. A Cease and Desist order shall be delivered in accordance with subsection 8.70.120(F). A Cease and Desist Order may direct the owner or occupant of any property and/or any other person or entity responsible for a violation of this Chapter to:
 - a. Immediately discontinue any Illicit Connection or Illicit Discharge to the MS4;
 - b. Immediately contain or divert any flow of runoff, where the flow is occurring in violation of any provision of this Chapter;
 - c. Immediately discontinue any other violation of this Chapter;
 - d. Immediately clean up all areas affected by the violation.
 - e. Cease and desist with any or all continued work on a project (*i.e.*, a Stop Work Order) until such time as appropriate BMPs are implemented, the Illicit Discharge or Connection is eliminated, or other appropriate actions are taken to ensure compliance with this Chapter.
2. The Enforcement Officer may direct by Cease and Desist Order that (1) the owner of any property which property is subject to any conditions or requirements issued pursuant to Sections 8.70.070 and 8.70.080; or (2) any occupant of any property or any other person or entity responsible for a violation of this Chapter: immediately cease any activity not in compliance with the conditions or requirements issued pursuant to Sections

8.70.070 or 8.70.080, or with the terms, conditions and/or requirements of any applicable permit involving operations on the property, including, but not limited to, any applicable NPDES permit.

3. No Cease and Desist Order is to be stayed, tolled or otherwise put on hold as a result of any administrative or other legal challenge to its terms. A Cease and Desist Order is only to be stayed, tolled or put on hold where required as a result of the administrative review process or by a Court of competent jurisdiction.
 4. Notwithstanding anything in this Chapter to the contrary, the City may take all action necessary to inspect, investigate, assess, remedy, treat, monitor or otherwise abate any Discharge or threat of a Discharge of a Pollutant on or into any public property, including all publicly owned portions of the MS4. All costs and fees incurred by the City or any other responsible governmental agency and/or contractor of the City in this regard may be included within an Invoice for Costs and recovered against the responsible party or parties in accordance with provisions of this Chapter.
- E. Recovery of Costs. The Enforcement Officer may deliver to the owner and/or occupant of any property, and/or any other responsible person or entity who becomes subject to a Notice of Noncompliance, an Administrative Compliance Order, a Cease and Desist Order, or an Invoice for Costs. An Invoice for Costs shall be delivered in accordance with subsection 8.70.120(F). An Invoice for Costs shall be immediately due and payable to the City for the actual costs incurred by the City in issuing and enforcing any such notice or order, including any costs incurred by the City to prevent, contain and/or cleanup any threatened or actual Discharges to the MS4. If any owner or occupant or any other responsible person or entity subject to an Invoice for Costs fails to either pay the Invoice for Costs or successfully appeal the Invoice for Costs then the Enforcing Attorney may institute collection proceedings.
- F. Delivery of Notice. Except where the nuisance abatement procedure under Section 8.70.130 is being followed, all administrative citations, Notices of Noncompliance, Administrative Compliance Orders, Cease and Desist Orders, or Invoices for Costs, and all other enforcement orders for violations of this Chapter shall be subject to the service and

administrative hearing procedures provided for in Chapter 1.09 of the City of La Quinta Municipal Code.

- G. **Administrative Hearing.** Except as set forth in subsection 8.70.120(H) or where the nuisance abatement procedure under subsection 8.70.130 is being followed, all Administrative Citations, Notices of Noncompliance, Administrative Compliance Orders, and Invoices for Costs issued under this Chapter shall be subject to the administrative hearing procedures set forth in Chapter 1.09 of the City of La Quinta Municipal Code. Notwithstanding the foregoing, these administrative appeal procedures shall not apply to criminal proceedings initiated to enforce this Chapter.
- H. **Administrative Hearing for Cease and Desist Orders and Emergency Abatement Actions.** An administrative hearing on the issuance of a Cease and Desist Order or following an emergency abatement action shall be held within five (5) business days following the issuance of the order or the action of abatement, unless the hearing (or the time requirement for the hearing) is waived in writing by the party subject to the Cease and Desist Order or the emergency abatement. A request for an administrative hearing shall not be required from the person subject to the Cease and Desist Order or the emergency abatement action. The hearing proceeding, decision and appeal requirements of Chapter 1.09 of the City of La Quinta Municipal Code shall otherwise apply.
- I. **City Abatement.** In the event the owner of property, the operator of a facility, or any other responsible person or entity fails to comply with any provision of a compliance schedule issued pursuant to this Chapter, the Enforcement Officer may request the Enforcing Attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition and restore the area. Any costs incurred by the City in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered pursuant to subsection 8.70.120(E).

8.70.130 Nuisance.

- A. Any condition in violation of the provisions of this Chapter, including but not limited to, the maintenance or use of any Illicit Connection, or the occurrence or threatened occurrence of any Illicit Discharge, shall constitute a threat to the public health, safety and welfare, and is

declared and deemed a nuisance pursuant to Government Code section 38771.

1. Court Order to Enjoin or Abatement. At the request of the City Manager, the Enforcing Attorney may seek a court order to enjoin and/or abate the nuisance.
2. Notice to Owner and Occupant. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the City Manager, shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the property where the nuisance or threatened nuisance is occurring.
3. Emergency Abatement. In the event the nuisance constitutes an imminent danger to public health, safety and/or the environment, the City Manager may cause appropriate persons to enter the property from which the nuisance is believed to be emanating, abate the nuisance and restore any property affected by the nuisance. To the extent reasonably practicable, notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public health, safety and/or the environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant.
 - (i) An imminent danger shall include, but is not limited to exigent circumstances created by the Discharge or threatened Discharge of Pollutants, where the same presents a significant and immediate threat to the public health and safety or the environment.
 - (ii) Notwithstanding the authority of the City to conduct an emergency abatement action, an administrative hearing pursuant to subsection 8.70.120(H) herein shall follow the abatement action.
4. Reimbursement of Costs. All costs incurred by the City in responding to any nuisance, all administrative expenses and all other expenses recoverable under State law, including reasonable consulting fees and attorney's fees, shall be recoverable from the person(s) creating, causing, committing, permitting, contributing to and/or maintaining the nuisance, and

all such persons/entities shall be jointly and severally liable for all such expenses, costs and fees.

5. Nuisance Lien. All costs and fees shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code section 38773.1 and section 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code section 38773.1.

- (i) At the direction of the City Manager or the Enforcing Attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accord with the conditions and requirements of Government Code section 38773.5.

8.70.140 Criminal Sanctions.

- A. Prosecutor. The Enforcing Attorney may act on the request of the City Manager to pursue enforcement actions in accordance with the provisions of this Chapter.
- B. Infractions. Any person who may otherwise be charged with a misdemeanor under this Chapter may be charged, at the discretion of the Enforcing Attorney, with an infraction punishable by a fine of not more than one hundred dollars (\$100.00) for a first violation, two hundred dollars (\$200.00) for a second violation, and a fine not exceeding five hundred dollars (\$500.00) for each additional violation occurring within one year.
- C. Misdemeanors. Any person or entity who negligently or knowingly violates any provision of this Chapter, undertakes to conceal any violation of this Chapter, continues any violation of this Chapter after notice thereof, or violates the terms, conditions and requirements of any permit or approval issued pursuant to this Chapter, shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for a period of not more than six (6) months, or both.
- D. Damages. The Enforcing Attorney may petition the Court for any of the following damages:

1. The recovery of all fees and costs incurred and/or to be incurred in the enforcement of this Chapter, including but not limited to, all costs relating to any investigation, sampling, testing, monitoring, assessing, inspection, removing, treating, cleanup, and including all administrative expenses, legal fees and costs, and all other expenses as authorized by law, as well as damages to public property and consequential damages;
2. All costs incurred in investigating, sampling, testing, monitoring, assessing, removing, treating, cleaning up and/or mitigating in any way harm to the environment or public property, or to reduce the threat to human health or the environment;
3. Damages for harm to the environment or public property; and
4. Restitution and injunctive, declaratory and such other equitable relief as may be allowed by law.

8.70.150 Consecutive Violations.

Each day in which a violation occurs and each separate failure to comply with either a separate provision of this Chapter, an Administrative Compliance Order or a Cease and Desist Order, shall constitute a separate violation of this Chapter punishable by fines or sentences issued in accordance herewith.

8.70.160 Nonexclusive Remedies.

Each and every remedy available for the enforcement of this Chapter shall be nonexclusive and it is within the discretion of the Enforcement Officer or Enforcing Attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this Chapter.

8.70.170 Citations.

- A. Pursuant to Penal Code section 836.5, the Enforcement Officer shall have the authority to cause the arrest of any person committing a violation of this Chapter. The person shall be released and issued a citation to appear before a magistrate in accordance with Penal Code section 853.5, section 853.6, and section 853.9, unless the person demands to be taken before a magistrate. Following issuance of any citation the Enforcement Officer shall refer the matter to the Enforcing Attorney.

- B. Each citation to appear shall state the name and address of the violator, the provisions of this Chapter violated, and the time and place of appearance before the court, which shall be at least ten (10) business days after the date of violation. The person cited shall sign the citation giving his or her written promise to appear as stated therein. If the person cited fails to appear, the Enforcing Attorney may request issuance of a warrant for the arrest of the person cited.

8.70.180 Violations of Other Laws.

Any person or entity acting in violation of this Chapter may also be acting in violation of the Clean Water Act or the California Water Code and/or other laws, and may be subject to sanctions and civil liability. Accordingly, the Enforcing Attorney is authorized to file a citizen suit as permitted pursuant to the Clean Water Act, to seek penalties, damages, and orders compelling compliance, and any other appropriate relief. The Enforcing Attorney may notify EPA, the State or Regional Boards, or any other appropriate State, regional or local agency, of any alleged violation of this Chapter.

8.70.190 Injunctions.

At the request of the City Manager, the Enforcing Attorney may cause the filing in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this Chapter. Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this Chapter, including all costs of inspection, assessment, testing, investigation, monitoring, treating, removing and/or cleaning up Pollutants, and all costs of abatement and/or restoration undertaken at the expense of the City, as well as all legal fees and expenses, including all litigation costs and consulting costs and attorney fees relating thereto, and all other fees, costs and expenses as may be authorized by law.

8.70.200 Other Civil Remedies.

- A. The City Manager may cause the Enforcing Attorney to file an action for civil damages in a Court of competent jurisdiction seeking recovery of (i) all costs incurred in enforcement of the Chapter, including but not limited to costs relating to investigation, sampling, monitoring, inspection, administrative expenses, legal expenses, including litigation costs, consulting costs and attorney fees all other expenses as authorized by law, and consequential damages, (ii) all costs incurred in mitigating harm to the environment or reducing the threat to human

health, (iii) damages for harm to the environment or public property, and (iv) restitution and injunctive, declaratory and such other equitable relief as may be allowed by law.

- B. The Enforcing Attorney is authorized to file actions for civil damages resulting from any trespass or nuisance occurring on public land or to the MS4 from any violation of this Chapter where the same has caused damage, contamination or harm to the environment, public property or the MS4.
- C. The remedies available to the City pursuant to the provisions of this Chapter shall not limit the right of the City to seek any other remedy that may be available by law.

8.70.210 Coordination With Other Agencies.

- A. The City intends to cooperate with other agencies with jurisdiction over surface water to ensure that the regulatory purposes underlying surface water runoff regulations promulgated pursuant to the CWA are met.
- B. The City may, to the extent authorized by law, elect to contract for the services of any public agency or private enterprise to carry out the planning, approvals, inspections, permits and enforcement authorized by this Chapter.

8.70.220 Compliance With Chapter Is Not Compliance With Other Laws.

Compliance by any person or entity with the provisions of this Chapter shall not relieve any such person or entity from complying with other local, State or federal statutory or regulatory requirements.

SECTION 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force thirty (30) days after passage.

SECTION 3: SEVERABILITY. The City of La Quinta hereby declares that should any section, paragraph, sentence, phrase, term or word of this Chapter be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other provisions of this Chapter, independent of the elimination therefrom of any such portion as may be declared invalid.

SECTION 4: POSTING: The City Clerk shall, within fifteen (15) days after passage of this Ordinance, cause it to be posted in at least three public places designated by resolution of the City Council, shall certify to the adoption and posting of this

Ordinance, and shall cause this Ordinance and its certification, together with proof of posting to be entered into the Book of Ordinances of the City of La Quinta.

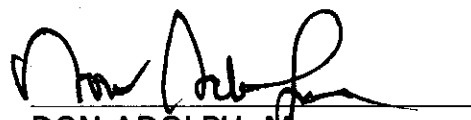
PASSED, APPROVED and ADOPTED, at a regular meeting of the La Quinta City Council held this 1st day of November 2011 by the following vote:

AYES: Council Members Evans, Franklin, Henderson, Mayor Adolph

NOES: None

ABSENT: Council Member Sniff

ABSTAIN: None

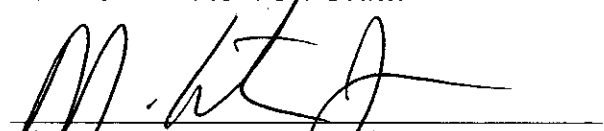

DON ADOLPH, Mayor
City of La Quinta, California

ATTEST:


VERONICA J. MONTECINO, CMC, City Clerk
City of La Quinta, California

(CITY SEAL)

APPROVED AS TO FORM:


M. KATHERINE JENSON, City Attorney
City of La Quinta, California

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LA QUINTA)

I, VERONICA J. MONTECINO, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true, and correct copy of Ordinance No. 493 which was introduced at a regular meeting on the 18th day of October 2011, and was adopted at a regular meeting held on the 1st day of November 2011, not being less than 5 days after the date of introduction thereof.

I further certify that the foregoing Ordinance was posted in three places within the City of La Quinta as specified in City Council Resolution No. 2006-115.


VERONICA J. MONTECINO, CMC, City Clerk
City of La Quinta, California

DECLARATION OF POSTING

I, VERONICA J. MONTECINO, City Clerk of the City of La Quinta, California, do hereby certify that the foregoing Ordinance was posted on November 2, 2011, pursuant to Council Resolution.


VERONICA J. MONTECINO, CMC, City Clerk
City of La Quinta, California

ORDINANCE NO. 406

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, DELETING CODE SECTION 8.02.100 (GRADING AND EXCAVATING) AND ADDING CHAPTER 8.80 (GRADING)

THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION I. That Code Section 8.02.100 (Grading and Excavating) of the La Quinta City Charter and Municipal Code is hereby deleted and Chapter 8.80 (Grading) is hereby added to read as follows:

CHAPTER 8.80

GRADING

Sections:

- | | |
|-----------------|--|
| 8.80.010 | Purpose and Intent. |
| 8.80.020 | Definitions. |
| 8.80.030 | Responsibility for Administration. |
| 8.80.040 | Applicability. |
| 8.80.045 | Permit Requirements. |
| 8.80.050 | Grading Bonds. |
| 8.80.060 | General Requirements. |
| 8.80.070 | Denial of permit. |
| 8.80.075 | Permit limitations and conditions. |
| 8.80.080 | Exceptions for emergencies. |
| 8.80.090 | Conditions of approval. |
| 8.80.100 | Liability. |
| 8.80.110 | Plan checking and permit fees. |
| 8.80.120 | Hazardous soil and earth conditions. |
| 8.80.130 | Areas subject to geologically hazardous conditions. |

8.80.010 Purpose and Intent.

- A. *Generally.* The purpose of this chapter is to safeguard life, limb, health, property and public welfare by establishing minimum requirements for regulating grading and procedures by which these requirements may be enforced.
- B. *Scope.* No person shall make, alter or maintain any excavation or fill except as provided by this chapter.

Exception: The provisions of this chapter shall not apply to the following:

1. Work accomplished under the auspices of land owned and controlled by the United States of America or by the State of California.
 2. Work in a public way, drains and drainage structures constructed by or under contract with the city or County Flood Control District unless the structure forms a portion of the support for a building or a structure coming within the jurisdiction of the building and safety department.
- C. *Permissive provisions.* The permissive provisions of this chapter do not waive, and shall not be presumed to waive, any limitations imposed by other statutes or ordinances of the state or city.
- D. *Limitations.* If two or more pertinent limitations are not identical, those limitations shall prevail which provide the greater safety to life, limb, health, property, and public welfare.
- E. *Appeals.*
- F. *Measurements.* Measurements referred to in this chapter 8.80 are shown as both English units (foot/pound/second) and metric units (metric units are in parenthesis following the English units). Measurements used in a grading project may be either English units or metric units. However, whatever type of unit is used (English or metric) in a grading project; the type of unit selected must be used exclusively throughout that project in complying with the requirements of this chapter.

8.80.020 Definitions.

For the purpose of this chapter, the following terms shall be termed as:

Bedrock shall mean the solid undisturbed rock in place either at the ground surface or beneath surficial deposits of gravel, sand or soil.

Building official shall mean that person charged with the responsibility of enforcing the Uniform Building Code (UBC) and state statutes and ordinances pertaining to his office.

City Engineer shall mean that person charged with the responsibility of coordinating all phases of engineering for the city government.

City standard construction details shall mean that publication of construction drawings developed by the city engineer and revised from time to time.

Civil engineer shall mean a civil engineer duly registered by the State of California who makes tract layouts for subdivisions and furnishes the necessary control to achieve the proper angle of cut and fill slopes, the necessary drainage provisions, street and curb grades, storm drain design and other matters related to the geometric finish of subdivisions, shopping centers, condominiums, etc.

Community Development manager shall mean that person charged with the responsibility of coordinating all phases of city growth planning, development, and redevelopment for the city government.

Compaction shall mean the densification of a fill.

Continuous observation shall mean nearly full-time visual observation of equipment and materials used therein, sufficient to permit the engineer to render a professional opinion as to the contractor's conformance with the engineer's recommendations, plans, or specifications.

Engineering geologist shall mean a geologist registered in the State of California as an engineering geologist and duly qualified and capable of applying the geological sciences to engineering practice for the purpose of developing and rendering professional opinions regarding how geologic features affect the location, design, construction, operation and maintenance of engineering works.

Existing grade shall mean the vertical location of the existing ground surface prior to excavating or filling.

Fill shall mean deposits of soil, rock, or other materials placed by man.

Finished grade shall mean the final grade or elevation of the building site, slope or terrace.

Geotechnical engineer shall mean an engineer registered in the State of California as a geotechnical engineer and duly qualified and capable of applying geological sciences, soil mechanics and slope stability analysis to engineering practice.

Grading shall mean the removal or deposition of soil in a manner which alters the elevation of existing terrain.

Hillside areas shall mean those areas covered by the Hillside Preservation Ordinance.

Landscape architect shall mean a landscape architect duly registered as such by the State of California.

Landslide shall mean the falling, slipping or flowing of a mass of land from a higher to a lower level.

Active landslide shall mean a landslide that has been active since January 1, 1952.

Historical Landslide shall mean a landslide that was active in historical time prior to 1952 as determined from photographs, maps, and written records.

Prehistoric landslide shall mean conditions where there is no record of historical landslide but where geological evidence or topographic expression indicates modification of the terrain by land movement.

Possible prehistoric landslide shall mean areas where there is no record of a historic landslide but where topographic expression or geological evidence suggests the possibility of past land movement.

Periodic observation shall mean intermittent visual observation throughout the course of the project.

Rough grades shall mean the approximate elevation of the ground surface conforming to the proposed design.

Site shall mean any lot or parcel of land or contiguous combination thereof, under the same ownership where grading is performed or permitted.

Slope. In all references to permitted or required slope ratios (for example 2:1) the first number refers to a horizontal measurement and the second number refers to a vertical measurement. Each number refers to a measurement that utilizes the same standard of measurement.

Soil shall mean all earth material, of whatever origin, that overlies bedrock.

Soils engineer shall mean a civil engineer duly registered by the State of California who is experienced in soils mechanics and slope stability analysis. Primary duties shall encompass the investigation of proposed grading sites and tracts as related to the stability of the finished graded product. The soils engineer will have proper laboratory facilities available in which to perform any and all testing required to properly evaluate materials under consideration.

8.80.030 Responsibility for Administration.

This chapter shall be administered for the City by the Public Works Director and his/her designee.

8.80.040 Applicability.

A. *Generally.* No person shall commence or perform any grading, and no person shall import or export any earth materials to or from any grading site, without first having obtained a permit therefore from the city engineer. A separate permit will be required for each site and may include the entire grading operation at that site.

B. Exceptions.

1. An excavation which is less than two feet (0.6 meters) in depth, or which does not create a cut slope greater than five feet (1.5 meters) in height and steeper than two to one (2:1).

2. A fill which is less than one foot (0.3 meters) in depth and placed on natural terrain with a slope flatter than five to one (5:1), and which does not obstruct a drainage course.

3. A fill less than three feet (0.9 meters) in depth, not intended to support structures, which does not exceed 100 cubic yards (76 cubic meters) on any one lot and does not obstruct a drainage course.

4. Excavations below finished grade for basements and footings of buildings authorized by valid building permits. This shall not exempt any fill made with material from such excavation nor exempt any excavation having an unsupported height greater than five feet (1.5 meters) after the completion of such structure.
 5. Excavations below furnished grade for retaining walls less than six feet (1.8 meters) in height in areas not within a hillside area.
 6. Excavations below finished grade for retaining walls less than three feet (0.9 meters) in height in areas within a hillside area.
 7. Utility trenches, wells, exploratory excavation, and similar work if the city engineer determines that such exemption would not endanger life, limb, health, property, safety or public welfare.
 8. Excavation or deposition of earth materials within a property which is used, or dedicated to be used for cemetery purposes.
 9. Projects constructed by the city.
- C. *Grading on slopes greater than 10 percent.* No application for a grading permit in excess of 2000 cubic yards if the average natural slope is 10 percent or greater, or 3000 cubic yards in all other cases, shall be accepted unless an environmental assessment pursuant to the California Environmental Quality Act has been completed by the Community Development Department. The grading permit may be denied or special conditions may be imposed by the Community Development Department to assure conformance with mitigation measures identified in the environmental assessment.

8.80.045. Permit Requirements.

- A. *Plans and specifications.* With each application for a grading permit and when required by the city engineer for enforcement of any provisions of the article, two sets of plans and specifications will be submitted. Except as waived by the city engineer for small or unimportant work, the plans shall be prepared and signed by a registered civil engineer and shall show the following:
1. Owner's name and address.

2. A vicinity sketch or other data adequately indicating the site location.
3. Property lines, with dimensions and bearings, of the property on which the work is to be performed.
4. Location of any buildings or structures on the property where the work is to be performed, and the location of any building or structure on land of adjacent property owners which are within 25 feet (7.6 meters) of the property boundary, also shows any creeks, drainage courses, riparian habitats.
5. Accurate contours showing the topography of the existing ground. Contours shall be extended past the boundary lines of any project for a minimum of 50 feet (15 meters). Where unusual topography exists adjacent to a site, i.e., barrancas, etc., the contours shall be extended to include same.
6. Elevations, dimensions, location, extent, and the slopes of all proposed grading shown by contours and other means.
7. A certification of the quantity and type of material of excavation and fill involved and estimated starting and completion dates.
8. Source of material to be used for fill or location to which excavated material will be removed or both.
9. Proposed routes for hauling material, hours of work and methods of controlling dust.
10. Detailed plans of all drainage devices, walls, cribbing, dams, or other protective devices to be constructed in connection with, or as a part of the proposed work, together with a map showing the drainage area and estimated runoff of the area served by the drains.
11. Any pertinent additional plans, drawings, or calculations required by the city engineer.

B. *Modification of approved plans.* All modifications of approved grading plans must be approved in writing by the city engineer. All required soils and geological reports shall be submitted with the revised plans. No grading work in connection with the proposed modifications will be permitted without the prior written approval of the city engineer.

C. *Engineering geological reports.* Prior to issuance of a grading permit, the city engineer may require an engineering geological investigation, based upon the most recent grading plan. The engineering geological report shall be prepared and signed by an engineering geologist and shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geological conditions on the proposed development.

All reports shall be subject to approval by the city engineer. Supplemental reports and data may be required by the city engineer if deemed necessary. Recommendations included in the report and approved by the city engineer shall be incorporated into the grading plan. Reports shall be required for all developments in hillside areas or other developments as designated by the city engineer.

D. *Soils engineering reports.* The city engineer may require a soils engineering investigation, based upon the most recent grading plan. Such reports shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures, or such other criteria as required by the city engineer. All such reports shall be prepared and signed by a soils engineer or geotechnical engineer.

Recommendations included in the report and approved by the city engineer shall be incorporated into the grading plan or specifications.

E. *Revised grading plan.* If the soil or other conditions are not as stated in the application for a grading permit, the city engineer may suspend the grading permit until approval is obtained of a revised grading plan.

F. *Waivers.* The city engineer may waive the requirement for a contour map or subsurface exploration as required by "this subsection if it is found that the information on the application is sufficient to show that the work will conform to the provisions of this article and other relevant laws.

- G. *Preliminary grading plans.* When required by the city engineer or community development manager preliminary grading plans shall include the information described in items 1., 2., 4., 5., and 6. of paragraph A. of this section, property lines, and any additional information required by the city engineer or planning/redevelopment manager.

8.80.050 Grading Bonds.

- A. *Requirements.* A permit will not be issued for excavation or fill of more than 500 cubic yards (380 cubic meters) in hillside areas, more than 1,000 cubic yards (760 cubic meters) in other areas, or for any work which requires retaining walls, until the permittee shall post with the city engineer a bond for the benefit of the city. The bond shall be executed by the owner and a corporate surety authorized to do business in this State as surety in an amount sufficient to cover the cost of the project, including corrective work necessary to remove and eliminate geological hazards. All bonds shall be in a form acceptable to the City Engineer.

Exception: The city engineer may waive the requirement that a bond be posted before a permit is issued as provided in this section if the city engineer determines that no potential hazard would exist if the grading is not completed.

- B. *Cash or deposit agreement in lieu of bond.* In lieu of a surety bond the applicant may file a deposit agreement or deposit cash with the city engineer upon the same terms and conditions and in an amount equal to that which would be required in the surety bond. The deposit submitted with the cash bond may be in the form of cash or negotiable United States securities. The deposit agreement shall be on forms approved by the city engineer.
- C. *Application of bond to adjacent property.* Where grading is required on property adjacent to the grading site under permit to complete a project satisfactorily, written consent must be obtained from the adjacent owner and a copy of the written consent submitted to the city engineer prior to commencement of grading on the adjacent property. The owner of such adjacent property need not provide an additional grading bond, if the original is of sufficient amount to include such additional grading.
- D. *Conditions of the bond, deposit agreement, or cash deposit.* Every bond, deposit agreement or cash deposit shall be conditioned that the permittee shall:

1. Comply with all of the provisions of this article and all other applicable laws and ordinances.

2. Comply with all of the terms and conditions of the permit for excavation and fill to the satisfaction of the city engineer.

- E. *Period and termination of bond, deposit agreement, or cash deposit.* The term of each security shall begin upon the date of filing with and shall remain in effect until the completion of the work to the satisfaction of the city engineer, plus an additional period of one year. Such completion shall be evidenced by issuance of a grading certificate signed by the city engineer designated to issue said certificate. In the event of failure to complete the work and failure to comply with all of the conditions and terms of the permit, the city engineer may order the work to be completed as required by the permit and to the satisfaction of the city engineer's office. The surety executing such bond or such deposit, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the city in causing any and all of such required work to be accomplished and that said surety or the depositor assents to any lawful extensions of time within which to construct and complete such work. In the case of a cash deposit or deposit agreement, any unused portion shall be refunded to the permittee.

After the work has been completed to the satisfaction of the city engineer, the city engineer may release or exonerate the bond, deposit agreement, or cash deposit earlier than the additional one (1) year period if the city engineer determines that the public health and welfare is not jeopardized. In no case shall the security be released earlier than four (4) months after the grading work has been completed to the satisfaction of the city engineer.

- F. *Amount of security.* The amount of the security shall be based upon the estimated cost plus twenty (20) percent, as determined by the number of cubic yards of material in either excavation or fill, whichever is the greater amount, and shall include the cost of all retaining walls, drainage structures, erosion control, and other protective devices as may lawfully be required.

8.80.060 General Requirements.

- A. *Supervision.* The permittee shall provide sufficient supervisory control during the grading operation to insure compliance with approved plans and with the City of La Quinta Municipal Code. When required by the city engineer, the permittee shall obtain the services of a geotechnical engineer or soils engineer to monitor the work. The geotechnical engineer and soils engineer shall be properly qualified in accordance with section 8.80.020 of this division and qualified to perform such services within the city.
- B. *Safety precautions during grading.* If, at any stage of work on an excavation or fill, the city engineer determines by inspection that further work as authorized by an existing permit is likely to endanger any property or public way, the city engineer may require that plans for such work be amended to include adequate safety precautions as a condition to allow the work to continue. Safety precautions may include, but shall not be limited to, specifying a flatter exposed slope or construction of additional drainage facilities, berms, terracing, compaction, cribbing, retaining walls or buttress fills, slough walls, desilting basins, check dams, benching, wire mesh and uniting, rock fences, revetments or diversion walls.
- C. *Violations.*
1. No person shall fail, refuse or neglect to comply with the following provisions:
 - (a) All orders issued by the city engineer or the building official pursuant to the provisions of this article.
 - (b) All conditions imposed on grading permits pursuant to the provisions of this article.
 - (c) All rules and regulations of the city engineer with respect to grading which were in effect at the time the grading permit was issued.
 2. Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of an infraction, which is punishable up to a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed, continued, or permitted,

and upon conviction of any such violation said person shall be punishable by a fine of not more than \$1,000.00, or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

3. Stop work orders. Whenever any construction or work is being done contrary to the provisions of any law or ordinance, or public or private property is endangered, the city engineer may issue a written notice to the responsible party to stop work on that portion of the work on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation or of the danger and no work shall be done on that portion until the violation has been rectified and approval obtained from the city engineer or until, as a condition for continuance of the work, special precautions to eliminate the hazards have been approved and imposed by the city engineer and performed by the permittee.

D. Grading inspection.

1. All construction or work for which a permit is required shall be subject to inspections by authorized employees of the city, and certain types of work, as determined by the city engineer, shall have either continuous or periodic observation by a civil engineer, soils engineer, or engineering geologist employed by the applicant or property owner as a condition of issuance of the grading permit. Prior to issuing a grading certificate, a final inspection shall be made of all construction or work for which a permit has been issued.

2. Exposure of work. Whenever any work on which inspections are required, as specified in this section, is covered or concealed by additional work without having first been inspected, the city engineer may require that such work be exposed for examination. The work of exposing and recovering shall not entail expense to the City of La Quinta.

3. Notice. The permittee or the permittee's agent shall notify the city engineer twenty-four (24) hours in advance of the time when the grading operation is ready for each of the following inspections.

(a) *Initial inspection:* When the permittee is ready to begin work, but before any grading or brushing is started.

(b) *Toe inspection:* After the natural ground is exposed and prepared to receive fill, but prior to the placement of any fill.

(c) *Excavation inspection:* After the excavation is started, but before the vertical depth of the excavation exceeds ten (10) feet (3.0 meters).

(d) *Fill inspection:* After the fill emplacement is started, but before the vertical height of the lifts exceed ten (10) feet (3.0 meters).

(e) *Drainage device inspection:* After forms and pipe are in place, but before any concrete is placed.

(f) *Rough grading:* When all rough grading has been completed. An inspection may be called for at the completion of the rough grading without the necessity of the city engineer having previously reviewed and approved the reports.

(g) *Final:* When all work, including installation of all drainage structures, other protective devices, and planting and slope stabilization has been completed and the "As Graded" plan and required reports have been submitted.

(h) *Other inspection:* In addition to the called inspections above, the city engineer may make other inspections of any work to ascertain compliance with the provisions of this article and other laws.

4. **Final reports.** Upon completion of the work, the city engineer may require the permittee or property owner to have prepared the following reports and information:

(a) Report from a registered civil engineer certifying that all grading, lot drainage, and drainage facilities have been completed in conformance with the approved plans and this article.

(b) A final contour map of the completed work.

(c) A soils engineering report including a statement that the portion of the work concerning the preparation of the existing ground surface and the placing and compaction of fill is in conformance with the approved plans and the appropriate provisions of subsection F., entitled "Fills."

The report shall also include the recommended soil-bearing capacity, a finding as to the expansive characteristics of the soil and the presence of buttress fills on a lot by lot basis, the location of subdrains, and a summary of tests. The location of such tests and the limits of the compacted fill shall be shown on a final plan, which shall also show by plan and cross section the location of any rock disposal areas and/or buttress fills, if such were involved in the grading.

(d) An engineering geology report by an engineering geologist based on the final contour map including specific approval of the grading as affected by geological factors. Where necessary, a revised geological map and cross sections including faults and other geologic structures, and any recommendations necessary shall be included.

5. Special inspections. Where necessary, the city engineer may require the permittee or property owner to employ:

(a) A civil engineer to monitor all grading.

(b) A soils engineer to provide either periodic or continuous soils inspection.

(c) An engineering geologist to provide geological inspections.

The employment of the above shall not be deemed to render unnecessary any inspections described in this article except that on any work requiring continuous monitoring by a civil engineer, the inspections required by this section may be delegated to the civil engineer by the city engineer. If the civil engineer fulfilling engineering responsibility under this section finds that work is not being done in conformance with this article or the plans and specifications approved by the city engineer, the civil engineer shall immediately notify the person in charge of the grading work and the city engineer in writing of the nonconformity and the corrective measures to be taken.

The civil engineer monitoring grading work shall immediately notify the city engineer in writing upon the termination of his or her engineering services.

All work shall immediately stop upon the termination of the services of the civil engineer whose name appears on the grading permit as having been approved to monitor the grading work, and it shall not commence again until

the new approved civil engineer certifies in writing to the city engineer that he/she has reviewed all phases of the project and is thoroughly familiar with it. Upon receipt of this notice the city engineer will give written notice that work may proceed.

E. *Excavations.*

1. *Height.* Cut slopes which exceed 100 feet (30 meters) in vertical height shall be constructed with a minimum of one bench for each 100 feet (30 meters) in vertical height. The benches shall be evenly spaced on the slope and shall have a minimum width of 30 feet (9.1 meters).

2. *Slope.* Excavations shall not be made with a cut face steeper in slope than two to one (2:1).

Exception: The city engineer may permit the excavation to be made with a cut face steeper in slope than two to one (2:1), if the applicant shows through subsurface exploration by both a soils engineer and an engineering geologist to the satisfaction of the city engineer that the material making up the slope of the excavation and the underlying bedrock is capable of standing on a steeper slope.

3. *Excavation setback.* Excavations shall not extend below a line that is projected at an angle of two to one (2:1) from the nearest point of any footing or foundation of any building or structure unless such footing or foundation is first properly underpinned or supported against settlement or a civil engineer has determined to the satisfaction of the city engineer that the proposed excavation will not affect the existing structure.

4. *Unstable slopes.* If the material of the slope is of such composition and character as to be unstable, considering all types of anticipated loading and moisture conditions, the engineering geologist or soils engineer shall, by testing and analysis, provide specific criteria for its stabilization by reduction of slope angle, buttressing, or by a combination of these or other means.

5. *Cut slope setback.* All cut slopes shall be within properties or parcels under one ownership. That is, they shall not be divided horizontally by property lines. Tops of cut slopes shall not be made nearer than one foot (0.3 meter) plus one-fifth the height of the cut to a project boundary, but need not exceed a horizontal distance of ten feet (3.0 meters). If the city

engineer determines that the above is unnecessary because of special conditions, the city engineer may make adjustments as a condition of the grading permit.

6. *Intervening terraces.* On cut slopes exceeding 25 feet (7.6 meters) in height, intervening terraces shall be constructed in accordance with city standards. Terraces shall be paved with concrete terraces on cut slopes and, shall have a minimum width of eight feet (2.4 meters) and shall be spaced at maximum intervals of 25 feet (7.6 meters) measured vertically. Where only one terrace is utilized, it shall be placed at mid-height.

F. *Fills.*

1. *Gradient.* No fill shall be made which creates any exposed surface steeper in slope than two to one (2:1), except under one or more of the following conditions:

(a) A retaining wall or other approved support is provided.

(b) The city engineer may permit a fill to be made which creates an exposed surface steeper in slope than two to one (2:1) if the applicant shows through the investigation and report, to be approved by the city engineer, of a soils engineer and engineering geologist that the strength characteristics of the material to be used in the fill are such as to produce a safe and stable slope, and that the areas on which the fill is to be placed have sufficient strength characteristics to support the fill within reasonable settlement values.

2. *Gradient reduction.* The city engineer may require that the fill be constructed with an exposed surface flatter than two to one (2:1) if, under the particular conditions, such flatter surface is necessary for stability or safety.

3. *Height.* Fill slopes which exceed 100 feet (30 meters) in vertical height shall be constructed with a minimum of one bench for each 100 feet (30 meters) in vertical height. The benches shall be evenly spaced on the slope and shall have a minimum width of 30 feet (9.1 meters).

4. *Intervening terraces.* On fill slopes exceeding 25 feet (7.6 meters) in height, intervening terraces shall be constructed in accordance with city standards. Terraces shall be paved with concrete terraces on fill slopes and, shall have a minimum width of eight feet (2.4 meters) and shall be spaced at maximum intervals of 25 feet (7.6 meters) measured vertically. Where only one terrace is utilized, it shall be placed at mid-height.

5. *Placement.* All fills shall be placed, compacted, inspected, and tested in accordance with the following provisions. If the strict enforcement of this section is determined by the city engineer to be unnecessary because of the proposed or probable use of land, the city engineer may waive these requirements.

These requirements shall not be waived when structures are to be supported by the fill or where they are necessary as a safety measure to aid in preventing the saturation, settling, slipping or erosion of the fill.

(a) *Preparation of ground.* The existing ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, or other incompetent material. Where the slope of the existing ground surface is five to one (5:1) or steeper, the fill shall be supported on level benches cut into competent material. The bench under the toe of a fill on a slope steeper than five to one (5:1) shall be at least ten feet (3.0 meters) 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 (3.0 meters) wide, but the cut shall be made before placing the fill and before acceptance by the civil engineer, as a suitable foundation for fill.

(b) *Sub drains.* Except where recommended by a soils engineer as not being necessary, sub drains 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 city engineer. The permittee shall provide periodic monitoring during the process of sub drain installation to conform with approved plans and soils engineer's recommendations. Such monitoring shall be done by the soil testing agency employed by the permittee. The locations of the sub drains shall be shown on a plan approved by the soils engineer.

(c) Fill material. Organic material shall not be permitted in fills. Soil containing small amounts of roots may be allowed, providing that the roots are in a quantity and distributed in a manner that will not be detrimental to the future use of the site and the use of such material is approved by a soils engineer and the city engineer.

No rock or similar irreducible materials with a maximum dimension greater than eight inches (0.20 meters) shall be buried or placed in fill except as recommended by the soil engineer, approved by the city engineer, and meeting the following requirements:

(1) The oversized material shall be placed ten feet (3.0 meters) or more below furnish grade.

(2) The soils engineer shall be present while the oversized material is placed and covered.

(3) 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 soils engineer's recommendations and the approved plans.

(4) The location of oversized rock dispersal areas shall be shown on the as-built plan.

Rock or similar irreducible materials less than eight inches (0.20 meters) in greatest dimension shall be placed in such a manner as to prevent nesting of oversize particles and to assure that all voids are filled with fine-grained materials.

(d) The fill shall be spread in a series of loose lifts, each not exceeding eight inches (0.20 meters) in thickness, and shall be compacted by sheepsfoot roller or other approved method after each layer is spread. The next lift shall not be placed until the compacted lift is tested or authorized by the soils engineer or city engineer, respectively.

(e) The moisture content of the fill material shall be controlled at the time of spreading and compaction to obtain required relative compaction. A soils engineer shall establish the allowable moisture range which minimizes settlement.

(f) All fills shall be compacted to a minimum of 90 percent of maximum density as determined by A.S.T.M. method D 1557. The city engineer may approve alternate minimum compaction densities where a soils engineer or geotechnical engineer has determined to the satisfaction of the city engineer that alternate minimum compaction densities are necessary to achieve the maximum benefit from soil consolidation. If the required degree of relative compaction cannot be attained on sloped surfaces, the slope shall be over filled and cut back until the compacted inner core is exposed. Field density shall be determined by A.S.T.M. method D 1556 or other methods approved by the city engineer which give equivalent results.

(g) A sufficient number of tests shall occur to satisfy the engineer that all requirements have been met. As a minimum, a field density test, as herein provided, shall be taken for each two feet (0.6 meters) of fill, or portion thereof, measured vertically from the lowest point of the area to be filled, and for each 1,000 cubic yards (760 cubic meters) of fill placed. In addition, in the case of subdivisions, at least one field density test shall be taken on each lot which receives fill. One field density test shall be taken on the slope face for every four feet (1.2 meters) in elevation of the slope or every 1,000 square feet (90 square meters) of slope for each lot.

(h) All fills regulated by this article shall be tested for relative compaction by a qualified soils testing agency. A certificate of compliance with the terms of this section and the grading permit, setting forth densities, relative compaction and other soil characteristics shall be prepared and signed by a soils engineer. This report shall be submitted to and approved by the city engineer before any final approval of the fill is given and before any foundation construction begins.

6. *Toe location.* Fills that toe out on natural slopes which are steeper than two to one (2:1) shall not be permitted.

Exception: The city engineer may permit the placement of fill on slopes as steep as 1 1/2 to one, if the applicant shows through subsurface exploration and appropriate analysis by both a soils engineer and an engineering geologist, to the satisfaction of the city engineer, that the material making up the natural slope is capable of supporting the proposed fill.

7. *Toe setback.* Toes of fill slopes shall not be made nearer to a project boundary line than one-half the height of the fill, but need not exceed a horizontal distance of 20 feet (6.1 meters). Fill slopes shall not be divided horizontally by property lines. If the city engineer determines that the above is unnecessary because of special conditions, the city engineer may make adjustments as a condition of the grading permit.

8. *Combined cut and fill slopes.* Combined cut and fill slopes shall meet the requirements of paragraphs 1, 2, 3, and 4 of this section insofar as steepness, height, and benching are concerned except that, where the slope exceeds 25 feet (7.6 meters) in height, the required drainage bench shall be placed at the top of the cut slope.

9. *Old fills.* All existing man-made fills, on any and all sites will be properly evaluated and recommendations and design criteria for corrective measures shall be included within the soils engineering report, if deficiencies exist.

10. *Progress reports.* Periodic soils reports by a soils engineer certifying the compaction or acceptability of all fills will be required monthly for projects extending three months or longer. These shall include, but need not be limited to, inspection of cleared areas and benches prepared to receive fill, and removal of soil and unsuitable materials, the placement and compaction of fill materials, and the inspection of buttress fills, sub drains, and similar devices.

The city engineer may require sufficient inspection by an engineering geologist to assure that all geologic conditions have been adequately considered. Where geologic conditions warrant, the city engineer may require periodic geologic reports. These inspections and reports may be required to include but need not be limited to inspection of cut slopes, canyons during clearing, operations for groundwater and earth material conditions, placement of sub drains, benches prior to placement of fill, and possible spring locations.

G. *Planting and irrigation of cut and fill/ slopes.*

1. *General.* All fill and cut slopes greater than four feet (1.2 meters) in vertical height, and any natural slopes from which native vegetation has been removed, which are determined by the city engineer to be subject to

erosion shall be planted and irrigated with an irrigation system to promote the growth of ground cover plants to protect the slopes against erosion, as required in this section.

The owner shall be responsible for planting and maintaining all slopes where such is required in this section.

2. *Minimum requirements.*

(a) Low slopes to 15 feet (4.6 meters) in vertical height.

(1) Plant with grass or ground cover plants as recommended on the approved planting schedule. Other plants recommended by a landscape architect will be considered for approval by the Public Works Director.

(2) An irrigation system shall be installed to irrigate these slopes as a part of the house plumbing installation, unless otherwise approved by the city engineer.

(3) The owner shall water the slopes which have been planted with grasses and ground cover plants at sufficient time intervals to promote growth.

Exception: Where the city engineer finds the slope is located in such an area to make hand-watering possible, conveniently located hose bibs will be accepted in lieu of the required irrigation system when a hose no longer than 100 feet (30 meters) would be necessary.

(b) Medium slopes 15 feet (4.6 meters) to 38 feet (11.6 meters) in vertical height.

(1) Plant with grass or ground cover plants as recommended on the approved planting schedule. Other plants may be recommended by a landscape architect for approval by the Public Works Director.

(2) In addition to ground cover plants, approved shrubs having a one gallon minimum size at ten feet (3.0 meters) on center in both directions on the slope may be used when the irrigation system is available for irrigation. The plants and planting pattern may be varied to include trees upon the recommendation of the landscape architect and approved by the Public Works Director.

(3) An adequate irrigation system shall be installed during grading, prior to planting of shrubs and trees.

(c) High slopes 38 feet (11.6 meters) or over in vertical height.

(1) Plant with grass or ground cover plants as recommended on the approved schedule. Other plants recommended by landscape architects may be submitted to the Public Works Director for approval.

(2) In addition to ground cover plants, approved shrubs having a minimum one gallon size at ten feet (3.0 meters) on center in both directions on the slope, or trees at 20 feet (6.1 meters) on center both ways may be used.

A combination of shrubs and trees may be utilized. This plant and planting pattern may be varied upon the recommendation of a landscape architect and approval by the Public Works Director.

(3) Slopes exceeding a height where a drainage terrace is required shall be planted with shrubs, minimum size one gallon, two feet (0.6 meters) on center, parallel to the benches and within two feet (0.6 meters) of the uphill side. Larger varieties may be staggered one each side of the bench as an alternate.

(4) An adequately designed irrigation system shall be installed prior to planting shrubs and trees.

3. *Special requirements for irrigation systems. ,*

(a) Plans for the irrigation system shall be submitted to and approved by the City Engineer prior to installation.

(b) The irrigation system shall be designed to provide uniform water coverage at a rate of precipitation of not less than one-tenth inch (250 millimeters) per hour nor more than three-tenths inch (750 millimeters) per hour on the planted slope. In no event shall the rate of precipitation duration of sprinkling be permitted to create a saturated condition and cause an erosion problem, or allow the discharge of excess water into any public or private street.

(c) A check valve and balance cock shall be installed in the system where drainage from sprinkler heads will create an erosion problem.

(d) Adequate backflow protection shall be installed in each irrigation system as required by the Uniform Plumbing Code.

(e) A functional test of the irrigation system shall be performed by the installer for every irrigation system prior to approval.

H. *Erosion control and drainage devices.*

1. *Water disposal.* All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the city engineer 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.

2. *Interceptor terraces.* Paved (concrete) interceptor terraces shall have a minimum width of eight feet (2.4 meters), a minimum depth of one foot (0.3 meters), and shall be installed on the face of all cut and fill slopes at intervals not to exceed 25 feet (7.6 meters) measured along a vertical plane.

The longitudinal slope of interceptor terraces shall not be less than four percent nor more than 12 percent and any change in rate of grade within these allowable slopes shall increase the grade in the direction of flow.

A single run of an interceptor terrace shall not exceed 300 feet (91 meters) to a down drain.

Down drains shall be embedded and round pipes enclosed in concrete shaped as shown in the city standard construction details, or an alternate design which is prepared by a civil engineer and acceptable to the city engineer.

The cross section of interceptor terraces shall meet the specifications shown in the city standard construction details.

3. *Diverter terraces.* Paved (concrete) diverter terraces, three feet (0.9 meters) in width and one foot (0.3 meters) in depth, constructed as shown in the city standard construction details shall be installed at the top of all cut slopes where the tributary drainage area above has a slope exceeding ten horizontal to one vertical (10:1) and a horizontal projection of greater than 50 feet (15 meters).

4. *Berms.* Berms as shown in the city standard construction details shall be constructed at the top of all slopes.

5. *Vee channels.* Where a slough wall is required at the toe of the slope, the city engineer may require a vee channel to be constructed behind the wall to carry off the slope waters.

6. *Inlet structures, down drains and outlet structures.*

(a) *Inlet structures.* Inlet structures shall be of concrete, galvanized iron hot-dipped in asphalt or equivalent. The inlet shall be grated or grilled, or of such entry shape as to prevent entry of objects of greater than four inches (0.10 meters) in dimension. Inlet structures shall be placed as shown in the city standard construction details and shall be so shaped as to provide small entry losses. An overflow structure into the "vee" down drains shall be provided.

(b) *Down drains.* Down drains shall be of concrete or corrugated galvanized iron hot-dipped in asphalt or its equivalent. Pipe down drains shall be reinforced concrete pipe, D-850, P.V.C., SDR 35, or corrugated metal pipe, galvanized with paved invert in conformance with the city standard construction details, and shall have a diameter of a size required by run-off calculations, but not less than 12 inches (0.30 meters). Open channel down drains shall be designed by a civil engineer and shall have a minimum capacity equal to four times the required pipe size. The alignment of down drains shall be such as to conserve velocity head.

(c) *Outlet structures.* Outlet structures shall be of concrete, galvanized iron hot-dipped in asphalt or equivalent.

Where out letting into streets, the structure shall be of a design approved by the city engineer.

Where out letting into natural watercourses or other approved locations, the structure shall be provided with adequate velocity reducers, diversion walls, rip-rap, concrete aprons or any similar energy dissipater. All slope drainage shall be collected and disposed of in the drainage device.

7. *Run-off computations.* Run-off shall be based upon the proper 50-year isohyetal and the run-off calculation shall be based upon the latest methods approved by the city engineer.

8. *Drainage dispersal wall.* A drainage dispersal wall shall be constructed in conformance with the city standard construction details whenever it is necessary to convert channel flow to sheet flow.

9. *Site drainage.* All building pads shall slope a minimum of two percent to an approved drainage device or to a public street. Where used, the drainage device shall be an adequately designed system of catch basins and drain lines which conduct the water to a street, storm drain or natural watercourse approved by the building official, as a safe place to deposit such waters.

Exception: When approved by the city engineer, the gradient may be one-half percent (0.5%) if all of the following conditions exist throughout the permit area.

(a) No proposed fills are greater than ten feet (3.0 meters) in depth.

(b) No proposed finish cut or fill slopes have vertical height greater than ten feet (3.0 meters).

(c) No existing slope faces which have a slope face steeper than ten to one (10:1) have a vertical height greater than ten feet (3.0 meters).

(d) The soil in landscaped areas adjacent to the structure has an expansion index below 50.

10. *Maintenance of drainage.* Drainage in conformance with the provisions of this article shall be maintained during and subsequent to construction. Suitable access shall be provided to permit cleaning and maintenance of all drainage and erosion control devices.

1. *Driveway slopes.* Driveways shall have a maximum slope of five to one (5:1) 20 percent and shall terminate at both ends with vertical curves. The vertical curve of the bottom of the driveway slope shall have a minimum length of five feet (1.5 meters). The vertical curve at the top of the driveway slope shall have a minimum length of ten feet (3.0 meters). Vertical curves at grade changes which exceed five-tenths percent shall have a minimum length of five feet (1.5 meters).

8.80.070 Denial of permit.

A. *Hazardous grading.* A grading permit shall not be issued in any case where the city engineer finds that the work proposed by the applicant is classed as hazardous grading and is liable to endanger any private property or result in the deposition of debris on any public way or interfere with any existing drainage course.

B. *Geological or flood hazard.* If, in the opinion of the city engineer, the land area for which grading is proposed is subject to geological or flood hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to human life or property, the grading permit and building permits for habitable structures shall be denied.

8.80.075 Permit limitations and conditions.

A. *General.* The issuance of a grading permit shall constitute an authorization to do only that work which is described or illustrated on the application for the permit or on the site plans and specifications approved by the city engineer.

B. *Responsibility of permittee.* The permittee and the permittee's agents shall carry out the proposed grading in accordance with approved plans and specification, the conditions of the permit and with the requirements of this article and all other applicable laws. The permittee and the permittee's

agents shall maintain all required protective devices and temporary drainage during the progress of the grading work and shall be responsible for observance of hours of work, dust controls and methods of hauling. The permittee or the permittee's agents shall be responsible for maintenance of the site until such time as a notice of completion has been issued by the city engineer. The permittee, permittee's agents, and each or all of them shall become subject to the penalties set forth herein in the event of failure to comply with this article and other applicable laws of the City of La Quinta. No approval shall exonerate the permittee or the permittee's agents from the responsibility of complying with the provisions and intent of this article.

C. *Jurisdiction of other agencies.* Permits issued under the requirements of this article shall not relieve the owner of responsibility for securing required permits for work to be accomplished which is regulated by any other code, department or division of the city or any other governing agency.

D. *Tract map requirements.* If a final tract map is required under the City of La Quinta Municipal Code or Subdivision Map Act, no grading permit shall be issued for import or export of earth materials to or from, and no grading shall be conducted on, any grading site in the hillside area unless a final tract map has been approved by the City Council. The city engineer may waive the requirement that the final tract map be approved prior to issuance of a grading permit if the city engineer determines that such waiver will not endanger life, limb, health, property, safety, or public welfare. In cases where a waiver is granted in the hillside area, a grading permit will not be issued until all required plans are approved by the city engineer and community development manager, following the payment of necessary fees or submittal of any or all required bonding.

E. *Conditions of permit.* The city engineer and community development manager may impose such regulations with respect to access routes to and from grading sites in the hillside area as they shall determine are required in the interest of public health, safety, and welfare and safety precautions involving pedestrian or vehicular traffic.

F. *Haul.* No permit shall be issued for the export or import of earth materials to or from a grading site in areas involving ingress or egress on streets having less than 17 feet (5.2 meters) in useable width, except upon the following conditions:

1. The size or type of hauling equipment shall be limited in accordance with the width and conditions of the street.
2. Traffic control devices, including flagmen, signs and markers shall be utilized at appropriate places along the designated routes of access to such sites.
3. Temporary no parking restrictions may be imposed with the approval of the city engineer along such routes when determined necessary.
4. Such other conditions as may be determined necessary for the Public health, safety and welfare shall be imposed.
5. In no event shall any export or import of earth materials to or from a grading site in hillside areas be undertaken or conducted except by use of equipment which complies in all respects with the State Vehicle Code.
6. All loads shall be properly trimmed and watered, or otherwise secured so as to prevent spillage from the equipment.
7. In all cases where the city engineer designates the "haul" routes, such designation of routes shall take into consideration the most practical means of transporting the earth materials to or from the grading site consistent with the safety and welfare of residents along the routes.

G. Conformance with comprehensive plan, policies and the zoning regulations required. No permit shall be issued for any grading or export or import of earth materials to or from any grading site except in compliance with the zoning, private street and division of land regulations contained in the City of La Quinta Municipal Code, the Subdivision Map Act of the State of California, the comprehensive plan, the local coastal plan and the specific plan for the area in which the grading is to be accomplished and local, state, and federal environmental laws and guidelines.

H. Time limitations. The permittee shall fully perform and complete all of the work contemplated to be accomplished pursuant to the grading permit within the time limit specified in the permit.

If the permittee is unable to complete the work within the specified time, the permittee may, prior to the expiration of the permit, submit a written request for an extension of time in which to complete the work. If, in the opinion of

the city engineer, sufficient justification is shown, the time specified on the permit may be extended for a period of not more than 180 days, but no such extension shall release any surety upon the bond.

I. *Entry upon premises.* The city engineer, the surety company or the duly authorized representative of either, shall have access to the premises described in the permit for the purpose of inspecting the progress of the work.

In the event of default in the performance of any term or condition of the permit, the surety or any person employed or engaged on behalf of the surety shall have the right to go upon the premises to complete the required work.

It shall be unlawful for the owner or any other person to interfere with the ingress or egress from such premises of any authorized representative or agent of any surety company or the city engaged in the work ordered by the city engineer.

J. *Consent of adjacent property owner.* Whenever any excavation of fill requires entry onto adjacent property for any ~ reason, the permit applicant shall obtain the written consent of the adjacent property owner or their authorized representative, and shall file a copy of said consent with the city engineer before a permit for such grading work will be issued.

8.80.080 Exceptions for emergencies.

The provisions of this article shall not apply to any grading operation which is conducted during a period of emergency or disaster or which is directly connected with or related to relief of conditions caused by such emergency or disaster.

8.80.090 Conditions of approval.

In granting any permit under this article, the city engineer or city engineer's authorized representative may attach 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 bring it up to the standards of this article.

2. Requirements for fencing of excavations or fills which would otherwise be hazardous.

8.80.100 Liability.

Neither the issuance of a permit under the provisions of this article, nor the compliance with the provisions hereof or with any conditions imposed in the permit issued hereunder, shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the City for damage to other persons or property.

8.80.110 Plan checking and permit fees.

A. *Plan check fees.* For excavation and fill on the same site, the fees shall be based on the volume of the excavation or fill, whichever is greater. Prior to acceptance of plans and specifications for checking, the city engineer shall collect a plan-check fee. Separate permits and fees shall apply to retaining walls or other structures as indicated in the most recent Uniform Building Code as adopted by the city. There shall be no separate charge for standard terrace drains and similar facilities. The fee for a grading permit authorizing additional work to that under a current valid permit shall be the difference between the fee paid for the original permit and the fee calculated for the revised total project. No fee refund will be made.

The amount of the plan-checking fee for the grading plans shall be as set by council resolution.

A grading plan check fee equal to 20 percent of the original plan check fee will be assessed for a fourth grading plan check and for each grading plan check thereafter.

B. *Permit fees.* A fee for each grading permit shall be paid prior to the issuance of said permit. Double fees will be assessed where grading has been accomplished without an authorized permit. Fees shall be as set by council resolution.

8.80.120 Hazardous soil and earth conditions.

Whenever the city engineer determines by inspection that any land or any existing excavation or fill has from any cause become a menace to life or

limb, endangers public or private property or affects the safety, usability or stability of a public way, the owner or other entity in legal control of the property concerned shall, upon receipt of written notice thereof from the city engineer, correct such condition in accordance with the provisions of this article and the requirements and conditions set forth in such notice to eliminate the undesirable condition.

The owner, or other person in control of such property shall immediately commence the work required by such notice and shall complete same within a maximum time of 120 days from the date of such notice unless a shorter period of time for completion has been specified in the notice, in which case the owner or other person shall comply within such time as specified.

8.80.130 Areas subject to geologically hazardous conditions.

A. *General.* The provisions of this section shall be fully complied with prior to issuance of a grading permit in areas subject to existing or potential slides, unstable soil, or geologic hazards or other hazardous conditions as determined by the city engineer.

B. *Records and maps.* The city engineer or building official may adopt maps delineating areas of relative hazard for the application of this section.

C. *Permission to do work.*

1. *Active landslide and historic landslide areas.* No building or grading permits shall be issued for development in active or historic landslide areas until, and unless, stabilization of the entire slide or soil mass which may have an adverse effect on the proposed development or access thereto can be satisfactorily demonstrated to the city engineer and the building official.

2. *Prehistoric landslide or questionable areas.* No building or grading permit shall be issued for development in prehistoric landslide or questionable areas except by specific approval of the city engineer and the building official, based upon a geological report by an approved soils engineer or engineering geologist, attesting to the apparent safety of the proposed developments, and stating that the development is not located in an area subject to slides or unstable soil which may have an adverse effect on the proposed development or access thereto.

3. *Geologically hazardous areas.*

(a) An engineering geology report by a geotechnical engineer or engineering geologist shall be submitted to the city engineer for approval for all grading or construction sites which meet the following criteria:

(1) All projects which require a soils, geotechnical, or geological report under other sections of this article.

(2) All projects which are within the boundaries of special study areas, seismic zones, geohazard zones, or moderate or high liquefaction hazard zones.

Exclusions: Single story additions to single-family residences may be excluded from these requirements if the city engineer or the building official determines that such exemption would not endanger life, limb, health, property, safety or public welfare.

(b) Where the engineering geology report determines that there is a significant potential geological hazard, mitigation measures as recommended in the report and approved by the city engineer shall be performed.

4. *Other Conditions.* If, in the opinion of the city engineer or the building official, there is evidence of potentially hazardous conditions other than those covered by items 1, 2, and 3, satisfactory reports from approved soils engineers and engineering geologists may be required. If such reports are required, a permit may be issued if the reports testify to the apparent safety of the development. If in the opinion of the city engineer, or building official it is found that the area in question has elements of hazard or, if the reports so indicate, a permit may be refused.

SECTION II. EFFECTIVE DATE: This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION III. POSTING: The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be posted in three places within the City of La Quinta as specified in City Council Resolution 98-109.

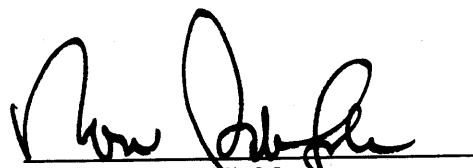
PASSED, APPROVED, and ADOPTED at a regular meeting of the La Quinta City Council held on this 4th day of May, 2004, by the following vote:

AYES: Council Members Henderson, Osborne, Perkins, Sniff, Mayor Adolph

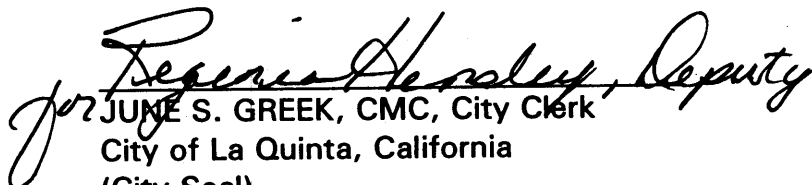
NOES: None

ABSENT: None

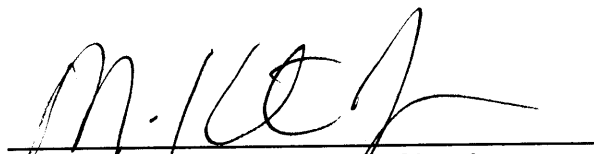
ABSTAIN: None


DON ADOLPH, Mayor
City of La Quinta, California

ATTEST:


JUNE S. GREEK, CMC, City Clerk
City of La Quinta, California
(City Seal)

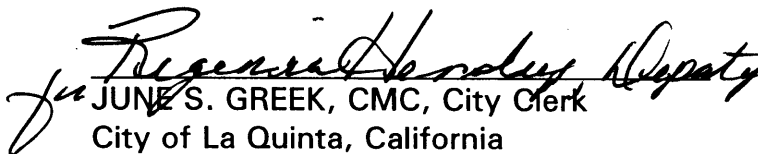
APPROVED AS TO FORM:


M. KATHERINE JENSON, City Attorney
City of La Quinta, California

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LA QUINTA)

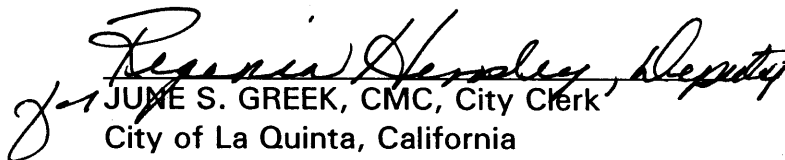
I, JUNE S. GREEK, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true, and correct copy of Ordinance No. 406 which was introduced at a regular meeting on the 20th day of April, 2004, and was adopted at a regular meeting held on the 4th day May, 2004, not being less than 5 days after the date of introduction thereof.

I further certify that the foregoing Ordinance was posted in three places within the City of La Quinta as specified in City Council Resolution 98-109.


JUNE S. GREEK, CMC, City Clerk
City of La Quinta, California

DECLARATION OF POSTING

I, JUNE S. GREEK, City Clerk of the City of La Quinta, California, do hereby certify that the foregoing ordinance was posted on May 7, 2004, pursuant to Council Resolution.


JUNE S. GREEK, CMC, City Clerk
City of La Quinta, California

ORDINANCE NO. 10

AN ORDINANCE OF THE CITY OF LA QUINTA ENACTING THE FOLLOWING TITLES OF THE LA QUINTA MUNICIPAL CODE: TITLE 5--BUSINESS REGULATIONS, TITLE 6--HEALTH AND SANITATION, TITLE 8--BUILDINGS AND CONSTRUCTION, TITLE 10--ANIMALS, TITLE 11--PEACE, MORALS AND SAFETY, TITLE 12--VEHICLES AND TRAFFIC, TITLE 14--STREETS AND SIDEWALKS, AND TITLE 16--MISCELLANEOUS COUNTY ORDINANCES ADOPTED BY REFERENCE.

The city council of the City of La Quinta does ordain as follows:

SECTION 1. Titles 5, 6, 8, 10, 11, 12, 14 and 16 are enacted and added to the La Quinta Municipal Code, to read as follows:

Title 5

BUSINESS REGULATIONS

Chapters:

<u>5.04</u>	<u>Auctions and Auctioneers</u>
<u>5.08</u>	<u>Cabarets</u>
<u>5.10</u>	<u>Cable Television Systems</u>
<u>5.12</u>	<u>Dances</u>
<u>5.16</u>	<u>Drug Paraphernalia Display</u>
<u>5.20</u>	<u>Handbills</u>
<u>5.24</u>	<u>Hotel Registration</u>
<u>5.28</u>	<u>Ice Vending Machines</u>
<u>5.32</u>	<u>Massage, Baths and Similar Businesses</u>
<u>5.36</u>	<u>Novelty Sales at Special Events</u>
<u>5.37</u>	<u>Outdoor Advertising</u>
<u>5.38</u>	<u>Parking Attendants</u>
<u>5.40</u>	<u>Passenger Carriers</u>
<u>5.44</u>	<u>Secondhand Dealers, Pawnbrokers and Loan Brokers</u>
<u>5.48</u>	<u>Peddlers--Solicitors</u>
<u>5.52</u>	<u>Private Patrols</u>
<u>5.60</u>	<u>Sales</u>
<u>5.64</u>	<u>Special Advertising Devices</u>
<u>5.68</u>	<u>Sound Trucks and Advertising by Sound</u>
<u>5.72</u>	<u>Miscellaneous Businesses Regulated</u>

Chapter 5.04

AUCTIONS AND AUCTIONEERS

Sections:

- 5.04.010 Definitions.
- 5.04.020 Certain advertising prohibited.
- 5.04.030 Auctioned goods not to be other than items used in business or household--Exception.
- 5.04.040 Display and tagging of articles in lots prior to auction--Addition or removal of articles from lots.
- 5.04.050 Sale of articles in blind packages prohibited.
- 5.04.060 Misrepresentations--Generally.
- 5.04.070 Misrepresentations--During course of sale.
- 5.04.080 False bidders and boosters.
- 5.04.090 Substitution of articles.
- 5.04.100 Article to be delivered within twenty-four hours after payment.
- 5.04.110 Invoices to be prepared on all purchases exceeding five dollars.
- 5.04.140 Jewelry and furs--Labeling articles.
- 5.04.150 Exemptions--Generally.
- 5.04.160 Exemptions--Executors, public officers, etc.
- 5.04.170 License required.
- 5.04.180 License duration.
- 5.04.190 License--Application--Information to be shown.
- 5.04.210 License application--Denial--Appeal.
- 5.04.220 License--Fee.

5.04.010 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 licensed 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 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 semiprecious 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.

5.04.020 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 of any person outside the building, to any auction sale.

5.04.030 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 other than an established auction house, 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 at 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.

5.04.040 Display and tagging of articles in lots prior to auction--Addition or removal of articles from lots. For a period of at least two days prior to the day of any auction sale, between the hours of nine a.m. and five p.m., 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 the sale after two bids have been made upon it, and the bids have been accepted by the auctioneer.

5.04.050 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. This section shall not apply to sales of liened goods by any moving and storage company.

5.04.060 Misrepresentations--Generally. It shall be unlawful for any licensee, 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.

5.04.070 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 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.

5.04.080 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.

5.04.090 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.

5.04.100 Article to be delivered within twenty-four 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 hours after the payment of the purchase price.

5.04.110 Invoices to be prepared on all purchases exceeding five dollars. 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 five dollars, and to give the invoice to the purchaser when the purchase price is paid. Duplicate copies of the invoices shall be kept by the auctioneer for a period of six months after the purchase date.

5.04.140 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 semiprecious 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.

5.04.150 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, nor 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 licensed 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; nor to any small scale auction by a charitable or non-profit organization which auction is conducted and managed solely by members thereof.

5.04.160 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 city manager 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.

5.04.170 License 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 license as provided in Section 5.04.190.

5.04.180 License duration. An auctioneer's license shall be good for a period of one 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 licensee is convicted of a felony; and further provided that a license for an established auction house may be indefinite.

5.04.190 License--Application--Information to be shown. Application for an auctioneer's license shall be made in writing upon forms provided therefor to the city manager at least thirty 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 ever 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 character references living in the county of his residence.

5.04.210 License application--Denial--Appeal. If, upon investigation of the applicant for an auctioneer's license, 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 city manager may refuse to approve the license; and, in the event that the license is refused, the applicant may, within thirty days of receipt of written notice of the refusal, petition in writing the city council for review of the decision of the city manager. The petition shall be filed with the city clerk and unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, it shall be heard by the council as promptly as feasible and convenient to the parties. The city clerk shall give any such petitioner written notice of the date of the hearing at least three days in advance.

5.04.220 License--Fee. At the time of application, the applicant for an auctioneer's license shall pay an application processing fee in such amount as may have been established for an initial application or renewal application, by resolution of the city council, to defray the expense of investigation and processing.

Chapter 5.08

CABARETS

Sections:

- 5.08.010 "Entertainments" defined.
- 5.08.020 Soliciting of drinks.
- 5.08.030 Entertainment not to be visible or audible from street.
- 5.08.040 Solicitation of trade.
- 5.08.050 Locked doors.
- 5.08.060 Hours for entertainment.

5.08.010 "Entertainments" defined. As used in this chapter, "entertainments" mean every act, play, burlesque show, revue, pantomime scene, song and dance act, song rendition, music rendition, or other entertainment participated in by one or more persons which is performed, exhibited, shown or produced in any place within the city where alcoholic beverages as defined by the State Alcoholic Beverage Control Act are being sold or offered for sale for consumption on the premises.

5.08.020 Soliciting of drinks. No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall conduct, sponsor or allow any entertainment at any time when the practice of employees soliciting or accepting drinks of alcoholic beverages from patrons is permitted.

5.08.030 Entertainment not to be visible or audible from street. No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall suffer or permit any entertainment to be conducted which is visible or plainly audible from any public street or sidewalk, except for such temporary periods not exceeding one minute when patrons are entering or exiting through a doorway.

5.08.040 Solicitation of trade. No person shall engage in personally soliciting trade on any public street or sidewalk at or near the entrance of a place with entertainment, nor shall any person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, conduct, sponsor or allow any entertainment when such practice of soliciting business is engaged in or permitted.

5.08.050 Locked doors. No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall conduct, sponsor or allow any entertainment therein at any time when the regularly used doors thereto are not

unlocked with free ingress and egress while patrons are in the establishment.

5.08.060 Hours for entertainment. No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall conduct, sponsor or allow any entertainment therein between the hours of two a.m. and six a.m.

Chapter 5.10

CABLE TELEVISION SYSTEMS

Sections:

- 5.10.010 Definitions.
- 5.10.020 Franchise to install and operate.
- 5.10.030 Cable television service.
- 5.10.040 Franchise payments.
- 5.10.050 Franchise term: duration and termination.
- 5.10.060 Applications for franchise.
- 5.10.070 Indemnifications: insurance.
- 5.10.080 Acceptance of franchise.
- 5.10.090 Limitations of franchise.
- 5.10.100 Rights reserved to the City.
- 5.10.110 Council to adopt rules and regulations.
- 5.10.120 Permits and construction.
- 5.10.130 Technical standards.
- 5.10.140 Miscellaneous provisions.
- 5.10.150 Equal opportunity employment and affirmative action plan.
- 5.10.160 Violations.

5.10.010 Definitions. For the purposes of this chapter, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

(1) "Franchise" shall mean and include 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. Any such authorization, in whatever form granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of this City.

(2) "Person" shall mean 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.

(3) "Grantee shall mean 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.

(4) "Street" shall mean the surface, the air space above the surface and the area below the surface of any public street, other public right of way or public place, including public utility easements.

(5) "Property of Grantee" shall mean 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.

(6) "Subscriber" or "User" shall mean 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 cablecasting, 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.

(7) "Cable television system;" "CATV;" and "CTV," for the purpose of this chapter, are terms describing a system employing antennae, microwave, wires, wave-guides, coaxial cables, or other conductors, equipment or facilities, designed, constructed or used for the purpose of:

(A) collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;

(B) transmitting original cablecast programming not received through television broadcast signals;

(C) 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;

(D) 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 herein defined, in the operation of a cable television or CATV system franchised by the City and not otherwise.

5.10.020 Franchise to install and operate. (a) A non-exclusive franchise to install, construct, operate, and maintain a cable television system on 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 to the 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 of the provisions hereof as a "Licensee" and in such event whenever the term "grantee" is used herein it shall be deemed to mean and include "Licensee."

5.10.030 Cable television service. (a) Basic Service.

The cable television system permitted to be installed and operated hereunder shall, unless otherwise provided by the franchise as granted:

(1) be operationally capable of relaying to subscriber terminals those television and radio broadcast signals for the carriage of which the grantee is now or hereafter authorized by the Federal Communications Commission;

(2) be constructed with the potential of two-way signal transmission;

(3) distribute color television signals which it receives in color;

(4) provide at least one (1) channel, without charge, for exclusive use of the City.

(5) provide at least one (1) channel each for those educational and public access uses.

(A) until such time as there is demand for each channel full time for its designated use, public, educational, government, and leased access channel programming may be combined on one or more cable channels. To the extent time is available therefor, access channels may also be used for other broadcast and nonbroadcast services except that at least one channel shall be maintained exclusively for the presentation of access programming as required by paragraph (B) of this section.

(B) the operator of each such system shall in any case, maintain at least one full channel for shared access programming: Provided, however, That, in the case of systems in operation on June 21, 1976, if insufficient activated channel capability is available to provide one full channel for shared access programming the system operator shall provide whatever portions of channels are available for such purposes. In meeting its access obligations, every operator of a cable television system shall make reasonable efforts in programming the system's bandwidth to avoid the displacement of access service.

(C) whenever any of the channels described in paragraphs (4), (5) or (5(B)) of this section is in use during 80 percent of the weekdays (Monday-Friday) for 80 percent of the time during any consecutive three-hour period for six consecutive weeks, the system operator shall have six months in which to make a new channel available for the same purposes: Provided, however, That the channel expansion mandated by this paragraph shall not exceed the activated channel capability of the system.

(6) the operator of each such system shall make available all other unused channels, in addition to those which are part of the system's activated channel capability, for the purposes specified in paragraphs (4) and (5): Provided, however, That in making available such additional channels the system operator shall be under no obligation to install converters.

(b) Non-basic services. The cable television system permitted to be installed and operated hereunder, may also engage in the business of:

(1) transmitting original cablecast programming not received through television broadcast signals;

(2) transmitting television pictures, film and video-tape 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) Subscriber 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, unless otherwise provided by the franchise as granted:

(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 a subscriber, make a demonstration satisfactory to the city manager 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 the system.

(4) maintain an office in the city, which office shall be open during all the usual business hours, with its telephone listed in directories of the telephone company serving the city, and 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 written 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 two years from the date of complaint, and shall be available for inspection during regular business hours without further notice or demand, by the city manager.

(d) Municipal service. (1) With respect to the local government channel, the grantee shall provide, at the request of the city manager, and upon City reimbursement of grantee's actual cost, use of grantee's studio, equipment and technical services for production of live and video-tape municipal programs, subject to scheduling requirements of the grantee;

(2) with respect to the basic television services, the grantee shall provide all basic services, and a tie-in connection, without cost, when the property is equipped with cable and as designated by the Council, subject to the requirements of federal law to:

(A) public schools and community colleges within the City, and

(B) buildings owned and controlled by the City, used for public purposes and not for residential use (fire and police stations excepted.)

(e) Compatibility and connectibility. (1) It is the desire of the City that all cable television systems franchised hereunder shall, insofar as financially and technically possible, be compatible one with another and with systems adjacent to the City.

(2) Wherever it is financially and technically feasible, the grantee shall so construct, operate and modify the system so as to tie the same into all other systems within and adjacent to the City.

(f) 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 to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any street, such poles, wires, cable conductors, ducts, 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.

5.10.040 Franchise payments. (a) In consideration of the granting and exercise of a franchise to use the streets, as herein defined, for the operation of a cable television system, any grantee shall pay to the City, during the life of the franchise, three (3) percent of the franchisee's gross revenues per year from all cable services in the community except that, to the extent that the Federal Communications Commission, in its Rules and Regulations, at some time in the future allows a City to raise the franchise fee to five (5) percent absent the showings currently required by Section 76.31 of the Rules and Regulations of the Federal Communications Commission, the City reserves the right to increase the franchise fee to a level of 5%.

(b) The percentage payments shall be made in the manner, and at times directed in said franchise or in a Council resolution fixing franchise fees and adopting rules for service and rate regulation.

(c) No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this ordinance or for the performance of any other obligation hereunder.

5.10.050 Franchise term: duration and termination. (a) Unless otherwise provided by the franchise as granted, the franchise granted by the Council under this chapter shall be for a term of fifteen years from the date of its acceptance by the grantee. During the fourteenth year of the franchise or earlier, the grantee may apply to the Council for a renewal of the franchise.

— Permission to renew for additional terms of fifteen years shall not be unreasonably withheld if the grantee has substantially complied with the terms and conditions of the existing franchise.

(b) The City may terminate any franchise granted pursuant to the provisions of this chapter in the event of the willful failure, refusal or neglect by grantee to do or comply with any material requirement or limitation contained in this chapter, or any material rule or regulation of the Council or city manager validly adopted pursuant to this chapter.

(c) The city manager may make written demand that the grantee do or comply with any such requirement, limitation, term, condition, rule or regulation. If the failure, refusal or neglect of the grantee continues for a period of thirty days following such written demand, the city manager may place his request for termination of the franchise upon the next regular Council meeting agenda. The city manager shall cause to be served upon such grantee, at least ten days prior to the date of such Council meeting, a written notice of his intent to request such termination, and the time and place of the meeting, notice of which shall be published by the city clerk at least once ten days before such meeting in a newspaper of general circulation within the city.

(d) The Council shall consider the request of the city manager and shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the grantee was with just cause.

(e) If such failure, refusal or neglect by the grantee was with just cause, the Council shall direct the grantee to comply within such time and manner and upon such terms and conditions as are reasonable.

(f) If the Council shall determine such failure, refusal or neglect by the grantee was without just cause, then the Council may, by resolution, declare that the franchise of such grantee shall be terminated and forfeited unless there be compliance by the grantee within such period as the Council may fix.

(g) The termination and forfeiture of any franchise shall in no way effect any of the rights of the City under the franchise or any provision of law.

5.10.060 Applications for franchise. (a) Each application for a franchise to construct, operate, or maintain any cable television systems in this City shall be filed with the city clerk and shall contain or be accompanied by the following, unless waived by the city manager.

(1) the name, address, and telephone number of the applicant;

— (2) a detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the City:

(A) the names, residence and business addresses of all officers, directors, and associates of the applicant.

(B) the names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control of 5% or more of the ownership of the applicant and the respective ownership share of each such person or entity.

(C) the names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

(D) a detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

(E) a detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City, or a statement from a certified public accountant, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in this City.

(F) a statement identifying, by place and date, any other cable television franchise(s) awarded to the applicant its parent or subsidiary; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.

(b) A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

(1) a detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served.

(2) a statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges.

(3) a detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant and that such standards of operations are in compliance with those contained in Title 47, Subpart K (Section 76.601 et seq.), of the Rules and Regulations of the Federal Communications Commission.

(4) a copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber.

(5) a detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise.

(c) A copy of any agreement covering the franchise area, if existing between the applicant and any public utility subject to regulation by the California Public Utilities Commission providing for the use of any facilities of the public utility, including but not limited to poles, lines, or conduits.

(d) Any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the Council, or by any provision of any other Ordinance of the City.

(e) An application fee in the sum of \$1,000.00, which shall be in the form of cash, certified or cashier's check, or money order, to pay the costs of studying, investigating, and otherwise processing such application, and which shall be in consideration thereof and not returnable or refundable in whole or in part, except to the extent that such fee exceeds the actual costs incurred by the City in studying, investigating and otherwise processing the application; provided, that any applicant who shall deliver to the city clerk a written withdrawal of or cancellation of any application hereunder, not later than the seventh day next following the day such application is received by the city clerk, shall be entitled to have returned and refunded the sum of \$500.00, less any actual costs or expenses incurred by the City by reason of such application.

(f) The Council may, by advertisement or any other means, solicit and call for applications for cable television system franchises, and may determine and fix any date upon or after which the same shall be received by the City, or the date before which the same must be received, or the date after which the same shall not be received, and may make any other determinations and specify any other times, terms, conditions, or limitations respecting the soliciting, calling for, making and receiving of such applications.

The grantee shall pay to the City a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of a franchise pursuant to the provisions of this chapter. Such payment shall be made within thirty days after the City furnishes the grantee with a written statement of such expenses.

(g) Upon receipt of any application for franchise, the Council shall refer the same to the city manager who shall prepare a report and make his recommendations respecting such application, and cause the same to be completed and filed with the Council within forty-five days.

(h) In making any determination hereunder as to any application the Council may give due consideration to the quality of the service proposed, rates to subscriber, income to the City,

experience, character, background, and financial responsibility of any applicant, and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, and to abide by policy conditions, franchise limitations and requirements, and any other considerations deemed pertinent by the Council for safeguarding the interests of the City and the public. The Council, in its discretion, shall determine the award of any franchise on the basis of such considerations and without competitive bidding. If the Council shall determine to reject such application, such determination shall be final and conclusive, and the same shall be deemed rejected.

(i) If the Council shall determine to further consider the application, the following shall be done:

(1) the Council shall decide and specify the terms and conditions of any franchise to be granted hereunder and as herein provided;

(2) the Council shall pass its resolution of intention to consider the granting of such a franchise, giving notice of receipt of the application, and describing the character of the franchise desired, stating the name of the proposed grantee, the character of the franchise, the terms and conditions upon which such franchise is proposed to be granted, that copies of the proposed franchise may be obtained at the office of the city clerk, fixing and setting forth a day, hour, and place certain when and where any persons having any interest therein or objection to the granting thereof may file written protests and appear before the Council and be heard, and directing the city clerk to publish said resolution at least once within ten days of the passage thereof in a newspaper in general circulation within the City.

(j) At the time set for the hearing, or at any adjournment thereof, the Council shall proceed to hear all written protests. Thereafter, the Council shall make one of the following determinations:

(1) that such franchise be denied; or

(2) that such franchise be granted upon the terms and conditions as specified in the resolution of intention to grant the same; or

(3) that such franchise be granted, but upon the terms and conditions different from those specified in the resolution of intention to grant the same.

(k) If the Council shall determine that a franchise be denied such determination shall be expressed by resolution and shall be final and conclusive.

(l) If the Council shall determine that a franchise be granted upon the terms and conditions as specified in the resolution of intention to consider granting the same, such determination shall be expressed by ordinance granting a franchise to the applicant.

(m) If the Council shall determine upon granting a franchise upon terms and conditions different from those specified in the resolution of intention to consider granting the same, then such determination shall be expressed by resolution adopted prior to granting a franchise by ordinance.

5.10.070 Indemnifications; insurance. (a) Hold harmless agreement. Grantee shall indemnify and hold harmless the City, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including but not limited to damages to City property and damages arising out of copyright infringements, and damages arising out of any failure by grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by grantee's cable television system), costs or liabilities (including costs or liabilities of the City with respect to its employees), of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expenses arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by grantee, or the granting thereof by the City.

(b) Defense of litigation. Grantee shall at the sole risk and expense of grantee, upon demand of the City, made by and through the city attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the City, its officers, boards, commissions, agents, or employees, and arising out of or pertaining to the exercise or the enjoyment of such franchise or the granting thereof by the City. Grantee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand rendered, made or issued against grantee, the City, its officers, boards, commissions, agents, or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, that neither grantee nor City shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit, or other proceeding, without first obtaining the written consent of the other.

(c) Insurance required. Upon being granted a franchise, and upon the filing of the acceptance required under Section 5.10.080, the grantee shall file with the city clerk and shall thereafter during the entire term of such franchise maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) General Comprehensive Liability Insurance in the amount of not less than \$10,000,000, together with Bodily Injury Liability Insurance in an amount not less than \$1,000,000 for injuries including accidental death, to any one person, and subject to the same limit for each person in an amount not less than \$1,000,000 on account of any one occurrence, and Property Damage Liability Insurance in an amount not less than \$100,000 resulting from any one occurrence; provided, however, as follows:

(i) the City shall be named as an additional insured in any of said insurance policies; and

(ii) where such insurance is provided by a policy which also covers grantee or any other entity or person, it shall contain the standard cross-liability endorsement.

5.10.080 Acceptance of the Franchise. (a) No franchise granted under this chapter shall become effective for any purpose unless and until written acceptance thereof shall have been filed with the city clerk. Written acceptance, which shall be in the form and substance approved by the city attorney, shall also be and operate as an acceptance of each and every term and condition and limitation contained in this chapter, or in such franchise, or otherwise specified as herein provided.

(b) The written acceptance shall be filed by the grantee not later than 12:01 o'clock P.M. of the fortieth (40th) day next following the effective date of the ordinance granting such franchise.

(c) In default of the filing of such written acceptance as herein required, grantee shall be deemed to have rejected and repudiated the franchise. Thereafter, the acceptance of the grantee shall not be received nor filed by the city clerk. The grantee shall have no rights, remedies, or redress in the premises, unless and until the Council, by resolution, shall determine that such acceptance be received or filed, and then upon such terms and conditions as the Council may impose.

(d) In any case, and in any instance, all rights, remedies and redress in these premises which may or shall be available to the City, shall at all times be available to the City, and shall be preserved and maintained and shall continuously exist in and to the City, and shall not be in any manner or means modified, abridged, altered, restricted, or impaired by reason of any of these premises, or otherwise.

(e) Any franchise granted and accepted under this chapter shall be in lieu of any and all other rights, privileges, immunities, and authorities owned, possessed, controlled, or exercisable by the grantee, of or pertaining to the construction, operation, or maintenance of any cable television systems in the City.

5.10.090 Limitations of franchise. (a) Every franchise granted under this chapter shall be non-exclusive.

(b) No privilege or exemption shall be granted or conferred by any franchise granted under this chapter except those specifically prescribed herein or in the franchise as granted.

(c) Any privilege claimed under any such franchise by the grantee in any street or other public property shall be subordinate to any prior lawful occupancy to the streets or other public property.

(d) Any such franchise shall be a privilege to be held in personal trust by the original grantee. It cannot in any event be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without prior consent of the Council expressed by resolution, and then only under such conditions as may therein be prescribed. Any such transfer or assignment shall be made only by an instrument in writing, such

as a bill of sale, or similar document, a duly executed copy of which shall be filed in the office of the city clerk within thirty days after any such transfer or assignment. The said consent of the Council may not be unreasonably refused; provided, however, the proposed assignee must show financial responsibility as determined by the Council and must agree to comply with all provisions of this chapter; and provided, further, that no such consent shall be required for a transfer in trust, mortgage, or other hypothecation, in whole or in part, to secure an indebtedness, except that when such hypothecation shall exceed 50% of the market value of the property used by the franchisee in the conduct of the cable television system, prior consent of the Council shall be required for such a transfer. Such consent shall not be withheld unreasonably.

In the event that grantee is a corporation, prior approval of the Council, expressed by ordinance, shall be required where there is an actual change in control or where ownership of more than 50% of the voting stock of grantee is acquired by a person or group of persons acting in concert, none of whom already own 50% or more of the voting stock, singly or collectively. Any such acquisition occurring without prior approval of the Council shall constitute a failure to comply with a provision of this chapter within the meaning of Section 5.10.050. Such approval shall not be unreasonably withheld.

(e) Time shall be of the essence of any such franchise granted hereunder. The grantee shall not be relieved of his obligation to comply promptly with any of the provisions of this chapter by any failure of the City to enforce prompt compliance.

(f) Any right or power in, or duty impressed upon, any officer, employee, department, or board of the City shall be subject to transfer by the City to any other officer, employee, department or board of the City.

(g) The grantee shall have no recourse whatsoever against the City for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or of any franchise issued hereunder or because of its enforcement.

(h) The grantee shall be subject to all requirements of City laws, rules, regulations, and specifications heretofore or hereafter enacted or established.

(i) Any such franchise granted shall not relieve the grantee of any obligations involved in obtaining pole or conduit space from any department of the City, utility company, or from others maintaining utilities in streets.

(j) Any franchise granted hereunder, shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by grantee, or any successor to any interest of grantee, of or pertaining to the construction, operation, or maintenance of any cable television system in the City; and the acceptance of any franchise hereunder shall operate, as between grantee and the City, as an abandonment of any and all of such rights, privileges, powers, immunities, and authorities within the City, to the effect that, as between grantee and the City, and all construction, operation

and maintenance by any grantee of any cable television system in the City shall be and shall be deemed and construed in all instances and respects to be, under and pursuant to said franchise, and not hereunder or pursuant to any other right, privilege, power, immunity or authority whatsoever.

5.10.100 Rights reserved to the City. Unless otherwise provided by the franchise as granted, the City reserves the power to adopt and enforce requirements and regulations on any or all of the following matters, if and when deemed necessary and proper in the public interest in the discretion of the city council and is consistent with Rules and Regulations of the Federal Communications Commission:

(a) Procedures for the periodic fixing of reasonable rates and service charges to be charged to subscribers by grantee, and provisions for the enforcement thereof.

(b) Operational standards pertaining to the quality of audio-visual reception by subscribers.

(c) Channel capacity requirements.

(d) Requirements for carriage of specified television signals, radio signals, and supplementary signal carriage services.

(e) Requirements for the provision of equipment and channels for local production and presentation of cablecast programs, and regulations pertaining thereto.

(f) Requirements and regulations pertaining to minimum service requirements and fair business practices by the grantee.

(g) Public Safety requirements pertaining to the installation and use of all CATV equipment.

(h) Procedures for the investigation and resolution of all complaints by subscribers regarding grantee's CATV operations, including implementation thereof by designated City officers, employees or agents.

(i) There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any law and the grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established.

(j) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the grantee, either by purchase or through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted, and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.

(k) Neither the granting of any franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

(l) The Council may do all things which are necessary and convenient in the exercise of its jurisdiction under this chapter and may determine any question of fact which may arise during the existence of any franchise granted hereunder. The city manager

with the approval of the city attorney, is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of any grantee under this chapter, either on behalf of the City, the grantee, or any subscriber, in the best interest of the public. Either the grantee or any member of the public who may be dissatisfied with the decision of the city manager may appeal the matter to the Council for hearing and determination. The Council may accept, reject or modify the decision of the city manager, and the Council may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the grantee or from any provision of this chapter.

5.10.110 Council to adopt rules and regulations.

(a) Standards of Operation. (1) Prior to receiving any applications for franchises, the Council may adopt rules, regulations and standards governing the operation of cable television systems in the City. Such rules, regulations and standards shall apply to and shall govern the operations of the grantee of any franchise hereunder, and are expressly declared a part of any franchise hereunder.

(2) Rules, regulations and standards not adopted prior to receiving any application for a franchise shall be adopted by the Council at the first regular meeting of the Council next following the effective date of this chapter, by resolution which shall become effective upon adoption and shall be applicable to any application for a franchise previously received.

(3) The standards adopted pursuant to these procedures shall be exclusively in those areas not either expressly or impliedly preempted by the Federal Communications Commission at the time of adoption.

(4) Provided the same do not materially alter the content of the franchise without consent of the grantee, the Council may at any time adopt new rules or regulations or standards, or may amend, modify, delete, or otherwise change its respective rules or regulations or standards previously adopted, in the following manner: The Council shall pass its resolution of intention stating or describing the rules or regulations or standards to be adopted, amended, modified, deleted, or otherwise changed, and fixing and setting forth a day, hour and place certain when and where any persons having any interest therein or objection thereto may appear before the Council and be heard. Such resolution shall direct the city clerk to publish the same at least once within ten days of the passage thereof in a newspaper of general circulation within the City, and to mail a copy of the same to any grantee or applicant for a franchise, not more than thirty days nor less than fifteen days prior to the time fixed for hearing thereon.

(5) At the time set for such hearing, or at any adjournment thereof, the Council shall proceed to hear and pass upon such comments as may be presented. Thereafter the Council, by its resolution, may adopt, amend, modify, delete or otherwise change its respective rules, regulations and standards. Such determination by the Council shall be final and conclusive.

(6) Any rule or regulation or standard as adopted, amended, modified, deleted, or otherwise changed by the Council shall become effective upon the tenth day following the adoption of such resolution, unless a longer period shall be otherwise provided in such resolution.

(b) Rates. Unless and until the Council adopts an ordinance establishing procedures for the periodic fixing of reasonable rates pursuant to Section 5.10.100, the following limitations shall apply to the rates charged to subscribers by grantee:

(1) No increase in rates shall be imposed upon subscribers except after thirty days prior notice to subscribers.

(2) No charge shall be imposed upon any subscriber for termination of CATV service or removal of CATV apparatus upon termination of such service.

(3) No charge shall be made to any subscriber by reason of the maintenance, repair, removal, or replacement of any CATV apparatus, or property of grantee, unless the same was caused by the deliberate or negligent act of said subscriber.

(4) Except as otherwise provided by paragraph (a) hereinabove, grantee shall not charge different rates to subscribers within the same class of service, nor shall there be any difference in the services or facilities or in any other respect between subscribers within the same class, except that installation charges may vary according to the costs of installation. No grantee shall make or grant any preference to any corporation or person as to rates, charges, services, facilities, or rebates, or in any other respect, nor subject any corporation or person to any prejudice or disadvantage.

(5) Except as otherwise provided by paragraph (a) hereinabove, grantee shall not, without specific approval from the Council, charge within the City any rate, charge, fee, price, cost, or the like, which substantially exceeds the same then currently charged by grantee to patrons and customers in any area surrounding or near to the City.

5.10.120 Permits and construction. (a) Within thirty days after acceptance of any franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business including, but not limited to, any utility joint use attachment agreements, microwave carrier licenses and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of the cable television systems, or associated microwave transmission facilities. In connection therewith, copies of all petitions, applications and communications submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting grantee's cable television operations, shall also be submitted simultaneously to the city manager, if requested.

(b) Within ninety days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, grantee shall commence construction and installation of the cable television system.

(c) Within one hundred eighty days after the commencement of construction and installation of the systems, grantee shall proceed to render service to subscribers, and the completion of the

installation and construction shall be pursued with reasonable diligence thereafter, so that service to all of the areas designated and scheduled on the map and plan of construction made part of the franchise shall be provided as set forth therein.

(d) Grantee shall utilize existing poles, conduits, and other facilities whenever possible, and shall avoid constructing or installing any new, different, or additional poles, conduits, or other facilities whether on public property or on privately-owned property.

Whenever grantee shall not utilize existing poles, conduits and other facilities, or whenever existing conduits and other facilities shall be located beneath the surface of the streets, or whenever the City shall undertake a program designed to cause all conduits and other facilities to be located beneath the surface of the streets in any area or throughout the City, in the exercise of its police power or pursuant to the terms hereof, upon reasonable notice to grantee, any such conduits or other facilities of Grantee shall be constructed, installed, placed, or replaced beneath the surface of the streets. Any construction, installation, placement, replacement, or changes which may be so required shall be made at the expense of grantee, whose costs shall be determined as in the case of public utilities.

(e) The City shall have the right, free of charge, to make additional use, for any public or municipal purpose, whether governmental or proprietary, of any poles, conduits, or other similar facilities erected, controlled, or maintained exclusively by or for grantee in any street, provided such use by City does not interfere with the use by grantee.

(f) In those areas of the City where the transmission or distribution facilities of the respective public utilities providing telephone communication and electric services are underground or hereafter are placed underground, the grantee likewise shall construct, operate and maintain all of his transmission and distribution facilities underground. The term "underground" shall include a partial underground system; provided, that upon obtaining the written approval of the city manager, amplifiers in the grantee's transmission and distribution lines may be placed in appropriate housings upon the surface of the ground.

(g) The grantee at his expense shall protect, support, temporarily disconnect, relocate, or remove any property of grantee when, in the opinion of the city manager the same is required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, waterpipes, power line, signal line, transportation facilities, tracks, or any other types of structure or improvements or governmental agencies whether acting in a governmental or a proprietary capacity, or any other structure or public improvement, including but not limited to movement of buildings, urban renewal and redevelopment, and any general program under which the City shall undertake to cause all such properties to be located beneath the surface of the ground. The grantee shall in all cases have the privilege, subject to the corresponding obligations, to abandon any property of grantee in place, as herein provided. Nothing hereunder shall be deemed a taking of the property of grantee, and grantee shall be entitled

to no surcharge by reason of anything hereunder.

(h) Upon the failure, refusal or neglect of grantee to cause any work or other act required by law or hereunder to be properly completed in, on, over or under any street within any time prescribed therefor, or upon notice given, where no time is prescribed, the city manager may cause such work or other act to be completed in whole or in part, and upon so doing shall submit to grantee an itemized statement of the costs thereof. The grantee shall, within thirty days after receipt of such statement, pay to the City the entire amount thereof.

(i) In the event that,

(1) the use of any part of the system of grantee is discontinued for any reason for a continuous period of thirty days, without prior written notice to and approval by the City; or

(2) any part of such system has been installed in any street or other area without complying with the requirements hereof; or

(3) any franchise shall be terminated, cancelled, or shall expire, then the grantee shall, at the option of the City, and at the expense of grantee and at no expense to the City, and upon demand of the City, promptly remove from any streets or other area all property of grantee, and grantee shall promptly restore the street or other area from which such property has been removed to such condition as the city manager shall approve.

The Council may, upon written application therefor, by grantee, approve the abandonment of any of such property in place by grantee and under such terms and conditions as the Council may prescribe. Upon abandonment of any such property in place, grantee shall cause to be executed, acknowledged, and delivered to the City such instruments as the city attorney shall prescribe and approve, transferring and conveying the ownership of such property to the City.

5.10.130 Technical Standards. (a) The performance of grantee's cable television system shall meet the technical standards as set forth in Section 76.605 or any successor section of the Federal Communication Commission's Rules, as those standards may exist from time to time.

(b) Grantee shall conduct performance tests in accordance with the requirements of Section 76.601 or any successor section of the Federal Communication Commission's Rules, as these requirements may apply or be extended from time to time.

5.10.140 Miscellaneous Provisions. (a) A Franchise granted to provide service within the City shall authorize and permit the grantee to solicit, sell, distribute, and make a charge to subscribers within the City for connection to the cable television system of grantee, and shall also authorize and permit the grantee to traverse any portion of the City in order to provide service outside the City.

(b) A franchise, easement, license or other permit granted to anyone other than the grantee to traverse any portion of the City in order to provide service outside the City shall not authorize nor permit said person to solicit, sell, distribute, or make

any charge to subscribers within the City nor to render any service or connect any subscriber within the City to the cable television service system of grantee.

(c) No franchise granted under this chapter shall ever be given any value by any Court or other authority, public or private, in any proceeding of any nature or character, wherein or whereby the City shall be a party or affected therein or thereby.

(d) Grantee shall be subject to all provisions of the other ordinances, rules, regulations, and specifications of the City heretofore or hereafter adopted, including but not limited to those pertaining to works and activities in, on, over, under and about streets.

Any privilege claimed under any franchise granted pursuant to this chapter in any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property.

Grantee also shall be subject to the provisions of general laws of the State of California, or as hereafter amended, when applicable to the exercise of any privilege contained in any franchise granted under this chapter, including but not limited to those pertaining to works and activities in and about State highways.

(e) Grantee shall be prohibited from directly or indirectly doing any of the following:

(1) engaging in the business of selling at retail, leasing, renting, repairing or servicing of television sets or radios;

(2) imposing a fee or charge for any service or repair to subscriber-owned receiving devices except for the connection of its service or for the determination by grantee of the quality of its signal to the recipients thereof.

(3) soliciting, referring, or causing or permitting the solicitation or referral of any subscriber to persons engaged in any business herein prohibited to be engaged in by grantee.

(4) providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose.

(f) If the Federal Communications Commission or the Public Utilities Commission of the State of California or any other Federal or State body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of any franchise granted under this chapter, then to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the City the jurisdiction of the City shall cease and no longer exist.

(g) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the city clerk.

(h) No person, firm or corporation within the service area of the grantee, and where trunk lines are in place, shall be refused service; provided, however, that the grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charge.

(i) The form of the grantee's contract with the subscriber shall also be subject to approval of the City.

5.10.150 Equal opportunity employment and affirmative action plan. (a) In the carrying out of the construction, maintenance and operation of the cable television system, the grantee shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, or national origin.

(b) The grantee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. 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 of training, including apprenticeship.

(c) The grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

(d) The grantee shall, in all solicitations, or advertisements for employees placed by or on behalf of the grantee, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, sex, or national origin.

(e) The grantee shall incorporate the foregoing requirements in all of its contracts for work relative to construction, maintenance and operation of the cable television system, other than contracts for standard commercial supplies or raw materials, and shall require all of its contractors for such work to incorporate such requirements in all subcontracts for such work.

5.10.160 Violations. (a) It shall be unlawful for any person to construct, install or maintain within any public street in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a cable television system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person, without the consent of the owner, to wilfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

Chapter 5.12

DANCES

Sections:

- 5.12.010 Definitions.
- 5.12.020 Hours.
- 5.12.030 Permit required.
- 5.12.040 Operation during suspension or revocation.
- 5.12.060 Effect of permit.
- 5.12.070 Posting of permit.
- 5.12.080 Requisites to issuance of permit--Factors considered.
- 5.12.090 Permit requiring policing.
- 5.12.100 Permit--Issuance.
- 5.12.110 Permit--Expiration date.
- 5.12.120 Filing of application--Fee.
- 5.12.130 Exemption of casual dances.
- 5.12.140 Application--Presentation--Contents.
- 5.12.150 Reference.
- 5.12.160 Investigation.
- 5.12.170 Recommendation.
- 5.12.180 Consideration, decision by city manager.
- 5.12.190 Suspension of permit--Requirement of police officer.
- 5.12.200 Service of order.
- 5.12.210 Duration of suspension--Hearing--Notice.
- 5.12.220 Notice--Manner of service.
- 5.12.230 Right to be heard.
- 5.12.240 Action by city manager upon hearing.
- 5.12.250 Power to make rules and regulations.
- 5.12.260 Custody of rules.
- 5.12.270 Special police officers--Application by management.
- 5.12.280 Special officers required by city.
- 5.12.290 Cost of policing.
- 5.12.300 Appeals.

5.12.010 Definitions. In this chapter, unless another meaning is clearly apparent from the context:

(1) "Club dance" means any dance held by a dancing club;

(2) "Dancing club" means any club or association of persons which conducts dances (other than public dances for its members or bona fide guests) more often than once per month at which a fee is charged, either for admission to such dance or for dancing therein, or at which any collection or donation of money is made or received, or in which the amount of dues to be paid by each member is dependent upon attendance at such dances by such members;

(3) "Public dance" means a gathering of persons in or upon any premises where dancing is participated in, either as the main purpose for such gathering or as an incident to some other purpose, and to which premises the public is admitted;

(4) "Public dance hall" means a place where dancing is conducted, whether for profit or not for profit, and to which the public is admitted, either with or without charge or at which the public is allowed to participate in the dancing, either with or without charge.

5.12.020 Hours. No person shall conduct, manage, carry on, allow or participate in dancing at any dancing club, public dance or public dance hall between the hours of two a.m. and eight a.m.

5.12.030 Permit required. No person, whether as principal, agent, employee or otherwise, shall conduct, manage, carry on, or participate in any dancing club, dancing school, studio, public dance or public dance hall unless by authority of a permit from the city manager.

5.12.040 Operation during suspension or revocation. It is unlawful to conduct or manage or carry on any dancing club, public dance, or public dance club or hall in the city under any permit issued under this chapter while such permit is in a state of suspension or while any suspension or revocation with respect to the same continues to exist; and it is unlawful for any person to participate in any such dance.

5.12.060 Effect of permit. The issuance of any permit or temporary permit shall not be deemed to permit any violation of law or ordinance or rule prescribed pursuant to Sections 5.12.250 and 5.12.260.

5.12.070 Posting of permit. Such permit shall be conspicuously posted upon the premises referred to therein, during the term thereof.

5.12.080 Requisites to issuance of permit--Factors considered. No permit or temporary permit shall be issued under

this chapter unless and until it appears and is determined by the city manager, in his discretion, that the conduct of such dance hall, dancing club, or public dance will comport with and not prejudice or work to the disadvantage or injury or harm of the public peace, safety, morals, health or welfare, and that the applicant will, for the term of the permit, have in force and effect adequate insurance to protect the public and the city with regard to reasonably foreseeable accidents and other liability, and the city manager and other city departments, in acting upon any such application, shall consider any and all facts and evidence pertinent, relevant or material with respect thereto.

5.12.090 Permit requiring policing. Whenever the public peace, health, safety or general welfare so require, the city manager, at the time of issuance or at any time during the term of any permit issued hereunder, may make such permit conditional upon the attendance of a special police or fire officer or officers, appointed under Sections 5.12.270 through 5.12.290, at any dancing club, public dance or public dance hall during any or all times dancing is being conducted, carried on or allowed, and in such event the permit shall be effective only during the attendance of such police or fire officer or officers.

5.12.100 Permit--Issuance. Permits to conduct dancing clubs, dancing schools, studios, public dances or public dance halls may be issued or renewed by the city manager upon the written application of any person for himself or on behalf of any other person, and payment of the required charges.

5.12.110 Permit--Expiration date. Every such permit shall expire on September 30th following the date of issuance.

5.12.120 Filing of application--Fee. Every such application shall be filed with the city manager, and at the time of filing the applicant shall submit a payment in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.12.130 Exemption of casual dances. There shall be no charge or fee for investigation where dances are proposed to be held by charitable, memorial, fraternal or labor associations, student bodies of schools or the proposed dances are in connection with patriotic or holiday celebrations or festivals, where such dances are casual and for one such occasion only and are not conducted more often than once per month.

5.12.140 Application--Presentation--Contents. Every such written application for a permit shall be presented to the city manager and shall set forth the following facts:

(1) APPLICANT. The name and residence of the applicant or applicants, and if any applicants be a firm, association,

corporation or club, the names and residences of the partners, officers, directors, managers and of all employees who will be in charge of said dancing club, public dance, or public dance hall.

(2) LOCATION. The place for which the permit is desired or in which any dance or dances are proposed to be held;

(3) TIME OF DANCES. The number and dates of the dances proposed to be held;

(4) POLICE. Whether a special police officer pursuant to Sections 5.12.270 through 5.12.290 is desired for such dance or dances, and will be present at times dancing is conducted, carried on or allowed.

5.12.150 Reference. Upon filing of each application, it shall be referred by the city manager to departments designated by the city manager for investigation and report.

5.12.160 Investigation. The departments so designated shall make a thorough investigation as required for the protection of the public peace, health, safety and general welfare, and may require the submission of additional information by the applicant as shall be necessary to such investigation.

5.12.170 Recommendation. Thereafter, and within five days from reference of the application, each department designated shall report its findings and conclusions and make recommendations concerning such application.

5.12.180 Consideration, decision by city manager. After receiving the reports as provided for in Section 5.12.170, the city manager may make such further investigations as he deems proper or advisable in the interest of the public peace, health, safety and general welfare, and within thirty days from the filing of the application shall either approve, conditionally approve or deny the application according to the requirements of the public peace, health, safety or general welfare. Should the city manager fail to act within said time, the application shall be deemed denied. At any time after the application is filed, however, and pending complete processing thereof, the city manager may issue a temporary permit upon stated terms and conditions, including a fixed expiration date or indefinite period subject to termination on notice, so long as the city manager tentatively determines that the temporary permit for the activity desired to be held will comport with and not prejudice nor work to the disadvantage or injury of the public peace, safety, morals, health or welfare.

5.12.190 Suspension of permit--Requirement of police officer. The city manager may at any time temporarily suspend any permit issued hereunder, or may require the attendance of a special police officer during all or certain times dancing is conducted, carried on or allowed, as a condition to the continued

exercise of the permit, when he finds and determines that the public peace, safety, morals, health or welfare require or will be promoted or best served by such suspension or special police officer attendance.

5.12.00 Service of order. A copy of the city manager's order in that regard mentioned in Section 5.12.190 shall be served in the same manner as hereinafter in Sections 5.12.210 through 5.12.240 provided for notices of hearing, and be effective thereupon.

5.12.210 Duration of suspension--Hearing--Notice. No temporary suspension under this chapter or added condition requiring the attendance of a special police officer shall continue for more than ten days unless within said ten-day period said suspension or added condition is further continued or made permanent by revocation of the permit involved or a condition requiring the attendance of a special police officer is affixed to the permit for the balance of its term upon hearing by the city manager within the city held upon three days notice of the time and place thereof, given as follows in Section 5.12.220

5.12.220 Notice--Manner of service. The service of any such notice shall be made upon the holder of a permit to whom it is directed by either:

(1) PERSONAL SERVICE. Delivering a true copy of the same to the said holder personally, or if a firm, association, corporation, or club, by delivery thereof to a partner or officer or director thereof; or

(2) DELIVERY TO PREMISES. Delivering same to and leaving it with any person over eighteen years of age in charge of the premises referred to in the permit; or

(3) POSTING ON PREMISES. In case no such person is found upon the premises, by affixing same to a conspicuous place on the door to an entrance to said premises.

5.12.230 Right to be heard. The holder of any permit shall be afforded an opportunity to be heard and to present evidence on his behalf at such hearing.

5.12.240 Action by city manager upon hearing. Upon hearing held by him, and adjournments and continuances thereof upon said notice, the city manager may revoke, suspend, further suspend or apply conditions to the further exercise of any permit issued hereunder because of anything done or omitted by the permittee, his agents or employees or the patrons of his establishment upon the premises involved contrary to the provisions of any applicable state law, or of this chapter or any ordinance of the city, or of the rules prescribed by the city manager pursuant to Sections 5.12.250 and 5.12.260, or when the

public peace, safety, morals, health or welfare require or will be promoted or best served by any such action.

5.12.250 Power to make rules and regulations. The city manager may make rules and regulations governing dancing clubs, public dances, or public dance halls within this city which shall govern and apply to all permittees under this chapter.

5.12.260 Custody of rules. The rules mentioned in Section 5.12.250 shall be filed with the city clerk and shall be available for inspection by the public.

5.12.270 Special police officers--Application by management. Any person conducting, managing, or carrying on any dancing club, public dance or public dance hall shall have the right to apply to the city manager for appointment of a special police officer or officers of the city to be present and in attendance at such dancing club, public dance or public dance hall during all times that dancing is conducted, carried on or allowed therein, for the purpose of preserving order and preventing any violation of any law of the state, or any ordinance of the city, or any rule prescribed under Sections 5.12.250 and 5.12.260.

5.12.280 Special officers required by city. The city manager may require the presence and attendance of a special police officer or officers, or also a special fire officer or officers in accordance with the provisions of the Uniform Fire Code relating to standby firemen at places of public assembly, any of which requirements may be prescribed as a condition or conditions to the exercise of any permit, long term or temporary, as hereinabove provided for.

5.12.290 Cost of policing. (a) FEES. The expense of any such special officer or officers so appointed for such attendance shall be paid by such person so conducting, managing, or carrying on any dancing club, public dance, or public dance hall in accordance with such schedule of fees for such services as may be found to be reasonable and established by the chief of police or the fire chief, as the case may be.

(b) PAYMENT TO CITY MANAGER. The expense of such special officer shall be paid to the city manager each week in advance for all dancing to be conducted, carried on or allowed during that time, in accordance with a written statement made at the time of such payment to the city manager.

(c) PAYMENT TO OFFICERS. The city manager shall in turn cause payment of said money to the special officers as earned by them.

5.12.300 Appeals. Any person aggrieved by any decision of the city manager with respect to denial or issuance of any

permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council by filing a written notice of appeal with the city clerk, specifying the grounds of appeal. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall thereupon fix an early time and place of hearing on such appeal. Notice thereof shall be given the appellant and other persons who in the city clerk's opinion appear to be interested persons of record, of the time and place of hearing by serving such notice personally or by depositing it in the United States mail addressed to all such persons at their last known addresses, respectively. The city council shall, after hearing, have authority to determine all questions raised on such appeal, and to take any action consistent with the terms of this chapter, or which could legally have been taken by the city manager in the matter.

Chapter 5.16

DRUG PARAPHERNALIA DISPLAY

Sections:

- 5.16.010 Display of drug paraphernalia to minors.
- 5.16.020 Minors not to enter.
- 5.16.030 Definitions.

5.16.010 Display of drug paraphernalia to minors. The following regulations shall apply in any business establishment merchandising drug paraphernalia:

(1) It shall be unlawful for any person in charge or control of any business establishment wherein drug paraphernalia is displayed for sale, offered for sale or sold, to knowingly allow or permit a minor, not accompanied by one or both of his or her parents or by his or her legal guardian, to enter and remain within any room of such establishment where drug paraphernalia is displayed for sale, offered for sale or sold.

(2) It shall be unlawful for any person in charge or control of a business establishment wherein drug paraphernalia is displayed for sale, offered for sale, or sold, to fail to display and maintain, or fail to cause to be displayed and maintained, at least one sign stating that a minor may not enter unless accompanied by one or both of his or her parents or by his or her legal guardian. Any such sign shall be placed in a conspicuous location near each public entrance to such business establishment wherein such drug paraphernalia is displayed for sale, offered for sale, or sold, or near each public entrance to any particular

room or rooms therein where such drug paraphernalia is displayed for sale, offered for sale or sold.

(3) In the event a substantial number of the public invitees or patrons of a business establishment wherein drug paraphernalia is displayed for sale, offered for sale or sold, uses a language other than English as a primary language, any sign required pursuant to this section shall be worded in both English and the language or languages involved.

5.16.020 Minors not to enter. In the event a sign or signs have been posted as required by Section 5.16.010 above, it shall be unlawful for a minor to enter any room of a business establishment wherein drug paraphernalia is displayed for sale, offered for sale or sold, unless said minor is accompanied by one or both of his or her parents or by his or her legal guardian.

5.16.030 Definitions. Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter:

(1) "Minor" means any person under the age of 18 years.

(2) "Drug paraphernalia", including but not limited to one or more of those items identified in that list set forth in subdivision (4) hereinbelow, shall mean any device designed primarily for use by individuals for the smoking or ingestion of marijuana, hashish, hashish oil, cocaine, or any other "controlled substance", as that term is defined in the Health and Safety Code of the State of California.

(3) A device "designed primarily for" such smoking or ingestion set forth in subdivision (2) above is a device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of marijuana, hashish, hashish oil, cocaine, or any other "controlled substance", and is peculiarly adapted to such purposes by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding that it might also be possible to use such device for some other purpose.

(4) Includable items or devices within the term "drug paraphernalia":

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent or otherwise, beads, or punctured metal bowls;

(B) A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke than would otherwise be possible, whether the device is known as a "bong", or otherwise;

(C) A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;

(D) A smokable pipe which contains a heating unit, whether the device is known as an "electric pipe", or otherwise;

(E) A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb", or otherwise;

(F) A cannister, container or other device with a tube, nozzle or other similar arrangement attached thereto so constructed as to permit the forcing of smoke accumulated therein into the user's lungs under pressure;

(G) A device for holding a cigarette, whether the device is known as a "roach clip", or otherwise;

(H) A spoon for ingestion through the nose;

(I) A straw or tube for ingestion through the nose or mouth.

Chapter 5.20

HANDBILLS

Sections:

- 5.20.010 Purpose.
- 5.20.020 Definitions.
- 5.20.030 Posting notice, placard or bill prohibited in certain cases.
- 5.20.040 Throwing handbills broadcast in public places prohibited.
- 5.20.050 Placing commercial handbills in or on vehicles prohibited.
- 5.20.060 Distribution on uninhabited or vacant private premises of commercial or noncommercial handbills.
- 5.20.070 Distribution prohibited where properly posted.
- 5.20.080 Distribution on inhabited private premises--Not posted.
- 5.20.090 Distributors--License, fee.
- 5.20.100 Commercial handbill license procedure.
- 5.20.110 Action of city manager.
- 5.20.120 Issuance of permit--Hours for distribution of commercial handbills.
- 5.20.130 Permit fee.
- 5.20.140 Revocation of license.
- 5.20.150 Licenses nontransferable.
- 5.20.160 Exemptions.

5.20.010 Purpose. To protect the people from the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as

herein defined, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof, and to that end the purposes of this chapter are specifically declared to be as follows:

(1) To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers, or handbill solicitors, canvassers, or handbill distributors, together with their employers, by regulating the business of handbill and advertising distribution and providing for the imposition of reasonable license fees;

(2) To protect local residents against trespassing by solicitors, canvassers, or handbill distributors, upon private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons, or do not desire to receive handbills or advertising matter;

(3) To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills;

(4) To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to deliver noncommercial handbills to all who are willing to receive the same, said right being limited solely by the needs of pedestrian and traffic safety.

5.20.020 Definitions. The following words, terms and phrases when used in this chapter have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

(1) "Commercial handbill." means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

(A) Which advertises for sale any merchandise, product, commodity, or thing, or

(B) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales, or

(C) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given or takes place in

connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license where such license is or may be required by any law of this state, or under any ordinance of this city, or

(D) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor;

(2) "Handbill distributor" means and includes any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills;

(3) "Newspaper" means and includes any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public;

(4) "Noncommercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a sign, or a commercial handbill, or a newspaper;

(5) "Person" means and includes any person, firm, partnership, association, corporation, company, or organization of any kind;

(6) "Private premises" means and includes any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, building or other structure;

(7) "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

5.20.030 Posting notice, placard or bill prohibited in certain cases. No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster advertisement or other paper

or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone or any other portion or part of any public way or public place, or any lamp post, electric light, telegraph, telephone or trolley line pole, or railway structure, hydrant, tree or tree-box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct or other public structure or building, or upon any pole, box, or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or the state and the ordinances of the city.

5.20.040 Throwing handbills broadcast in public places prohibited. It is unlawful for any person to deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any public place within this city; and it is also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided however, that it is not unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill as provided in this chapter.

5.20.050 Placing commercial handbills in or on vehicles prohibited. No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any automobile or other vehicle.

5.20.060 Distribution on uninhabited or vacant private premises of commercial or noncommercial handbills. It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

5.20.070 Distribution prohibited where properly posted. It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any inhabited private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words "NO TRESPASSING," "NO PEDDLERS OR AGENTS," "NO ADVERTISEMENT" or any similar notice indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

5.20.080 Distribution on inhabited private premises--Not posted. In the case of inhabited private premises which are not posted as provided in this chapter, the aforesaid licensed person, unless requested by any one upon such premises not to do

so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere except that mailboxes may not be used.

5.20.090 Distributors--License, fee. It is unlawful for any person to engage in the business of handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this chapter and all other relevant laws and regulations; provided that nothing contained herein shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in such city, and also if a license has been obtained therefor, if such license is required under the terms of any applicable law or ordinance.

5.20.100 Commercial handbill license procedure. Any person desiring to distribute commercial handbills shall make application and receive from the city manager a license in the manner and for the period prescribed by the terms of this chapter. Such applicant shall make written application to the city manager upon a form or forms provided for such purpose by the city manager. Such form shall contain:

- (1) Applicant's name;
- (2) Business address;
- (3) Residence address;
- (4) A brief description of the nature of the business to be conducted by the applicant;
- (5) The probable number of agents and employees to be engaged;
- (6) A picture of the applicant, two inch by two inch taken within the last calendar year;
- (7) The last two occupations of the applicant;
- (8) Convictions of crimes other than Vehicle Code violations;
- (9) A copy or copies of the handbill or handbills to be distributed.

5.20.110 Action of city manager. The city manager shall investigate the application for truthfulness of the facts therein set forth and shall have a period of ten days for such investigation. If the city manager ascertains the falsity of any of the contents of the application, a permit may be refused the applicant. If the city manager ascertains a crime has been committed by the applicant involving moral turpitude, a permit may be refused.

5.20.120 Issuance of permit--Hours for distribution of commercial handbills. If applicant complies with the

requirements of Sections 5.20.100 and 5.20.110, at the expiration of the ten day period, or sooner if the city manager is able to make the investigation, applicant shall be issued a permit to distribute commercial handbills. No commercial handbills shall be distributed between the hours of five p.m., and the following eight a.m., nor on any Sunday or holiday.

5.20.130 Permit fee. A permit fee in such amount as has been prescribed by resolution of the city council shall be charged each applicant and shall be payable to the city manager, to defray the expense of investigation and processing.

5.20.140 Revocation of license. If at any time after the issuance of a license to distribute commercial handbills, the city manager ascertains a false statement has been made in the application of the licensee, or if the licensee is or has been convicted of a crime involving moral turpitude, or if the licensee violates any provision of this chapter relating to the distribution of handbills, the city manager, after affording the licensee due opportunity for a hearing in which the licensee might refute the charges, may revoke the license of the subject, and said licensee afterward shall not further distribute commercial handbills in the city.

5.20.150 Licenses nontransferable. No license issued under this chapter shall be transferable by the licensee named, and if it shall be revoked for cause, neither the licensee named in such license, nor any other person shall further distribute handbills pursuant to the said license, and any fees paid for such license shall not be refunded.

5.20.160 Exemptions. The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter.

Chapter 5.24

HOTEL REGISTRATION

Sections:

- 5.24.010 Register required.
- 5.24.020 Form of registration.
- 5.24.030 Access to register.
- 5.24.040 Duty to require registration.
- 5.24.050 Duty to register.
- 5.24.060 False name or address.

5.24.010 Register required. Every owner, keeper or proprietor of any lodging house, rooming house, recreation vehicle park, hotel or motel shall keep a register wherein he shall require all guests, roomers or lodgers to inscribe their names and addresses upon their procuring lodging or a room or accommodations.

5.24.020 Form of registration. The register required in Section 5.24.010 shall also show the day of the month and year when said name was inscribed, and the room occupied or to be occupied by said lodger, or roomer or guest in such lodging house, rooming house or hotel.

5.24.030 Access to register. Said register shall at all times be open to inspection by the chief of police or any regular policeman of this city.

5.24.040 Duty to require registration. Before furnishing any lodging for hire to any person in any lodging house, or before renting any room to any person in any rooming house, or before furnishing any accommodations to any guest at any hotel or motel, the proprietor, manager or owner thereof, shall require the person to whom such lodgings are furnished, or room is rented, or accommodations furnished, to inscribe his name and address in such register kept for that purpose as hereinbefore provided, and shall set opposite said name the time when said name was so inscribed, and also the room occupied by such lodger, roomer or guest.

5.24.050 Duty to register. Every person engaging or to whom there is furnished any room or accommodations at a lodging house, rooming house, hotel or motel shall first sign the register and give the information as provided in the preceding sections.

5.24.060 False name or address. No person referred to in Section 5.24.050 shall write or allow to be written any other than his true name and address upon such registration; nor shall any person write thereon other than the true name and address of any other guest upon such registration.

Chapter 5.28

ICE VENDING MACHINES

Sections:

5.28.010 Locations restricted.

5.28.010 Locations restricted. No person shall place any ice vending machine at any outdoor location without first obtaining approval from the city manager, who shall issue a permit therefor if it is found that the proposed location will be desirable to the public convenience or welfare and will be in harmony with the various elements and objectives of the general plan.

Chapter 5.32

MASSAGE, BATHS AND SIMILAR BUSINESSES

Sections:

- 5.32.010 Definitions.
- 5.32.020 Permit required.
- 5.32.030 Exceptions.
- 5.32.040 Application--Fee.
- 5.32.050 Application--Content.
- 5.32.060 Facilities necessary--Regulations.
- 5.32.070 Permit procedures.
- 5.32.080 Display of permit.
- 5.32.090 Change of location.
- 5.32.100 Employees.
- 5.32.110 Inspection.
- 5.32.120 Records of treatments.
- 5.32.130 Name of business.
- 5.32.140 Revocation and suspension of permit.
- 5.32.150 Sale or transfer.
- 5.32.160 Applicability of regulations to existing businesses.
- 5.32.170 Violation and penalty.

5.32.010 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:

(1) "Massage" means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of another human

body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(2) "Massage establishment" means 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, fomentation, baths, manipulation of the body or similar procedures is or are given by a massage technician or technicians.

(3) "Massage technician" means 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.

5.32.020 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 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 in the absence of a permit issued pursuant to the provisions hereinafter set forth.

5.32.030 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: physician, 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 profession 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.

5.32.040 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 city manager for an investigation.

(b) Each application shall be accompanied by a permit fee in such amount as may have been established by resolution of the

city council to defray the expense of investigation and processing.

5.32.050 Application--Content. Any applicant for a permit shall submit the following information:

- (1) The full name and present address of applicant;
- (2) The two previous addresses immediately prior to the present address of applicant;
- (3) Written statements of at least five bona fide residents of the city that the applicant is of good moral character;
- (4) Written proof that the applicant is over the age of eighteen years;
- (5) Applicant's height, weight, color of eyes and hair;
- (6) Two portrait photographs at least 2" x 2";
- (7) Business, occupation, or employment of the applicant for the three years immediately preceding the date of the application;
- (8) The massage or similar business history of the applicant; whether such person, in previously operating in this or another city, county, or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
- (9) All convictions of crimes other than Vehicle Code violations;
- (10) A certificate from a medical doctor stating that the applicant has, within thirty days immediately prior thereto, been examined and found to be free of any contagious or communicable disease;
- (11) 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 hours to be given in not less than three 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 courses not requiring actual attendance of class shall not be deemed a "recognized school". The city shall have a right to confirm the fact that the applicant has actually attended classes in a recognized school for aforementioned minimum time periods,
- (12) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application;
- (13) Nothing contained herein shall be construed to deny to the police department of the city 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.

5.32.060 Facilities necessary--Regulations. No permit to conduct a massage establishment shall be issued unless an inspection by the city reveals that the establishment complies with each of the following minimum requirements:

(1) 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 regulations of the city.

(2) No person shall give, or assist in the giving, of any massage to any other person under the age of eighteen years, unless the parent or guardian of such minor person has consented thereto in writing.

(3) Minimum lighting shall be provided in accordance with the Uniform Building Code, and, in addition, at least one artificial light of not less than forty watts shall be provided in each enclosed room or booth where massage services are being performed on a patron.

(4) Minimum ventilation shall be provided in accordance with the Uniform Building Code.

(5) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.

(6) Hot and cold running water shall be provided at all times.

(7) Closed cabinets shall be provided which cabinets shall be utilized for the storage of clean linen.

(8) 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.

(9) Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one 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 toilet and one 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.

(10) A separate wash basin shall be provided for each portion of a massage establishment 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.

(11) All walls, ceilings, floors, pools, showers, bath tubs, 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. Bath tubs shall be thoroughly cleaned after each use.

(12) 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.

5.32.070 Permit procedures. (a) Any applicant for a permit pursuant to these provisions shall personally appear at a place designated by the city manager at a reasonably convenient time, if so requested by the city manager, and in such event shall present to the city manager or to the police department any reasonably requested information supplementary to the aforementioned described information. The city manager shall have a reasonable time in which to investigate the application and background of the applicant. Based on such investigation, the city manager, or his representative, shall approve or deny the permit.

(b) The building official, the fire department, and the Riverside County health department shall inspect the premises proposed to be devoted to the massage establishment and shall make separate recommendations to the city manager concerning compliance with the foregoing provisions.

(c) The city manager 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 person reveals a conviction of a felony or a crime of moral turpitude.

(d) Any person denied a permit pursuant to these provisions by the city manager may appeal to the city council in writing, stating reasons why the permit should be granted. Thereupon, unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the council may grant or deny the permit and such decision shall be final upon the applicant. Also, the council may elect on its own motion to review any determination of the city manager granting or denying a permit.

(e) All permits issued hereunder are nontransferable, provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions herein.

5.32.080 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.

5.32.090 Change of location. A change of location of any of the aforementioned and described premises may be approved by the city manager, provided all ordinances and regulations of the city are complied with and the change of location processing fee (per council resolution) is deposited with the city.

5.32.100 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 5.32.050 except for subsection (11) thereof.

5.32.110 Inspection. The building official, fire department and police department may, from time to time and at least twice a year, make an inspection of each massage establishment in the city for the purpose of determining that the provisions of this code are met.

5.32.120 Records of treatment. 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 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 years.

5.32.130 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.

5.32.140 Revocation and suspension of permit. (a) 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 city manager, or his designee, 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 city manager. Notice of such hearing shall be given in writing and served at least five 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 following the five day notice period.

(b) 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 days prior to the date of such hearing.

5.32.150 Sale or transfer. (a) Upon the sale or transfer of any interest in a massage establishment, the permit and license 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 processing fee (per council resolution) 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.

(b) 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.

5.32.160 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.

5.32.170 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 so to do from the city or shall violate 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 enjoinder thereof, in the manner provided by law; and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief 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.

Chapter 5.37

ACTIVITIES INVOLVING OUTDOOR MERCHANDISING

Sections:

- 5.37.010 Outdoor retail activities on or near public places--Permit required.
- 5.37.020 Outdoor retail activities on parking areas--Permit required.
- 5.37.030 Application fees.

5.37.010 Outdoor retail activities on or near public places places--Permit required. It shall be unlawful for any person, unless a special permit therefor has been issued by the city council, to use or occupy any street, public sidewalk, park, other publicly owned or controlled place, or any area adjacent to and within ten feet from any such street, sidewalk or place, for the sale, soliciting, advertising, distribution or display of goods, wares, merchandise, or services. This section shall not be deemed to apply to any commercial activities carried on within a substantial building, or to the sale of news publications.

5.37.020 Outdoor retail activities on parking areas--Permit required. It shall be unlawful for any person, unless a special permit therefor has been issued by the city council, to use or occupy any parking area for purposes of physically selling, distributing or displaying goods, wares, merchandise, or services. For purposes of this section, "parking area" means any premises or portion thereof which has previously been acquired or set aside or designated as space for parking or storing of motor vehicles in conjunction with the needs of any commercial enterprise or of the public at large or any noncommercial organization.

5.37.030 Application fees. Application for any special permit required by this chapter shall be filed with the city clerk, and to qualify for acceptance and processing shall be accompanied by payment of a fee in such amount as may have been established by resolution of the city council, to defray the expense of investigation and processing.

Chapter 5.36

NOVELTY SALES AT SPECIAL EVENTS

Sections:

5.36.010 Restrictions.

5.36.010 Restrictions. No person shall sell, vend or peddle any novelty, such as a souvenir, balloon, trinket or other small nonedible item, at any special event open to the general public, such as a parade, rodeo, sports event or holiday celebration gathering, without first obtaining a permit therefor from the city manager. Such permits shall be issued only to locally based organizations which the city manager finds to qualify as charitable organizations which are tax-exempt under Revenue and Taxation Code Section 23701d, and which will contribute the total net proceeds of such novelty sales to local philanthropic, charitable or educational purposes. No fee shall be charged for any such permit.

Chapter 5.38

PARKING ATTENDANTS

Sections:

- 5.38.010 Definitions.
- 5.38.020 Permit required.
- 5.38.030 Operations on public rights-of-way or property.
- 5.38.040 Unauthorized parking on private property.
- 5.38.050 Application for permit.
- 5.38.060 Fees.
- 5.38.070 Permits--Issuance--Denial.
- 5.38.080 Permits--Issuance with conditions.
- 5.38.090 Revocation or modification of permits.
- 5.38.100 Appeals.

5.38.010 Definitions. For purposes of this chapter, certain words and phrases shall be construed as set forth in this section, unless it is apparent from the context that a different meaning is intended.

(1) "Operator" means any person, firm or corporation engaging in the activity of parking of vehicles for patrons or guests of a business whether such operator is employed by or is under contract to, the business for which the vehicles are being parked.

(2) "Public right-of-way" means any area dedicated to public use for public street, pedestrian way or other public

purposes, or which shall include but not be limited to roadways, parkways, alleys, sidewalks and pedestrian ways.

5.38.020 Permit required. No person shall, as an "operator" as that term is defined in Section 5.38.010, conduct any activity involving the movement of a vehicle by the operator on or over any public right-of-way or publicly owned property, unless there has first been obtained from the city manager a permit, as provided in this chapter, which permit is in full force and effect.

5.38.030 Operations on public rights-of-way or property. No operator, unless possessing a permit expressly allowing the same to be done, shall commit or do any of the following acts:

(1) Receive, take possession of (for purposes of parking or temporary storage until return of same to the patron or guest) or move a patron's or guest's vehicle, upon any portion of a public right-of-way or other public property;

(2) Park and leave standing any patron's or guest's vehicle upon any portion of a public right-of-way or other public property (including any publicly owned off-street parking space).

5.38.040 Unauthorized parking on private property. No operator shall park any patron's or guest's vehicle upon private property without express authorization by the owner or other person in charge of such private property.

5.38.050 Application for permit. An application for a permit pursuant to this chapter shall be filed with the city manager or his designee. There shall be submitted such information as the city manager deems necessary in order to evaluate and act upon the permit application. Each application shall include, in general, at least the following basic information in writing: an outline of the method of operating the vehicle-parking service including, but not limited to, the hours of operation, the number of employees, the location(s) from which vehicles will be picked up, and to which they will be delivered to the patrons or guests, the location(s) where vehicles will be stored or placed, and the location(s) of any proposed signs and any proposed attendant stands.

5.38.060 Fees. Each applicant for a permit under this chapter, and each person filing any appeal pursuant to provisions of this chapter, shall pay at the time of filing the application or appeal a processing fee or fees in an amount or amounts as may have been established by resolution of the city council.

5.38.070 Permits--Issuance--Denial. Permits as applied for shall be issued by the city manager or his designee, provided it appears that all requirements of this chapter and of other applicable ordinances and laws have been, and will appropriately be, met fully by the applicant, and that such permit can be issued subject to prescribed conditions adequate to assure that there will be no undue interference with normal traffic flow on

public rights-of-way, and otherwise to protect the public safety and other persons' property rights and their rights to coequal use and enjoyment of public property. Any permit application may be denied if the city manager concludes it cannot be issued subject to such safeguards.

5.38.080 Permits--Issuance with conditions. The issuance of any permit pursuant to this chapter shall, if appropriate, have conditions attached thereto adequate to meet the public purposes referred to in Section 5.38.070, and the city manager or his designee shall have discretionary authority to prescribe any such necessary or appropriate conditions. All permits shall contain:

(1) A condition that the permittee carry insurance against liability for injuries to persons or property in amounts of at least five hundred thousand dollars per incident, with at least twenty-five thousand dollars property damage coverage;

(2) A condition that the city shall be named as an additional insured in the policy of liability insurance issued to the permittee; and

(3) A condition that the policy of liability insurance issued to the permittee shall contain provisions that such policy shall be considered primary to any other insurance as it relates to the city's liability for such operations.

5.38.090 Revocation or modification of permits. (a) Any permit granted pursuant to the provisions of this chapter may, after the permittee has been afforded the opportunity of a due process hearing as hereafter stated, be revoked or modified by the city manager for any of the following grounds or reasons:

(1) Any acts done under the permit have interfered or tended to interfere with the normal flow of vehicular or pedestrian traffic on any public right-of-way;

(2) The permittee or permittee's employees have failed to comply with provisions of the city's sign ordinance, or with conditions attached to the permit relating to sign control;

(3) There was given any false or fictitious information in connection with the application for and obtaining of the permit;

(4) There has been a violation of or a failure to comply with any condition attached to the permit or any provision or regulation of this chapter or of any other applicable rules or regulations;

(5) The character or moral integrity of the permittee or permittee's employees is determined inimical to the public safety or general welfare of the community;

(6) Any other reason exists for which the permit might have been lawfully denied in the first instance, or that for any reason the continued operations under the permit will be inimical to the public safety or general welfare of the community.

(b) Such a revocation or modification of a permit shall be made only after opportunity has been granted to the permittee for a due process hearing before the city manager or his designated agent, after ten days' notice to said permittee, setting forth

the nature and grounds of complaint against him and stating the time and place such hearing will be held.

(c) Upon failure of the permittee to respond to the opportunity for hearing after receiving notice of such hearing, the permit may be revoked, or may be modified in such particulars as are deemed necessary in the public interest, and any such revocation or modification shall be effective upon notice or knowledge thereof being received by the permittee, orally or in writing. Any such order of revocation or modification shall also be effective as to any employee or agent of the permittee, which employee or agent has been notified orally or in writing of the substance of the order.

(d) Any such revocation or modification of any permit may be in addition to any penalties otherwise provided for by law.

5.38.100 Appeals. Any person aggrieved by, dissatisfied with, or excepting to any action, denial, order, requirement, condition, permit, decision or determination made by the city manager or his designee in administering the provisions of this chapter may appeal by filing written notice specifying the grounds of appeal and the relief sought, with the city clerk within ten days after notice of the action from which appealed. Upon any failure to file such written appeal within the time herein allowed, the action of the city manager or his designee shall be final and conclusive. A timely appeal shall be reviewed by the city manager, and unless an adjustment of the matter is made by the city manager satisfactory to the appellant, the appeal shall be expeditiously scheduled for hearing before the city council, which body at the conclusion of its consideration may affirm, reverse or modify the action appealed from and may take any action which might have been legally taken in the first instance by the city manager or his designee.

Chapter 5.40

PASSENGER CARRIERS

Sections:

- 5.40.010 Franchise or license required--Rates.
- 5.40.020 Interference with driver.
- 5.40.030 Exclusive right to vehicle.
- 5.40.040 Refusal to pay fare.
- 5.40.050 Charging of improper fare.

5.40.010 Franchise or license required--Rates.

(a) REQUIREMENT--EXCEPTIONS. No person shall engage in the business of transporting passengers in a vehicle or vehicles over the streets of the city, where such passengers' trips originate from points within the city, whether any such vehicle used is a taxicab, bus, ambulance, limousine, automobile for hire, or other public transportation vehicle, unless such person operating such business or engaging therein is acting pursuant to a franchise, license, permit or contract to do so from the city council. This section shall also apply to any business carrying passengers from a principal point or points of origin outside the city but which regularly carries the passengers over the city streets as a major portion of the journey or journeys. This section shall not, however, be deemed applicable to any business of renting automobiles or other vehicles without drivers, nor to any passenger carrier operated by a public agency or entity or to any passenger carrier operating pursuant to express and specific permission granted by superior authorized agency such as the State Public Utilities Commission or the Interstate Commerce Commission.

(b) QUALIFICATIONS--CONDITIONS. Before granting any license, permit, franchise, or contract to conduct a passenger-carrying business upon the streets of the city, the city council shall find and determine that the applicant is of good moral character and financially responsible, has and will carry adequate insurance to protect the public, and will use and continue to use vehicles safe and adequate for the intended purposes. The council may grant any entitlement for a fixed term or on an indefinite time basis, and subject to conditions and requirements deemed necessary or desirable in the public interest. The conditions and requirements attached to any such entitlement shall be subject to periodic review, modification, addition or deletion at such times as the council may prescribe in such entitlement or at the time of any periodic review, or at any time the council finds and determines such action to be necessary in the public interest after a change in circumstances.

(c) REVOCATION OR SUSPENSION. Any such license, permit, franchise, or contract to conduct a passenger-carrying business shall be subject to revocation or suspension by the city council after the holder thereof has been afforded opportunity for a due-process hearing, where the holder is found to have failed to

maintain its operations up to standards prescribed herein or as conditions or requirements contained in or attached to the license, permit, franchise or contract.

(d) FARES, CHARGES AND PRICES. In any such franchise, license, permit or contract, or in the conditions or requirements attached thereto pursuant to subsections (a) and (b) of this section, the holder thereof may, in the discretion of the city council, be required during operations thereunder to have and maintain on file with the city manager an approved tariff or schedule of fares, listing any and all fares, charges, fees, prices, costs and the like which are to be charged to members of the public during the course of business. No such tariff or schedule or later revision thereto shall be deemed effective unless and until the same has been approved by the city council upon appropriate determination that it is fair, reasonable and equitable to both the public and to the business operator. In the event the council has not required the filing of a tariff or schedule as stated above, then the holder of the franchise, license, permit or contract is prohibited from charging within the city any fare, charge, fee, price, cost, or the like, which exceeds the same then currently charged by such holder to patrons or customers in any area surrounding or near to the city; or in the event such holder does not serve any such area outside the city, then no charge shall be made in excess of the same or similar charges as are prevailing and levied by other businesses of the same or similar nature which do so service the areas surrounding or near to the city.

(e) CITY FEES. Any person seeking any entitlement or taking any other action prescribed or provided for by or within this section shall pay any applicable fee which may have been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.40.020 Interference with driver. No driver of any taxicab, automobile for hire or motorbus shall permit more persons to ride in the driver's compartment thereof than can be seated in the regular seats in said compartment, or permit any person to sit on or stand at any place in or on said taxicab, automobile for hire or motorbus where such person obstructs the driver's view of traffic ahead or to either side.

5.40.030 Exclusive right to vehicle. When a taxicab or automobile for hire is engaged, the occupants shall have the exclusive right to the full and complete use of the passenger compartment, and no owner or driver of said taxicab shall solicit or carry additional passengers therein.

5.40.040 Refusal to pay fare. It is unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter, after having hired the same.

5.40.050 Charging of improper fare. It is unlawful to charge, collect or receive any other or different compensation for the use of such taxicab or automobile for hire than that specified in the tariff or schedule of fares on file and at the time in effect.

Chapter 5.44

SECONDHAND DEALERS, PAWNBROKERS AND LOAN BROKERS

Sections:

- 5.44.010 Reports required.
- 5.44.020 Property holding period.
- 5.44.030 Disposition of reports.
- 5.44.040 Duty to identify seller or pledgor.
- 5.44.050 Giving of false information unlawful.

5.44.010 Reports required. Every secondhand dealer, pawnbroker, loan broker, and every proprietor, keeper or owner of any office or other place of business where money is loaned on personal property for compensation, shall daily make out and deliver to the chief of police every day before the hour of twelve midnight, on a blank form approved by or prescribed by the Chief of the State of California Bureau of Criminal Identification and Investigation, and provided by the person rendering such report, a full, true and complete report of all property and other valuable goods, wares, merchandise or things received on deposit or purchased during the preceding twenty-four consecutive hours (subject to the exception or exceptions set forth in Financial Code Section 21208), further setting forth the hour of the day when each item was received on deposit, in pawn or purchase, and a description of the person or persons by whom left in pledge, or deposited or from whom purchased, and also their true names and residence addresses as nearly as the same are known to the said person rendering the report. Said report shall be written in the English language in a clear and legible manner. In addition to the operators of businesses hereinabove mentioned who are generally required to file daily reports, any other business operator who is engaged primarily in retail selling of new merchandise, who occasionally receives in trade valuable goods, wares, merchandise or other property not regularly registered with the state (such as are motor vehicles), shall pursuant hereto be required to make reports as prescribed above in this section, of all secondhand items, so received; provided that daily reports from such business operators will not be required where the receipt or purchase of such secondhand items is not a daily occurrence.

5.44.020 Property holding period. All the property and other valuable goods, wares, merchandise and things received on deposit or purchase as prescribed in Section 5.44.010 shall be kept intact in its original state by every person receiving the same as stated, for a period of thirty calendar days from the said purchase, receipt or acquisition of the same (unless sooner expressly released by the chief of police or his authorized representative), and any such item shall be exhibited to the

chief of police or his representative, or to any other peace officer, upon demand.

5.44.030 Disposition of reports. The chief of police upon receipt of any report required pursuant to Section 5.44.010 shall file same in the police department records, and such report shall not be open for inspection by the general public, but only to police department personnel of the city, to authorized law enforcement agents from the area where the selling or pledging person resides, to any other duly authorized peace officers examining same in the course of official duty, and to such other persons as a court of competent jurisdiction may order. One copy of such report will be forwarded by the chief of police to the Chief of the State of California Bureau of Criminal Identification and Investigation.

5.44.040 Duty to identify seller or pledgor. Every buyer of secondhand goods, pawnbroker, loan broker, or proprietor, keeper or owner of any office or other place of business where money is loaned on personal property for compensation, his agents and employees, shall require the person or persons by whom said property is left in pledge, stored, deposited, or from whom purchased, to display identification, and to the best of his ability to require him to sign his true name and give his correct address for purposes of the report required by Section 5.44.010.

5.44.050 Giving of false information unlawful. No person shall sign a fictitious name or fictitious address in connection with any information obtained pursuant to the requirements of this chapter, nor shall any person in any manner enter or cause to be entered any other fictitious information, values or identification in such respect.

Chapter 5.48

PEDDLERS--SOLICITORS

Sections:

- 5.48.010 Definitions.
- 5.48.020 Peddling or soliciting--Permit required.
- 5.48.030 Application to peddle or solicit--Additional information.
- 5.48.040 Fee for investigation.
- 5.48.050 Investigation of application.
- 5.48.060 Denial of permit--Notice.
- 5.48.070 Appeal--Right to appeal.
- 5.48.080 Approval of application--Issuance of permit.
- 5.48.090 Photographs.

5.48.010 Definitions. (a) "Peddler" means and includes any person who travels or goes from place to place and peddles, hawks, vends or sells any goods, wares, merchandise, or medicines carried or caused to be carried or conveyed by the person peddling, hawking, vending or selling the same.

(b) "Solicitor" means and includes any person who travels or goes from place to place selling, offering to sell or contracting to sell, for future delivery, at wholesale or retail, any goods, wares, or merchandise within the city, except in those instances where the solicitations are made to established businesses for stock-in-trade, resale, fixtures or other business needs.

(c) "Peddler" or "solicitor" also include persons engaged in the above described activities at any outdoor location not in conjunction with an established place of business on the same premises within a building, or not as a part of such established place of business in a building.

5.48.020 Peddling or soliciting--Permit required. It shall be unlawful for any person to act as, or carry on the business of, a peddler or solicitor at any place or places within the city, unless and until a permit so to do has been issued by the city manager and is in full force and effect.

5.48.030 Application to peddle or solicit--Additional information. Applicants for permits to commence, manage, engage in, maintain, conduct or carry on the business described in Section 5.48.010, as peddler or solicitor must furnish to the city manager the following additional information:

(1) NAME--DESCRIPTION. Name and description of applicant;
(2) ADDRESSES. Permanent home address and full local address of applicant;

(3) KIND OF BUSINESS. A brief description of the nature of the business and the goods to be sold;

(4) EMPLOYER--CREDENTIALS. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(5) DURATION OF PERMIT. The length of time for which the right to do business is desired;

(6) SOURCE OF STOCK. 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 said application is filed, and the proposed method of delivery;

(7) PHOTOGRAPHS. Two photographs of applicant and two photographs of any vehicle used in such peddling or solicitation, taken within sixty days immediately prior to the date of filing application.

KIND OF PHOTOGRAPH. Pictures of applicant shall be two inch by two inch showing the head and shoulders of applicant in a clear and distinguishing manner;

(8) FINGERPRINTS--CHARACTER REFERENCES. The fingerprints of the applicant and the names of at least two reliable property owners of the county of Riverside, State of California, who will

certify as to the applicant's good character and business respectability; or, in lieu of the names of references, such other available evidence as to the good character and business respectability of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(9) CRIMINAL RECORD. A statement as to whether or not applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than Vehicle Code violations, the nature of each offense and the punishment or penalty assessed therefor.

5.48.040 Fee for investigation. At the time of filing with the city manager any application for a peddler's or solicitor's permit, the applicant shall, in order to qualify such application for filing, pay a fee in such amount as may have been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.48.050 Investigation of application. Upon receipt of the original application, the city manager shall cause such investigation of applicant's business and moral character to be made as he deems necessary for the protection of the public good.

5.48.060 Denial of permit--Notice. If, as a result of such investigation, applicant's character or business responsibility is found to be unsatisfactory, the city manager shall endorse on such application his disapproval and his reasons for the same and shall notify applicant that his application is disapproved and that no permit will be issued.

5.48.070 Appeal--Right to appeal. Any person aggrieved by the action of the city manager in the denial of a permit shall have the right of appeal to the city council:

(1) STATEMENT OF GROUNDS. Such appeal shall be taken by filing with the city clerk, within fourteen days after notice of the action complained of has been mailed to such person's last address, a written statement setting forth fully the grounds for appeal;

(2) SETTING FOR HEARING--NOTICE. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall set a time and place for a city council hearing on such appeal; and notice of hearing shall be given the applicant by mailing such notice, postage prepaid, to his last known address at least five days prior to the date set for hearing;

(3) FINALITY OF DECISION. The decision and order of the council on such appeal shall be final and conclusive.

5.48.080 Approval of application--Issuance of permit. If as a result of investigation, the character and business responsibility of applicant are found to be satisfactory, the city manager shall endorse on the application his approval, execute a permit addressed to applicant for carrying on the business applied for, and deliver to applicant his permit.

5.48.090 Photographs. To each such permit there shall be attached photographs of permittee and of any vehicle used in the business, such photographs to be identical with those filed by permittee with his application pursuant to Section 5.48.030(7).

Chapter 5.52

PRIVATE PATROLS

Sections:

- 5.52.010 Definition.
- 5.52.020 Permit required.
- 5.52.030 Suspension and revocation of permit.
- 5.52.040 Fingerprinting required.
- 5.52.050 Obedience to regulations required.
- 5.52.060 Identification cards.
- 5.52.070 Compliance with identification regulations required.
- 5.52.080 Qualifications--Forms.
- 5.52.090 Break-in period.
- 5.52.100 Uniforms.
- 5.52.110 Vehicles.
- 5.52.120 Citizenship requirement.
- 5.52.130 Termination of patrolman's employment--Notification of chief of police.
- 5.52.140 Firearm proficiency.
- 5.52.150 Weapons.
- 5.52.160 Territory covered--Report to chief of police.
- 5.52.170 Vehicle radios.
- 5.52.180 Watch clocks.

5.52.010 Definition. "Private patrol" means any person carrying on the business of night watchman, night watch service, private policemen, or any other occupation, the purpose of which is to afford additional police or fire protection to the public for hire or reward; provided, however, that nothing contained in this chapter shall be deemed or construed to apply to private police protection incident to the transportation for hire within the city of moneys, checks, and other written instruments of persons, associations, firms and corporations, or to escorts of funeral processions.

5.52.020 Permit required. No person, either as owner, manager, employee, or otherwise, shall manage, conduct, carry on or assist in the management, conducting or carrying on of the business of private patrol unless under and by authority of a written permit from the city manager. Such permits to manage, conduct, or carry on any such occupation shall be issued upon the written application of any person for himself or on behalf of any

corporation or association of persons, which application shall prescribe the boundaries of the district over which the applicant desires to operate. The city manager must first satisfy himself that the management, conducting or carrying on of said private patrol will comport with the public welfare, and for this purpose may consider any facts or evidence bearing on the moral fitness and reputation of those who will be in charge of said private patrol, and any other facts or evidence tending to enlighten the city manager in this respect. Persons aggrieved by the action of the city manager may appeal to the city council.

5.52.030 Suspension and revocation of permit. When any permit shall have been issued under the terms of this chapter, the same may be revoked at any time thereafter by said city manager when satisfied that the management, conducting or carrying on of such patrol does not or will not comport with the public welfare for any reason, or that said private patrol has been conducted in an illegal or improper manner. The city manager may make rules governing the management, conducting or carrying on of said private patrols and may revoke or suspend permits issued for the management or carrying on of any such occupation when the manager or person or persons in charge thereof violates or permits any infraction of any such rules, or any law of the state, or any provision of this code; provided, however, that the city manager shall give notice of said revocation in writing, and the permittee shall be furnished with a copy of the reasons for such revocation and shall be allowed a reasonable time for answering the same in writing, and in such manner said permittee may demand a hearing before the city council. Upon such hearing being so demanded, unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall schedule a prompt city council hearing, and upon said hearing the council may order the permit restored or may affirm the previous order of revocation.

5.52.040 Fingerprinting required. Before issuing any permit to an owner or employee under the terms of this chapter, the city manager shall require the applicant to be fingerprinted and photographed and a record of such applicant shall be obtained from the Bureau of Criminal Identification and Investigation of the State of California Department of Justice, and from such other reporting agencies as the city manager, in his discretion, shall deem appropriate. After reviewing such record, the city manager shall issue the permit unless he concludes, pursuant to Section 5.52.020, that the application should be denied, and in the case of an employee applicant, unless he concludes that the granting of a permit would be detrimental to the public interest. The applicant shall be required to pay a fingerprint processing fee in such amount as is prescribed by resolution of the council, or in the absence of such resolution, in an amount which will reimburse the direct charges of the agency or agencies rendering the record required herein to be obtained plus an overhead factor in an amount not exceeding one-third of the direct charges, to

cover police department processing. An employee applicant who is denied a permit shall have the right of an appeal to the council.

5.52.050 Obedience to regulations required. It shall be the responsibility of the owner or owners of a private patrol operating within the city limits to abide by and conform to all regulations contained in Sections 5.52.060 through 5.52.180. Any violation of these regulations will subject the offender to punishment as described in Sections 1.01.200 through 1.01.230; and, in addition, violations of these regulations shall be grounds for revocation of the permit. The city manager is expressly authorized to promulgate rules for personal conduct. Violation any of such rule shall be cause for revocation of the permit.

5.52.060 Identification cards. The owner or owners of a private patrol shall make arrangements with the chief of police of the city to have their personnel fingerprinted and photographed. An identification card will be issued, signed by the chief of police. This identification card shall be carried by private patrolmen at all times while on duty. Identification shall be shown upon demand by any member of the police department. A private patrolman who is found to be without an identification card will not be allowed to complete his tour of duty until properly identified by the owner or owners of the private patrol for whom he is employed. A written report covering the incident shall be made by both the officer of the police department who discovers such violation and the owner of the private patrol. Said written report shall be submitted to the chief of police.

5.52.070 Compliance with identification regulations required. The regulations regarding fingerprinting and photographing shall be complied with by the owner or owners of a private patrol as well as by all personnel employed by them. All future employees of a private patrol shall be fingerprinted and photographed.

5.52.080 Qualifications--Forms. All future employees of private patrols shall present to the chief of police a letter from the owner or owners of said private patrol covering their qualifications for the job of private patrolman. Also blank forms which are obtainable at headquarters of the police department shall be filled out. These blank forms shall be filled out for all future employees of private patrols.

5.52.090 Break-in period. During the break-in or trial period for a new employee, a private patrol shall require that the employee, at all times when on duty, shall be in the company of the owner or duly authorized agent of the owner of the said private patrol.

5.52.100 Uniforms. Members of private patrols shall restrict the color of their uniforms to grey, blue or black. All

badges, cap shields and shoulder patches worn by private patrolmen shall be approved by the chief of police. All insignia placed on automobiles operated by private patrols shall be approved by the chief of police, and include the word "PRIVATE" in not less than four inch capital letters.

5.52.110 Vehicles. Panel trucks which can be mistaken for a police patrol wagon shall not be used by private patrols.

5.52.120 Citizenship requirement. No person shall be appointed a special police officer or employed as a private patrolman who is not a citizen of the United States.

5.52.130 Termination of patrolman's employment-- Notification of chief of police. The owner or owners of a private patrol shall notify the chief of police in writing when a private patrolman leaves their employment; and the identification card shall be turned in to the chief of police at the termination of his employment by the owner.

5.52.140 Firearm proficiency. All members and employees of a private patrol shall report to the chief of police, if he so directs, with the weapon used while on duty, together with ten rounds of ammunition, with which they will demonstrate their ability and familiarity with the weapon. This test will be conducted by the police department at a time designated by the chief of police. Inability to properly handle a firearm will be sufficient cause for rejection of a permit to be a private patrolman.

5.52.150 Weapons. Only double action revolvers shall be carried by private patrolmen. The use of automatic weapons shall not be allowed.

5.52.160 Territory covered--Report to chief of police. The owner or owners of private patrols shall furnish the chief of police with information in writing regarding the territory covered by their respective patrols and the hours that coverage is to be maintained.

5.52.170 Vehicle radios. All motor vehicles operated pursuant to the provisions of this chapter shall be equipped with two-way radios.

5.52.180 Watch clocks. Watchman service shall be provided with a system of watch clocks.

Chapter 5.56

PSYCHIC ACTIVITIES

Sections:

- 5.56.010 Fortunetelling, spiritism and related activities.
- 5.56.020 Solicitation--Advertisement.
- 5.56.030 Exceptions.

5.56.010 Fortunetelling, spiritism and related activities.

No person shall practice or solicit, advertise or purport to practice, as a business or for any consideration, fee, donation, gratuity, reward or compensation, any art or calling which seeks or purports to predict or foretell future events or the fate or future acts or fortunes of any nation, business, group or persons or individual, or which attempts or promises to bring about, cause, result in or influence the achievement or performance of some personal or economic objective, by analysis of parts, products or personal characteristics of a person, or by analysis of any animate or inanimate object including but not limited to, celestial body, crystal ball, tea leaves, or playing or other cards, or through the exercise of any purported psychic, mediumistic, prophetic, occult, clairvoyant or supernatural power.

5.56.020 Solicitation--Advertisement. No person shall act or solicit, advertise or purport to act as a business or for any consideration, fee, donation, gratuity reward or compensation, as a medium or instrumentality for communication with the spirit of a deceased person or participate in the purported manifestation or materialization of supernatural or mediumistic phenomena.

5.56.030 Exceptions. This chapter shall not apply to or prohibit, any religious service, ceremony, practice, or treatment, or the performance by any licensed person of the acts and practices usual to his calling or profession, or the performance of any of the acts and practices otherwise prohibited by this chapter when done for the entertainment and amusement of a group of twelve or more persons.

Chapter 5.60

SALES

Sections:

- 5.60.010 Definitions.
- 5.60.020 Permit required.
- 5.60.030 Agreement to abide by regulations.
- 5.60.040 Signing of agreement--Witnessing.
- 5.60.050 Conditions of permit.
- 5.60.060 Application for sale permit.
- 5.60.070 Detailed description of goods.
- 5.60.080 Filing fee.
- 5.60.090 Investigation of applicant.
- 5.60.100 Issuance or refusal of permit.
- 5.60.110 Insufficiency of information.
- 5.60.120 Amended application.
- 5.60.130 Hearing before denial.
- 5.60.140 Renewal of permit--Application--Fee.
- 5.60.150 Form of application for renewal.
- 5.60.160 Investigation--Renewal.
- 5.60.170 Second renewal.
- 5.60.180 Limit upon duration of sales.
- 5.60.190 Power to revoke--Grounds.
- 5.60.200 Complaint prerequisite to revocation.
- 5.60.210 Verification--Form of complaint.
- 5.60.220 Service of complaint--Notice of hearing.
- 5.60.230 Scope of permit--Unlawful changes.
- 5.60.240 Ordering goods for sale.
- 5.60.250 Presumption from purchase near time of sale.
- 5.60.260 Separate offenses.
- 5.60.270 Rules governing sales and advertising.
- 5.60.280 Loss of identity.
- 5.60.290 Posting of permit.
- 5.60.300 Copies of application and stock list.
- 5.60.310 Records of permittee.
- 5.60.320 Daily revision of stock list.
- 5.60.330 Exemptions.
- 5.60.340 Appeals.

5.60.010 Definitions. For the purpose of this chapter only, the following words and terms shall be deemed to mean and be construed as follows:

(1) "Advertise," "advertisement," "advertising," "publish," and "publication," mean any and all means, whether oral, written, lettered or printed, used for conveying to the public notice of the conduct of a sale as defined herein, or notice of intention to conduct such sale, including but not limited to oral or written announcements by proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed display, billboard display, poster and radio announcement;

(2) "Inspector" means an inspector or investigator appointed by the city manager, or means any city police officer;

(3) "Permit" means a permit issued pursuant to this chapter;

(4) "Permittee" means a person to whom a permit has been issued pursuant to this chapter;

(5) "Sale" means any sale of, or any offer to sell, to the public, or any group thereof, goods, wares or merchandise on order, in transit or in stock, in connection with a declared purpose as set forth by advertising that such sale is anticipatory to or to avoid the termination, liquidation, revision, windup, discontinuance, removal, dissolution or abandonment of the business or that portion of the business conducted at any location:

(A) STOPPING OF BUSINESS. All sales advertised in any manner calculated to convey to the public the belief that upon the disposal of the goods to be placed on sale, the business or that portion thereof being conducted at any location will cease, be removed, be interrupted, discontinued or changed, and

(B) NAMES USED FOR SALES. All sales advertised to be "Adjuster's Sale," "Assignee's Sale," "Bankrupt Sale," "Benefit of Administrator's Sale," "Benefit of Creditors Sale," "Benefit of Trustee's Sale," "Building Coming Down Sale," "Closing Sale," "Closing Out Sale," "Creditor's Committee Sale," "Creditors' Sale," "Damaged Goods Sale," "End Sale," "Execution Sale," "Final Days Sale," "Fire Sale," "Forced Out Sale," "Forced Out of Business Sale," "Insolvent Sale," "Insurance Salvage Sale," "Last Days Sale," "Lease Expires Sale," "Lease Expiring Sale," "Liquidation Sale," "Loss of Lease Sale," "Mortgage Sale," "Outselling Sale," "Receiver's Sale," "Removal Sale," "Recognition Sale," "Salvage Sale," "Selling Out Sale," "Smoke Sale," "Smoke and Water Sale," "Trustee's Sale," "Quitting Business Sale," "Wholesale Closing Out Sale," "We Quit Sale," "We Give Up Sale," "Fixtures for Sale," or advertised by any other expression or characterization closely similar to any of the foregoing and calculated to convey the same meaning, and

(C) BUSINESS FAILURE. All sales advertised in a manner calculated to indicate that the goods, wares or merchandise to be sold, or any part thereof, have been involved in any business failure or have been derived from a business which has failed, been closed, discontinued or liquidated, and

(D) VACATION OF PREMISES. All sales accompanied by notices or advertising indicating that the premises are available for purchase or lease or are otherwise to be vacated, and

(E) BUSINESS EMERGENCY OR FAILURE. All sales accompanied by advertising indicating a business emergency or failure affecting the seller or any previous holder of the goods to be disposed of.

5.60.020 Permit required. No person, firm or corporation shall hereafter publish or conduct any sale of the type herein defined without first having obtained a permit from the city manager in the manner hereinafter provided in this chapter.

5.60.030 Agreement to abide by regulations. Each permit issued under the provisions of this chapter shall have printed, written or stamped on the face thereof the following:

"This permit is granted by the City Manager of the City of Cathedral City and accepted by the permittee upon the condition that the said permittee comply with and abide by all the provisions of Chapter 5.60 of the Cathedral City Municipal Code."

5.60.040 Signing of Agreement--Witnessing. At the time of the delivery of said permit, such statement must be signed by the permittee in the presence of an employee of the city who shall sign as a witness.

5.60.050 Conditions of permit. Any permit issued under the provisions of this chapter shall authorize the one type of sale named in the application, at the place named therein, for a period of not more than sixty calendar days, and shall permit the sale of goods only which are set out in said application, all of which goods throughout the duration of the sale must be definitely separated from any other goods displayed at or within the store or place of business; and all advertising signs or notices referred to, or calling attention to the sale, must be confined to the display or displays of goods involved in the sale.

5.60.060 Application for sale permit. No permit to conduct a sale as defined herein shall be granted except upon written application to the city manager, filed and verified before a person authorized to administer oaths, by the person who intends to conduct such sale, and each application shall set forth and contain the following information:

(1) LOCATION. Description by street location and kind of building, of the location at which such sale is to be held;

(2) OCCUPANCY--TENANCY. The nature of the occupancy, whether by ownership, lease or sublease, and if by lease or sublease, the effective date of the termination of such tenancy;

(3) ADVERTISING. A copy of all advertisements proposed to be used in connection with such sale, and a statement of the means or methods of advertising to be used in advertising such sale;

(4) REASON FOR SALE. The facts in regard to the insurance, bankruptcy, insolvency, assignment, mortgage, foreclosure, administration, receivership, trusteeship, removal, executorship removal, or other cause advertised to be the reason for the proposed sale;

(5) INVENTORY. An inventory or statement, in such form and in such detail as the city manager may require, setting forth the amount and description of goods, wares or merchandise to be sold at such sale and, when required by the city manager, the date of acquisition of such goods, wares or merchandise and the persons from whom obtained, and the place from which said goods were last taken.

5.60.070 Detailed description of goods. The city manager may require that all goods, wares and merchandise listed upon the inventory or statement shall be so described in detail by manufacturer's name and lot number, the individual number of articles so numbered, colors, sizes and otherwise, that the identity of such goods with the goods listed on such inventory can be readily determined.

5.60.080 Filing fee. No application for any permit pursuant to the provisions of this chapter shall be accepted by or on behalf of the city manager unless said application shall be accompanied by a filing fee in such amount as has been prescribed by resolution of the city council to defray the expense of investigation and processing, no part of which fee shall be refunded whether said application be granted or denied.

5.60.090 Investigation of applicant. Upon the filing of the application with the city manager, the city manager may make or cause to be made an examination, audit, or investigation of the applicant and his affairs, in relation to the proposed sale.

5.60.100 Issuance or refusal of permit. If the city manager finds that the statements in the application are true, that the inventory is complete, that the advertising set forth is not false, fraudulent, deceptive or misleading in any respect, and that the methods to be used by the applicant in conducting the sale are not such as, in the opinion of the city manager, will work a fraud upon the purchasers, the city manager shall issue to the applicant a permit to conduct such sale in accordance with the provisions of this chapter; otherwise the city manager shall deny the application and refuse said permit.

5.60.110 Insufficiency of information. The city manager may refuse a permit because of the insufficiency of the information set forth in the application.

5.60.120 Amended application. In case of such refusal, the city manager shall grant the applicant permission to file an amended application.

5.60.130 Hearing before denial. No application shall be denied unless an opportunity for hearing has been given the applicant before the city manager and upon a ten-day notice in writing mailed to the applicant at the business address for the conduct of the sale, as set forth in the application of the said applicant.

5.60.140 Renewal of permit--Application--Fee. The city manager may, upon verified application therefor, renew said permit for a period of not to exceed thirty days, upon the payment of a renewal fee in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.60.150 Form of application for renewal. Such verified application for renewal shall set forth a complete list of goods listed in the original application and remaining unsold, and shall not contain any goods, wares or merchandise not named in such original application.

5.60.160 Investigation--Renewal. Upon receipt of such application for renewal, the city manager shall cause an investigation to be made within five days from the date of filing with the city manager the said application for renewal, and if satisfied of the truth of the statements therein contained, the city manager shall grant such renewal, which shall be endorsed and signed as provided for the original permit.

5.60.170 Second renewal. The city manager may renew any original permit in the manner herein provided, not to exceed two times, upon payment of a fee for each such renewal, in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.60.180 Limit upon duration of sales. The city manager shall not issue permits or renewals which will allow the conduct of any sale or sales of any kind or kinds named in Section 5.60.010 at any one location for more than one hundred twenty calendar days in any one twelve month period.

5.60.190 Power to revoke--Grounds. The city manager shall have the power to revoke at any time any permit granted in accordance with this chapter whenever any such sale or special sale is being conducted in violation of any of the provisions of this chapter or in such manner as to deceive or defraud the public, or if:

(1) FURTHER GROUNDS--MISSTATEMENT IN APPLICATION. The holder of any such permit has made any material misstatement in the application for such permit;

(2) FRAUD IN CONDUCT OF SALE. He has been guilty of any fraudulent practice, or practices, in the conduct of the sale authorized by such permit;

(3) OMISSIONS IN INVENTORY. He has failed to include in the inventory required by the provisions of this chapter the goods, wares or merchandise required to be contained in such inventory;

(4) ADDITION OF GOODS. He has added, caused to be added, or permitted to be added any goods, wares or merchandise not described in the original inventory; or

(5) IMPROPER ADVERTISING. He has violated any of the provisions of this chapter or of the laws pertaining to advertising.

5.60.200 Complaint prerequisite to revocation. No permit shall be revoked for any cause above enumerated until a written complaint has first been filed with the city manager, setting forth in ordinary and concise language the charge made against the permittee.

5.60.210 Verification--Form of complaint. Such complaint shall be verified by the oath of the person making the charge, such verification to be made in the form prescribed by the Code of Civil Procedure of the State of California for verified pleadings in civil actions.

5.60.220 Service of complaint--Notice of hearing. Service of such complaint and notice of hearing shall be in the manner hereinbefore provided in Section 5.60.130.

5.60.230 Scope of permit--Unlawful changes. Any permit issued pursuant to the provisions of this chapter shall be valid only for the advertising, representation and sale of the particular goods, wares or merchandise described in the original application therefor, and at the particular time, and particular place stated therein, and by the particular applicant; and any renewal, replenishment or substitution of such goods, wares or merchandise, or change of such time or place for such sale, or change of persons conducting the sale, is unlawful and shall render such permit void.

5.60.240 Ordering goods for sale. No person in contemplation of conducting any such sale or special sale, or during the continuance of such a sale, shall order any goods, wares or merchandise for the purpose of selling them at such sale.

5.60.250 Presumption from purchase near time of sale. Any unusual purchase, or additions to the stock of such goods, wares or merchandise, within sixty days before the filing of such application for a permit to conduct such a sale shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of selling them at such sale.

5.60.260 Separate offenses. Each sale of goods, wares or merchandise as were not inventoried and described in said original application shall constitute a separate offense under this chapter.

5.60.270 Rules governing sales and advertising. The city manager may provide such rules and regulations for the conduct and advertisement of such sale or special sale as, in his opinion, will serve to prevent deception and to protect the public.

5.60.280 Loss of identity. Any removal of any goods, wares or merchandise inventoried and described in the original application form from the place of sale mentioned in such application shall cause such goods to lose their identity as the stock of any of the sales defined herein; and no permit thereafter will be issued for the conducting of a sale of any

such goods, wares or merchandise in such manner as to identify them with the store, store name, store owner or location referred to in the original application.

5.60.290 Posting of permit. Upon, coincident and throughout the duration of any sale, as herein defined, the permit issued by the city manager shall be prominently displayed near the entrance to the premises.

5.60.300 Copies of application and stock list. A duplicate original of the application and stock list pursuant to which such permit was issued, shall at all times be available to the city manager, or to his inspector and investigators to examine all merchandise in the premises for comparison with such stock list.

5.60.310 Records of permittee. Suitable books and records shall be kept by the permittee and shall at all times be available to the inspector and investigators.

5.60.320 Daily revision of stock list. At the close of business each day the permittee's copy of the stock list attached to the application shall be revised and those items disposed of during such day shall be so marked thereon.

5.60.330 Exemptions. The provisions of this chapter shall not apply to or affect the following persons:

(1) JUDICIAL SALES. Persons acting pursuant to an order or process of a court of competent jurisdiction;

(2) OFFICIAL SALES. Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals;

(3) AUCTIONS. Duly licensed auctioneers, selling at auction;

(4) PUBLISHER OF ADVERTISING. Any publisher of a newspaper, magazine or other publication, who publishes any such advertisement in good faith, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this chapter have not been complied with;

(5) SEASON, CLEARANCE SALES. End of season sales and clearance sales not included within Section 5.60.010(5).

5.60.340 Appeals. Any person aggrieved by any decision of the city manager with respect to denial or issuance of any permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council by filing a written notice of appeal with the city clerk specifying the grounds of appeal. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall thereupon fix an early time and place of hearing on such appeal. Notice thereof shall be given the appellant and other persons who in the city clerk's opinion appear to be interested persons of record, of the time and place of hearing, by serving such notice personally or by depositing it in the United States mail

addressed to all such persons at their last known addresses, respectively. The city council shall, after hearing, have authority to determine all questions raised on such appeal, and to take any action consistent with the terms of this chapter, or which could legally have been taken by the city manager in the matter.

Chapter 5.64

SPECIAL ADVERTISING DEVICES

Sections:

- 5.64.010 Definition.
- 5.64.020 Permit required.
- 5.64.030 Application for permit.
- 5.64.040 Fees.
- 5.64.050 Revocation or modification of permits.
- 5.64.060 Searchlights--Operating regulations.
- 5.64.070 Insurance.

5.64.010 Definition. In this chapter, unless another meaning is clearly apparent from the context, "special advertising device" means any device or object other than a usual and customary sign, which is utilized outside a building to announce, direct attention to, identify, or advertise any commercial enterprise or product, or any noncommercial organization, and includes such things as searchlights, flags, blimps, banners, balloons, pennants, and physical replicas, reproductions and large objects, any such device or object being of a nature that it is not customarily and routinely utilized by all commercial enterprises of similar nature or all noncommercial organizations of similar nature. An American flag displayed on a flagpole is not a special advertising device.

5.64.020 Permit required. It shall be unlawful for any person to use or permit to be used any special advertising device without first securing a special permit therefor from the city council. This section shall not apply to any governmental agency. Permits shall be issued for grand openings and special occasions and not on a continuing basis for permanent advertising or identification purposes. Each permit shall be issued for a specified period of time subject to renewal for good cause shown. No permit shall be issued if the city council finds that the special advertising device applied for would constitute a traffic hazard or a nuisance to adjacent or surrounding properties or to the public at large, or would be detrimental to the public convenience or welfare, or would not be in harmony with the various elements and objectives of the general plan and all other officially adopted policies and regulations of the city. Conditions may be attached to any permit issued, in order to harmonize it with the public purposes expressed in this chapter.

5.64.030 Application for permit. Any person desiring to operate or use a special advertising device in the city shall file with the city manager an application therefor. Said application shall contain:

- (1) The name and address of the person making application;
- (2) The purpose for which the permit is sought;
- (3) The location at which it is desired to use or operate a special advertising device.
- (4) The period for which a permit is desired;
- (5) The hours during which the special advertising device is to be used or operated;
- (6) The name of the person who will be in charge of operating the special advertising device.

5.64.040 Fees. To defray the cost to the city of administering the provisions of this chapter, there shall be payable in advance to the city by each applicant a fee in such amount as may be established by resolution of the city council.

5.64.050 Revocation or modification of permits. (a) Any permit granted pursuant to the provisions of this chapter may, after the permittee has been afforded the opportunity of a due process hearing as hereafter stated, be revoked or modified by the city council for any of the following grounds or reasons:

- (1) Any acts done under the permit have interfered or tended to interfere with the normal flow of vehicular or pedestrian traffic on any public right-of-way;
- (2) There was given any false or fictitious information in connection with the application for and obtaining of the permit;
- (3) There has been a violation of or a failure to comply with any condition attached to the permit or any provision or regulation of this chapter or of any other applicable rules or regulations;
- (4) Any other reason exists for which the permit might have been lawfully denied in the first instance, or that for any reason the continued operations under the permit will be inimical to the public safety or general welfare of the community.

(b) Such a revocation or modification of a permit shall be made only after opportunity has been granted to the permittee for a due process hearing before the city council after ten days' notice to said permittee, setting forth the nature and grounds of complaint against him and stating the time and place such hearing will be held.

(c) Upon failure of the permittee to respond to the opportunity for hearing after receiving notice of such hearing, the permit may be revoked, or may be modified in such particulars as are deemed necessary in the public interest, and any such revocation or modification shall be effective upon notice or knowledge thereof being received by the permittee, orally or in writing. Any such order of revocation or modification shall also be effective as to any employee or agent of the permittee, which employee or agent has been notified orally or in writing of the substance of the order.

(d) Any such revocation or modification of any permit may be in addition to any penalties otherwise provided for by law.

5.64.060 Searchlights--Operating regulations. In addition to any other conditions comprising a part of any permit, the following regulations shall apply to searchlight operations.

(1) Searchlights shall not be operated so as to constitute a traffic hazard or a nuisance to adjacent or surrounding properties;

(2) Searchlights shall be so operated so as to avoid directing the beam at any building;

(3) Searchlights shall be so operated that the beam is not displayed at an angle greater than forty-five degrees from the vertical;

(4) Equipment shall be kept on private property and shall not be allowed within the public right-of-way.

5.64.070 Insurance. The applicant may be required to show evidence of insurability by having liability and property damage insurance in force at all times during the time a permit is in effect in sufficient amounts to protect permittee from liability, and to hold the city harmless from any damages, claims or causes of action, by reason of the issuance of the permit and operation of a special advertising device.

Chapter 5.68

SOUND TRUCKS AND ADVERTISING BY SOUND

Sections:

- 5.68.010 Definitions.
- 5.68.020 Registration required.
- 5.68.030 Registration statement--Identification.
- 5.68.040 Authority of city manager.
- 5.68.050 Fee payable.
- 5.68.060 Sound amplification regulations.
- 5.68.070 Compliance with regulations required.

5.68.010 Definitions. (a) "Commercial purpose" as used herein means and includes the use, operation or maintenance of any sound amplifying equipment audible outside a building for the purpose of advertising any business, or any goods, wares, merchandise, or services, and for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage of customers to or for any performance, show, entertainment, exhibition or event, or for the purpose of demonstrating any such sound equipment.

(b) "Noncommercial purpose" as used herein means the use, operation or maintenance of any sound equipment for other than a "commercial purpose" as defined above. "Noncommercial purpose" means and includes philanthropic, patriotic or charitable purposes.

(c) "Person" as used herein means and shall be as defined in Section 1.01.170.

(d) "Sound amplifying equipment" as used herein means any machine or device for the amplification of human voice, music, or any other sound. "Sound amplifying equipment" as used herein shall not be construed as meaning standard automobile radios when used and heard only by occupants of the vehicle in which the said automobile radio is installed. "Sound amplifying equipment" as used herein shall not be construed as including warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

(e) "Sound Truck" as used herein means any motor vehicle or horse drawn vehicle having mounted thereon or attached thereto any sound amplifying equipment.

5.68.020 Registration required. No person shall use or cause to be used a sound truck or sound amplifying equipment audible outside a building for commercial purposes, except the equipment of a Federal Communications Commission licensed radio broadcasting company, in this city before filing a registration statement, in triplicate, with the city manager. The registration statement, in writing, shall state the following:

- (1) Name and home address of the applicant;
- (2) Address or place of business of applicant;
- (3) License and motor number of any sound truck to be used by applicant;

(4) Name and address of the person who owns the sound amplifying equipment;

(5) Name and address of person having direct charge of the sound amplifying equipment;

(6) Names and addresses of all persons who will use or operate the sound truck or other sound amplifying equipment;

(7) The purpose for which the sound will be used;

(8) General description of the sound amplifying equipment which is to be used;

(9) The maximum sound producing power of the sound amplifying equipment to be used;

(A) the wattage to be used,

(B) the volume in decibels of sound which will be produced,

(C) the approximate maximum distance for which sound will be thrown from the sound truck or other sound amplifying equipment.

If applicant is an employee or agent for any person, firm, or corporation desiring commercial advertising, the applicant shall give the name and address of the person, firm or corporation.

5.68.030 Registration statement--Identification. The city manager shall return to each applicant one copy of the registration statement, duly certified by the city manager as a correct copy of said application. Said certified copy of the application shall be in the possession of any person operating the equipment at all times while the sound truck or sound amplifying equipment is in operation. Said statement shall be prominently displayed and shown to any policeman of the city upon request.

5.68.040 Authority of city manager. The city manager shall not return to the applicant a certified copy of the registration statement if any one of the following conditions exist:

(1) Conditions of motor vehicle movement are such that, in the opinion of the city manager, the use of sound amplifying equipment for commercial purposes would constitute a detriment to traffic safety;

(2) Conditions of pedestrian movement are such that, in the opinion of the city manager, the use of sound amplifying equipment for commercial purposes would constitute a detriment to traffic safety;

(3) The application required hereinabove reveals the applicant would violate the regulations prescribed in Section 5.68.060;

(4) If, in the opinion of the city manager, the sound truck or the sound amplifying equipment are in a state of faulty repair and constitute a danger to other motor vehicles or to the pedestrian traffic.

5.68.050 Fee payable. Prior to issuance of the registration statement, as provided by Section 5.68.030, the applicant shall pay to the city manager, for and on behalf of the city, a fee in such amount as has been prescribed by resolution of the city council, per day, or any portion thereof, in advance,

for the number of days of proposed operation as set forth on the application, to defray the costs to the city of administering the provisions of this chapter.

5.68.060 Sound amplification regulations. Commercial use of sound trucks or sound amplifying equipment shall be subject to all the following regulations; however, noncommercial use of sound trucks or sound amplifying equipment shall be subject only to those regulations listed below as (4), (6) and (7):

(1) The only sound permitted shall be either music or human speech;

(2) Operations are permitted for four hours each day except on Sundays and legal holidays, when no operations shall be authorized;

(3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when said truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each such stop;

(4) Sound shall not be issued within two hundred feet of hospitals, schools or churches;

(5) Sound trucks with sound amplifying devices in operation shall be operated only on commercially or industrially zoned streets within the city;

(6) The volume of sound shall be controlled so that it will not be audible for a distance in excess of two hundred feet from the source, and the volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing, or a nuisance to businesses or persons within the area of audibility;

(7) No sound amplifying equipment shall be operated with an excess of fifteen watts power in the last stage of amplification.

5.68.070 Compliance with regulations required. No person shall operate, or assist or participate in the operation of sound amplifying equipment within the city except in compliance with the applicable provisions of this chapter, and no person shall willfully or knowingly violate any provision thereof, or fail, refuse or neglect to comply with each and every applicable provision herein.

Chapter 5.72

MISCELLANEOUS BUSINESSES REGULATED

Sections:

- 5.72.010 City council permit required for certain businesses.
- 5.72.020 Police permit required before conducting locksmith business.
- 5.72.030 Revocation of permits.

5.72.010 City council permit required for certain businesses. No person shall commence, conduct or carry on any of the businesses or business activities listed in this section without having applied for and been granted a permit therefor by the city council. Permits shall be issued in cases where the council finds that the applicant and proposed participants in the business or business activity are of good moral character, and the proposed business or activity will apparently be conducted in compliance with all applicable laws and regulations, local, state or federal, that all state and federal licensing requirements apparently have been or will be complied with, and that the proposed location or locations for the business or activity will be desirable to the public convenience and welfare and will be in harmony with the various elements and objectives of the general plan, and all other officially adopted policies and regulations of the city:

- (1) Automobile or truck rental or leasing (subject to processing in accordance with Chapter 5.40);
- (2) Automobile wrecking businesses where wrecked or damaged automobiles are bought or sold in whole or in part;
- (3) Bankrupt, assigned or damaged goods sales, selling or offering for sale any bankrupt, assigned or damaged stock of goods, wares, or merchandise, of whatsoever nature or kind;
- (4) Bicycle rental or sales;
- (5) Carnivals;
- (6) Circuses, menageries and the like;
- (7) Pawnbrokers;
- (8) Secondhand dealers, dealing in secondhand goods, wares or merchandise whether or not carried on in conjunction with another business or with the business of dealing in new merchandise.

5.72.020 Police permit required before conducting locksmith business. No person shall conduct or carry on the business of locksmith, or a key or lock repair shop or business, without having applied for and been granted a permit therefor by the chief of police. Such permits shall be issued in cases where, after investigation the chief of police determines that the applicant and proposed participants in the business or business activity are of good moral character, and that the issuance of the permits will not prejudice the public peace, safety, morals or welfare.

5.72.030 Revocation of permits. The city council shall have the power to revoke any permit issued pursuant to Sections 5.72.010 or 5.72.020, after a hearing conducted with due notice and in accordance with the legal principles of due process, and as a result of which hearing the council finds and determines that factual grounds exist, irrespective of when the same first arose, which would justify denial of issuance of a permit in the first instance, under the criteria prescribed in the section under which the permit was issued.

Title 6

HEALTH AND SANITATION

Chapters:

- 6.04 Refuse Disposal
- 6.06 Restaurant Inspection and Grading
- 6.08 Nuisances

Chapter 6.04

REFUSE DISPOSAL

Sections:

- 6.04.010 Definitions.
- 6.04.020 Duties of persons in charge of premises.
- 6.04.030 Rubbish collection or transporting--Permit required.
- 6.04.040 Permit applications.
- 6.04.050 Issuance of permit for transporting.
- 6.04.060 Issuance of permit for collecting.
- 6.04.070 Collection areas.
- 6.04.080 Permit denial--Appeals.
- 6.04.090 Permits--Renewal annually.
- 6.04.100 Permits--Transfer or subcontract prohibited.
- 6.04.110 Permits--Suspension.
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- 6.04.130 Equipment--Tags and decals.
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- 6.04.150 Collection schedules.
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- 6.04.180 Commercial and industrial containers.
- 6.04.190 Rates and charges.
- 6.04.200 Hazardous waste collection and hauling.
- 6.04.210 Collection service--Availability to all.
- 6.04.220 Placing of refuse in streets.
- 6.04.230 Unlawful use of trash receptacles.
- 6.04.240 Burning of rubbish prohibited.
- 6.04.250 Improper keeping of refuse as nuisance.
- 6.04.260 Cumulative remedies.

6.04.010 Definitions. For purposes of this chapter, certain words and phrases shall be construed as set forth in this section unless it is apparent from the context that a different meaning is intended:

(1) "Rubbish" shall mean all non-putrescible waste matter or debris, including both combustible and non-combustible materials, that result from normal household, community, and business activities, including grass clippings and tree

trimmings, but not including car bodies, rocks, tree stumps, construction or demolition debris, or garbage as herein defined.

(2) "Garbage" shall mean all animal or vegetable waste or residue from kitchens, canneries, packing houses, slaughterhouses, bakeries, restaurants, distilleries, wineries, markets or other food handling or food processing places, and all household waste or residue resulting from the preparation, handling, care, or treatment of food.

(3) "Health officer" shall mean the health officer of the City of La Quinta, or such other person or persons as are duly authorized by law to perform the duties of the office of health officer for the city.

(4) "Garbage or rubbish transporter" shall mean any person who transports garbage or rubbish from central collection points to a hog ranch or to a disposal site, but does not operate service routes for the collection of garbage or rubbish from residential, commercial or industrial buildings.

(5) "Garbage or rubbish collector" shall mean any person who operates service routes for the collection and disposal of garbage or rubbish from residential, commercial or industrial buildings.

(6) "Permittee" shall mean any person who has been issued a permit to collect or transport garbage or rubbish under the provisions of this chapter.

(7) "Hazardous waste" shall mean any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant, a strong sensitizer, which generates pressure through decomposition, heat or other means, if such a waste or mixture of wastes may cause substantial personal injury, serious illness or harm to wildlife, during, or as a proximate result of any disposal of such wastes or mixture of wastes. The terms "toxic," "corrosive," "flammable," "irritant," and "strong sensitizer" shall be given the same meaning as in the California Hazardous Substances Act in Health and Safety Code Section 28740 et seq.

(8) "Extremely hazardous waste" shall mean any hazardous waste or mixture of hazardous wastes which, if human exposure should occur, may likely result in death, disabling personal injury or illness during, or as a proximate result of, any disposal of such waste or mixture of wastes because of its quality, concentration, or chemical characteristics.

6.04.020 Duties of persons in charge of premises. (a) It is the duty of every person in possession, charge or control of any place within this city, in or from which garbage or rubbish accumulates or is produced, to provide, and at all times to keep in a suitable place readily accessible to the users, containers capable of holding without spilling, all rubbish and garbage which would ordinarily accumulate on such premises between the times of two successive collections.

(b) Every person in charge of a residence or residences, whether single or multiple family, shall, not less than once a week, remove or cause to be removed from the property upon which the residence or residences are located, all garbage and rubbish created or produced or brought upon the premises. Every person in charge of a commercial or industrial building shall not less

than twice a week, remove or cause to be removed from the property upon which the building is located all garbage and rubbish created or produced or brought upon the premises; provided however, that upon written approval by the health officer, rubbish created, produced or brought upon the premises of an industrial or commercial building may be removed not less than once a week.

(c) All garbage and rubbish in or about any residential, commercial or industrial building shall be deposited in commercial rubbish bins, suitable containers, or plastic bags approved by the health department. All rubbish bins and other suitable containers shall be water-tight and covered with a tight fitting lid if any garbage is placed therein. No container shall exceed 36 gallons in size or a loaded weight of 55 pounds if the garbage or rubbish is to be collected by a permittee. No container shall be placed adjacent to a street for collection service more than 12 hours prior to the permittees' collection time, and shall be removed from the street location within 12 hours after collection. These size and weight restrictions do not, however, apply to power-emptied containers.

6.04.030 Rubbish collection or transporting--Permit required. No person shall collect or transport garbage or rubbish in the city without an unrevoked, current permit issued by the city. Persons hauling garbage or rubbish from their residences, or garbage or rubbish produced in the course of their own business, or persons performing occasional hauling for others without compensation, shall not be required to obtain a permit, but are required to use equipment meeting the standards set forth in Section 6.04.160.

6.04.040 Permit applications. Applications for a permit to collect or transport garbage or rubbish shall be made to the health officer upon the forms provided by the health department, which shall include the following information:

- (1) Name, home and business address of applicant.
- (2) Address or location where all trucks and operating equipment will be kept and the zone classification of the location.
- (3) Trade and firm name.
- (4) A complete description of all trucks and equipment that the applicant owns or has under his control to collect or transport garbage or rubbish.
- (5) If the application is for a permit to collect garbage or rubbish, the collection permit area for which the applicant is requesting the permit and any facts which the applicant desires to submit, tending to show that the public health, safety, welfare, convenience and necessity make desirable the granting of the permit to collect garbage or rubbish in that collection permit area.
- (6) The number of customers for which applicant desires a permit.

6.04.050 Issuance of permit for transporting. Upon receipt of a completed application to transport garbage or rubbish only, the health officer shall determine if the applicant

meets all the requirements of this chapter and upon such determination, shall issue a permit which shall not be restricted to any specified area.

6.04.060 Issuance of permit for collecting. Upon receipt of a completed application to collect garbage or rubbish, the health officer shall determine if the public health, safety, welfare, convenience and necessity make desirable the granting of a new permit for the collection area for which the application has been made, and shall determine whether or not the applicant has the necessary equipment and facilities to adequately serve the number of customers, for which he has applied and if the applicant meets all other requirements of this chapter. Upon completion of his investigation, the health officer shall recommend to the city council that a permit be granted or denied for the requested collection area. No permit shall be issued by the health officer until the city council has determined that the public health, safety, welfare, convenience and necessity make desirable the granting of a new permit for the specific collection area.

6.04.070 Collection areas. Upon the approval of the granting of a permit, the health officer shall issue the permit for the specific collection area and the permittee shall have the right to collect garbage and rubbish throughout the entire collection area, as shown or otherwise specified in the permit, but he shall not be permitted to collect garbage or rubbish in any other collection area.

6.04.080 Permit denial--Appeals. If the city council determines that a permit shall not be issued, the applicant shall have the right to demand a hearing before the city council. A request for a hearing shall be made in writing to the city clerk, not more than 15 calendar days following the decision of the city council to deny the permit. Upon receipt of a written request for hearing, the city clerk shall set the matter for hearing on a date not more than 60 days following receipt of the written request and shall give written notice of the time, date and place of hearing to the applicant and the health officer, and to all other permittees presently serving all or part of the same area. At the hearing the applicant, the health officer, and any other permittee serving the same area may show facts that the public health, safety, welfare, convenience and necessity does or does not make desirable the granting of a permit for the collection permit area and whether the applicant owns or controls sufficient equipment and facilities to meet the requirements of this chapter and to adequately serve the number of customers for which he has applied for a permit. The city council shall issue its decision within 15 days after the close of the hearing on the appeal.

6.04.090 Permits--Renewal annually. Permits may be renewed annually by the health officer, upon application by a permittee, if the health officer determines that the permittee remains in compliance with the provisions of this chapter.

6.04.100 Permits--Transfer or subcontract prohibited. No permit shall be transferred nor shall any permittee contract with any other person to collect or transport garbage or rubbish over all or any portion of his collection route.

6.04.110 Permits--Suspension. A permit may be suspended by the health officer upon 10 days notice to the permittee, for failure to conform to the provisions of this chapter and the permittee shall cease operations under his permit until the health officer has removed the suspension. Notice may be served personally or by registered or certified mail addressed to the last place of business or residence reported by the permittee.

6.04.120 Permits--Annual fees--Prorating. (a) The annual fees for a permit shall be in such amount or amounts as may have been established by resolution of the city council to defray the expense of investigation and processing, provided that in the absence of any such established amounts, the health officer may collect and deposit in the appropriate accounts provided for the purpose such fees in the same amount(s) as are applicable to similar permits issued for operations in comparable unincorporated areas.

(b) All permits shall be issued to expire at the end of the calendar year; however, the fee for a portion of the first year shall be prorated on a monthly basis.

6.04.130 Equipment--Tags and decals. (a) The health officer shall provide for each truck and container or compactor utilized by a permittee, a distinctive and durable tag or decal, which shall be securely fastened and maintained by the permittee on each vehicle, container or compactor so as to be clearly visible.

(b) The health officer may suspend the tag or decal of any truck, container or compactor that fails to meet the requirements of this chapter, and such truck, container or compactor shall not be used for the collection or transportation of garbage or rubbish until it has been re-issued by the health officer.

6.04.140 Insurance. Every permittee shall maintain and keep in force on each truck, public liability insurance in an amount not less than \$100,000 for injury or death to any one person, and not less than \$300,000 for injury or death to more than one person arising out of any one accident, and property damage insurance in an amount not less than \$50,000; and shall carry workers' compensation insurance covering all his employees. Copies of the policies or certificates evidencing such policies shall be filed with the health officer. All policies shall be written for not less than a one year period and shall contain a provision requiring that thirty days' notice must be given to the health officer prior to cancellation, modification or reduction of the limits of the policy by the insured.

6.04.150 Collection schedules. Every permittee operating a collection route shall provide not less than one regular weekly collection to all residential customers and, unless exempted by the health officer, not less than two regular weekly collections

to all commercial or industrial customers. No permittee shall collect garbage or rubbish within a residential area earlier than 6 a.m. nor later than 8 p.m., nor on Sundays, except in emergencies or with approval of the health officer, which may be given under unusual circumstances and subject to appropriate conditions on a temporary or permanent basis.

6.04.160 Equipment standards. (a) Trucks used in the collection or transportation of garbage, or mixed garbage and rubbish shall have bodies of watertight metal construction which shall be leakproof and shall be equipped with a close-fitting cover, which shall be affixed in a manner that will prevent the dropping, spilling or other loss of any garbage or rubbish upon the highway during collection or transportation. In lieu of such watertight bodies and covers, separate metal containers, with tight fitting lids may be used.

(b) Trucks used in the collection or transportation of rubbish only shall have solid construction of the floor and sides of the body and shall be equipped with a close-fitting cover which shall be affixed in a manner that will prevent the dropping or blowing of any rubbish upon the highway during collection or transportation.

(c) All garbage conveying trucks, tanks, containers and other receptacles shall be cleaned and disinfected both on the inside and outside thereof at least once daily, and at all times shall be kept free from any garbage on the outside thereof.

(d) All trucks shall be maintained in a clean, sanitary and neatly painted condition, and shall carry a shovel, broom and fire extinguisher.

(e) Every permittee shall print or paint his firm name, telephone number and street address in legible letters, not less than 3 inches in height, on both sides of all trucks used to collect or transport garbage or rubbish.

6.04.170 Permittees--Business headquarters. Every permittee operating a collection route shall maintain a fixed headquarters and a telephone listed in his business name. The permittee shall, during usual business hours of each day, except Sundays and holidays, have a competent adult person available to answer inquiries and receive complaints from the public. The telephone shall be on the exchange of the area served by the permittee, or on a toll-free number and shall be listed in the phone book of the area served. The permittee shall notify the health officer in writing within seven days after any change in business name, address, or telephone number. Each permittee shall maintain a log of all complaints listing the date and time of complaints, the complainant's name, address, telephone number, the nature of such complaints, date of action, and the disposition of the complaint so that they will be available for review by the health department at all reasonable times. All inquiries and complaints shall be promptly answered and dealt with to the satisfaction of the health officer.

6.04.180 Commercial and industrial containers. Every permittee shall place and maintain on the outside of all commercial and industrial containers of more than one cubic yard

capacity, in legible letters and numerals, not less than two inches in height, the permittee's firm name and telephone number. Every permittee shall at all times keep such containers and lids in good repair and maintained in a clean and sanitary condition to the satisfaction of the health officer. It shall be the responsibility of the user of the containers or other equipment to provide a clean, safe and sanitary area for the storage thereof and to maintain such area in a clean and sanitary condition at all times.

6.04.190 Rates and charges. A permittee's charges for all services shall be uniform for equal services rendered and shall be based on the number of containers, type of garbage or rubbish, number of separate pick up points at any collection point, placement or distance of carryouts, frequency of service, and whether residential, commercial or industrial collection. A current rate schedule shall be kept on file by each permittee with the health officer and no charge shall be made unless it complies with the rate schedule.

6.04.200 Hazardous waste collection and hauling. Every person who collects or hauls hazardous or extremely hazardous waste shall immediately notify the health officer in writing, listing the following information:

(1) The name, address, and telephone number of collector or hauler.

(2) The name, address, and telephone number of the facilities from which the hazardous or extremely hazardous waste is collected.

(3) A description of the type of hazardous or extremely hazardous waste collected, as represented in writing by the administrator of the facility, including the amounts collected measured in cubic feet and the frequency of collection.

(4) The name, address, and telephone number of the waste disposal facility that is used for the final disposal of the hazardous or extremely hazardous waste.

6.04.210 Collection service--Availability to all. (a) A permit holder shall, when deemed essential to the public health and safety by the health officer, provide collection service to any resident or to any commercial or industrial establishment located within the permit area, if such collection service has been requested.

(b) A permit holder may deny service to a customer for reason of failure by the customer to pay his just bill or failure to substantially comply with any requirement of this chapter. After giving 15 days' notice to the customer to comply, the permittee shall notify the health officer, in writing of any service refusal concurrently with written notification to the customer.

6.04.220 Placing of refuse in streets. No person shall place or deposit any refuse in or upon any public place, street, alley, sidewalk or footpath in this city except in proper containers for the purpose of collection and in compliance with Section 6.04.020.

6.04.230 Unlawful use of trash receptacles. It is unlawful for any person operating or connected with any business to place or deposit garbage or rubbish in any container placed upon the public street by public authority, and meant primarily for the disposal of rubbish by pedestrians using the sidewalk. Such persons and business houses shall arrange separately for removal of refuse in containers maintained by the person or business house.

6.04.240 Burning of rubbish prohibited. No person shall burn any rubbish within the city, except in an approved incinerator or other device for which a permit has been issued by the city manager, and which complies with all applicable permit and other regulations of the air pollution control authorities, and provided any such act of burning in all respects complies with all other laws, and rules and regulations administered by the air pollution control authorities.

6.04.250 Improper keeping of refuse as nuisance. (a) The keeping of garbage in containers other than those prescribed by this chapter, or the keeping upon premises of garbage or rubbish which is offensive, obnoxious, or unsanitary shall be unlawful, shall constitute a public nuisance and may be abated in the manner now or hereafter provided by law for the abatement of nuisances.

(b) It is further unlawful, and a public nuisance, for any person to occupy or inhabit any property within the city for which appropriate arrangements have not been made and maintained in effect on a regular basis, for periodic removal of rubbish and garbage in compliance with Section 6.04.020.

6.04.260 Cumulative remedies. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility to correct prohibited conditions or to remove prohibited matter, nor prevent the enforced correction or removal of such prohibited condition or matter.

Chapter 6.06

RESTAURANT INSPECTION AND GRADING

Sections:

- 6.06.010 Definitions.
- 6.06.020 Inspection and grading of restaurants.
- 6.06.030 Use of score sheets in inspection.
- 6.06.040 Preparation and posting of grade cards.
- 6.06.050 Fees.

6.06.010 Definitions. For purposes of this chapter, certain words and phrases shall be construed as set forth in this section unless it is apparent from the context that a different meaning is intended.

(1) "Restaurant" means an eating establishment as the term "restaurant" is defined in Section 28522 of the California Health and Safety Code.

(2) "Food or beverage" and "utensil" mean as those terms are defined in the California Restaurant Act.

(3) "Health officer" means the health officer of the City of La Quinta or such other person or persons as are duly authorized by law to perform the duties of the office of health officer for the city.

6.06.020 Inspection and grading of restaurants. The health officer shall inspect and grade each restaurant in the city from time to time as he shall deem proper, and shall inspect and grade any restaurant within five days after written demand therefor by the owner, operator or person in charge of any restaurant which received a grade of less than ninety percent on the last inspection. The record of each inspection and the computation and determination of each grading of each restaurant shall be signed by the health officer or his deputy or authorized inspector. A signed copy of such record shall be delivered personally to the owner, operator or person in charge of the restaurant inspected. Such records shall be kept and preserved in the office of the health officer for not less than the minimum period prescribed by Government Code Sections 34090 et seq.

6.06.030 Use of score sheets in inspection. In inspecting and grading all restaurants in the city, the health officer shall grade and inspect according to the sanitary conditions of each of said restaurants. To accomplish uniform inspection and grading, the health officer shall make all inspections and compute and determine all grades by the use of and in strict conformity with the form of score sheet then currently used by the health officer performing inspection duties for the city, in such officer's evaluation and scoring of all restaurants within his current jurisdiction. Said form shall be provided by the health officer and may be changed from time to time with a view to keeping it in conformance with state regulations on the subject.

6.06.040 Preparation and posting of grade cards. (a) The grade of each restaurant shall be computed and determined, according to its sanitary condition, by adding together the score attained for equipment and methods on the score card and then dividing the sum by two. The grade of each restaurant shall be evidenced by the posting of a card bearing the letter, A, B, or C. The letter A shall indicate a grade of ninety percent, or higher. The letter B shall indicate a grade of less than ninety percent but not less than eighty percent. The letter C shall indicate a grade of less than eighty percent.

(b) The grade card shall be prepared and provided by the health officer, and shall be of dimensions of not more than nine inches by eleven inches, and the grade letters shall be not more than five inches in height. Grade A cards shall be printed in blue, grade B cards in green, grade C cards in red, all on white stock.

(c) One grade card shall be posted in a place selected by the health officer at or near each entrance to the restaurant, which entrance is for the use of patrons, so as to be conspicuous to patrons. No person, except the health officer, shall remove any such grade card. The form of such grade cards may be substantially in words and figures, as follows:

THIS ESTABLISHMENT HAS
COMPLIED WITH SANITARY
REQUIREMENTS FOR
GRADE
A
DEPARTMENT OF PUBLIC HEALTH
COUNTY OF RIVERSIDE
DIRECTOR OF PUBLIC HEALTH
PENALTY FOR REMOVAL

or

THIS ESTABLISHMENT DOES
NOT COMPLY WITH MINIMUM
SANITARY STANDARDS
GRADE
B (or "C", as case may be)
DEPARTMENT OF PUBLIC HEALTH
COUNTY OF RIVERSIDE
DIRECTOR OF PUBLIC HEALTH
PENALTY FOR REMOVAL

6.06.050 Fees. In addition to such fees as may have been established relative to enforcement of the California Restaurant Act, the health officer, to offset the expenses of posting of grade cards and any other functions provided for herein which may be over and above those provided for by the California Restaurant Act, may collect and deposit in the appropriate accounts provided for the purpose such fee or fees as may from time to time be

prescribed by resolution of the city council or by ordinance or resolution of the County of Riverside.

Chapter 6.08

NUISANCES

Sections

- 6.08.010 Vacant premises--Maintenance.
- 6.08.020 Air pollution.
- 6.08.030 Mosquito breeding places.
- 6.08.040 Noises.
- 6.08.050 Disturbances by construction noises.
- 6.08.060 Animals near buildings.
- 6.08.080 Animals on unsanitary premises.
- 6.09.090 Disposal of carcasses.
- 6.08.100 Discharge of sewage upon ground.
- 6.08.105 Animal manure prohibited unless odorless.
- 6.08.110 Depositing or leaving of refuse.
- 6.08.120 Parking of vehicles containing offensive substances.
- 6.08.130 Hauling of offensive substance in defective vehicle.

6.08.010 Vacant premises--Maintenance. It is a nuisance, and it is unlawful, for any person or agent to allow any vacant or unoccupied building to remain open and of easy access to trespassers or to allow the same to become infested with vermin or rodents, or to become a menace to health.

6.08.020 Air pollution. It is a nuisance, and it is unlawful, for any person to establish, conduct, maintain or operate or cause or permit to be established, conducted or operated any business, factory, yard, establishment or other place which will generate into or pollute the atmosphere with any unwholesome, offensive, or deleterious gas, fumes, dust, smoke, or odors, or to allow offensive odors to be emitted from offal, garbage or any animal or vegetable matter.

6.08.030 Mosquito breeding places. It is a nuisance, and it is unlawful, for any person to maintain any premises upon which there is stagnant or still water or a marshy condition which harbors and breeds mosquitoes or other poisonous or objectionable insects.

6.08.040 Noises. It is a nuisance, and it is unlawful for any person to make, cause or suffer, or permit to be made or caused upon any premises any unnecessary noises or sounds which are physically annoying to persons of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time, or place as to occasion physical discomfort.

— 6.08.050 Disturbances by construction noises. (a) It is a nuisance and it is unlawful, for any person to be engaged or employed, or for any person to cause any other person to be engaged or employed, in any work of construction, erection, alteration, repair, addition to, or improvement to realty, except between the hours set forth as follows, if the noise or other sound produced by such work is of such intensity or quality that it disturbs the peace and quiet of any other person of normal sensitivity. The permitted hours for such work are as follows:

October 1st through April 30th	Monday - Friday:	seven a.m. to five thirty p.m.
	Saturday:	eight a.m. to five p.m.
	Sunday:	None
	Government Code Holidays:	None
May 1st through September 30th	Monday - Friday:	six a.m. to seven p.m.
	Saturday:	eight a.m. to five p.m.
	Sunday:	None
	Government Code Holidays:	None

(b) No person doing or causing work prohibited by subsection (a) of this section, after being informed orally or in writing that such work has caused noise or sounds which disturb any other person's peace and quiet, shall fail, refuse or neglect to take whatever steps or use whatever means are necessary to assure that such work does not again disturb such other person's peace and quiet.

EXCEPTIONS: (1) Emergency repair of existing installations or equipment or appliances;

(2) Construction work complying with the terms of a written early work permit which may be issued by the city manager or his designee, upon a showing of sufficient need due to hot or inclement weather, or the use of an unusually long process material, or other circumstances of unusual and compelling nature.

6.08.060 Animals near buildings. It is a nuisance and it is unlawful, for any person to keep any animal, fowl or bird, wild or domestic, except customary domestic pets, within twenty feet of any building, school, church, hospital, or any residence or dwelling house or other buildings used for the habitation of human beings.

— 6.08.080 Animals on unsanitary premises. It is a nuisance, and it is unlawful, for any person to keep or permit to be kept on any premises any wild or domestic animal, fowl, or bird, when such premises or the animal, fowl or bird is offensive, obnoxious, filthy or in an unsanitary condition.

6.08.090 Disposal of carcasses. It is a nuisance, and it is unlawful, for any owner, possessor, or the person responsible for the death thereof, on whatever premises same may be, to fail to cause any dead animal or part thereof, within six hours after the death of same, to be buried so that there is at least three feet of soil above said carcass, or to be disposed of in some other sanitary manner; provided, however, that this section shall not apply to animals slaughtered for and fit for human food.

6.08.100 Discharge of sewage upon ground. It is a nuisance, and it is unlawful, for any person to permit any part of the contents of any private vault, cesspool, septic tank, water closet, urinal, pipe, sewer line, or any sewage, effluent, night soil, slop water, or any other filthy water, matter, or substance, to flow or discharge upon the ground or upon the surface of any lot or premises or in any public street or other public place.

6.08.105 Animal manure prohibited unless odorless. It is a nuisance, and it is unlawful, for any person to use, stockpile, have in possession, deliver or convey any form of animal manure at or to a point within the city unless such manure has been processed or treated so as to render it substantially free of unpleasant odor. This section shall not apply to domesticated pets' excrement or to stables or riding stables provided that the manure from the horses is not used for cultivating or mulching purposes.

6.08.110 Depositing or leaving of refuse. It is a nuisance, and it is unlawful, for any person to deposit or allow to remain on any premises, vacant lot, street, alley, or in any excavation, any offal, garbage, dead animals or any putrid decaying or offensive animal or vegetable matter.

6.08.120 Parking of vehicles containing offensive substances. It is a nuisance, and it is unlawful, for any person to permit any vehicle hauling or carrying or used for hauling or carrying any dead animal, offal, market refuse, garbage, swill, night soil, butchers' scraps, hog manure or other nauseous or offensive substances to stand or remain in or upon any public street or other public place longer than is necessary for loading and hauling such substance to its destination or to permit any such vehicle to be in a filthy or offensive condition.

6.08.130 Hauling of offensive substance in defective vehicle. It is a nuisance, and it is unlawful, for any person, to use any vehicle, tub or other receptacle for hauling any offal, hog manure, or the contents of a privy vault, cesspool or sink, or any nauseous or offensive substances, unless such vehicle, tub, or other receptacle shall be sufficiently strong and tight to prevent any of the contents from leaking or spilling therefrom and unless the same shall be so tightly covered as to not attract flies, and as to prevent any nauseous odors from escaping therefrom.

Title 8

BUILDINGS AND CONSTRUCTION

Chapters:

8.04 Building Codes

Chapter 8.04

BUILDING CODES

Sections:

8.04.010 Incorporation by reference.

8.04.020 Citation of building code.

8.04.010 Incorporation by reference. The following ordinance of the city relating to adoption of certain building codes hereby is incorporated herein by this reference and shall continue in effect until hereafter superseded, amended or repealed by proper authority.

Ordinance
Number

6

Date
Passed
July 6, 1982

TITLE OF ORDINANCE

AN ORDINANCE OF THE CITY OF LA QUINTA, CALIFORNIA, ADOPTING BY REFERENCE (WITH CERTAIN AMENDMENTS) RIVERSIDE COUNTY ORDINANCE NO. 457.57 ENTITLED: "AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 457 RELATING TO BUILDING REQUIREMENTS AND ADOPTING THE 1979 EDITION OF THE UNIFORM ADMINISTRATIVE CODE; THE 1979 EDITION OF THE UNIFORM BUILDING CODE INCLUDING THE APPENDIX AND STANDARDS; THE 1979 EDITION OF THE UNIFORM HOUSING CODE; THE 1976 EDITION OF THE UNIFORM MECHANICAL CODE, INCLUDING THE APPENDIX AND STANDARDS, THE 1979 EDITION OF THE UNIFORM PLUMBING CODE, INCLUDING THE APPENDIX AND STANDARDS, AND THE 1978 EDITION OF THE NATIONAL ELECTRICAL CODE."

8.04.020 Citation of building code. This chapter, the Uniform Building Code, 1979 Edition, the Uniform Building Code Standards, 1979 Edition, the Uniform Administrative Code, 1979 Edition, the Uniform Housing Code, 1979 Edition, the Uniform Mechanical Code, 1976 Edition, the Uniform Plumbing Code, 1979 Edition, the National Electrical Code, 1981, said Ordinance No. 10, and all amendments thereto, may be collectively referred to and cited as the "La Quinta Building Code."

Title 10

ANIMALS

Chapters:

<u>10.04</u>	<u>Definitions</u>
<u>10.08</u>	<u>Dog Licenses</u>
<u>10.12</u>	<u>Animal Control Officer</u>
<u>10.16</u>	<u>Biting</u>
<u>10.20</u>	<u>Impoundment</u>
<u>10.24</u>	<u>Animal Keeping</u>
<u>10.28</u>	<u>Offenses</u>

Chapter 10.04

DEFINITIONS

Sections:

<u>10.04.010</u>	<u>Definitions generally.</u>
<u>10.04.020</u>	<u>Animal control officer; Health officer.</u>
<u>10.04.030</u>	<u>Dog.</u>
<u>10.04.040</u>	<u>Owner.</u>
<u>10.04.050</u>	<u>Unlicensed dog.</u>
<u>10.04.060</u>	<u>Vicious animal.</u>
<u>10.04.070</u>	<u>Wild Animal.</u>

10.04.010 Definitions generally. For the purposes of this title, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows in this chapter.

10.04.020 Animal control officer; Health officer. (a) "Animal control officer" means the city manager or such person as the city manager has designated to perform the duties of the position, or such person with whom the city has contracted to perform such duties, or such person who is otherwise obligated by law to perform such duties.

(b) "Health officer" means the health officer of the City of La Quinta or such other person or persons as are duly authorized by law to perform local health officer duties within the city.

10.04.030 Dog. "Dog" means any member of the canine family and includes female as well as male dogs.

10.04.040 Owner. "Owner" means any person, firm or corporation owning, having an interest in, or having control or custody or possession of any animal.

10.04.050 Unlicensed dog. "Unlicensed dog" means any dog for which the license for the current licensing year has not been paid, or to which the tag for the current year provided for in this title is not attached.

10.04.060 Vicious animal. "Vicious animal" means any animal which has bitten a person or other animal without provocation or which has a propensity to attack or bite any person or animal without provocation.

10.04.070 Wild Animal. "Wild animal" means any animal not ordinarily and customarily domesticated, but under human control.

Chapter 10.08

DOG LICENSES

Sections:

- 10.08.010 Annual license required.
- 10.08.020 Exemptions.
- 10.08.030 Term.
- 10.08.040 Fees.
- 10.08.050 Application.
- 10.08.060 Anti-rabies vaccination required.
- 10.08.070 Issuance of tags and certificates.
- 10.08.080 Tag--Attachment required.
- 10.08.090 Tag--Display required.
- 10.08.100 Tag--Removal prohibited.
- 10.08.110 Tag--Replacement.

10.08.010 Annual license required. No person within the city owning, possessing, controlling, harboring, or keeping any dog over four months of age shall fail, refuse or neglect to procure an annual dog license tag for each dog, from the city manager or his authorized agent. No license issued pursuant to this title shall be transferable.

10.08.020 Exemptions. An annual dog license tag is not required for any dog found within the city under any of the following conditions:

(1) When the dog is owned by, or in the care of, any person who is a nonresident or who is traveling through the city, or who is temporarily sojourning therein, provided the dog is kept within the city for less than thirty days;

(2) When the dog has a valid license from either the county of Riverside or another city within the county; provided this exemption shall be available for a maximum period not exceeding six months.

10.08.030 Term. The effective period of each dog license issued shall be not more than one year.

10.08.040 Fees. The annual license fee payable shall be the amount fixed from time to time by resolution of the city council, provided that in the absence of any such established amount, the licensing authority may collect and deposit in the

appropriate accounts provided for such purpose, a fee in the same amount as is applicable for similar dog licensing in unincorporated areas of the County of Riverside.

10.08.050 Application. The owner shall state at the time application is made, and upon standard printed forms of application provided for such purpose, his name and address and the name, breed, color, age, and sex of each dog for which application is made.

10.08.060 Anti-rabies vaccination required. As a condition for the issuance of a license, all applicants for such license shall procure and deliver to the licensing authority a certificate issued by a duly licensed veterinarian certifying that the dog to be licensed has been administered an anti-rabies vaccination within thirty days prior to the issuance of said license, or has received anti-rabies vaccination sufficient to immunize said dog against rabies for the license period applied for.

10.08.070 Issuance of tags and certificates. A metallic tag and license certificate with corresponding number shall be furnished by the licensing authority, upon payment of the appropriate fee prescribed.

10.08.080 Tag--Attachment required. The licensing authority shall keep a record of such owner or person making payment of said license fee and to whom a certificate and tag shall have been issued, and the number and date of such certificate and such tag. Such metal tag issued shall be securely fixed to a collar, harness, or other device to be worn at all times by the dog for whom the registration is issued.

10.08.090 Tag--Display required. No person shall fail or refuse to show, upon demand of the animal control officer or deputy thereof or any police officer, the license certificate and the tag for any duly registered dog kept or remaining within any home or upon any enclosed premises under his immediate control.

10.08.100 Tag--Removal prohibited. No unauthorized person shall remove from any dog any collar, harness, or other device to which is attached a registration tag for the current license year, or remove such tag therefrom.

10.08.110 Tag--Replacement. If the dog license tag is lost or destroyed, the owner shall immediately procure a duplicate license tag from the licensing authority, for which a fee of one-half the annual fee shall be charged.

Chapter 10.12

ANIMAL CONTROL OFFICER

Sections:

- 10.12.010 Position created--General duties.
- 10.12.020 Powers of enforcement.
- 10.12.030 Interference with animal control duties.

10.12.010 Position created--General duties. The position of animal control officer is created and established. The duties of the animal control officer are as follows:

(1) To receive, take up and impound any and all dogs found running at large contrary to the provisions of this title, or in violation of any law of the state;

(2) To regularly and adequately feed, water and otherwise care for all animals impounded under the provisions of this title;

(3) To collect impound fees, license fees on impounded animals, placement fees, and any other fees or taxes provided for in this title when appropriate;

(4) To promptly deposit all moneys collected into the appropriate accounts provided for such purpose.

(5) To keep true and accurate records of all pound activity.

10.12.020 Powers of enforcement. In the performance of his duties as such, the animal control officer and his deputies and assistants are invested with the power and authority of a police officer of this city, but shall not be deemed to be members of the police department. The animal control officer, his deputies and assistants, and all peace officers are empowered to enforce this title and any statute of the state relating to animals, unless otherwise provided by law.

10.12.030 Interference with animal control duties. No person shall interfere with, oppose or resist any person authorized to enforce this title, while such person is engaged in the performance of his duties.

Chapter 10.16

BITING

Sections:

- 10.16.010 Biting animals--Quarantine orders.
- 10.16.020 Animals dying while under quarantine.
- 10.16.030 Knowledge of bite--Duty to report.
- 10.16.040 Bitten animals--When to be quarantined.
- 10.16.050 Disposition of animals appearing to have rabies.
- 10.16.060 Rabies epidemics--Authority of health officer

10.16.010 Biting animals--Quarantine orders. Whenever it is shown that any dog or other animal has bitten any person or animal, or exhibits evidence of rabies, no owner or person having custody or possession thereof, upon order of the animal control officer or of the county health officer (or any other person exercising the duties of health officer for the city), shall fail, refuse, or neglect to quarantine such animal and keep it tied up or confined for a period of ten days, or shall fail, refuse, or neglect to allow the animal control officer or the health officer or their deputies to make an inspection or examination thereof at any time during such period. No such dog or animal shall be removed or released during the quarantine period without the written permission of the animal control officer or the health officer or their deputies. Unless otherwise specified by the animal control officer or the health officer, such animals shall be confined in a pound or shelter or a veterinary hospital at the owner's expense.

10.16.020 Animals dying while under quarantine. The head of an animal dying while under isolation in quarantine shall be submitted to the laboratory of the county health department for examination for rabies.

10.16.030 Knowledge of bite--Duty to report. Whenever any person owning or having charge, care, control, custody or possession of any animal has knowledge that such animal has bitten any person, the person owning or having charge, care, control, custody, or possession of such animal shall report said fact forthwith to the animal control officer. The report shall state the name and address of the person bitten, and the time and place where such person was bitten, and any other information so requested by the animal control officer.

10.16.040 Bitten animals--When to be quarantined. Whenever any animal is bitten by another animal having rabies, or a bitten animal shows any symptoms of rabies, the owner or person having possession of the bitten animal shall immediately notify the animal control officer or the health officer, and confine the animal, and keep it confined until it is established to the satisfaction of the health officer that it does not have rabies.

The health officer shall have the authority to quarantine any such animal, or impound it at the owner's expense if the owner or person having control thereof fails to confine such animal immediately, or in case the owner or person having possession thereof is not readily accessible.

10.16.050 Disposition of animals appearing to have rabies.
If it appears to the animal control officer or to the health officer that any dog or other animal has rabies, he may destroy such animal forthwith, or hold such animal for further examination for such time as he may consider advisable.

10.16.060 Rabies epidemics--Authority of health officer.
Whenever the county health officer (or any other person exercising the duties of health officer for the city) determines that an epidemic of rabies exists or is threatened, he shall have the authority to take such measures as may be reasonably necessary to prevent the spread of the disease, including the declaration of a quarantine against any or all animals in any area of the city as he may determine and define, for a period of not more than one hundred twenty days. An additional or extended quarantine period may also be declared if the same shall be deemed necessary by the health officer for the protection and preservation of the public health, peace and safety. Any quarantine declared under the provisions of this section other than as restricted herein, shall be upon such conditions as the health officer may determine and declare.

Chapter 10.20

IMPOUNDMENT

Sections:

- 10.20.010 Impounding of animals.
- 10.20.020 Notification to owner.
- 10.20.030 Disposition of unclaimed animals.
- 10.20.040 Destruction of animals dangerous to impound.
- 10.20.050 Reclaiming animals.
- 10.20.060 Owner's right to redeem animal from purchaser.
- 10.20.070 Owner's liability to city when redeeming animal from purchaser.
- 10.20.080 Impoundment fees.
- 10.20.090 Vicious animals.

10.20.010 Impounding of animals. It shall be the function and within the power of the animal control officer to take up, impound, and safely keep any of the animals mentioned in this title and found running at large, staked, tied, or being herded or pastured in any street, lane, alley, court, square, park or other place belonging to or under the control of the city, or upon any private property, contrary to the provisions of this title or to the right of the public.

10.20.020 Notification to owner. The animal control officer shall immediately upon impoundment of dogs or other animals make reasonable effort to notify the owners of such dogs or other animals impounded, and inform such owners of the conditions whereby they may regain custody of such animals. If the dog has a valid license, the owner shall be notified, either personally or by deposit of appropriate notice in the mails addressed to the record address with postage prepaid.

10.20.030 Disposition of unclaimed animals. All animals impounded at the city pound shall be provided with proper and sufficient food and water. Unless unlicensed animals have been claimed within five days after being impounded, or licensed dogs seven days after the notification provided for in Section 10.20.020, they may be sold by the animal control officer to the person offering to pay a cash amount set by the animal control officer; provided that the purchaser shall not be given possession of any dog until he shall have paid to the animal control officer the license fee for such dog and until he shall have made appropriate arrangements for any necessary rabies vaccination. If any dog or other animal impounded by the animal control officer shall not have been claimed within said period and cannot be sold within a reasonable time thereafter, it may be destroyed by the animal control officer in a humane manner. In lieu of destruction, animals may be released without charge to any humane organization that provides an animal adoption service. The animal control officer shall maintain a file describing each

animal impounded in the city pound, beginning on the day any such animal is taken or delivered into the possession of the pound.

10.20.040 Destruction of animals dangerous to impound. The animal control officer is authorized to forthwith destroy any animal lawfully impounded which is by reason of disease or other cause dangerous or inhumane to keep impounded.

10.20.050 Reclaiming animals. The owner of any licensed impounded animal shall have the right to reclaim the same at any time prior to the lawful disposition thereof, upon payment to the animal control officer of the costs and charges provided in this title for the impounding and keeping of such animals. Any person claiming ownership of any unlicensed impounded animal shall be required to present proof of ownership satisfactory to the animal control officer, and thereafter the animal may be released to said claimant upon his making payment of all applicable costs, fees and charges prescribed in this chapter, and upon his making appropriate arrangements for any necessary rabies vaccination.

10.20.060 Owner's right to redeem animal from purchaser. The owner of any impounded animal may, at any time, within thirty days after sale by the animal control officer, redeem such animal from the purchaser by paying him the sum of money computed by adding the following amounts: the purchase price paid to the animal control officer, any license fee paid and rabies vaccination costs incurred, and in addition thereto a sum equal to rates established pursuant to Section 10.20.080 for daily care and feeding per day for the number of days from the date of sale to and including the date of redemption by the owner.

10.20.070 Owner's liability to city when redeeming animal from purchaser. In each case where the owner of an impounded animal redeems the same from the purchaser, irrespective of whether payment was made as prescribed in Section 10.20.060, such owner shall be liable for payment to the animal control officer of all fees prescribed pursuant to Section 10.20.080 for impounding and for daily care and feeding of the animal incurred during the impoundment, deducting therefrom the sale price paid to the animal control officer by the purchaser. The amount of the owner's liability under this section shall be deemed a debt to the city, and an action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any such debt.

10.20.080 Impoundment fees. Except in cases when disposition of an animal is made pursuant to Section 10.20.030, the animal control officer shall charge, receive and collect fees for impoundment, care and feeding of impounded animals. The nature and amounts of such fees shall be as fixed from time to time by resolution of the city council. In the absence of any such fee or fees having been so established, the animal control officer may collect and deposit in the appropriate accounts provided for such purpose, a fee or fees in the same amount or

amounts as is applicable for similar functions or services in the unincorporated areas of the County of Riverside.

10.20.090 Vicious animals. Whenever an animal suspected of being vicious is reported, the city manager may investigate the circumstances, and if he finds that such animal, by reason of its acts, propensities or disposition, constitutes a vicious animal as defined in this title, he may notify the owner or harbinger in writing, stating the facts and circumstances. He may order the owner or harbinger to keep such animal within a substantial enclosure or securely attached to a chain or other type of control which the city manager may deem adequate under the circumstances. If such restraint is impossible or impracticable, the animal shall be impounded until the owner or harbinger is able to comply with the city manager's order. For any such impoundment, the owner or harbinger shall be liable to the city for payment of fees as prescribed pursuant to Section 10.20.080, and any animal not reclaimed within a reasonable time after such impoundment shall be subject to destruction.

In cases where the animal is not impounded, and written notification has been given as aforesaid, if the owner or harbinger fails to provide adequate restraint or control of said animal as ordered by the city manager within a reasonable time, or if he thereafter at any time fails to maintain such adequate restraint or control, such owner or harbinger shall be guilty of a misdemeanor, and the animal shall be subject to summary destruction.

Chapter 10.24

ANIMAL KEEPING

Sections:

- 10.24.010 Female dogs to be confined during breeding period.
- 10.24.020 Wild animals to be confined.
- 10.24.030 Kennels subject to zoning and health regulations.

10.24.010 Female dogs to be confined during breeding period. No owner of an unspayed female dog shall fail, refuse or neglect, during the breeding period of such dog, to confine the same in such a manner that it reduces so far as is practicable under the circumstances, the attraction of stray male dogs.

10.24.020 Wild animals to be confined. No person owning any wild animal or operating any wild animal establishment, shall fail, refuse or neglect to keep all wild animals under proper confinement on the premises, or cause, permit, suffer or allow any wild animal to be or run at large, nor shall any such person maintain any wild animal on or within any premises in such manner as to endanger the life or limb of any person lawfully entering such premises.

10.24.030 Kennels subject to zoning and health regulations . Any person maintaining any kennel or pet shop shall conform to the zoning regulations of the city which are applicable thereto, as well as any applicable health regulations.

Chapter 10.28

OFFENSES

Sections:

- 10.28.010 Dogs running at large.
- 10.28.020 Noise disturbances by animals.
- 10.28.030 Dog defecation to be removed by owner.
- 10.28.030 Retention of dog by other than owner.
- 10.28.040 Unauthorized removal of animal from pound.
- 10.28.050 Dogs at public schools prohibited.
- 10.28.060 Interference with police dogs.

10.28.010 Dogs running at large. No owner or keeper of a dog shall allow, permit or suffer such dog, whether licensed or unlicensed, to be or run at large in or upon any public place or premises, or in or upon any unenclosed private place or premises, or in or upon any enclosed private place or premises other than those of said owner or keeper except with the consent of the

person in charge of said private place or premises, unless such dog is securely restrained by a substantial leash not exceeding six feet in length and is in charge and control of a person competent to keep such dog under effective control.

10.28.020 Noise disturbances by animals. (a) No person owning, keeping or having in his care or custody any dog or other animal, shall knowingly permit or suffer such dog or animal, by any barking or other noise or sound, to disturb any other person's peace and quiet. This section shall not be construed to prohibit the keeping of any watchdog, provided the keeper thereof takes immediate steps to quiet such dog whenever it barks, and provided such keeper never leaves such dog unattended on the premises in a place where its barking, if prolonged or if repeated an undue number of times, disturbs any other person's peace and quiet.

(b) No person, after being informed orally or in writing that his dog or other animal has by barking or other noise or sound disturbed any other person's peace and quiet, shall fail, refuse or neglect to take whatever steps or use whatever means are necessary to assure that such dog or animal does not again disturb such other person's peace and quiet.

10.28.025 Dog defecation to be removed by owner. (a) No person owning, keeping or having in his or her care or custody any dog shall knowingly fail, refuse or neglect to clean up any feces of such dog immediately and dispose of it in a sanitary manner whenever such dog has defecated upon public or private property without the consent of the public or private owner or person in lawful possession or charge of the property.

(b) The provisions of subsection (a) of this section shall not apply to a blind person being accompanied by a guide dog, nor shall they be construed to require or countenance any act of trespass upon private property. Whenever the feces to be cleaned up cannot be reached without a significant trespass upon the private property on which the feces is located, the person having the duty pursuant to subsection (a) to clean it up shall first obtain consent to do so from the owner or person in lawful possession or charge of the property.

10.28.030 Retention of dog by other than owner. No person shall, without the knowledge or consent of the owner, hold or retain possession of any dog of which he is not the owner, for more than twenty-four hours without first reporting the possession of such dog to the animal control officer, giving his name and address and a true description of the dog and then causing the dog to be impounded at the city animal pound for return to the legal owner. At the discretion of the animal control officer, any such finder of a dog may be allowed to retain possession of the dog in lieu of impoundment. In such case the animal control officer shall make all normal and regular efforts to ascertain the true owner of the dog and advise him of the whereabouts of the dog.

10.28.040 Unauthorized removal of animal from pound. No person shall remove any impounded animal from the city animal pound without the consent of the animal control officer.

10.28.050 Dogs at public schools prohibited. No person shall bring any dog, except a seeing-eye dog, onto any public school property. This section shall not, however, be deemed to prohibit the use of dogs on school property for teaching or other school uses when approved by the proper school authorities.

10.28.060 Interference with police dogs. No person shall willfully or maliciously torture, torment, beat, kick, strike, mutilate, injure, disable or kill any dog used by the police department, or any other law enforcement officer in the performance of the functions or duties of such department, or interfere with or meddle with any such dog while being used by said department or any member thereof in the performance of any of the functions or duties of said department or of such officer or member.

Title 11

PEACE, MORALS AND SAFETY

Chapters:

<u>11.02</u>	<u>Uniform Fire Code</u>
<u>11.04</u>	<u>Unsafe Conduct</u>
<u>11.08</u>	<u>Disorderly Conduct</u>
<u>11.12</u>	<u>Gambling</u>
<u>11.13</u>	<u>Bingo Permits</u>
<u>11.16</u>	<u>Weapons</u>
<u>11.20</u>	<u>Explosives</u>
<u>11.24</u>	<u>Parades</u>
<u>11.36</u>	<u>Wildlife Protection</u>
<u>11.44</u>	<u>Parks and Recreation Areas</u>
<u>11.48</u>	<u>School Grounds</u>
<u>11.52</u>	<u>Off-Road Use of Motor Vehicles</u>
<u>11.56</u>	<u>Curfew</u>
<u>11.60</u>	<u>Occupancy of Hotel Rooms by Minors</u>
<u>11.64</u>	<u>Trespass</u>
<u>11.68</u>	<u>Charitable Solicitations</u>
<u>11.72</u>	<u>Public Nuisances</u>
<u>11.76</u>	<u>Unclaimed Property</u>
<u>11.80</u>	<u>Abandoned Vehicles</u>
<u>11.84</u>	<u>False Statements</u>

Chapter 11.02

UNIFORM FIRE CODE

Sections:

11.02.010 Incorporation by reference.

11.02.010 Incorporation by reference. The following ordinance of the city relating to adoption of a fire code hereby is incorporated by this reference and shall continue in effect until hereafter superseded, amended or repealed by proper authority:

Ordinance
Number

7

Date
Passed

July 6 , 1982

TITLE OF ORDINANCE

AN ORDINANCE OF THE CITY OF LA QUINTA,
CALIFORNIA, ADOPTING THE UNIFORM FIRE
CODE, 1979 EDITION.

Chapter 11.04

UNSAFE CONDUCT

Sections:

11.04.010 Provisions not to be deemed duplicative of state law.

11.04.020 Sleeping in vehicles--Finding of fact.

11.04.030 Sleeping in vehicles--Prohibited in public places.

11.04.010 Provisions not to be deemed duplicative of state law. No provision contained in this title is intended, nor shall it be deemed or construed, to make punishable any act or acts which are prohibited by any law of the state.

11.04.020 Sleeping in vehicles--Finding of fact. The city council finds that a definite problem is posed by persons sleeping in automobiles which are parked along the public streets within the city. The residential neighborhoods disturbed by this activity call the police to report a suspicious vehicle in the area. In addition, persons who are parked in developed areas become a target for criminal attack.

11.04.030 Sleeping in vehicles--Prohibited in public places. No person shall sleep in any automobile or other vehicle parked on any sidewalk, street, alley, or other public place, including any approved private street or right-of-way, within the corporate limits of the city.

Chapter 11.08

DISORDERLY CONDUCT

Sections:

- 11.08.005 Public drinking and liquor possession.
- 11.08.040 Noise.
- 11.08.080 Trespass.

11.08.005 Public drinking and liquor possession. (a) No person shall drink, use or consume any alcoholic beverage, as defined in Section 23004 (and related sections) of the Business and Professions Code of the State of California, upon any public street, sidewalk, highway, road, lane or alley, or in or upon any other publicly-owned property which is open to the use or the business of the public at the time, but which place is not licensed for the consumption of such beverage on the premises. The provisions of this section shall not apply, however, to the park and recreation areas regulated under Chapter 11.44 of this code.

(b) No person shall, in or upon any of the places listed in subsection (a) of this section, have in possession any alcoholic beverage defined as in subsection (a) contained in any bottle, can or other receptacle, which has been opened, or a seal broken, or the contents of which have been partially removed, provided that this subsection shall not apply when the beverage is in possession at the time strictly for the purpose of transporting the same, along with other items, briefly and temporarily and directly through a place listed in subsection (a) of this section, the starting point and destination point both being places other than those listed in subsection (a). Further, this subsection shall not apply to park and recreation areas regulated under Chapter 11.44 of this code.

(c) No person shall do or commit any act prohibited in subsections (a) or (b) of this section when such person is upon privately-owned property rather than publicly-owned property, which privately-owned property is open to the use or patronage of the general public at the time, unless such person doing or committing said act has the express or implied permission or invitation so to do from the owner or lessee or other person in charge of the private property or business premises involved.

(d) Subsections (a) and (b) of this section shall not apply to consumption or possession of alcoholic beverages on city-owned property pursuant to any permit, entitlement or other permission issued or given by the city manager or city council in connection with the holding of a special event on or at the place or premises where such consumption or possession would otherwise be prohibited, nor shall such subsections apply with respect to public property owned and controlled by a public entity other than the city if such other public entity has given its express or implied permission or invitation allowing use of the premises for purposes otherwise prohibited in subsections (a) or (b).

11.08.040 Noise. No person shall wilfully make any unreasonably loud noise to the extent that it appreciably imposes upon the privacy and rights of others.

11.08.080 Trespass. No person shall commit a trespass on residential property or on public property. "Trespass" for the purpose of this section means:

(1) Entering upon, or refusing to leave, any residential property of another, either where such property has been posted with NO TRESPASSING signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry, or continued presence, is prohibited;

(2) Entering upon, or refusing to leave, any public property in violation of regulations promulgated by the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer.

Chapter 11.12

GAMBLING

Sections:

- 11.12.010 Gambling house--Conducting.
- 11.12.020 Gambling house--Permitting.
- 11.12.040 Slot machines.

11.12.010 Gambling house--Conducting. It is unlawful for any person either as principal, agent or employee, or otherwise, to keep, conduct or maintain within the City, any house, room, apartment, stand or place used in whole or in parts as a gambling house or place where any game not mentioned in Chapter 10, Title 9, Part 1, of the Penal Code of the State of California, is played, conducted, dealt or carried on with cards, dice or other device, for money, checks, chips, credit, pennants, cigars, candy, merchandise or other valuable thing or representative of value.

11.12.020 Gambling house--Permitting. It is unlawful for any person, either as principal, agent, employee, or otherwise knowingly to permit any house, room, apartment, stand or place owned by him or under his charge or control in the city to be used in whole or in part as a gambling house or place for playing, conducting, dealing or carrying on any game not mentioned in Chapter 10, Title 9, Part 1, of the Penal Code of California, with cards, dice or other device for money, checks, chips, credit, pennants, cigars, candy, merchandise or other valuable thing or representative of value.

11.12.040 Slot machines. It is unlawful for any person, either as principal, agent or employee, to keep, maintain, rent, use or conduct within the City any slot machine or similar device not included within the prohibitions of Chapter 10, Title 9, Part 1, of the Penal Code of the State of California, from which merchandise, money or tokens can be or is obtained by any person other than the owner of the machine or device, the amount of such money or merchandise or the number of such tokens so obtained being variable and dependent upon the operation of such machine or device, or of any preceding operation thereof, whether the result of such preceding operation is indicated or otherwise.

Chapter 11.13

BINGO PERMITS

Sections:

- 11.13.010 Purpose.
- 11.13.020 Definitions.
- 11.13.030 Permits--Issued by city manager.
- 11.13.040 Inapplicability of Chapter 11.12.
- 11.13.050 Permit fees.
- 11.13.060 Applications for permits.
- 11.13.070 Investigation.
- 11.13.080 Permits--Issuance--Denial.
- 11.13.090 Permits--Conditions by state law.
- 11.13.100 Permits--Local standard conditions.
- 11.13.110 Permits--Additional special conditions.
- 11.13.120 Permits--Term, situs, transferability.
- 11.13.130 Revocation or modification of permits.
- 11.13.140 Procedure for revocation.
- 11.13.150 Appeals.
- 11.13.160 Permit renewal--Effect of other pending proceedings.
- 11.13.170 Alternate to city manager.
- 11.13.180 Permit ineffective while conditions not observed.

11.13.010 Purpose. The purpose of this chapter is to provide for the issuance of permits under which certain bingo games may be allowed which would otherwise be unlawful under state law. This chapter is enacted pursuant to the authority of Section 19 of Article IV of the State Constitution and Section 326.5 of the Penal Code. The provisions in this chapter shall be construed strictly in accordance with said authority, and in the event of any apparent conflict or inconsistency, the provisions in this chapter shall be given only such interpretation as will render them compatible with Penal Code Section 326.5 and other applicable provisions of state law.

11.13.020 Definitions. For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

(1) "Bingo" is defined in Penal Code Section 326.5 as meaning 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.

(2) "Nonprofit organization" means an organization within the purview of Penal Code Section 326.5, which is a mobilehome park association, a senior citizens organization, or an organization exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701 h of the Revenue and Taxation Code.

(3) "Minors" are all persons under eighteen years of age, as specified in Civil Code Section 25.

11.13.030 Permits--Issued by city manager. Pursuant to and in accordance with the provisions of this chapter, the city

manager may issue permits to nonprofit organizations to conduct bingo games.

11.13.040 Inapplicability of Chapter 11.12. The provisions of Chapter 11.12 of this code relating to prohibition of gambling games not otherwise prohibited under state law shall not be deemed applicable to any bingo games conducted under valid permits issued under this chapter.

11.13.050 Permit fees. Each applicant for a permit under this chapter or for permit renewal and each person filing any appeal pursuant to provisions of this chapter, shall pay at the time of filing the application or appeal a processing fee or fees in an amount or amounts as may have been established by resolution of the city council, to defray the expense of investigation and processing. The permit fee is not refundable in the event the applicant is determined not to qualify for a license, and an appeal fee is not refundable unless expressly otherwise ordered by the city council.

11.13.060 Applications for permits. (a) Applications for bingo permits shall be written, signed and verified under penalty of perjury, and shall be filed with the city manager in such form as the city manager shall prescribe. Each application for permit or renewal shall contain at least the following information and showings:

- (1) The name and address of applicant;
- (2) The dates, hours, and location where the bingo games will be operated;
- (3) The name or names of the person or persons who will have the management or supervision of said games;
- (4) Whether food and beverages will be available;
- (5) Such other reasonable information as the city manager may require as to the identity or character of the applicant, manager, and members of applicant who will operate said games;

(6) A copy of the tax exempt status determination issued by the State Franchise Tax Board to the applicant organization showing that the applicant organization is, per 11.13.020(2) above, exempt under the appropriate section of the California Revenue and Taxation Code, and that such exemption still exists at the time of application submittal;

(7) Proof that the applicant organization owns or leases the property on which the bingo games are to be held and that such property is used by such organization as an office or for other purposes for which the organization is organized, and that such property was not acquired solely to accommodate bingo games.

(b) No application for a permit renewal shall be accepted unless, in addition to the above information, there is also submitted therewith a full and accurate accounting record, certified under penalty of perjury by the permittee's accountant or a member of the permittee's management deemed by the city manager to be authorized and appropriate to make such certification, setting forth in detail the income and expenses received and disbursed in connection with the permittee's operation, conduct, promotion, supervision and any other phase of

bingo game activities carried on under the existing or preceding permit. Such a certified accounting record may also be required by the city manager in cases where the application is not for a "renewal" but is for a new permit to be issued to an applicant organization which at any previous time held a permit issued under this chapter.

11.13.070 Investigation. Upon receipt of an application, the city manager shall conduct or cause to be conducted whatever investigation is deemed necessary to assure the city manager that activities under the permit will probably comply in all respects with the requirements set forth in Penal Code Section 326.5 and with local standard permit conditions, and with whatever other conditions the city manager deems necessary or desirable to protect the public peace, health, safety and welfare and to assure compliance with all laws, state and local.

11.13.080 Permits--Issuance--Denial. (a) Permits as applied for shall be issued by the city manager provided it appears that all requirements of Penal Code Section 326.5 and of this chapter and of the standards, rules and regulations, (including special conditions which will be attached to the permit), applicable pursuant to this chapter and other ordinances and laws, have been, and will appropriately be, met fully by the applicant.

(b) A permit shall be denied if the character, reputation or moral integrity of the applicant organization's personnel (management or otherwise) is determined by the city manager to be inimical or detrimental to the safety or general welfare of the community, or if the applicant falsifies any information in the permit application or omits any information required therein. A permit denial shall, however, be made only after opportunity has been granted to the applicant for a due process hearing before the city manager, after at least ten days' notice to said applicant, setting forth a statement of the proposed grounds for denial of the permit, and stating the time and place such hearing will be held.

(c) No permit shall be issued for the conducting of any bingo game or games by the city or any department or agency thereof, or for such games to be conducted upon any premises owned, held or controlled by the city.

11.13.090 Permits--Conditions by state law. All permits issued under this chapter to allow bingo games shall be subject to the following conditions as mandated by Penal Code Section 326.5:

(1) Bingo games are allowed only when they are for the benefit of organizations listed in subsection 11.13.020(2) above.

(2) No person is to receive a profit, wage, or salary from any authorized bingo game.

(3) No minors shall be allowed to participate in any bingo game.

(4) A nonprofit 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 purposes for which the organization is organized. Premises used

solely for purposes of conducting bingo games are not qualified therefor.

(5) All bingo games shall be open to the public, not just to the members of the nonprofit organization.

(6) A bingo game shall be operated and staffed only by members of the nonprofit 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.

(7) No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

(8) 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.

(9) 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.

(10) 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.

11.13.100 Permits--Local standard conditions. All permits issued pursuant to provisions of this chapter shall be subject to the following additional special conditions:

(1) Bingo games shall be conducted only between the hours of twelve noon and eleven p.m., and for not more than four hours on any single day.

(2) Bingo games shall not be conducted, by any organization authorized to do so, for more than five days in any calendar month.

(3) Any peace officer or official city inspector shall have free access to any bingo game allowed under this chapter. The permittee shall have the bingo permit and lists of approved staff available for inspection at all times during periods in which bingo games are conducted.

(4) No person who is obviously intoxicated shall be allowed to participate in a bingo game.

(5) Premises for which any bingo permit is issued shall qualify for the public assembly numbers of the people anticipated, under applicable provisions of zoning, fire, parking and occupancy ordinances and other laws and regulations.

(6) Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the fire department and building inspector of the city in accordance with applicable laws and regulations.

(7) A permittee shall not reserve seats or space for any persons, except as might be necessary for the reasonable accommodation of handicapped or infirm persons on a nondiscriminatory basis.

(8) The permittee shall display the permit in a conspicuous place in the premises where the bingo games are conducted.

11.13.110 Permits--Additional special conditions. The issuance of any bingo permit pursuant to this chapter shall, if appropriate, have additional special conditions attached thereto which are deemed by the city manager to be necessary to implement the purposes of this chapter and of Penal Code Section 326.5, and to assure compliance with the provisions of said chapter and section, and to protect the public peace, health, safety and welfare from foreseeable adverse effects which might otherwise result from any of the activities sanctioned by the permit, and the city manager shall have discretionary authority to prescribe any such necessary or appropriate conditions. The permittee (applicant) shall have the right to a due process hearing before the city manager, if such hearing is duly requested, in order to protest, or to propose modification of any such additional special condition existing or proposed.

11.13.120 Permits--Terms, situs, transferability. The term of a bingo permit shall be six months (unless a lesser term has been applied for) and a permit may be renewed for a like period any time within one year from its date of issuance, upon due application therefor. Each permit issued under this chapter shall be issued to a specified nonprofit organization to conduct bingo games at a specific location and shall in no event be transferable from one organization to another nor from one location to another.

11.13.130 Revocation or modification of permits. Any permit granted pursuant to the provisions of this chapter may, after the permittee has been afforded the opportunity of a due process hearing as hereafter stated, be revoked, suspended or modified by the city manager for any of the following grounds or reasons:

(1) There has been a violation of or a failure to comply with any condition attached to the permit or any provision or regulation mentioned in this chapter or any other rule or regulation or law specially applicable to the permitted activities;

(2) The character or moral integrity of the permittee or permittee's personnel is determined inimical to the public safety or general welfare of the community;

(3) There was given any false or fictitious information in connection with the application for and obtaining of the permit;

(4) Any one of the permittee's personnel (management or otherwise) has committed any fraudulent, false, deceptive or dangerous act in connection with, or while conducting, any permitted bingo game;

(5) The permittee or any of its personnel has conducted any bingo game in a manner contrary to the peace, health, safety or general welfare of the public;

(6) The permittee or any of its personnel have, in connection with activities allowed by the permit, failed to comply with any law or regulation in any of the following fields: zoning, building codes, off-street parking requirements, controls related to public assemblies, health regulations, or local and state fire regulations;

(7) Any activities done under or occurring incidental to the permit have interfered or tended to interfere with the normal flow of vehicular or pedestrian traffic on any public right-of-way;

(8) Any activities done under or occurring incidental to the permit have unduly and unreasonably interfered with or adversely affected any private property owner's or resident's rights to peaceful and unmolested enjoyment of his private premises;

(9) The permittee or any of its personnel have failed to comply with provisions of the city's sign ordinance, or with conditions attached to the permit relating to sign control;

(10) Any other reason exists for which the permit might have been lawfully denied in the first instance, or that for any reason the continued operations under the permit will be inimical to the public safety or general welfare of the community.

11.13.140 Procedure for revocation. (a) A revocation, suspension or modification as referred to in the preceding section shall be made only after opportunity has been granted to the permittee for a due process hearing before the city manager, after ten days' notice to said permittee, setting forth the nature and grounds of complaint against it and stating the time and place such hearing will be held.

(b) Upon failure of the permittee to respond to the opportunity for hearing after receiving notice of such hearing, the permit may be suspended or revoked, or may be modified in such particulars as are deemed necessary in the public interest, and any such suspension, revocation or modification shall be effective upon notice or knowledge thereof being received by any of the permittee's local management personnel, orally or in writing. Any such order of suspension, revocation or modification shall also be effective as to any employee or agent of the permittee, which employee or agent has been notified orally or in writing of the substance of the order.

(c) Any such revocation or modification of any permit may be in addition to any penalties otherwise provided for by law.

11.13.150 Appeals. Any person aggrieved by, dissatisfied with, or excepting to any action, denial, order, requirement, condition, permit, decision or determination made by the city manager in administering the provisions of this chapter may appeal by filing written notice specifying the grounds of appeal and the relief sought, with the city clerk within ten days after notice of the action from which appealed. Upon any failure to file such written appeal within the time herein allowed, the action of the city manager shall be final and conclusive. A timely appeal shall be reviewed by the city manager, and unless an adjustment of the matter is made by the city manager, satisfactory to the appellant, the appeal shall be expeditiously scheduled for hearing before the city council, which body at the conclusion of its consideration may affirm, reverse or modify the action appealed from and may take any action which might have been legally taken in the first instance by the city manager.

11.13.160 Permit renewal--Effect of other pending proceedings. In the event a renewal application is filed during the pendency of a proceeding to suspend or revoke the permit, such filing shall continue such permit in full force and effect until the making of the final order by the city manager terminating proceedings. Failure of the city manager to revoke, suspend, limit, or condition the permit shall have the effect of granting the renewal. The application for renewal shall become a part of the pending proceeding and be subject to all evidence which has been or is thereafter presented. No further notice to the applicant is required and the city manager is authorized to consider and take action upon such application in accordance with this chapter.

11.13.170 Alternate to city manager. In connection with any function vested by this chapter in the city manager, should the city manager in a particular case be disqualified to act, then the chief of police shall perform all functions and exercise all authority under this chapter otherwise vested in the city manager. Should both such officers simultaneously be so disqualified, then the city council shall designate another city officer to act in the particular case.

11.13.180 Permit ineffective while conditions not observed. Any permit issued pursuant to this chapter shall, during its term, be deemed in effect so as to validate bingo games thereunder (which would otherwise be unlawful under state law) only throughout periods of time during which the permittee and its personnel are fully complying with all permit conditions as referred to, and/or authorized in or by Sections 11.13.090, 11.13.100 and 11.13.110 of this chapter. If any such permit conditions are being violated or not complied with, then the state laws regarding bingo games shall be deemed fully applicable to the permittee and its personnel managing, supervising or conducting the bingo games, to the same extent as if no permit has ever been issued; provided however, that members of the public who are participating in the bingo games not as personnel of the permittee, which members of the public have no knowledge or reason to know, of the aforesaid violations of or noncompliance with the permit conditions, shall be deemed to be participating in games for which a permit is in full force and effect, so long as a permit is conspicuously displayed upon the premises in accordance with subsection (11) of Section 11.13.100.

Chapter 11.16

WEAPONS

Sections:

- 11.16.030 Shooting without permit.
- 11.16.040 Shooting permit--Application--Granting--Denial.
- 11.16.050 Shooting permit--Exemptions.

11.16.030 Shooting without permit. No person shall discharge or cause the discharge of any pistol, gun or any firearm or air gun or air rifle within this city without first having obtained a written permit from the chief of police for that purpose.

11.16.040 Shooting permit--Application--Granting--Denial. Application for such permission shall be made in writing to the chief of police who shall grant such permission only if he determines that a substantial public interest or a compelling private need will be served thereby, and also that the shooting, if permitted cannot foreseeably result in any injury, disturbance, annoyance or hazard to any person or result in any damage to property other than that of the permittee, and further that it will in no way unnecessarily jeopardize or seriously menace the public peace, health or safety. In any case where the chief of police grants a permit, he may attach whatever conditions and terms as in his opinion are necessary or appropriate in order to carry out the objectives stated in this section. No permittee exercising the privilege granted by any such permit, shall fail, refuse or neglect to strictly comply with all conditions and terms the chief of police may have attached thereto.

11.16.050 Shooting permit--Exemptions. Sections 11.16.030 and 11.16.040 shall not apply to any peace officer, either federal, state, county or municipal, acting in line of duty, or engaged in target practice at any range regularly established for such officers, nor to the operators or patrons of any shooting gallery, skeet club or target range holding a permit from the city for the conduct thereof.

Chapter 11.20

EXPLOSIVES

Sections:

- 11.20.010 Compliance with regulations.
- 11.20.020 Certificate of fitness--Required.
- 11.20.030 Certificate--Proof of fitness.
- 11.20.040 Certificate--Duration.
- 11.20.050 Certificate--Fee.
- 11.20.060 Blasting permit--Required.
- 11.20.070 Blasting permit--Contents.
- 11.20.080 Blasting permit--Danger from blasting.
- 11.20.090 Blasting permit--Scope.
- 11.20.100 Blasting permit--Expiration.
- 11.20.110 Blasting permit--Fee.
- 11.20.120 Insurance.
- 11.20.130 Insurer.
- 11.20.140 Special endorsement.
- 11.20.150 Means of conveyance covered in policy.
- 11.20.160 Supervision by city--Deposit for cost.
- 11.20.170 Refund of unused portion of deposit.
- 11.20.180 Liability of city.
- 11.20.190 Revocation of certificate or permit.
- 11.20.200 Appeal from revocation of certificate.
- 11.20.210 Hearing of appeal.

11.20.010 Compliance with regulations. No person, firm or corporation shall, within the city limits, blast or use any explosive for blasting purposes without first complying with the requirements in this chapter.

11.20.020 Certificate of fitness--Required. The applicant shall secure a certificate of fitness from the chief of the fire department indicating that the person holding said certificate is capable of handling explosives.

11.20.030 Certificate--Proof of fitness. The chief of the fire department, as a condition precedent to the granting of said certificate, shall require an applicant to submit evidence establishing applicant's knowledge of, and experience in, handling explosives.

11.20.040 Certificate--Duration. A certificate of fitness shall be valid during the fiscal year of the city during which it is issued unless sooner revoked by the chief of the fire department for cause.

11.20.050 Certificate-Fee. The fee for the certificate of fitness shall be in such amount as may be established by resolution of the city council, to defray the expense of investigation and processing.

11.20.060 Blasting permit--Required. The applicant shall secure a blasting permit from the chief of the fire department.

11.20.070 Blasting permit--Contents. Said permit shall set forth a description of the premises, the name of the person, firm or corporation to whom said permit is issued, and the hours between which such blasting shall be done.

11.20.080 Blasting permit--Danger from blasting. The chief of the fire department must, before issuing such permit, satisfy himself that the blasting will in no way unnecessarily jeopardize or seriously menace the public peace, health or safety.

11.20.090 Blasting permit--Scope. One permit shall cover all blasting on one contiguous property under the same ownership.

11.20.100 Blasting permit--Expiration. A permit shall be void unless used within ten days after issuance.

11.20.110 Blasting permit--Fee. The fee for a blasting permit shall be in such amount as may be established by resolution of the city council, to defray the expense of investigation and processing.

11.20.120 Insurance. The applicant shall file with the city clerk and the chief of the fire department, a public liability and property damage insurance policy naming the city as coinsured in the amount of one hundred thousand dollars for death or injury to one person, and three hundred thousand dollars for death or injury to more than one person on account of the operations of the person, firm or corporation to whom the blasting permit is issued, and a minimum of fifty thousand dollars for property damage or destruction of property in any one occurrence. These required amounts, however, may be increased by the chief of the fire department whenever he determines that by reason of the scope of the operations, or for any other reason, the possibility of hazard would render the foregoing minimum amounts inadequate to insure against claims which might foreseeably be presented. Each such policy of insurance shall contain a provision or endorsement further holding the city, its officers, agents and employees free and harmless from any death, injuries, or damage occurring in connection with the acts done under the blasting permit. The policy of insurance shall further contain a provision or endorsement providing that the policy will not be cancelled until notice in writing shall have been given to the city, addressed in care of the city manager at the city administrative offices and received by the city manager at least ten days prior to the time such cancellation shall become effective.

11.20.130 Insurer. Insurance shall be in such form as the city attorney may deem proper, executed by an insurance company approved by the city attorney.

11.20.140 Special endorsement. A special endorsement in the amounts stipulated above shall be filed with the city clerk and the chief of the fire department in conjunction with the above insurance policy.

11.20.150 Means of conveyance covered in policy. The prime means of conveyance for explosives shall be either covered by said policy or proof furnished that the same limit of liability has been assumed.

11.20.160 Supervision by city--Deposit for cost. If the chief of the fire department believes that the nature of the blasting job or the proximity of property owned by persons other than the owner of the property on which the blasting is to be performed, requires that the work be supervised by a representative of the city, then the applicant for a blasting permit shall deposit in advance with the city the cost of said supervision.

11.20.170 Refund of unused portion of deposit. Any portion of the deposit remaining after payment of the supervision shall be returned to the applicant.

11.20.180 Liability of city. Supervision of the blasting by the city shall not relieve the person, firm or corporation performing the work of any liability established by this chapter or any other applicable law, nor shall such supervision make the chief of the fire department or any other city official or employee liable for any injury to person or damage to property caused by the blasting operation.

11.20.190 Revocation of certificate or permit. Whenever any certificate of fitness or permit to blast, or to use explosives for blasting purposes, is issued in accordance with the provisions of this chapter, such certificate or permit may be revoked at any time by the chief of the fire department when it appears that any provision of this chapter relative to explosives has been violated by the person, firm or corporation holding such certificate or permit.

11.20.200 Appeal from revocation of certificate. In the event that the holder of a certificate of fitness feels aggrieved by reason of the revocation of his certificate, he may appeal to the city council from the decision of the chief of the fire department revoking his certificate; and the determination of the council shall be final and conclusive.

11.20.210 Hearing of appeal. Upon the taking of any such appeals to the council, unless an adjustment of the matter is made by the city manager satisfactory to the appellant, a time and place shall be set by the city clerk for hearing by the council of such appeals; and at such time evidence may be heard for and against the appeal in order that the council may determine the merits of such appeals.

Chapter 11.24

PARADES

Sections:

- 11.24.010 Short Title.
- 11.24.020 Purpose.
- 11.24.030 Definitions.
- 11.24.040 Permit--Required--Contents.
- 11.24.043 Permit--Conditions may be attached.
- 11.24.046 Permit--Conditions re public costs and indemnity.
- 11.24.050 Permit--Application--Contents.
- 11.24.060 Permit--Application--Processing.
- 11.24.070 Permit--Issuance--Outside of congested traffic areas.
- 11.24.080 Permit--Issuance--Within congested traffic areas.
- 11.24.090 Appeals--Resubmittals--Late applications.
- 11.24.100 Officials to be notified.
- 11.24.110 Interference with parade.
- 11.24.120 Participation in parade with no permit prohibited.

11.24.010 Short Title. The short title of this chapter shall be the "parade ordinance."

11.24.020 Purpose. Parades and public events of a similar nature give rise to a festive atmosphere, uplift the public spirit and act as boosters for charitable drives and philanthropic programs. However, attendant with these public benefits are problems of traffic and pedestrian control. Therefore, in order to facilitate the movement of traffic, fire trucks, ambulances and other emergency vehicles and to preserve the peace, health, safety and welfare of the people, it is necessary to enact this chapter regulating parades.

11.24.030 Definitions. (a) CONGESTED TRAFFIC AREAS. As used in this chapter, "congested traffic areas" includes Highway 111, Washington Street, Eisenhower Drive, Avenida Bermudas and Avenida Obregon, since these streets at the present time are the main arterial streets leading into and out of the city and present the gravest traffic congestion problems.

(b) PARADE. As used in this chapter "parade" means and includes any march, procession or assembly consisting of persons, animals, or vehicles, or a combination thereof, upon any public street, sidewalk, alley or other public right-of-way, which does not comply with normal and usual traffic regulation or controls.

11.24.040 Permit--Required--Contents. No person shall conduct or manage any parade without a written permit. Such a permit shall be issued by the city manager after report by the chief of police. The city manager may refuse a permit for a parade when the primary function thereof is to publicize or advertise a person, business organization or event unless such event serves a public purpose and the overall good of the community. Permits shall not be issued if the parade would

require extraordinary police service or endanger public safety. The criteria to be considered in the denial of a permit on the grounds of the endangering of public safety are the route of the parade, the total period of elapsed time for the event, the proximity in time and area of other similar events, the nature and purpose of the parade, the special traffic problems such an event would engender, the ability of the police department to control the event, the number of persons, animals or units involved and any health, moral or safety hazards that might threaten the community as a result of such activity.

11.24.043 Permit--Conditions may be attached. As conditions attached to the granting, use and effectiveness of any parade permit, the city manager may impose reasonable requirements concerning the time and place of such parade; the area and manner of assembling and disbanding such parade; the maximum length thereof; the maximum and minimum speed thereof; the stops permitted, if any; the accommodation of other traffic; the number and types of vehicles, if any; and such other requirements as are found by the city manager to be reasonably necessary for the protection of persons or property and control of other traffic and to assure that the parade will be conducted in conformance with the purposes, objectives and requirements set forth in this chapter and in compliance with all other applicable laws, rules and regulations, and in a manner not unduly detrimental to the public interest. When it is practical to do so, the city manager shall give reasonable consideration to the formulation of permit conditions which will enable the making of findings prerequisite to permit issuance (per Section 11.24.080 and any other applicable provisions in this chapter).

11.24.046 Permit--Conditions re public costs and indemnity. (a) Each parade permit shall contain a condition for prepayment of a parade fee to the city in an amount reasonably estimated by the city manager to be sufficient to cover any extraordinary costs and expenses to the city which will be occasioned by the parade for (but not limited to) such necessary public services as police department added costs of policing, crowd control and traffic and parking control, placement and removal of barricades and signs for parade routes and parking control, and for cleanup of streets and sidewalks at the conclusion of the parade.

(b) Unless specially waived by the city council, the city manager shall require, as a condition to issuance of a parade permit, that the organization or party staging or sponsoring the parade file evidence of insurance (or self-insurance) coverage for public liability and property damage which might result from the conduct of the parade. Such coverage shall be in an amount reasonably found by the city manager (in consultation with the city's risk manager and city attorney) to be adequate in view of the particular parade activity contemplated. The city manager further shall have the discretion to require that the city be named as an additional insured in such coverage.

11.24.050 Permit--Application--Contents. (a) Any person or organization desiring to conduct or manage a parade within a congested traffic area as defined hereinabove shall make application therefor not less than thirty days nor more than one hundred eighty days before the date on which it is proposed to conduct such a parade.

(b) Any person desiring to conduct or manage a parade in any area of the city falling outside of the congested traffic area as hereinabove defined shall make an application therefor not less than twenty-one days or more than one hundred eighty days before the date on which it is proposed to conduct such a parade.

(c) The application for such permit shall include information as to the sponsoring organization; the approximate number of vehicles, animals or other units to be in the parade; the nature of items of equipment or persons to be utilized to produce music, sound or noise during the parade; the name of the marshal or person in charge of the parade while it is being conducted; the proposed assembly area, the route, duration, speed and dispersal area of the parade; the proposed alternate routes or times, if any; the nature and purpose of the parade, and any other similar information required by the city manager at the time the application is filed. The city manager shall not accept the application unless all of the required information is contained thereon, and unless such application is accompanied by payment of any application processing fee as may have been established by resolution of the city council.

11.24.060 Permit--Application--Processing. Upon receipt of an application for a parade permit, the city manager shall forthwith refer the same to the chief of police who shall investigate the facts, plan and program as set forth in the application. Within fourteen days after receiving said application, the chief of police shall make a recommendation to the city manager relative to issuing or denying the parade permit. The city manager shall, upon receipt of such recommendation from the chief of police, act thereon as soon as reasonably practicable.

11.24.070 Permit--Issuance--Outside of congested traffic areas. If the city manager finds that the parade is to be conducted wholly outside of the congested traffic areas, he shall issue the permit unless there is substantial reason for the prohibition of the parade on grounds set forth in this chapter.

11.24.080 Permit--Issuance--Within congested traffic areas. The city manager shall issue the permit upon the following findings:

(1) The parade will not unduly interrupt the safety and orderly movement of other traffic along and across its route for an unreasonable period of time.

(2) The conduct of the parade is not reasonably anticipated to require the diversion of so great a number of police officers of the city as would be needed to police the line of movement in the area contiguous thereto, that the result would be to deny and prevent adequate police protection to the remainder of the city;

Chapter 11.36

WILDLIFE PROTECTION

Sections:

11.36.010 Wildlife protected.

11.36.010 Wildlife protected. No person shall kill, capture or molest any species of wildlife or damage the nest or eggs of any wildlife within the city, except any poisonous reptile or insect; provided, however, that if it shall be determined by the city manager, or his authorized representative, that wildlife has become a menace to any person's health, safety or property, the city manager shall issue a permit authorizing such person to kill or capture such wildlife. In no event shall any person use or employ poison or diseased material to kill or capture wildlife.

(3) The conduct of the parade would not unduly interfere with ambulance or fire department service;

(4) The conduct of such parade is not unreasonably likely to cause injury to any person or property;

(5) The parade can be moved from its point of origin to its point of termination expeditiously;

(6) The parade will serve a recognizable public purpose, at least as to a substantial segment of the citizenry;

(7) Where the parade is to traverse a stretch of the State Highway, when no objection thereto is filed by the State Division of Highways.

11.24.090 Appeals--Resubmittals--Late applications. (a) Any person aggrieved by any decision of the city manager with respect to denial or issuance of any permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council by filing a written notice of appeal with the city clerk specifying the grounds of appeal. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall thereupon fix an early time and place of hearing on such appeal. Notice thereof shall be given the appellant and other persons who, in the city clerk's opinion, appear to be interested persons of record, of the time and place of hearing, by serving such notice personally or by depositing it in the United States mail addressed to all such persons at their last known addresses, respectively. The city council shall, after hearing, have authority to determine all questions raised on such appeal and to take any action consistent with the terms of this chapter or which could legally have been taken by the city manager in the matter.

(b) If a permit for a parade is denied on the basis, in whole or in part, of the date, hour or route of travel, the applicant may submit a new request proposing alternate dates, hours or routes of travel.

(c) The council may also directly consider any application for permit to conduct a parade which is not filed within the time limits prescribed herein if placed upon the council agenda by a councilmember. In such case, the criteria set forth herein shall apply.

11.24.100 Officials to be notified. Immediately upon the granting of a parade permit, the city manager shall send a copy thereof to the chief of police, chief of the fire department, and to any other person having particular interest in the parade.

11.24.110 Interference with parade. No person shall, without the consent of the permittee, join or participate in a parade, nor in any manner interfere with its orderly conduct.

11.24.120 Participation in parade with no permit prohibited. No person shall participate as a member of a group conducting a parade for which no permit has been issued pursuant to this chapter, when such person has knowledge of the lack of such permit, or after he has been personally notified to this effect.

Chapter 11.44

PARKS AND RECREATION AREAS

Sections:

- 11.44.010 Application of chapter.
- 11.44.020 Enforcement powers of peace officers and city personnel.
- 11.44.030 Public may be excluded.
- 11.44.040 Permits for gatherings and meetings.
- 11.44.050 Rules and regulations; promulgation by city manager.
- 11.44.060 Prohibited conduct generally.
- 11.44.070 Use of pedestrian and equestrian ways.
- 11.44.080 Obstructing pathways.
- 11.44.090 Children visiting parks with lakes.

11.44.010 Application of chapter. (a) The provisions of this chapter shall apply to and be in full force and effect at all park and recreation areas which are now or which may hereafter be under the jurisdiction and control of the city, including all grounds, roadways, avenues, parks, buildings, school facilities when they are in use as recreational facilities, and areas, under the control, management or direction of the city manager. The provisions of this chapter shall govern the use of all such parks and recreation areas and the observance of such provisions shall be a condition under which the public may use such parks and recreation areas. Certain provisions of this chapter shall further be applicable outside such parks and recreation areas where the context indicates an intention that they be so applied.

(b) The provisions of this chapter shall not apply to any public officer, employee or peace officer who is acting in the course of and within the scope of the public business, nor to any other person conducting public business or related activities for, on behalf of, and pursuant to lawful authority of, an appropriate public entity.

11.44.020 Enforcement powers of peace officers and city personnel. (a) Power and authority is hereby given to the city manager, the city manager's authorized representatives, and to any of the attendants employed in such parks or recreation areas, in their discretion, to eject and expel from such parks or recreation areas or buildings thereon, any person who shall violate any of the provisions of this chapter or any other law, ordinance or rule that may be in effect now or may hereafter be passed or adopted for the regulation and government of such parks or recreation areas, or of public places in general. In addition to his ordinary powers of arrest or citation, any peace officer enforcing any such law or regulation shall be authorized, in lieu of arresting or citing any violator, in his discretion to so eject and expel such violator.

(b) No person being ejected or expelled pursuant to the authority of subsection (a) shall refuse to leave as ordered, nor shall any person who has been so ejected or expelled, return,

during the calendar day in which he was ejected, to the same park, recreation area or building, unless specifically permitted to do so by the person who ejected him or by the city manager or an authorized representative thereof.

11.44.030 Public may be excluded. (a) In an emergency or when the city manager, chief of police (or an appropriately designated representative of any such official) shall determine that the public safety, or public health, or public morals, or public interest demands such action, any park, square, avenue, grounds or recreation center or any part or portion thereof, may be closed against the public and all persons may be excluded therefrom until such emergency or other reason upon which such determination of the city manager or chief of police is based has ceased, and upon the cessation thereof the park, square, avenue, grounds or recreation center or part or portion thereof so closed shall again be reopened to the public by order of proper authority.

(b) No person having knowledge of or having been advised of any closure order issued pursuant to subsection (a) of this section, shall refuse or fail immediately to remove himself from the area or place so closed, and no such person shall enter or remain within any such area or place known by him to be so closed, until such area or place has been reopened to the public by order of proper authority.

11.44.040 Permits for gatherings and meetings. (a) No person shall hold, conduct, participate in, attend or address any meeting, organized gathering or assemblage, group picnic, celebration, parade, service or exercise, of fifty or more persons, in any park or recreation area without a written permit granted by the city manager as provided herein.

(b) The city manager (acting personally or by his delegated designee) hereby is empowered to grant permits authorizing any person, society, association or organization to hold or conduct a meeting, organized gathering or assemblage, group picnic, celebration, parade, service or exercise for the observance of or commemoration of any public celebration, event, or demonstration of a patriotic, municipal or memorial character, or for social, educational, training, entertainment or recreational purposes.

(c) An application for a permit shall be granted if the issuing authority determines:

(1) That the requested activity is consistent and compatible with proper and appropriate park and recreation area uses at the location applied for;

(2) That the requested activity is reasonable and will not interfere with general use of the park or recreation area by other individual or group members of the public;

(3) That the requested activity will in all respects comply with the provisions of this code and of any other ordinance, law, rule or regulation in effect at the time and place the activity is to be conducted;

(4) That the requested activity is not reasonably anticipated to incite violence, crime or disorderly conduct;

(5) That the requested activity will not entail unusual, extraordinary or burdensome expense or police operation by the city; and

(6) That no other reason exists why the granting of the permit would be detrimental to the public interest.

(d) Except in cases where a fee is paid adequate in amount to fully reimburse the public accounts for all involved costs and expenses including allowance for overhead and capital investment, permits shall not be granted for the purpose of conducting services of any religious denomination or sect, or for the purpose of discussing, expounding, advocating or opposing the principles or creed of any religious denomination or sect. In all other respects, however, applications for such permits shall be considered and processed on an equal basis, subject to the same advantages, qualifications and limitations as other applications by or for other nonreligious organizations, groups or gatherings.

(e) In the event it is proposed that an admission fee be charged for attendance at the requested activity, or that contributions will be solicited or a collection taken up at such requested activity, the application for a permit shall expressly state such proposal. No person shall charge any such admission fee or solicit contributions or take up any collection at or for any such activity unless a provision allowing the same to be done is included in a permit issued hereunder.

(f) The issuing authority may attach conditions to any such permit which are deemed necessary or appropriate to assure that the activity will be carried on in conformance with applicable laws, rules and regulations, in a manner consistent with proper park and recreation area uses, and in a manner not detrimental to the public interest. Where deemed appropriate, the issuing authority may require suitable insurance, indemnity bond or other guarantee to protect city property from damage, to protect the public from unusual and undue expense, or to protect the city from liability of any kind or character. In this connection there may further be required a money deposit or payment to defray unusual expenses to be incurred by the city, such as costs of additional police services, fire protection services, cleanup services, or other municipal services of whatever nature.

(g) Any permit granted pursuant to the provisions of this section shall specify the time when and the place where the activity shall be held or conducted, and shall designate the name of the person, society, association or organization to whom such permit is issued.

11.44.050 Rules and regulations; promulgation by city manager. (a) The city manager shall have power and authority to promulgate rules and regulations governing the use and enjoyment by the public and by individual members of the public, of any park, recreation area, recreation or community center, or any portion thereof, or governing the use and enjoyment of any building, structure, equipment, apparatus or appliances thereon, or governing any portion of the foregoing. A copy of such rules and regulations, or a synopsis thereof shall be posted in some conspicuous place at or near the premises where such rules and regulations are to be effective, or in lieu thereof, signs or notices may be posted at or near said premises in order to give public notice of said rules and regulations.

(b) No person having knowledge of or having been advised of any rule or regulation promulgated pursuant to subsection (a) of

this section, shall disobey, violate, or fail to comply with, any such rule or regulation.

(c) No person shall disobey, violate, or fail to comply with, any instruction, sign or notice posted in any park, recreation area, or community or recreation center, or in any building or structure thereon, for the control, management, or direction of such premises, when said instruction, sign or notice has been posted in implementation of any rule or regulation promulgated pursuant to subsection (a) of this section.

11.44.060 Prohibited conduct generally. Within the limits of any public park or recreation area of the city, no person shall:

(1) Hitch, fasten, lead, drive or let loose any animal or fowl of any kind, provided that this shall not apply to a dog when led by a cord or chain, not more than six feet long;

(2) Ride or drive any horse or other animal, or propel any vehicle, cycle or automobile, except at a place especially designated and provided for such purpose;

(3) Carry or discharge any firearm, airgun, slingshot or other device designed or intended to discharge, or capable of discharging any dangerous missile, provided that this subsection shall not apply to any peace officer or other person lawfully licensed to carry a concealed weapon or who regularly carries a weapon in connection with private employment protecting property or persons (e.g., private patrol services and bodyguards);

(4) Carry or discharge any firecracker, rocket, torpedo or any other fireworks, provided that this subsection shall not be deemed to prohibit the possession or use of safe and sane fireworks not otherwise prohibited by law, at places designated or provided for such purpose;

(5) Cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus or property; or pluck, pull up, cut, take or remove any shrub, bush, plant or flower; or mark or write upon, paint or deface in any manner, any building, monument, fence, bench or other structure;

(6) Cut or remove any wood, turf, grass, soil, rock, sand, gravel, or fertilizer;

(7) Swim, bathe, wade in, or pollute the water of any fountain, pond, lake or stream, except at a place especially designated and provided for such purpose;

(8) Make or kindle a fire except in a picnic stove, brazier, fire pit, or other appropriate device provided or approved for that purpose by the public authorities;

(9) Camp or lodge therein at any time, or otherwise remain overnight, whether or not in a structure permanently affixed to the ground, except at a place especially designated and provided for such purpose;

(10) Cook, prepare, serve or eat any meal, barbecue or picnic except at the places provided therefor;

(11) Wash dishes or empty salt water or other waste liquids elsewhere than in facilities provided for such purposes;

(12) Leave garbage, cans, bottles, papers or other refuse elsewhere than in receptacles provided therefor;

(13) Play or engage in model airplane flying, driving of golf balls, archery, baseball, softball, football, soccer,

volleyball or any similar games of a hazardous nature except at such places as shall be especially set apart for such purposes;

(14) Play or bet at or against any game which is played, conducted, dealt or carried on with cards, dice, or other device, for money, chips, shells, credit or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming;

(15) Indulge in riotous, offensive, threatening, or indecent conduct, or abusive, threatening, profane, or indecent language;

(16) Disturb in any unreasonable manner any picnic, meeting, service, concert, exercise or exhibition;

(17) Distribute any commercial handbill (as defined in Section 5.20.020) without a prior permit so to do from the city manager, which permit shall be issued only after due processing of an application pursuant to Chapter 5.20, and then only if the city manager determines that it would be affirmatively in the public interest to allow upon public property the commercial activity involved;

(18) Post, place, erect, or leave posted, placed or erected, any commercial or noncommercial bill, handbill, circular, notice, paper, or advertising device or matter of any kind, in or upon any building, structure, pole, wire, or other architectural or natural feature of whatever character, except upon a bulletin board or such place especially designated and provided for such purposes, unless prior approval so to do has been obtained from the city manager, which approval shall be given only if the city manager determines that it would be affirmatively in the public interest to allow the use of public property for such purposes, or that constitutional principles require that the same be allowed;

(19) Sell or offer for sale any merchandise, article or thing whatsoever, or practice, carry on, conduct, or solicit for, any trade, occupation, business or profession, unless such activity has been expressly allowed pursuant to specific provisions to such effect contained in either: a permit issued pursuant to Section 11.44.040; a permit issued pursuant to Chapter 5.36; a permit issued pursuant to Chapter 5.48; a concession agreement or franchise or the like duly entered into or granted by the city council;

(20) Remain, stay or loiter therein between the hours of ten p.m. and dawn of the following day, except while attending a gathering or meeting for which a permit has been issued or which is being sponsored or conducted by the city. This subsection shall not apply to persons lawfully lodging, camping or otherwise remaining overnight at a place especially designated and provided for such purposes;

(21) Use any restroom, washroom or dressing facility designated for the opposite sex, except that this subsection shall not apply to children six years of age or younger who are accompanied by an adult or other older person;

(22) Row, sail or operate any boat, craft or other device, on or in any pond, lake, stream or water except at such place as is especially designated and provided for use of such boat, craft, or device;

(23) Hunt, frighten, chase, set snare for, catch, injure or destroy any animal or bird, or destroy, remove or disturb any of

the young or eggs of same, or injure or maltreat any domestic or other animal;

(24) Fish with hook and line, seine, trap, spear, or net, or by any other means, in any pond, lake, stream or water, except at a place especially designated and provided for such purpose.

11.44.070 Use of pedestrian and equestrian ways. (a) No person shall drive or operate any motor vehicle, motorcycle, motor-driven cycle (as the foregoing are defined in the California Vehicle Code) or any other motorized or self-propelled vehicle or device upon which a person can ride, on, over or along any public property or easement (whether or not on a public park or recreation area) which has been designated, set aside, or is used, as a pedestrian walkway, trail, path, lane or way, or as an equestrian trail, path, lane or way.

(b) The public entity having ownership or control over any such trail, path, lane way or walkway may cause the same to be posted with an appropriate sign or signs expressly allowing the use of vehicles or devices otherwise prohibited under the provisions of subsection (a) of this section, and to the extent that such signs allow variations from such prohibitions, the provisions of subsection (a) of this section shall be inapplicable.

(c) The provisions of subsection (a) of this section shall not apply to any electrically-driven wheelchair carrying a crippled or otherwise physically incapacitated person.

(d) The public entity having ownership or control over any trail, path, lane, way or walkway mentioned in subsection (a) of this section, may, by the posting of an appropriate sign or signs, further restrict the use of such trail, path, lane, way or walkway by persons riding bicycles or other nonmotorized vehicles or devices, or by equestrians, and when any such sign is posted, no person shall disobey any prohibition, restriction, direction or other regulation expressed thereon.

11.44.080 Obstructing pathways. No persons shall assemble, collect or gather together in any walk, driveway, passageway or pathway in any park or in other places set apart for the travel of persons or vehicles in or through any park or recreation area, or occupy the same so that the free passage or use thereof by persons or vehicles passing along the same shall be obstructed in any unreasonable manner.

11.44.090 Children visiting parks with lakes. No parent or guardian, or any person having the custody of any child under the age of eight years, shall cause, permit or allow such child to enter or visit any public park or recreation area having a lake within the boundaries of such park or recreation area unless such child is accompanied by a person of not less than sixteen years of age.

Chapter 11.48

SCHOOL GROUNDS

Sections:

- 11.48.010 Misuse of school grounds.
- 11.48.020 Use by children.

11.48.010 Misuse of school grounds. It is unlawful for any person to enter upon or to use the grounds of any public school in this city for the purpose of idling, playing, picknicking or eating thereon, without first having obtained written permission therefor from the board of school trustees having charge of such public school grounds, or their authorized agent.

11.48.020 Use by children. Section 11.48.010 shall not apply to children using the grounds under the supervision or permission of the school authorities.

Chapter 11.52

OFF-ROAD USE OF MOTOR VEHICLES

Sections:

- 11.52.010 Prohibition.
- 11.52.020 Exempt locations.
- 11.52.030 Exempt vehicles.
- 11.52.040 Government property.

11.52.010 Prohibition. No person shall drive a motor vehicle on lands belonging to or occupied by another without having in his immediate possession and, upon request of a peace officer, displaying written permission from the owner of such lands, his agent, or the person in lawful possession thereof, but this section shall not apply to a person having lawful business with the owner.

11.52.020 Exempt locations. This chapter shall not apply on public or private lands expressly set apart for the use of motor vehicles by or with permission of the owner of such lands pursuant to any zoning permit or other permit or licensing procedure authorized by law. This chapter shall not apply upon any public highway, street, road or alley.

11.52.030 Exempt vehicles. This chapter shall not apply to the use of farm vehicles for agricultural purposes, vehicles being used for grading or construction purposes, vehicles being used for governmental purposes, or golf carts being used on golf courses.

11.52.040 Government property. Nothing in this chapter shall be deemed to interfere with the right of any government agency to regulate, prohibit or permit the use of motor vehicles on property owned by it or under its control and under its jurisdiction, nor to permit or authorize any trespass or nuisance.

Chapter 11.56

CURFEW

Sections:

11.56.010 Children out at night--Restrictions.

11.56.020 Allowing child to be out at night.

11.56.010 Children out at night--Restrictions. No person under eighteen years of age shall remain, loiter or wander on or about the public streets, sidewalks, alleys or public parks within this city between the hours of ten p.m. and six a.m. unless such minor child :

(1) ACCOMPANIED BY ADULT. Is accompanied by a parent, guardian or other adult person having the legal control or custody of such child;

(2) AUTHORIZED ERRAND. Is in performance of an errand or duty directed by such parent, guardian or other adult person having the legal control or custody of such child; or

(3) EMPLOYMENT. Is engaged in an employment which makes it necessary for such child to be on or about the public streets, sidewalks, alleys and public parks between said hours.

11.56.020 Allowing child to be out at night. No parent, guardian or other person having the legal care, custody or control of a child under the age of eighteen years shall allow such child to go or be upon or about any street, sidewalk or public park within the city during the period between the hours abovementioned, unaccompanied by a parent, guardian, or other adult person having the legal custody and control of such minor unless there exists a genuine necessity therefor.

Chapter 11.60

OCCUPANCY OF HOTEL ROOMS BY MINORS

Sections:

11.60.010 Definitions.

11.60.030 Hotel owner responsibility.

11.60.040 Duty of parent or adult.

11.60.010 Definitions. The following definitions are applicable to this chapter:

(1) "Adult" means any competent person over eighteen years of age.

(2) "Hotel" means any hotel or apartment house.

(3) "Minor child" means any person less than eighteen years of age.

(4) "Occupancy" or "Occupation" includes but is not limited to any type of rental, lease, sublease, or letting of hotel rooms for compensation or otherwise.

(5) "Parent" means the natural or adopted parent or relative eighteen years or more of age, or the guardian.

(6) "Room" means and includes any rental, hotel room, apartment, or any type of hotel accommodation.

11.60.030 Hotel owner responsibility. No hotel owner, operator or employee shall permit the occupancy of any room by any minor child, unless such minor child is accompanied by his parent, legal guardian or a responsible adult authorized in writing by a parent or legal guardian of the minor child.

11.60.040 Duty of parent or adult. No adult or parent registering with a minor child, as provided in Section 11.60.030, shall, except in the case of sickness, death, or act of God, fail to remain registered for a period equal to the longest period of occupation by the minor child.

Chapter 11.64

TRESPASS

Sections:

- 11.64.010 Trespass by refusal to leave.
- 11.64.020 Trespass by prohibited entry.
- 11.64.030 Form of notification.
- 11.64.040 Exceptions.

11.64.010 Trespass by refusal to leave. No person shall remain on any private property or business premises, after being notified by the owner or lessee or other person in charge thereof to remove therefrom.

11.64.020 Trespass by prohibited entry. No person, without permission, express or implied, of the owner or lessee or other person in charge of private property or business premises, shall enter upon such private property or business premises after having been notified by the owner or lessee or other person in charge thereof to keep off or keep away therefrom.

11.64.030 Form of notification. Within the meaning of Sections 11.64.010 and 11.64.020, notification by the owner or lessee or other person in charge of the property or premises may be satisfied by direct verbal communication by any such person or by his duly delegated agent, including a peace officer or private patrolman, or by sign conspicuously posted on the property or premises giving notice of the prohibition of the particular form of trespass involved.

11.64.040 Exceptions. This chapter shall not apply in any of the following instances:

(1) Where its application results in or is coupled with an act prohibited by the Unruh Civil Rights Act (which forbids a business establishment generally open to the public, from unreasonably and arbitrarily excluding any prospective customer, and from practicing any racial or other prohibited discrimination);

(2) Where its application results in or is coupled with an act prohibited by any other provision of law relating to unlawful discrimination against any person on account of color, race, religion, creed, ancestry or national origin;

(3) Where its application results in or is coupled with an act prohibited by Section 365 of the California Penal Code or any other provision of law relating to duties of inkeepers and common carriers;

(4) Where its application would result in an interference with or inhibition of peaceful labor picketing or other lawful labor activities;

(5) Where its application would result in an interference with or inhibition of any other exercise of a constitutionally protected right of freedom of speech such as (but not limited to) peaceful expressions of political or religious opinions, not involving conduct otherwise punishable criminally under such laws

as Penal Code Section 647c (obstruction of a street, sidewalk, or other public area), or Penal Code Section 415 (disturbing the peace); or

(6) Where the person who is upon another's private property or business premises is there under claim or color of legal right. This exception is applicable (but not limited to) the following types of situations involving disputes wherein the participants generally have suitable civil remedies readily available to them: marital and post-marital disputes; child custody or visitation disputes; disputes regarding title to or rights in real property; landlord-tenant disputes; disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute; employer-employee disputes; business-type disputes such as those between partners; debtor-creditor disputes; and instances wherein the person claims rights to be present pursuant to order, decree or process of a court.

Chapter 11.68

CHARITABLE SOLICITATIONS

Sections:

- 11.68.010 Definitions.
- 11.68.020 Compliance with chapter--Notice of intention.
- 11.68.030 Notice of intention--Contents.
- 11.68.040 Powers of the clerk.
- 11.68.050 Standards.
- 11.68.060 Fraud.
- 11.68.070 Name.
- 11.68.080 Accounting system.
- 11.68.090 Public property.
- 11.68.100 Private property.
- 11.68.110 Agency.
- 11.68.120 Verified return.
- 11.68.130 Provisions not applicable.
- 11.68.140 Solicitation.

11.68.010 Definitions. For the purposes of this chapter, the following words are defined and shall be construed as hereafter set forth unless it is apparent from the context that they have a different meaning:

(1) "Charitable" includes the words "philanthropic," "social service," "benevolent," "patriotic," either actual or purported;

(2) "Clerk" means the city clerk of the City of La Quinta.

(3) "Contribution" includes the words "money", "property" or "donations" under the guise of a loan of money or property;

(4) "Person" shall be construed as defined in Section 1.01.170;

(5) "Solicitation" means and includes the following:

(A) Any oral or written request,

(B) The sale of, offer or attempt to sell any advertisement, advertising space, book, card, change, coupon, device, magazine, membership, merchandise, subscription, ticket or other thing in connection with which any appeal is made for any charitable purpose or the name of any charity, philanthropy or charitable association is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any charitable purpose or association.

A solicitation as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale referred to in this chapter.

11.68.020 Compliance with chapter - Notice of intention. No person shall solicit, nor shall any officer or member of any association authorize any person to solicit any contribution for any charitable purpose until the clerk shall have supplied the applicant with a certificate hereinafter provided for and marking it "APPROVED" or "FOR INFORMATION PURPOSES ONLY."

11.68.030 Notice of intention--Contents. The applicant, within the fiscal year of the city in which such solicitation is made, and at least thirty days prior to the beginning of such solicitation, shall have filed with the clerk, on a form, in triplicate, furnished by said clerk to such applicant or association upon whose behalf the solicitation is made, a written notice of intention to solicit such contribution, which notice shall contain complete information as follows:

(1) The purpose of the solicitation and use of the contribution to be solicited;

(2) A specific statement, supported by reasons, and if available, figures showing the need for the contribution proposed to be solicited;

(3) The character of such solicitation and how it will be made or conducted;

(4) The expenses of the solicitation including salaries and other items if any, regardless of from what funds such expenses are payable;

(5) What portion of the contribution collected as a result of the solicitation will remain available for application to the specific purposes declared in the notice of intention as the object of the solicitation;

(6) A specific statement of all contributions collected or received by such person or association within the calendar year immediately preceding the filing of such notice of intention; the expenditures or use made of such contributions together with the name and addresses of all persons or associations receiving salaries, wages, compensation, commissions or emoluments for such contributions, and the respective amounts thereof;

(7) The names and addresses of the officers and directors of any such association for which the solicitation is proposed to be made;

(8) A copy of the resolution, if any, of any such association authorizing such solicitation, certified to as a true and correct copy of the original of such resolution by the officer of such association having charge of the records thereof;

(9) A statement that the signers of such notice have read and are familiar with the provisions of this chapter and will require all solicitors engaged in such solicitation to read and be familiar with all sections of this chapter prior to making any such solicitation.

11.68.040 Powers of the clerk. The clerk shall have the following powers:

(1) To receive the notice of intention as provided in Section 11.68.030, investigate same and supply to the applicant a copy of a certificate with either the word "APPROVED" or "FOR INFORMATION PURPOSES ONLY" marked thereon;

(2) To investigate the allegations of the notice of intention or any statement or representations; said investigation shall be for the time prescribed in Section 11.68.030;

(3) To have access to and inspect and make copies of all books, records and papers of any applicant by or on whose behalf any solicitation is made;

(4) To investigate at any time the methods of making or conducting any such solicitation;

(5) To publish results of any investigation provided for or authorized by Section 11.68.030 and to ascertain and to publicize any additional information obtained as shall, in the opinion of the clerk, be of assistance to the public to determine the nature and worthiness of the purpose for which the solicitation is made;

(6) To give such publicity to any such results by such means as may be deemed best to reach the general public and persons interested;

(7) To waive the whole or any part of the provisions of this chapter for the purpose of meeting any extraordinary emergency or calamity.

11.68.050 Standards. The clerk shall approve the issuance of a certificate with the word "APPROVED" marked thereon when the following facts are found to exist:

(1) That all the statements made in the application are true;

(2) That the applicant has not been, or if the applicant is not an individual person that none of its agents operating in the city shall have been, convicted of a crime, either felony or misdemeanor, involving moral turpitude;

(3) That the applicant has not engaged in any fraudulent transaction or enterprise;

(4) That the solicitation will not be a fraud on the public. If the notice of intention indicates the sum to remain available for application to the specific purposes declared in the notice of intention as the object of the solicitation is less than sixty percent of the amounts to be collected, such showing shall indicate and be prima facie evidence that the solicitation will be a fraud on the public.

11.68.060 Fraud. No person shall make or perpetuate any misstatement, deception or fraud in connection with any solicitation of any contribution for any charitable purpose.

11.68.070 Name. No person shall use in soliciting or give to any person whomsoever, either a fictitious name or an alias or any other than his full, true and correct name, or make any such solicitation without at the time giving to the person solicited his own full, true and correct name, nor shall he impersonate any other person in making such solicitation.

11.68.080 Accounting system. No person shall solicit any contributions for or on behalf of any charitable association unless such association is maintaining a system of accounting whereby all donations to it and all disbursements made by it are entered upon the books or records of its treasurer or other financial officer.

11.68.090 Public property. No person shall solicit any contribution for any purpose by means of any box or receptacle, upon any public street, sidewalk or way, or in any public park, or in any publicly owned or controlled place except by the express written permission of the city manager.

11.68.100 Private property. No person shall solicit any charitable contribution, or any contribution for any real or purported charitable purpose, by means of any box or receptacle in any place of business open to the public or in any room, hallway, corridor, lobby or entranceway, or other place open to or accessible to the public, or in any place of public resort, without first filing with the clerk a "notice of intention" as required by Section 11.68.030, and every person so soliciting must in all other respects comply with the provisions of this chapter.

11.68.110 Agency. No person shall solicit in the name of or on behalf of any charitable association unless such solicitor has: (1) Written authorization of two officers of such association, a copy of which shall be filed with the clerk, and which authorization and copy shall each bear a specimen signature of the solicitor; such written authorization shall expressly state on its face the period for which it is valid which shall not exceed ninety days from the date issued;

(2) Such authorization with him when making solicitations and exhibits the same on request to persons solicited, or police officers, or agents of the clerk.

11.68.120 Verified return. Every person soliciting any contribution for any charitable purpose must file with the clerk within thirty days after a demand therefor a verified return stating the contributions secured from or as a result of any such solicitation, and showing exactly for what uses and in what manner all such contributions were or are to be disbursed or distributed. Every such return shall be sworn to by the persons or associations filing or obligated to file the notice of intention, and such return, if made by any such association, shall be signed by at least two officers thereof; provided that when any such solicitation is made by any such association, such return need be filed only by such association and not by an individual solicitor engaged in any such solicitation.

11.68.130 Provisions not applicable. The provisions of this chapter, except Sections 11.68.010 and 11.68.060, shall not be applicable to any solicitation made upon premises owned or occupied by the association upon whose behalf such solicitation is made, nor to any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected, without any deduction whatever, shall be turned over to the named beneficiary, nor shall they be applicable to any association soliciting contributions solely from persons who are members thereof at the time of such solicitation, nor shall they be applicable to solicitations made solely for evangelical, missionary or religious purposes; however, that in any case where it comes to the attention of the clerk that any solicitation has

been or is being intended to be made for evangelical, missionary or religious purposes but in such manner as in the opinion of the clerk is calculated to give or may give the impression to the person or persons solicited in any such solicitation or to the public that the purpose of such solicitation is either in whole or in part charitable, then the clerk, if in his opinion the public interest will be subserved thereby, shall investigate the matter of such solicitation and give publicity to his findings thereon in such manner as he may deem best to advise the public of the facts of the case.

11.68.140 Solicitation. No person shall park or stand any vehicle on State Highway 111, within the city limits for the purpose of soliciting funds for any charitable institution, or otherwise.

Chapter 11.72

PUBLIC NUISANCES

Sections:

- 11.72.010 Definitions.
- 11.72.020 Fire hazard.
- 11.72.030 Refuse and waste--Nuisance.
- 11.72.040 Refuse and waste--Definition.
- 11.72.050 Polluted water--Nuisance.
- 11.72.060 Polluted water--Defined.
- 11.72.070 Public burning.
- 11.72.080 Zoning ordinance violations.
- 11.72.090 Building code violations.
- 11.72.100 Uniform housing code violations.
- 11.72.110 Sign ordinance violations.
- 11.72.120 Uniform fire code violations.
- 11.72.150 Excessive plant growth.
- 11.72.160 Deteriorating and defective structures.
- 11.72.170 Property maintenance.
- 11.72.180 City manager authority.
- 11.72.185 Assessment of administrative costs.
- 11.72.190 Notice--Required.
- 11.72.200 Notice--Form and contents.
- 11.72.210 Notice--Service.
- 11.72.220 Appeal and hearing.
- 11.72.230 Owner to abate.
- 11.72.240 City to abate and report.
- 11.72.250 Hearing on assessment.
- 11.72.260 Resolution assessing lien.
- 11.72.270 Recording.
- 11.72.280 Payment.
- 11.72.290 Assessment and collection.
- 11.72.300 Penalty.

11.72.010 Definitions. As used in this chapter, the materials and conditions in Sections 11.72.020 through 11.72.170 are defined as public nuisances.

11.72.020 Fire hazard. All dry, dead shrubs, dead trees, combustible refuse and waste, or any material growing upon the streets, sidewalks or upon private property within the city, which by reason of their size, manner of growth and location constitute a fire hazard to any building, improvements, crops or other property, or when dry, will in reasonable probability constitute such a fire hazard, are a public nuisance.

11.72.030 Refuse and waste--Nuisance. Refuse and waste matter as defined in Section 11.72.040, which by reason of its location and character is unsightly and interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises is a public nuisance.

11.72.040 Refuse and waste--Definition. "Refuse and waste" matter is defined for the purpose of this chapter as unused or discarded matter and material having no substantial market value, and which consists of such matter and material as: rubbish, refuse, debris and matter of any kind including but not limited to rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, crates, cartons, containers, boxes, machinery or parts thereof, scrap metal and other pieces of metal, ferrous or nonferrous, furniture or parts thereof, inoperative vehicles, vehicle bodies and/or parts thereof, trimmings from plants or trees, cans, bottles and barrels.

11.72.050 Polluted water--Nuisance. Any swimming pool, pond, or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted, constitutes a public nuisance.

11.72.060 Polluted water--Defined. Polluted water constitutes a public nuisance and is defined for the purpose of this chapter, as water contained in a swimming pool, pond, or other body of water, which includes but is not limited to such things as bacterial growth, algae, remains of insects, remains of deceased animals, reptiles, rubbish, refuse, debris, papers, and any other foreign matter or material, which because of its nature or location constitutes an unhealthy, unsafe or unsightly condition.

11.72.070 Public burning. The intentional outdoor burning of any material, structure, matter or thing is a public nuisance unless conducted by the fire department.

11.72.080 Zoning ordinance violations. Any violation of the zoning regulations of the city is a public nuisance.

11.72.090 Building code violations. Any violation of the La Quinta City Building Code (as referred to in Sec. 8.04.020) is a public nuisance.

11.72.100 Uniform housing code violations. Any violation of the Uniform Housing Code as amended is a public nuisance.

11.72.110 Sign ordinance violations. Any sign in violation of the sign regulations of the city is a public nuisance.

11.72.120 Uniform fire code violations. Any violation of the Uniform Fire Code, as amended, is a public nuisance.

11.72.150 Excessive plant growth. Any trees, shrubbery or plants permitted to grow out into or over the streets and sidewalks where pedestrian or vehicular traffic is impaired, or when vehicle operators cannot clearly observe safety signs and lights, constitutes a safety hazard, and are a public nuisance.

11.72.160 Deteriorating and defective structures. Any structure within the city in a state of substantial deterioration, such as peeling paint on a facade, broken windows,

roofs in disrepair, damaged porches or broken steps or other such deterioration or disrepair not otherwise constituting a violation and which is viewable from a public right-of-way or viewable from the sites of neighboring properties, is a public nuisance. A state of substantial deterioration means that degree of deterioration which would tend to depreciate the aesthetic and property values of surrounding property.

11.72.170 Property maintenance. The substantial lack of maintenance of grounds within the city on which structures exist where said grounds are viewable by the public from a public right-of-way or viewable from the sites of neighboring properties, is a public nuisance. The substantial lack of maintenance shall mean allowing trees, shrubs, plants, vegetation or debris to exist on the grounds in a state and to the extent that such a condition would tend to depreciate the aesthetic and property values of surrounding property.

11.72.180 City manager authority. Any employee or agent of the city who is authorized by the city manager shall have the right to enter upon private property to determine whether a public nuisance exists.

11.72.185 Assessment of administrative costs. The city council shall, from time to time, determine and fix an amount to be assessed as an administrative cost, exclusive of the actual costs of removal or abatement of the nuisance, which administrative costs may be determined and established for each stage of the proceedings, and which administrative costs will be and become a part of the cost of abating the nuisance.

11.72.190 Notice--Required. Upon determination that a public nuisance exists, as defined by any provision of this code, on any lot or premises, or upon any sidewalk, parking or street adjacent to such lot or premises, the authorized employee of the city shall cause a notice to be issued to the proper person or persons to abate such nuisance.

11.72.200 Notice--Form and contents. Such notice shall be headed: "NOTICE OF PUBLIC NUISANCE" in letters not less than one inch in height and which shall, in legible characters, direct the abatement of the nuisance referring to this chapter for particulars. Notices served by means other than posting as required by this chapter shall contain a description of the property in general terms reasonably sufficient to identify the location of the nuisance.

11.72.210 Notice--Service. The notice required by Section 11.72.200 may be served in any of the following methods:

- (1) By personal service on the owner, occupant or person in charge or control of the property;
- (2) By posting at a conspicuous place on the land or premises or abutting public right-of-way;
- (3) By sending a copy of such notice by certified mail addressed to the owner or person in charge or control of the property, at the address shown on the last available assessment roll, or as otherwise known.

11.72.220 Appeal and hearing. Within ten days from the date of posting, mailing or personal service of the required notice, the owner or person occupying or controlling such lot or premises affected may appeal to the city council. Such appeal shall be in writing and shall be filed with the city clerk. At the regular meeting of the city council not more than thirty days thereafter, it shall proceed to hear and pass upon the appeal. The decision of the city council thereupon shall be final and conclusive.

11.72.230 Owner to abate. Any nuisance found by the city council to be such under any provision of this code shall be abated by the owner, his agent or occupier of the premises forthwith, or as soon thereafter as practicable after the order to abate becomes final, but in no case more than ten days after said final order.

11.72.240 City to abate and report. If the owner fails or neglects to remove or otherwise take action to abate the nuisance as defined, within the time specified in Section 11.72.230, or fails to file a timely appeal as per Section 11.72.220, the city manager, through the city employees authorized by him, may cause such nuisance to be abated. The abatement work may be done by city crews or by private contractor. A report of the proceedings and an accurate account of the cost of abating the nuisance on each separate property shall thereafter be filed with the city council.

11.72.250 Hearing on assessment. The city clerk shall thereupon set the report and account for hearing by the city council at the first regular meeting which will be held at least seven calendar days after the date of filing, and shall post a copy of said report and account and notice of the time and place of hearing in a conspicuous place in or near the entrance of the city administrative offices. The owner who is affected by such report and account, or the person occupying or controlling such lot or premises, shall be sent a notice advising him of the date, time and place of the hearing and said notice shall be served as provided for in Section 11.72.210.

11.72.260 Resolution assessing lien. The city council shall consider the report and account at the time set for hearing, together with any objections or protests by any interested parties. Any owner of land or person interested therein may present a written or oral protest or objection to the report and account. At the conclusion of the hearing the city council shall either approve the report and account as submitted or as modified or corrected. The amounts so approved shall be liens upon the respective lots or premises. The city council shall adopt a resolution assessing said amounts as liens upon the respective parcels of land as they are shown upon the last available assessment roll.

11.72.270 Recording. The city clerk shall prepare and file with the county auditor a certified copy of the said resolution of the city council mentioned in Section 11.72.260.

11.72.280 Payment. The finance department of the city may accept payment of any amount due at any time prior to the city council hearing, as called for in Section 11.72.250.

11.72.290 Assessment and collection. The provisions of Sections 38773.5 and 39580 to 39585, inclusive, of the Government Code, as they exist and as they may be subsequently amended, are incorporated by reference and made a part of this chapter. The county auditor shall enter each assessment in the county tax roll opposite the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary property taxes; and if delinquent the amount is subject to the same penalties and procedures of foreclosure and sale as is provided for ordinary property taxes.

11.72.300 Penalty. The owner, occupant, or agent of any lot or premises within the city who permits or allows the existence of a public nuisance as defined in this chapter, upon any lot or premises owned, occupied or controlled by him, or who violates any of the provisions of this chapter, is guilty of a misdemeanor.

Chapter 11.76

UNCLAIMED PROPERTY

Sections:

- 11.76.010 Definitions.
- 11.76.020 Custody.
- 11.76.030 Registration.
- 11.76.040 Storage.
- 11.76.050 Restoration to owner--Court evidence.
- 11.76.060 Publication of notice of intention to sell.
- 11.76.070 Time of publication.
- 11.76.080 Sale--Disposition of proceeds.
- 11.76.090 Holding of proceeds.
- 11.76.100 Accounting by police chief.
- 11.76.110 Payment into general fund.

11.76.010 Definitions. In this chapter:

- (1) "Chief of police" means the chief of police or his agent, duly authorized by him;
- (2) "Unclaimed property" means money, chattels or property of all kinds and descriptions, excepting animals, which property is lost, stolen, abandoned or otherwise unclaimed.

11.76.020 Custody. The chief of police shall be the custodian of all unclaimed property which may now be in his possession or his control, or which may hereafter come into the possession or control of the chief of police or any police officer of the city.

11.76.030 Registration. The chief of police and every police officer of the city, upon taking or receiving into his custody, in the discharge of his duty, unclaimed property, shall forthwith deliver such unclaimed property to the chief of police, who shall register all such property delivered to or received by him in a book kept for that purpose, stating the name of the person from whom, and by whom, such property shall have been taken, the name of all claimants to the property, the time of seizure and the final disposition of the said property.

11.76.040 Storage. All unclaimed property in the possession of the chief of police, except property subject to confiscation under the laws of this state or the laws of the United States of America, shall be stored in a safe place by the chief of police.

11.76.050 Restoration to owner--Court evidence. The chief of police shall restore unclaimed property in his possession to its legal owner, upon proof of such ownership satisfactory to the chief of police and upon the payment of all reasonably necessary costs incurred in the care and protection thereof, unless such property is held by the chief of police as evidence in a pending civil or criminal case, in which event it shall be disposed of only upon order of the proper court, or otherwise in accordance with state law.

11.76.060 Publication of notice of intention to sell. At any time after holding the unclaimed property for at least six months, the chief of police shall publish once in a newspaper of general circulation within the county a notice of his intention to sell all such unclaimed property at public auction to the highest bidder at the time and place therein specified together with a brief description of the unclaimed property to be sold.

11.76.070 Time of publication. Said notice shall be published at least five days prior to the date of the sale.

11.76.080 Sale--Disposition of proceeds. After having duly published the advertisement provided for by Sections 11.76.060 and 11.76.070, the chief of police shall, at the time and place designated in the advertisement, proceed to sell at public auction, to the highest bidder for cash, lawful money of the United States of America, the property described in said advertisement, and, after having paid the just and reasonable expenses for storage, advertising and sale, from the proceeds of said sale, shall turn the remainder of the proceeds over to the city treasurer who shall retain said proceeds in an appropriate trust fund.

11.76.090 Holding of proceeds. The city treasurer shall retain said proceeds for a period of one year from the date of the sale, subject to any lawful claim which may be made by the owner of any of the unclaimed property sold.

11.76.100 Accounting by police chief. The chief of police shall give a full accounting as to the proceeds of the said sale and the disposition thereof to the city manager within thirty days following the sale.

11.76.110 Payment into general fund. The city treasurer shall, at the expiration of one year from the date of each and every sale hereunder made, pay into the general fund all moneys remaining in his hands on account of such sale or sales.

Chapter 11.80

ABANDONED VEHICLES

Sections:

- 11.80.010 Abatement and removal as a public nuisance.
- 11.80.020 Effect of chapter.
- 11.80.030 Definitions.
- 11.80.040 Exceptions.
- 11.80.050 Administration--Vehicle identification--
Declaration of nuisance.
- 11.80.060 Hearing procedure.
- 11.80.070 Notice of hearing to highway patrol.
- 11.80.080 Administration board--Membership.
- 11.80.090 Administration board--Powers and duties.
- 11.80.100 Findings and determination by board.
- 11.80.110 Determining costs.
- 11.80.120 Administrative costs.
- 11.80.130 Appeal to city council.
- 11.80.140 Decision by council.
- 11.80.150 Removal of vehicle--Contract.
- 11.80.160 Removal of vehicle--Disposal.
- 11.80.170 Notice to department of motor vehicles.
- 11.80.180 Abatement costs as a lien.
- 11.80.190 Violation.
- 11.80.200 Refusal to comply.

11.80.010 Abatement and removal as a public nuisance.

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 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 found to create conditions 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 declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.

11.80.020 Effect of chapter. 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.

11.80.030 Definitions. As used in this chapter, the following definitions shall apply:

(1) HIGHWAY. 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 streets;

(2) PUBLIC PROPERTY. The term "public property" does not include "highway";

(3) VEHICLE. 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.

11.80.040 Exceptions. (a) This chapter shall not apply to the following:

(1) STORED VEHICLES. 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

(2) LAWFULLY CONDUCTED BUSINESS. 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, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

(b) 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.

11.80.050 Administration--Vehicle Identification--Declaration of nuisance. Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the city manager. In the enforcement of this chapter, the city manager or his authorized agent 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.

11.80.060 Hearing procedure. A public hearing shall be held on the question of abatement and removal of the vehicle or part 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 part thereof against the property on which it is located. Notice of hearing shall be mailed at least ten days before the hearing by certified mail, with a five day return requested, to the owner of the land as shown on the last equalized city assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership. If any of the foregoing notices are returned undeliverable by the United States Post Office, the

hearing shall be continued to a date not less than ten days from the date of such return.

11.80.070 Notice of hearing to highway patrol. Notice of hearing shall also be given to the California Highway Patrol, identifying the vehicle or part thereof proposed for removal, such notice to be mailed at least ten days prior to the public hearing.

11.80.080 Administration board--Membership. All hearings under this chapter shall be held before an administration board consisting of the following members: the city manager, or his authorized representative; police chief, or his authorized representative; and one member of the planning commission.

11.80.090 Administration board--Powers and duties. The administration board shall hear all facts and testimony it deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location on the said private property or public property. The administration board 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.

11.80.100 Findings and determination by board. The administration board may impose such conditions and take such other action 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 part thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the administration board may find that a vehicle or part 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 costs of removal to be charged against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle, if available at the site. If an interested party makes a written presentation to the administration board but does not appear, he shall be notified in writing of the decision.

11.80.110 Determining costs. The administration board, after hearing all testimony, may determine that the cost of removal and cost of administration be paid by the tenant, owner of the vehicle, or the city.

11.80.120 Administrative costs. The city manager 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.

11.80.130 Appeal to city council. Any interested party may appeal the decision of the administration board by filing a written notice of appeal with the city clerk within ten days after the date of mailing of the decision. The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Sections 11.80.060 and 11.80.070.

11.80.140 Decision by council. Such appeal shall be heard by the city council which may affirm, amend, or reverse the order or take other action deemed appropriate. In conducting the hearing, the city council shall not be limited by the technical rules of evidence.

11.80.150 Removal of vehicle--Contract. When the city has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter 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.

11.80.160 Removal of vehicle--Disposal. Ten days from the date of mailing of notice of the decision, or fifteen days after such action of the city council authorizing removal following appeal, the vehicles or parts thereof may be disposed of by the city manager, or his authorized agent, by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable.

11.80.170 Notice to department of motor vehicles. Within five days after the date of removal of the vehicle or part thereof, notice shall be given to the Department of Motor Vehicles, identifying the vehicle or part 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.

11.80.180 Abatement costs as a lien. If the administrative costs and the cost of removal, which are charged against the owner of a parcel of land pursuant to Section 11.80.100 are not paid within thirty days 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 property taxes.

11.80.190 Violation. It is unlawful and a misdemeanor for any person to abandon, park, store, or leave or permit the abandonment, parking, storing, or leaving of any licensed or unlicensed vehicle or part thereof which is in an abandoned, wrecked, dismantled, or inoperative condition upon any private or public property, not including highways, within the city for a period in excess of two days unless such vehicle or part thereof is completely enclosed within a building in a lawful manner where

it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard.

11.80.200 Refusal to comply. It is unlawful and a misdemeanor 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 or state law where state law is applicable.

Chapter 11.84

FALSE STATEMENTS

Sections:

11.84.010 Making or filing prohibited.

11.84.010 Making or filing prohibited. No person shall willfully make to or file with any city officer or department any report, statement, application or information which is false or untrue in any particular and which has a tendency to mislead any employee, officer, board, department or other body of the city in the performance of official duty.

Title 12
VEHICLES AND TRAFFIC

Chapters:

<u>12.04</u>	<u>Definitions</u>
<u>12.08</u>	<u>Administration</u>
<u>12.12</u>	<u>Enforcement--Obedience</u>
<u>12.16</u>	<u>Traffic Control Devices</u>
<u>12.20</u>	<u>Special Speed Limits</u>
<u>12.24</u>	<u>Turning Movements</u>
<u>12.28</u>	<u>Stopping, Standing and Parking</u>
<u>12.32</u>	<u>Parking</u>
<u>12.44</u>	<u>Stop Intersections</u>
<u>12.48</u>	<u>Yield Right-of-Way Signs</u>
<u>12.52</u>	<u>One-Way Streets and Alleys</u>
<u>12.56</u>	<u>Restricted Use of Certain Streets</u>
<u>12.60</u>	<u>Loading Zones</u>
<u>12.64</u>	<u>Driving Rules</u>
<u>12.68</u>	<u>Pedestrians</u>

Chapter 12.04

DEFINITIONS

Sections:

<u>12.04.010</u>	<u>Vehicle Code definitions.</u>
<u>12.04.020</u>	<u>Definitions generally.</u>
<u>12.04.030</u>	<u>Alley.</u>
<u>12.04.040</u>	<u>Loading zone.</u>
<u>12.04.050</u>	<u>Park.</u>
<u>12.04.060</u>	<u>Parkway.</u>
<u>12.04.070</u>	<u>Passenger loading zone.</u>
<u>12.04.080</u>	<u>Pedestrian.</u>
<u>12.04.090</u>	<u>Police officer.</u>
<u>12.04.110</u>	<u>Stop.</u>
<u>12.04.120</u>	<u>Stop or stand.</u>

12.04.010 Vehicle Code definitions. Whenever any words or phrases used in this title are not defined herein but are now or hereafter defined in the Vehicle Code of the state, such definitions are incorporated herein and shall be deemed to apply to such words and phrases used herein as though set forth herein in full.

12.04.020 Definitions generally. The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this chapter.

12.04.030 Alley. "Alley" means any street less than twenty-five feet in width between property lines.

12.04.040 Loading zone. "Loading zone" means that space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

12.04.050 Park. "Park" means to stand or leave standing any vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading of passengers or materials.

12.04.060 Parkway. "Parkway" means that portion of a street other than a roadway or a sidewalk.

12.04.070 Passenger loading zone. "Passenger loading zone" means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

12.04.080 Pedestrian. "Pedestrian" means any person afoot.

12.04.090 Police officer. "Police officer" means every officer of the police department of this city, or any officer authorized to direct traffic or make arrests for violation of traffic regulations.

12.04.110 Stop. "Stop" means a complete cessation of movement.

12.04.120 Stop or stand. "Stop or stand," when prohibited means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or official traffic control device.

Chapter 12.08

ADMINISTRATION

Sections:

12.08.060 Traffic engineer--Office established.

12.08.070 Traffic engineer--Duties.

12.08.060 Traffic engineer--Office established. The office of the city traffic engineer is established. The city manager shall serve as city traffic engineer or shall appoint the person to so act, who shall exercise the powers and duties with respect to traffic as provided in this title.

12.08.070 Traffic engineer--Duties. It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic control devices and signals, to conduct engineering analyses of traffic accidents, and to devise remedial measures; to conduct engineering and traffic investigations 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 the additional powers and duties imposed by the ordinances of this city.

Chapter 12.12

ENFORCEMENT--OBEDIENCE

Sections:

- 12.12.010 Police officers--Authority.
- 12.12.015 Authority to issue parking citations.
- 12.12.020 Police officers--Traffic direction.
- 12.12.030 Authority of fire department officers or survey crew.
- 12.12.040 Obedience to police and fire department officials.
- 12.12.050 Loitering--Obstructing traffic.
- 12.12.060 Persons riding bicycles or animals.
- 12.12.070 Persons other than officials shall not direct traffic.
- 12.12.080 Public employees to obey traffic regulations.
- 12.12.090 Exemptions to certain vehicles.
- 12.12.100 Accident report--Required.
- 12.12.110 Accident report--Contents.
- 12.12.120 Accident report--Time limit.

12.12.010 Police officers--Authority. It shall be the authority of the officers of the police department, and such officers as are assigned by the chief of police, to enforce all traffic laws of this city and all of the state vehicle laws applicable to traffic in this city.

12.12.015 Authority to issue parking citations. Parking citations or notices of violations, related to charging violations of local or Vehicle Code regulations governing the parking or standing of vehicles, may be issued by any peace officer, by any other employee or agent of the police department or of the city who is duly authorized by the chief of police so to do, by any other person specifically so authorized by some other provision of law, and by any other person specially authorized by the chief of police in writing so to do. Whenever the chief of police delegates such authority to persons other than peace officers, he shall endeavor to see that each such person is adequately instructed regarding the provisions of the parking regulations to be enforced, and the evidentiary prerequisites to proper prosecution for violations thereof. He shall further provide such persons with the same forms of citations or notices of violations as are utilized for the purpose by officers of the police department. Any such persons shall be appropriately instructed to deposit executed citations or notices with the police department for filing with the court, after review for legal sufficiency.

12.12.020 Police officers--Traffic direction. 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 other signal in conformance with traffic laws, provided that in the event of a fire or other emergency or to expedite

traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

12.12.030 Authority of fire department officers or survey crew. Officers of the fire department when at the scene of a fire or when, in the course of their duties, they are protecting personnel or equipment of the fire department, may direct or assist the police in directing traffic. Members of the city's survey crew, when in the course of their duties surveying the city's streets and rights-of-way, may direct or assist the police in directing traffic.

12.12.040 Obedience to police and fire department officials. No person shall willfully fail or refuse to comply with any lawful order of a police officer or fire department official when directing traffic.

12.12.050 Loitering--Obstructing traffic. It is unlawful for any person to stand upon any street, sidewalk or other public way open for pedestrian travel, or otherwise occupy any portion thereof in such a manner as to annoy or molest any pedestrian thereon, or so as to obstruct or unreasonably interfere with the free passage of pedestrians, motor vehicles, or other modes of travel. No person shall sit, lie, or sleep upon any street, sidewalk or other public way. The provisions of this section shall not apply to persons sitting on the curb portion of any sidewalk or street while attending or viewing any parade permitted under the provisions of this code; nor shall the provisions of this section apply to persons sitting upon benches or other seating facilities provided for such purposes by municipal authority.

12.12.060 Persons riding bicycles or animals. Every person riding a bicycle or riding or driving an animal upon a highway shall be granted all of the rights, and shall be subject to all of the duties applicable to the driver of a vehicle by this title except those provisions which by their very nature can have no application.

12.12.070 Persons other than officials shall not direct traffic. No person other than an officer of the police department or a person deputized by the chief of police or person authorized by a police officer or other city personnel expressly authorized by this chapter, shall direct or attempt to direct traffic by voice, hand or other signal except that persons may operate when and as herein provided any mechanical pushbutton signal erected by order of the city traffic engineer.

12.12.080 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, this state, or any county or city, and it is unlawful for any said driver to violate any of the provisions of this

title except as otherwise permitted in this chapter or by the Vehicle Code.

12.12.090 Exemptions to certain 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 departments, or other city vehicles, properly equipped to qualify as emergency vehicles, any public ambulance or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this section is operated in the manner specified in the 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 others.

(c) The provisions of this title regulating the parking or standing of vehicles shall not apply to any vehicle of a city department or public utility vehicle necessarily in use 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.

12.12.100 Accident report--Required. The driver of a vehicle or the person in charge of any animal involved in any accident resulting in damage to any property publicly owned or owned by a public utility, including but not limited to any fire hydrant, ornamental lighting post, telephone pole, electric light or power pole, or resulting in damage to any ornamental shade tree, traffic control device or other property of a like nature located in or along any street, shall within twenty-four hours after such accident make a written report of such accident to the police department of this city.

12.12.110 Accident report--Contents. Every such report shall state the time when and the place where the accident took place, the name and address of the person owning and of the person driving or in charge of such vehicle or animal, the license number of every such vehicle, and shall briefly describe the property damaged in such accident.

12.12.120 Accident report--Time limit. A driver involved in an accident shall not be subject to the requirements or penalties of Sections 12.12.100 and 12.12.110 if and during the time such driver is physically incapable of making a report but in such event said driver shall make a report as required above within twenty-four hours after regaining ability to make such a report.

Chapter 12.16

TRAFFIC CONTROL DEVICES

Sections:

- 12.16.010 Installation--Authority.
- 12.16.020 Installation--Required when.
- 12.16.030 Additional devices.
- 12.16.040 Required for enforcement purposes.
- 12.16.050 Obedience required.
- 12.16.060 Installation of traffic signals.
- 12.16.070 Installation at intersections--Required where.
- 12.16.080 Installation at intersections--Street name sign requirement.
- 12.16.090 Lane markings.
- 12.16.100 Distinctive roadway markings.
- 12.16.110 Safety zones.
- 12.16.120 Removal, relocation or discontinuation.
- 12.16.130 Hours of operation.

12.16.010 Installation--Authority. AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES. The city traffic 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 ordinances and resolutions of this city to make effective the provisions of said ordinances and resolutions.

12.16.020 Installation--Required when. Whenever the Vehicle Code requires for the effectiveness of any provision thereof that traffic control devices be installed to give notice to the public of the application of such law, the city traffic 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.

12.16.030 Additional devices. The city traffic 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 ordinances of this city or as may be determined by ordinance or resolution of the legislative body of this city or as may be proper under standards officially in effect for the state.

12.16.040 Required for enforcement purposes. No provision of the Vehicle Code or of this title for which signs are required shall be enforced against an alleged violation 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. Such signs shall comply with the requirements of the Vehicle Code of the state.

12.16.050 Obedience required. The driver of a vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic ordinances of this city unless otherwise directed by a police officer or other city personnel authorized by the provisions of this chapter, subject to the exceptions granted the driver of an authorized emergency vehicle when responding to emergency calls.

12.16.060 Installation of traffic signals. The city traffic engineer shall recommend the locations where official traffic signals are required by resorting to field observations, traffic counts and other traffic information that may be pertinent, and his determinations therefrom shall be made in accordance with generally accepted traffic engineering and safety standards.

12.16.070 Installation at intersections--Required when. The city traffic engineer shall, upon direction of the city council by resolution, install and maintain 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.

12.16.080 Installation at intersections--Street name sign requirement. Whenever the city traffic engineer installs and maintains an official traffic signal at any intersection, he shall likewise erect and maintain at such intersection street name signs visible to the principle flow of traffic unless such street name signs have previously been placed and are maintained at any said intersection.

12.16.090 Lane markings. The city traffic engineer is authorized to mark centerlines and lane lines upon the surface of the roadway to indicate the course to be travelled by vehicles, and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway, excepting state highways within the city.

12.16.100 Distinctive roadway markings. The city traffic engineer is authorized to place and maintain distinctive roadway markings as described in the Vehicle Code on those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or sign and markings. Such marking or signs and marking shall have the same effect as similar markings placed by the State Department of Transportation pursuant to the provisions of the Vehicle Code.

12.16.110 Safety zones. The city traffic engineer is authorized to establish safety zones at such places as the city traffic engineer may deem necessary for the protection of pedestrians.

12.16.120 Removal, relocation or discontinuation. The city traffic engineer is authorized to remove, relocate or discontinue the operation of any traffic control not specifically required by state law or this title whenever he determines in any particular case that the conditions which warranted or required the installation no longer exist.

12.16.130 Hours of operation. The city traffic 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.

Chapter 12.20

SPECIAL SPEED LIMITS

Sections:

12.20.010 Change in state law speed limits.

12.20.010 Change in state law speed limits. (a) The prima facie speed limit declared for each street designated in this section is a speed limit which is either an increase from the prima facie speed limit or a decrease from the maximum speed limit otherwise applicable to such street pursuant to chapter 7 of division 11 of the Vehicle Code of the state (commencing at section 22348 thereof). Said increase or decrease has been determined upon the basis of an engineering and traffic survey. For each street upon which an increase in the prima facie speed limit (otherwise applicable) has been declared, a determination has been made that the increased declared prima facie speed limit is the most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. For each street upon which a decrease from the maximum speed limit (otherwise applicable) has been made and a lower speed limit declared as the prima facie speed limit, a determination has been made that the maximum speed limit (otherwise applicable) is more than is reasonable or safe, and that the declared prima facie speed limit is most appropriate to facilitate the orderly movement of traffic and is reasonable and safe.

(b) The prima facie speed limit declared for each street or portion of a street designated hereinafter shall be effective when appropriate signs giving notice thereof are posted:

<u>Name of Street</u>	<u>Portion Affected</u>	<u>Declared Prima Facie Speed Limit (Miles per Hour)</u>
(1) Washington Street	Highway 111 to Highland Palms Drive	45
(2) Eisenhower Drive	Washington Street to Avenida Bermudas	45
(3) Avenida Bermudas	Calle Tampico to Calle Tecate	45

Chapter 12.24

TURNING MOVEMENTS

Sections:

- 12.24.010 Markers-- Placement--Multiple lanes.
- 12.24.020 Markers--Obedience required.
- 12.24.030 Restricted turn signs.
- 12.24.040 No-turn signs.
- 12.24.050 Prohibition of right turns against traffic stop signal.

12.24.010 Markers--Placement--Multiple lanes. The city traffic 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, and the city traffic engineer is authorized to allocate and indicate more than one lane of traffic from which drivers of 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 or ordinance.

12.24.020 Markers--Obedience required. 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.

12.24.030 Restricted turn signs. The city traffic 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. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

12.24.040 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.

12.24.050 Prohibition of right turns against traffic stop signal. The city traffic engineer is authorized to determine those intersections within any business or residence district at which drivers of vehicles shall not make a right turn against a red or stop signal, and shall erect proper signs giving notice of such prohibition. No driver of a vehicle shall disobey directions of any such sign.

Chapter 12.28

STOPPING, STANDING AND PARKING

Sections:

- 12.28.010 Application of regulations.
- 12.28.020 More restrictive provisions.
- 12.28.030 Standing in parkways prohibited.
- 12.28.040 Use of streets for storage of vehicles prohibited.
- 12.28.050 Parking for certain purposes prohibited.
- 12.28.060 Parking parallel with curb.
- 12.28.070 Angle parking.
- 12.28.080 Parking adjacent to schools.
- 12.28.090 Parking prohibited on narrow streets.
- 12.28.100 Standing of merchandise or food vehicles.
- 12.28.110 Emergency parking signs.
- 12.28.120 Display of warning devices when commercial vehicle disabled.
- 12.28.130 Parking on private property without permission or in an unauthorized manner.
- 12.28.140 Locking ignition required.
- 12.28.150 Impounding of vehicle illegally parked.

12.28.010 Application of regulations. The provisions of this title 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.

12.28.020 More restrictive provisions. The provisions of this title 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 regulations of this city prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

12.28.030 Standing in parkways prohibited. No person shall stop, stand or park a vehicle within any parkway paralleled by curbs or any parkway designated by the city traffic engineer as an area for no standing, stopping or parking and posted accordingly.

12.28.040 Use of streets for storage of vehicles prohibited. (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 hours.

(b) In the event a vehicle is parked or left standing upon a street in excess of a consecutive period of seventy-two hours any member of the police department authorized by the chief of police may remove said vehicle from the street in the manner and subject to the requirements of the Vehicle Code.

12.28.050 Parking for certain purposes prohibited. No person shall park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying such vehicle for sale as a business, or
- (2) Washing, waxing, wiping, greasing, or repairing such vehicle except repairs necessitated by an emergency.

12.28.060 Parking parallel with curb. (a) Subject to other and more restrictive limitations, a vehicle may be stopped or parked within eighteen inches 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 or more separate roadways and traffic is restricted to one 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 city traffic engineer is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way street or when standing or parking may be permitted upon the left-hand side of any one-way roadway of a highway having two or more separate roadways and shall establish signs or markings 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.

12.28.070 Angle parking. (a) The city traffic engineer shall recommend upon what streets angle parking shall be permitted and shall mark and sign such streets when appropriately so ordered by the city council. Such angle parking shall not be permitted on any state highway or upon any other street or roadway that is not of sufficient width to permit and not interfere with the free movement of traffic.

(b) When signs or markings are in place indicating angle parking as herein provided, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

12.28.080 Parking adjacent to schools. (a) The city traffic engineer is authorized to erect signs indicating no parking upon any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.

12.28.090 Parking prohibited on narrow streets. (a) The city traffic engineer is hereby authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed twenty feet, or upon one side of a

street as indicated by such signs or markings when the width of the roadway does not exceed thirty feet.

(b) When official signs or markings prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign or marking.

12.28.100 Standing of merchandise or food vehicles. No person shall stop, stand or park any vehicle from which merchandise or foodstuffs are displayed, offered for sale or sold, upon any portion of any street within this city except in compliance with all the following:

(1) STOPPING TO SELL--TIME LIMIT. Such vehicle shall stand or park only at the request of a bona fide customer or purchaser and for a period of time not exceeding ten minutes at any one place;

(2) WEIGHT LIMIT. Such vehicles at all times shall each have a gross weight of less than five thousand pounds;

(3) LENGTH OF VEHICLE. Such vehicles at all times shall have an overall length not exceeding eighteen feet;

(4) DAYS, HOURS OF OPERATION. Such vehicles shall not so operate on Sundays or holidays, nor before nine a.m. or after five p.m. on other days;

(5) POSITION ON STREET. Such vehicles, during the time they are stopped, standing or parked, shall be at the extreme right of the roadway, entirely off the paved, improved and main traveled portion of the roadway;

(6) PURPOSE OF VEHICLES. Such vehicles shall be used for display, offering for sale, and sale of merchandise and foodstuffs other than fresh meat, fish, poultry, fruits and vegetables;

(7) NOISE MAKING DEVICES. Noise emanating from such devices shall not exceed a duration of four seconds nor an intensity of seventy decibels. Record players or other continuous noise making devices are prohibited.

12.28.110 Emergency parking signs. (a) Whenever the city traffic engineer, chief of police, or their designated representatives, 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 city traffic engineer, chief of police, or their designated representatives, 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 city traffic engineer, chief of police, or their designated representatives, 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 person causing their placement shall cause such signs to be removed promptly thereafter.

(b) When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs.

12.28.120 Display of warning devices when commercial vehicle disabled. (a) Every motor truck having an unladen weight of four thousand pounds or more, and every truck tractor irrespective of weight when operated upon any street or highway during the time specified in Section 618 of the Vehicle Code shall be equipped with and carry at least two flares or two red lanterns, or two warning lights or reflectors, which reflectors shall be of a type approved by the Department of California Highway Patrol.

(b) When any vehicle above mentioned or any trailer or semi-trailer is disabled upon streets or highways outside of any business or residence district within this city and upon which street or highway there is insufficient street lighting to reveal a vehicle at a distance of two hundred feet during any time mentioned in Section 618 of the Vehicle Code, a warning signal of the character indicated above shall be immediately placed at a distance of approximately one hundred feet in advance of, and one hundred feet to the rear of such disabled vehicle by the driver thereof. The continuous flashing of at least four approved type Class A-Type 1 turn signal lamps, at least two toward the front and at least two toward the rear of the vehicle, shall be considered to meet the requirements of this section until the devices mentioned above can be placed in the required locations. The warning signals herein mentioned shall be displayed continuously during the time mentioned in Section 618, while such vehicles remain disabled upon such street or highway.

12.28.130 Parking on private property without permission or in an unauthorized manner. (a) No person shall stop, park or leave standing any vehicle on private property or business premises without the express or implied consent of the owner, authorized agent of the owner, person in lawful possession of such premises or property, or other person in charge thereof.

(b) No person shall stop, park or leave standing any vehicle on private property or business premises at a time, or at a place thereon, or for a period of time, or in any manner otherwise, which is unauthorized by the owner, authorized agent of the owner, person in lawful possession of such premises or property, or other person in charge thereof.

(c) The following acts of stopping, parking or leaving standing a vehicle shall be included within those which shall be deemed in violation of subsection (a) or (b), whichever is applicable, but other acts not mentioned may also violate either subsection. (The use of the term "parking" in the following examples shall be deemed also to include collectively acts of "stopping" and "leaving standing"):

(1) Parking on any vacant lot or unimproved property unless affirmatively so permitted by posted sign(s) or by the authorized person in charge;

(2) Parking off-street on any improved private property not held open to use by the general public, unless such parking is by invitation of the occupant(s) or for bona fide business purposes upon the property;

(3) Parking in any off-street parking area or lot or facility of an apartment building, hotel or business enterprise which is indicated by sign(s) or other marking(s) to be reserved for use by tenants, residents or employees or others not including the person so parking;

(4) Parking in the off-street parking area or lot or facility of an individual parking stall or any area which is indicated by a sign or other marking(s) to be reserved for the exclusive use of a person or persons other than the person so parking;

(5) Parking in a shopping center or business parking area or facility for a purpose other than doing business with one or more of the stores or offices at the site, or for a purpose not related to such business operation, or remaining parked for longer than reasonably appropriate to do such business or acts related to such business operations;

(6) Utilizing a space or stall which is indicated by sign(s) or other marking(s) to be reserved for use in connection with a particular store, office or business, and parking in the same for a purpose other than that for which it is so reserved;

(7) Parking in any stall or space which is indicated by sign(s), blue painted curbing or other marking(s), to be designated for the exclusive use by physically handicapped persons, of a vehicle not displaying one of the distinguishing license plates or placards issued pursuant to California Vehicle Code Section 22511.5 or Section 9105;

(8) Parking at any spot where such parking is prohibited, as indicated by sign(s), markings, striping, lettering on pavement, red-painted curbing, or by any other means, including (but not limited to) areas and locations within areas reserved for or designated as traffic lanes for movement of vehicles or pedestrians, clear areas at or near building entrances or exits, fire lanes, sidewalks or pedestrian or bicycle lanes, clear areas at or near ramps or other facilities used by or intended for use of handicapped persons, unimproved areas, dangerous areas, areas to be utilized by larger vehicles such as trucks, buses, emergency vehicles or other service vehicles, or areas designated for any other business or special use;

(9) Except when necessary to avoid conflict with other traffic or by reasons of vehicle disablement or bona fide emergency, parking, standing or waiting at a location within a traffic lane or otherwise, which substantially interferes with the normal movement of vehicular or pedestrian traffic at such location;

(10) Parking in violation of the restrictions stated on any other sign or marking(s) not mentioned in the foregoing subsections, which has or have been placed on private property or business premises by the owner, authorized agent of the owner, person in lawful possession of such premises or property, or other person in charge thereof;

(11) Failure or refusal to remove or move a parked or standing or stopped vehicle from private property or business premises, in compliance with a direction to do so by the owner, person in lawful possession of such premises or property, or other person in charge thereof; or violation of a direction by

such person not to park, stop or stand a vehicle upon, or at a particular location upon, such premises or property; provided, that this section shall not apply to an act or failure or refusal to leave private property or to noncompliance with a direction to keep off such property, in any of those instances listed in Section 11.64.040 of this code; or

(12) Parking on a private street in violation of a prohibition or restriction stated on any sign or marking(s) or notification giving notice thereof, placed or given by or pursuant to authority of the association or person or other entity owning or in charge of such private street.

(d) Nothing in this section affects or limits the rights or remedies any person may have pursuant to any other provision of law, such as Section 22658 of the California Vehicle Code, to remove or cause removal of a vehicle parking upon private property.

(e) It shall be the policy of the city council to encourage the posting of signs on shopping center parking facilities similar to the signs mentioned in Section 21107.8 of the California Vehicle Code, to give notice to the public that the parking regulations applicable on the private parking facility are subject to official enforcement by citations and fines and otherwise. This does not, however, authorize signs posted in nonconformance with the city's sign control ordinance or other applicable regulations; and the posting of such signs shall not be deemed a requirement or condition precedent to enforcement of this section.

(f) Sections 41102 et seq. of the California Vehicle Code are referred to and incorporated in this section by this reference and shall be applicable in connection with any prosecution for violation of this section, in the same manner and to the same extent as said sections are applicable to prosecutions for parking violations occurring on the public streets.

12.28.140 Locking ignition required. No person shall park and leave a vehicle on a public street, alley or public parking facility unless the ignition has been locked, provided, however, that if the driver or passenger remains inside the vehicle after and while it is parked, or if the vehicle is in the custody of an attendant, the ignition need not be locked.

12.28.150 Impounding of vehicle illegally parked. Whenever a vehicle is illegally parked on a street or highway in violation of any provision of this chapter or of this code, any regularly employed and salaried police officer of the city or deputy of the sheriff's office of Riverside County, or member of the California Highway Patrol, may cause such vehicle to be impounded, driven or towed away and stored, so long as signs are posted giving notice of the removal. Any reasonable costs resulting from such impounding, towing or storage shall be charged to the owner of the vehicle and to the driver who committed the parking violation.

Chapter 12.32

PARKING

Sections:

- 12.32.010 Parking prohibited or time limited on certain streets.
- 12.32.020 Parking space markings--Installation.
- 12.32.030 Parking space markings--Parking within required.
- 12.32.040 Stricter parking regulations within council established limited parking zone.
- 12.32.050 Parking and driving on city property.
- 12.32.060 Enforcement of parking and driving regulations applicable on city property.
- 12.32.070 Parking and driving regulations applicable on property of schools and other public agencies.
- 12.32.080 No parking areas.
- 12.32.090 Installation, design and spacing of signs.
- 12.32.100 Curb markings to indicate no stopping and parking regulations.

12.32.010 Parking prohibited or time limited on certain streets. When authorized signs are in place giving notice thereof, specifying certain parking prohibitions or time limits, said prohibitions or time limits to be established by the city council by resolution, or by the city traffic engineer pursuant to authority vested in him by this chapter, or by the Vehicle Code, no person shall stop, stand, park, or leave standing any vehicle in violation of any such prohibition or time limit so specified by said signs.

12.32.020 Parking space markings--Installation. The city traffic engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs where authorized parking is permitted.

12.32.030 Parking space markings--Parking within required. Each vehicle placed in any parking space shall be parked within the lines and markings so established by the city traffic engineer, and no person shall park or leave standing any vehicle so that it extends across any such line or markings, or is in such position that it is not entirely within the space designated by such lines or markings.

12.32.040 Stricter parking regulations within council established limited parking zones. Pursuant to authority vested in him by other provisions of this chapter, or by the Vehicle Code, the city traffic engineer is authorized to prescribe shorter time limits than those specified by resolution of the city council, or to prescribe parking prohibitions, within a particular limited parking zone so specified by the city council; provided that said stricter parking limitations or prohibitions are properly indicated by appropriate signs or markings in accordance with this chapter or other provisions of law.

12.32.050 Parking and driving on city property. (a) The city manager shall from time to time examine and survey all city-owned parking lots, parking areas and other properties, and all property under the city's direct control, with respect to vehicle driving and parking uses, and the need for regulations applicable thereto, in order to assure proper and appropriate use of such public properties and to prevent interferences with the orderly and efficient conduct of the city's business.

(b) Based thereon, the city manager shall promulgate such conditions, rules and regulations governing driving, stopping, parking or leaving standing of vehicles on the particular properties involved, as shall, in his judgement, be necessary and appropriate to advance the public purposes mentioned in subsection (a) of this section.

(c) A written statement or other graphic depiction of such special conditions, rules and regulations shall, upon promulgation, be filed in the office of the city clerk, and the city council shall be promptly notified of such filing. Any council member may then cause the matter to be submitted, in whole or in part, for a formal review by the city council. If no council member takes such action within thirty days from the date the matter was filed with the city clerk, then the said special conditions, rules and regulations shall be deemed adopted and imposed by the city council within the meaning of Vehicle Code Section 21113.

12.32.060 Enforcement of parking and driving regulations applicable on city property. (a) Pursuant to Vehicle Code Section 21113, a written statement or other graphic depiction of all special conditions, rules and regulations adopted per Section 12.32.050 shall, at all times while the same remain effective, be kept on file and available at the office of the city clerk, for examination by all interested persons.

(b) The city manager shall erect, place and maintain appropriate signs and markings at each city-owned or city-controlled parking lot, parking area and other property, giving notice of all special conditions, rules and regulations applicable thereto, adopted per Section 12.32.050 and imposed under Vehicle Code Section 21113.

(c) Any vehicle operation, parking, stopping or leaving standing not complying with the said special conditions, rules and regulations, will constitute a violation of Vehicle Code Section 21113, except that subsection (a) of Vehicle Code Section 22507.8 shall apply with respect to unauthorized parking in stalls or spaces designated for physically handicapped persons.

12.32.070 Parking and driving regulations applicable on property of schools and other public agencies. Conditions and regulations concerning parking or driving on property and grounds of schools or other public agencies are imposed by the appropriate governing boards or officers and are enforced pursuant to and under the conditions of Vehicle Code Section 21113.

12.32.080 No parking areas. The city traffic engineer is authorized to maintain, by appropriate signs, markings, or by paint upon the curb surface, certain no stopping zones, no parking areas, and restricted parking areas, as hereinafter defined and described in this section. No person shall stop, stand, park or leave standing any vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or other authorized officer or traffic sign or signal.

(1) Within any divisional island unless authorized and clearly indicated with appropriate signs or markings;

(2) On either side of any street between the projected property lines of any public walk, public steps, street, or thoroughfare terminating at such street, when such area is indicated by appropriate signs or by red paint upon the curb surface;

(3) In any area where the city traffic engineer determines that the parking or stopping of a vehicle would constitute a traffic hazard or would endanger life or property, when such area is indicated by appropriate signs or by red paint upon the curb surface;

(4) In any area established by resolution of the council as a no parking area, when such area is indicated by appropriate signs or by red paint upon the curb surface;

(5) In any area where the parking or stopping of any vehicle would constitute a traffic hazard or would endanger life or property;

(6) On any street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway or the installation of underground utilities or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided that signs giving notice of such no parking are erected or placed at least twenty-four hours prior to the effective time of such no parking;

(7) At any place within twenty feet of a point on the curb immediately opposite the mid-block end of a safety zone, when such place is indicated by appropriate signs or by red paint upon the curb surface;

(8) At any place within twenty feet of a crosswalk at an intersection when such place is indicated by appropriate signs or by red paint upon the curb surface except that a bus may stop at a designated bus stop;

(9) In any area of approach to any traffic signal, left turn lane, boulevard stop sign, or official electric flashing device when such area is determined by the city traffic engineer to be valuable in the interest of promoting traffic safety or convenience, and the area is indicated by appropriate signs or by red paint upon the curb surface except that a bus may stop at a designated bus stop.

12.32.090 Installation, design and spacing of signs. The city traffic engineer is authorized and directed to cause signs regulating or prohibiting parking to be installed in the zones now or hereafter provided by resolution of the city council or at such places as the city traffic engineer is authorized to regulate parking, standing or stopping pursuant to other provisions of this chapter or of law. Signs giving notice of a parking time limitation shall be approximately twelve inches by eighteen inches in size, with green lines on a white background specifying the particular parking time limitation applicable. Such signs shall be spaced at a maximum interval of two hundred feet, and provided that there shall be a minimum of four signs in one block on each side of the street.

12.32.100 Curb markings to indicate no stopping and parking regulations. (a) The city traffic engineer is authorized, subject to the provisions and limitations of this title, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and said curb markings shall have the meanings as herein set forth:

(1) RED shall mean no stopping 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 zone;

(2) YELLOW shall mean no stopping, standing or parking at any time between seven a.m. and six p.m. of any day for any purpose other than loading or unloading of passengers or materials; provided that the loading or unloading of passengers shall not consume more than three minutes, nor the loading or unloading of materials more than twenty minutes;

(3) WHITE shall mean no stopping, standing or parking for any purpose other than loading or unloading of passengers, or for the purpose of depositing mail in an adjacent mailbox, which shall not exceed three minutes and such restrictions shall apply between seven a.m. and six p.m. of any day and except as follows:

(A) When such zone is in front of a hotel or in front of a mailbox the restrictions shall apply at all times;

(B) When such zone is in front of a theater or restaurant the restrictions shall apply at all times except when such theater or restaurant is closed;

(C) Taxicabs shall comply with this section unless authorized to maintain a taxicab stand adjacent to the WHITE curb marking, and provided the said area for the taxicab stand is sign-posted at either end indicating "TAXICAB ZONE ONLY";

(4) GREEN shall mean no standing or parking for longer than twenty minutes at any time between nine a.m. and six p.m. of any day;

(5) BLUE shall mean parking limited exclusively to the vehicles of physically handicapped persons.

(b) When the city traffic engineer, as authorized under this title, 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 parking, standing or stopping regulations so indicated.

Chapter 12.44

STOP INTERSECTIONS

Sections:

12.44.010 Erection of stop signs.

12.44.020 Stop at through street or stop sign.

12.44.010 Erection of stop signs. Whenever any resolution of this city designates and describes any street or portion thereof as a through street, or any intersection at which vehicles are required to stop at one or more entrances thereto, or any railroad grade crossing at which vehicles are required to stop, the city traffic engineer shall erect and maintain stop signs as follows:

A stop sign shall be erected on each and every street intersecting such through street or portion thereof so designated and at those entrances of other intersections where a stop is required and at any railroad grade crossing so designated. Every such sign shall conform with and shall be placed as provided in Section 21355 of the Vehicle Code.

12.44.020 Stop at through street or stop sign. (a) Those streets and parts of streets hereinafter set forth by resolution of the city council are declared to be through streets for the purposes of this section. When proper signs are in place giving notice thereof, all vehicular traffic shall be required to stop before entering any intersection of a through street.

(b) The provisions of this section shall also apply at one or more entrances to the intersections as such entrances and intersections are described hereafter by resolution of the city council. The provisions of this section shall also apply at those highways and railway crossings provided for hereafter by resolution of the city council.

Chapter 12.48

YIELD RIGHT-OF-WAY SIGNS

Sections:

12.48.010 Placement

12.48.010 Placement. The city traffic engineer is authorized to determine those intersections at which drivers of vehicles shall yield the right-of-way to opposing traffic. The city traffic engineer shall place and maintain "YIELD RIGHT-OF-WAY" signs at the entrance of streets previously determined by him, and the signs shall comply with the specifications of the Vehicle Code of the state.

Chapter 12.52

ONE-WAY STREETS AND ALLEYS

Sections:

12.52.010 Signs.

12.52.010 Signs. Whenever any resolution of this city designates any one-way street or alley, the city traffic engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Chapter 12.56

RESTRICTED USE OF CERTAIN STREETS

Sections:

- 12.56.010 Truck routes--Establishment.
- 12.56.020 Truck routes--Use required--Exceptions.
- 12.56.030 Truck routes--Exemptions.
- 12.56.040 Commercial vehicles prohibited from using certain streets.
- 12.56.050 Railway gates.
- 12.56.060 Trains not to block crossings.

12.56.010 Truck routes--Establishment. Whenever any ordinance of this city designates and describes any street or portion thereof as a street the use of which is permitted by any vehicle exceeding a maximum gross weight limit of three tons, the city traffic engineer is authorized to designate such street or streets by appropriate signs as "TRUCK TRAFFIC ROUTES" for the movement of vehicles exceeding a maximum gross weight limit of three tons.

12.56.020 Truck routes--Use required--Exceptions. When any such truck traffic route or routes are established and designated by appropriate signs, the operator of any vehicle exceeding a maximum gross weight limit of three tons shall drive on such route or routes and none other, except that nothing in this section shall prohibit the operator of any vehicle exceeding a maximum gross weight of three tons coming from a "TRUCK TRAFFIC ROUTE" having ingress and egress by direct route to and from restricted streets when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted streets for which a building permit has previously been obtained therefor.

12.56.030 Truck routes--Exemptions. The provisions of Section 12.56.010 and 12.56.020 shall not apply to:

- (1) Passenger buses under the jurisdiction of the Public Utilities Commission; or
- (2) To any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility; or
- (3) To any vehicle delivering street construction materials for street construction or repairs.

12.56.040 Commercial vehicles prohibited from using certain streets. 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 commercial vehicle, the city traffic engineer shall erect and maintain appropriate signs on those streets affected by such ordinance.

12.56.050 Railway gates. 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.

12.56.060 Trains not to block crossings. It is unlawful for any person to cause or permit any railway train or railway cars or similar vehicle on rails to operate or to be operated in such a manner as to prevent the use of any street for the purposes of travel for a period of time longer than ten minutes, except that this provision shall not apply to railway trains, cars or similar vehicles on rails while blocking or obstructing a crossing because of an accident which requires the operator of the train, car or similar vehicle on rails to stop at or near the scene of the accident.

Chapter 12.60

LOADING ZONES

Sections:

- 12.60.010 Establishment.
- 12.60.020 Loading zone--Designation.
- 12.60.030 Passenger loading zone--Designation.
- 12.60.050 Effect of permission to load or unload.
- 12.60.060 Standing--For loading or unloading only.
- 12.60.070 Standing--In passenger loading zone.
- 12.60.080 Standing--In any alley.
- 12.60.090 Bus zones.

12.60.010 Establishment. The city traffic engineer is authorized to determine and to make loading zones and passenger loading zones as follows:

- (1) At any place in 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.

12.60.020 Loading zone--Designation. Loading zones shall be indicated by yellow paint upon the top and face of the curb, with black letters "LOADING ONLY" stenciled or otherwise painted on the top of the curb.

12.60.030 Passenger loading zone--Designation. Passenger loading zones shall be indicated by white paint upon the top and face of the curb, with black letters "PASSENGER LOADING ONLY" stenciled or otherwise painted on the top of the curb.

12.60.050 Effect of permission to load or unload. (a) Permission herein granted to stop or stand a vehicle for purpose of loading or unloading of materials shall apply only to commercial vehicles and shall not extend beyond the time necessary therefor, and in no event for more than twenty minutes.

(b) The loading or unloading of materials shall apply only to commercial deliveries, also the delivery or pickup of express and parcel post packages and United States mail.

(c) Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage but shall not extend beyond the time necessary therefor and in no event for more than three minutes.

(d) Within the total time limits above specified the provisions of this section shall be enforced so as to accommodate necessary and reasonable loading or unloading but without permitting abuse of the privileges hereby granted.

12.60.060 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 12.60.040.

12.60.070 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 12.60.050(c).

12.60.080 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.

12.60.090 Bus zones. The city traffic engineer is authorized to establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers and to determine the location thereof subject to the directives and limitations set forth herein:

(1) "Bus" as used in this section means any motor bus, motor coach, trackless trolley coach or passenger stage used as a common carrier of passengers.

(2) No bus zone shall be established opposite and to the right of a safety zone.

(3) No person shall stop, stand or park any vehicle except a bus in a bus zone.

Chapter 12.64

DRIVING RULES

Sections:

- 12.64.010 Driving through funeral processions.
- 12.64.020 Controlled intersections.
- 12.64.030 Clinging to moving vehicles.
- 12.64.040 Driving vehicles on sidewalks--Generally prohibited.
- 12.64.042 Bicycles on sidewalks--When allowed.
- 12.64.050 New pavement.
- 12.64.060 Driving on rims of wheels.
- 12.64.070 Restricted access.
- 12.64.080 Restrictions on use of freeways.
- 12.64.090 Excessive acceleration.

12.64.010 Driving through funeral processions. No driver of a vehicle shall drive between vehicles comprising a funeral procession while they are in motion and when the vehicles in such procession are conspicuously so designated.

12.64.020 Controlled intersections. Section 12.64.010 shall not apply at intersections where traffic is controlled by official traffic signals or police officers.

12.64.030 Clinging to moving vehicles. No person riding upon any bicycle, motorcycle, coaster, roller skates, skateboard or any toy vehicle shall attach the same or himself to any moving vehicle upon any roadway.

12.64.040 Driving vehicles on sidewalks--Generally prohibited. Unless otherwise expressly allowed by another provision of this title or other applicable law, no person shall drive a vehicle (including any bicycle or unicycle) within any sidewalk area or parkway except at a permanent or temporary driveway.

12.64.042 Bicycles on sidewalks--When allowed. (a) Notwithstanding the provisions of Sections 12.64.040, bicycles and unicycles may be ridden along portions or segments of sidewalks wherever expressly permitted by resolution of the city council, but not until such sidewalk areas have been appropriately designated by the city engineer with signs or markings to give due notice to the pedestrian and cycling public.

(b) No person shall ride, operate or use a bicycle or unicycle on a sidewalk or bikeway in a willful or wanton disregard for the safety of persons or property.

12.64.050 New pavement. No person shall ride or drive any animal or any vehicle over or across any newly made pavement or freshly painted marking in any street when a barrier or sign is in place warning persons not to drive over or across such

pavement or marking, or when a sign is in place stating that the street or any portion thereof is closed.

12.64.060 Driving on rims of wheels. No person shall drive, operate, tow or otherwise move any motor vehicle, equipped with rims to accommodate rubber tires, over or across any street in this city with tires removed or deflated so that the metal flanges or rims are in contact with the pavement, except to the nearest edge of the pavement from the point any such condition occurs through accident.

12.64.070 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.

12.64.080 Restrictions on use of freeways. No person shall drive or operate any bicycle, motor driven cycle, or any vehicle which is not drawn by a motor vehicle upon any street established as a freeway, as defined by state law, nor shall any pedestrian walk across or along any such street so designated and described except in space set aside for the use of pedestrians, provided official signs are in place giving notice of such restrictions.

12.64.090 Excessive acceleration. No person shall operate a vehicle on a street or alley in such a manner as to facilitate its speed by means of leaving rear wheel frictional rubber marks, caused by rapid acceleration.

Chapter 12.68

PEDESTRIANS

Sections:

12.68.010 Crosswalks--Establishment--Signs.

12.68.020 Crosswalks--Use required when.

12.68.010 Crosswalks--Establishment--Signs. (a) The city traffic engineer is authorized to establish and maintain crosswalks and to designate them by appropriate devices or painted signs upon the surface of the roadway.

(b) The city traffic engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing the pedestrians shall not cross except in the crosswalk so indicated.

12.68.020 Crosswalks--Use required when. No pedestrian shall cross a roadway other than by a crosswalk in any business district.

Title 14
STREETS AND SIDEWALKS

Chapters:

<u>14.04</u>	<u>Street Numbers</u>
<u>14.08</u>	<u>Street Name Changes</u>
<u>14.16</u>	<u>Encroachments</u>
<u>14.20</u>	<u>Moving Buildings</u>
<u>14.24</u>	<u>Water and Rubbish in Streets</u>
<u>14.28</u>	<u>Underground Utility Districts</u>

Chapter 14.04

STREET NUMBERS

Sections:

14.04.010 System established.

14.04.010 System established. The established Riverside County uniform system of numbering for all property fronting on public roads and streets shall remain in effect for this city.

Chapter 14.08

STREET NAME CHANGES

Sections:

14.08.010	Petition for initiation of street name change.
14.08.020	Initiation of petition.
14.08.030	Application fee.
14.08.040	Manager's examination.
14.08.050	Adoption of resolution of intention.
14.08.060	Publication.
14.08.070	Posting.
14.08.080	Commission hearing.
14.08.090	Commission recommendation.
14.08.100	Council action.
14.08.110	Commission recommendation without petition and hearing.

14.08.010 Petition for initiation of street name change. Any person may initiate a street name change for any reason consistent with law, by complying with the provisions of this chapter.

14.08.020 Initiation of petition. A proposed change of street name may be initiated by filing with the planning

commission an application in the form prescribed by the city manager and signed by the owners of at least sixty percent of the lineal frontage abutting the street to be affected.

14.08.030 Application fee. The application shall be accompanied by a fee in an amount established by resolution of the city council, in order to defray the costs of publishing, posting, and processing, as hereinafter prescribed.

14.08.040 Manager's examination. The city manager shall examine the application and determine the sufficiency of same as to the percentage requirement of Section 14.08.020.

14.08.050 Adoption of resolution of intention. Upon determination of the sufficiency of the petition, the commission shall adopt a resolution of intention to change name and set a date for public hearing not less than thirty days from the date of adoption of the resolution.

14.08.060 Publication. The city manager shall provide for at least one publication of the resolution of intention in a newspaper of general circulation within the city at least fifteen days prior to the hearing date.

14.08.070 Posting. The city manager shall provide for posting copies of the resolution of intention in at least three public places along the street proposed to be affected. The posting shall be completed at least ten days prior to the hearing date.

14.08.080 Commission hearing. At the time set for hearing, or at any time to which the hearing may be continued, the commission shall hear and consider proposals to adjust, alter or change the name(s) of the street(s) mentioned in the resolution, and objections to the proposals.

14.08.090 Commission recommendation. At or after the conclusion of the hearing, the commission may make any recommendation to the city council which the commission deems appropriate. In its deliberations the commission shall consider any applicable specific plans in effect.

14.08.100 Council action. The city council may, pursuant to California Government Code Section 34091.1, take such action as it deems appropriate upon the recommendation of the commission, and failure to take action within sixty days after submission of the commission's recommendation shall be deemed denial of the application.

14.08.110 Commission recommendation without petition and hearing. Notwithstanding any other parts of this code, the commission may, for any reason it deems in the public interest and necessity, recommend to the city council that a street name be changed. Said recommendation may be made without complying with the requirements of Sections 14.08.020 through 14.08.080.

Said recommendation shall be in the form of a resolution of the commission directed to the city council. Thereafter the city council shall take such action as it deems appropriate.

Chapter 14.16

ENCROACHMENTS

Sections:

- 14.16.010 Definitions.
- 14.16.020 Right of lawful use.
- 14.16.030 Exceptions.
- 14.16.040 Acts requiring permit.
- 14.16.050 Nonacceptable permit applications.
- 14.16.060 Emergency work authorized.
- 14.16.070 Director to issue permits.
- 14.16.080 Application for permits--Form.
- 14.16.090 Application for permits--Exhibits.
- 14.16.100 Application for permits--Consent of other public agencies to be filed.
- 14.16.110 Liability for damages by permittee.
- 14.16.120 Fees for permit.
- 14.16.130 Permit to move certain vehicles or object.
- 14.16.140 Term of permit--Beginning of work.
- 14.16.150 Term of permit--Completion of work.
- 14.16.160 Display of permit.
- 14.16.170 Change in permit.
- 14.16.180 Cash deposits or bonds--Amount--Purpose.
- 14.16.190 Annual bond.
- 14.16.200 Bond for continuing use.
- 14.16.210 Additional bond or cash deposit.
- 14.16.220 Condition of bond or cash deposit.
- 14.16.230 Bond payable to city--Release of bond or cash deposit.
- 14.16.240 Exemption from required bond or cash deposit.
- 14.16.250 Erection and maintenance of safety provisions.
- 14.16.260 Notification of beginning of work.
- 14.16.270 Notification of completion of work.
- 14.16.280 Care of drainage.
- 14.16.290 Interference with travel of general public.
- 14.16.300 Restoring of street and maintenance of encroachment.
- 14.16.310 Relocation or removal of encroachments.
- 14.16.320 Standards, supervision and inspection.
- 14.16.330 Storage of material.
- 14.16.340 Minimum cover over pipes and conduits.
- 14.16.350 Abandonment of pipes, conduits and appurtenances.
- 14.16.360 Trenching regulations.
- 14.16.370 Backfilling of excavations.
- 14.16.375 Resurfacing of excavations and trenches.
- 14.16.380 Poles and transmission line carriers.
- 14.16.390 Aids to visibility.

- 14.16.400 Movement of vehicles.
- 14.16.410 Mailboxes in rights-of-way.
- 14.16.420 Hedges or fences--Permit--Limitation on location.
- 14.16.430 Hedges or fences--Maintenance.
- 14.16.440 No permit required for lawns--Restrictions.
- 14.16.450 Marking of streets, curbs and sidewalks prohibited without permit.
- 14.16.460 Monuments.
- 14.16.461 Publication vending machines--Permit required.
- 14.16.462 Publication vending machines--Standards for installations and for continued maintenance.
- 14.16.463 Publication vending machines--Authority of city manager to adopt regulations.
- 14.16.464 Publication vending machines--Special provisions for permits and applications.
- 14.16.465 Publication vending machines--Removal of machines in violation.
- 14.16.466 Publication vending machines--Other violations.
- 14.16.470 Franchises.
- 14.16.480 Maps showing pipes and conduits.
- 14.16.490 Revision of maps.
- 14.16.500 Maps showing abandoned equipment.
- 14.16.510 Appeal--Right.
- 14.16.520 Appeal--Filing method.
- 14.16.530 Appeal--Action of city council.

14.16.010 Definitions. For the purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

(1) "Director" means the city manager, acting personally or through his authorized designee who has been appointed to administer the city's program of regulating and controlling encroachments.

(2) "Encroach" or "encroachment" means going upon, over, under, or using any right-of-way in such a manner as to prevent, obstruct, or interfere with the normal use of that way, including the performance thereon of any of the following acts:

(A) Excavating or tunneling within, or otherwise disturbing the right-of-way,

(B) Erecting or maintaining any post, sign, pole, fence, guard rail, wall, loading platform, or other structure on or over or under the right-of-way,

(C) Planting any tree, shrub, grass or other growing thing within the right-of-way,

(D) Placing or leaving on the right-of-way any rubbish, brush, earth or other material of any nature whatever,

(E) Constructing, placing, or maintaining on, over, under, or within the right-of-way any pathway, sidewalk, driveway, or other surfacing, any culvert or other surface drainage or subsurface drainage facility, any pipe, conduit, or cable,

(F) Lighting or building a fire,

(G) Constructing, placing, planting or maintaining any structure, embankment, excavation, tree or other object adjacent to the right-of-way which causes or will cause an encroachment,

(H) Traveling on the right-of-way by any vehicle or combination of vehicles or object, of dimension, weight or other characteristic, when such traveling is prohibited by law without a permit; provided that this provision shall not be deemed applicable to housemoving so long as said subject is regulated elsewhere in this code;

(3) "Permittee" means any person that proposes to do work or encroach upon a public highway as herein defined and has been issued a permit for such encroachment by the director;

(4) "Public street" means the full width of the right-of-way of any road, street, lane or alley used by or for the general public, whether or not those roads, streets, lanes and alleys have been accepted as and declared to be part of the city system of public streets, except streets forming a part of the State Highway System;

(5) "Right-of-way" means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for and dedicated to the use of the general public for street or highway purposes.

14.16.020 Right of lawful use. Any permit granted under this chapter shall be subject to the right of the city, or any other person entitled thereto, to use that part of the public highway for any purpose for which it may be lawfully used, and no part of the highway shall be unduly obstructed at any time.

14.16.030 Exceptions. This chapter shall not apply to any officer or employee of the city in the discharge of his official duties, or to any work being performed by any person or persons under contract with the city.

14.16.040 Acts requiring permit. No person shall encroach or cause to be made any encroachment of any nature whatever within, upon, over or under the limits of any right-of-way, or make or cause to be made any alteration of any nature within, upon, over, or under the limits of any right-of-way, or make or cause to be made any alteration of any nature within, upon, over, or under such right-of-way, or construct, put upon, maintain or leave thereon, or cause to be constructed, put on, maintained or left thereon, any obstruction or impediment of any nature whatever, or remove, cut or trim trees thereon, or set a fire thereon, or place on, over or under such right-of-way any pipe line, conduit or other fixtures, or move over or cause to be moved over the surface of any right-of-way or over any bridge, viaduct, or other structure maintained by the city any vehicle or combination of vehicles or other object of dimension or weight prohibited by law or having other characteristics capable of damaging the right-of-way, or place any structure, wall culvert, or similar encroachment, or make any excavation or embankment in such a way as to endanger the normal usage of the right-of-way, without having first obtained a permit as required by this chapter.

14.16.050 Nonacceptable permit applications. No application will be approved nor permit issued for constructing

or maintaining a loading platform upon or in the right-of-way of a public street or for erecting or maintaining therein or thereon a post, pole, column or structure for support for advertising signs.

14.16.060 Emergency work authorized. This chapter shall not prevent any public utility from maintaining any pipe or conduit lawfully on or under any public street, or from making excavation, as may be necessary for the preservation of life or property when an urgent necessity therefor arises during the hours the offices of the city are closed, except that the person making an emergency use or encroachment on a public street shall apply for a permit therefor within one calendar day after the offices of the city are again opened.

14.16.070 Director to issue permits. The written permits required by this chapter shall be issued by the director subject to conditions set forth in this chapter or required by other provisions of law.

14.16.080 Application for permits--Form. The director shall prescribe and provide a regular form of application for the use of any applicant for a permit required by this chapter. The application form shall contain space for the name, address and principal place of business of the applicant, together with such detail as in the judgment of the director is necessary to establish the exact location, dimensions, duration, and purpose of the proposed use or encroachment.

14.16.090 Application for permits--Exhibits. The applicant shall enclose with, attach or add to the application for a permit a map, plat, sketch, diagram or similar exhibit on which shall be plainly shown any and all information necessary to locate, delineate, illustrate, or identify the proposed use or encroachment and the right of applicant to so use or encroach thereon.

14.16.100 Application for permits--Consent of other public agencies to be filed. The applicant shall also enclose with, attach or add to the application for a permit the written order or consent to any work thereunder, required by law, of the public utilities commission, sanitary district, water districts, or any other public body having jurisdiction. A permit shall not be issued until and unless such order or consent is first obtained and evidence thereof filed with the director. The permittee shall keep himself adequately informed of all state and federal laws and local ordinances and regulations which in any manner affect the permit. The applicant shall at all times comply with and shall cause all his agents and employees to comply with all such laws, ordinances, regulations, decisions, court and similar authoritative orders.

14.16.110 Liability for damages by permittee. The permittee shall be responsible for all liability imposed by law for personal injury or property damage proximately caused by work

permitted and done by permittee under the permit, or proximately caused by failure on permittee's part to perform his obligations under such permit in respect to maintenance. If any claim of such liability is made against the city, its officers, or employees, permittee shall defend, indemnify and hold them, and each of them, harmless from such claim insofar as permitted by law.

14.16.120 Fees for permit. (a) The schedule of fees will be those recommended by the director and established and adopted by the city council from time to time by resolution. Before a permit is issued the applicant shall deposit with the city, cash or a check, in a sufficient sum to cover the fee for issuance of the permit, charges for field investigation, and the fee for necessary inspection, all in accordance with schedules established and adopted by the city council.

(b) Public utilities may, at the director's option, make payment for the above charges as billed by the city instead of advance deposit as required above.

(c) Fees will not be required of any public agency which is authorized by law to establish or maintain any works or facilities in, under, or over any public street or right-of-way.

14.16.130 Permit to move certain vehicles or object. Before a vehicle or combination of vehicles or object of weight or dimension or characteristic, prohibited by law without a permit, is moved on any public right-of-way, a permit to do so must first be granted by the director as set forth in specifications established by the director or as otherwise required by him. This section shall not be deemed applicable to housemoving so long as such subject is regulated elsewhere in this code.

14.16.140 Term of permit--Beginning of work. The permittee shall begin the work or use authorized by a permit issued pursuant to this chapter within ninety days from date of issuance, unless a different period is stated in the permit. If the work or use is not begun within ninety days, or within the time stated in the permit, then the permit shall become void. A permit for continuing a use or maintaining an encroachment previously authorized except when issued to a public agency or a public utility holding a franchise from the city, shall be valid for a term of one year from date of issuance, unless sooner terminated by discontinuance of the use, or removal of the encroachment, for which the permit was issued.

14.16.150 Term of permit--Completion of work. The permittee shall complete the work or use authorized by a permit issued pursuant to this chapter within the time specified in the permit. If at any time the director finds that the delay in the prosecution of completion of the work or use authorized is due to lack of diligence on the part of the permittee, he may cancel the permit and restore the right-of-way to its former condition. The

permittee shall reimburse the city for all expenses incurred by the city in restoring the right-of-way.

14.16.160 Display of permit. (a) The permittee shall keep any permit issued pursuant to this chapter at the site of work, or in the cab of a vehicle when movement thereof on a public street is involved, and the permit must be shown to the director or any law enforcement officer on demand.

(b) A permit issued for continued use or maintenance of an encroachment may be kept at the place of business of the permittee or otherwise safeguarded during the term of validity, but shall be made available to the director or any law enforcement officer within a reasonable time after demand therefor is made.

14.16.170 Change in permit. No changes may be made in the location, dimension, character or duration of the encroachment or use as granted by the permit except upon written authorization of the director.

14.16.180 Cash deposits or bonds--Amount--Purpose. If required by the director, and before a permit is effective, the permittee shall deposit with the director, or agent authorized by resolution of the city council, a cash deposit or an approved surety bond, in the sum to be fixed by the director as sufficient to reimburse the city for costs of restoring the right-of-way to its former condition, based on the schedules, if any, adopted by resolution of the city council.

14.16.190 Annual bond. In lieu of repeated individual bonds which may be required pursuant to Section 14.16.180, the permittee may, upon approval by the director, annually file with the director a cash deposit or an approved surety bond issued by a company authorized to do a general surety business in the state, in a sum fixed by the director as sufficient to reimburse the city for expenses to be incurred in restoring the right-of-way to its former condition, subject to the schedules, if any, adopted by resolution of the city council.

14.16.200 Bond for continuing use. An application for a permit for a use or encroachment which is to continue or remain within, under, or upon the right-of-way of a public highway beyond the time authorized for actual construction or installation, shall be accompanied by a cash bond or approved surety bond issued by a company authorized to do a general surety business in the state in a penal sum to be fixed by the director as sufficient to reimburse the city for all expenses which are or might be incurred by the city in making the right-of-way safe and convenient for the travel of the general public, subject to the schedules, if any, adopted by resolution of the city council and in effect at the time of application for a permit.

14.16.210 Additional bond or cash deposit. The director may require an additional bond or cash deposit at any time when in his opinion the amount of the bond or cash deposit previously

made is insufficient, subject to the schedules, if any, adopted for that purpose by the city council.

14.16.220 Condition of bond or cash deposit. The condition of any bond or cash deposit made pursuant to Sections 14.16.180 through 14.16.240 shall be that the permittee will diligently and in good faith comply with this chapter and the terms and conditions of the permit.

14.16.230 Bond payable to city--Release of bond or cash deposit. Any bond or cash deposit required pursuant to this chapter shall be payable to the city. Upon satisfactory completion of all work authorized in the permit, and fulfillment of all conditions of the permit, the bond or cash deposit shall be released.

14.16.240 Exemption from required bond or cash deposit. Cash deposits or bonds will not be required of any public utility or public agency which is authorized by law to establish or maintain any works or facilities in, under, or over any public street or right-of-way.

14.16.250 Erection and maintenance of safety provisions. (a) The permittee in the conduct of the work, use or maintenance of an encroachment authorized by a permit issued pursuant to this chapter shall provide, erect, and/or maintain such lights, barriers, warning signs, patrols, watchmen, and other safeguards as are necessary to protect the traveling public. Any omission on the part of the director to specify in the permit what lights, barriers, or other protective measures or devices are required, shall not excuse the permittee from complying with all requirements of law and appropriate regulations and ordinances for adequately protecting the safety of those using public streets. If, at any time, the director finds that suitable safeguards are not being provided, the city may provide, erect, maintain, relocate or remove such safeguards as are deemed necessary or may cancel the permit and restore the right-of-way to its former condition, all at the expense of the permittee.

(b) A permittee making any excavation or erecting or leaving any obstruction within, under, or upon the right-of-way, or causing the same to be made, erected, or left, shall place and maintain lights at each end of the excavation or obstruction, at not more than fifty foot intervals along the excavation or obstruction, from one-half hour before sunset of each day to one-half hour after sunrise of the next day, until the excavation is entirely refilled or the obstruction removed and the right-of-way made safe for use. In addition, reflectorized warning signs conforming to the requirements of the California Division of Highways shall be placed two hundred feet and four hundred feet from each excavation or obstruction, in such a position as to adequately warn public traffic.

(c) The warning signs, lights and other safety devices shall conform to the requirements of Section 21400 of the Vehicle Code and of any sign manual issued by the state.

14.16.260 Notification of beginning of work. Before beginning any work which is or includes excavation, construction of concrete sidewalks, curbs, gutters or driveway approaches, planting, trimming or removing trees, making, placing or causing an obstruction in the traveled way, the permittee shall notify the director at least twenty-four hours prior to beginning such work.

14.16.270 Notification of completion of work. The permittee shall, upon completion of all work authorized in the permit, notify the director. No work shall be deemed to be completed until such notification of completion is given and the work is accepted by the director.

14.16.280 Care of drainage. If the work, use or encroachment authorized in the permit issued pursuant to this chapter interferes with the established drainage, the permittee shall provide for proper drainage as directed by the director.

14.16.290 Interference with travel of general public. All work or use shall be planned and executed in a manner that will least interfere with the safe and convenient travel of the general public at the place where the work or use is authorized; and at no time shall a public street be closed, or the use thereof denied the general public, or shall access to adjacent private property be cut off, without the prior permission of the director.

14.16.300 Restoring of street and maintenance of encroachment. (a) Upon completion of the work, acts or things for which the permit was issued, or when required by the director, the permittee shall replace, repair or restore the public street at the place of work to the same condition existing prior thereto unless otherwise provided in the permit. The permittee shall remove all obstructions, impediments, material or rubbish caused or placed upon the right-of-way of the public street under the permit, and shall do any other work or perform any act necessary to restore the public street to a safe and usable condition.

(b) After completion of all work, the permittee shall exercise reasonable care in inspecting and maintaining the area affected by the encroachment. For a period of one year after the completion of the work the permittee shall repair and make good any injury or damage to any portion of the street which occurs as the result of work done under the permit, including any and all injury or damage to the street which would not have occurred had such work not been done. By the acceptance of the permit the permittee agrees to comply with the above. The permittee shall, upon notice from the director immediately repair any injury, damage or nuisance, in any portion of the right-of-way, resulting from the work done under the permit. In the event that the permittee fails to act promptly or should the exigencies of the injury or damage require repairs or replacement to be made before the permittee can be notified or can respond to notification, the city may, at its option, make the necessary repairs or

replacement or perform the necessary work and the permittee shall be charged with all the expenses incurred in the performance of such work.

14.16.310 Relocation or removal of encroachments. If any future construction, reconstruction or maintenance work by the city on a public right-of-way requires the relocation, removal or abandonment of installations or encroachments in, on or under the public right-of-way, the permittee or other person or entity owning, controlling or maintaining such installations or encroachments shall relocate, remove or abandon the same at his sole expense subject, however, to any applicable prior rights or express statute to the contrary, and provided further that this provision shall apply to and remain in force and effect only so long as the right-of-way upon which such installations or structures are located shall be used for usual street purposes, and not as a freeway, and this provision shall cease to apply when such street shall become a freeway. When removal, relocation or abandonment is required, the director shall give such permittee or other person or entity a written demand specifying the place of relocation, or that the installations or encroachment must be removed, relocated, or abandoned. If such permittee or other person or entity fails to comply with such instructions, the city may cause the removal, relocation or abandonment of the encroachment at the expense of such permittee or other person or entity.

14.16.320 Standards, supervision and inspection. All work done under a permit issued pursuant to this chapter shall conform to specifications established by either the city council or the director, or in the absence of established specifications, to recognized standards of construction and approved practices in connection with the work to be done. All work shall be done subject to the supervision of, and to the satisfaction of the director.

14.16.330 Storage of material. Unless otherwise approved by the director, no material shall be stored by a permittee within five feet of a public street, and/or excess earth materials from trenching or other operations shall be removed from the pavement, traveled way, or shoulder as the trench is backfilled or other work carried forward.

14.16.340 Minimum cover over pipes and conduits. The minimum cover over any and all pipes or conduits larger than two and a half inches installed within the right-of-way shall be thirty inches of earth or imported materials, unless otherwise specified in the permit. Within the traveled way, the minimum cover of three feet shall be measured from the surface, existing or planned. The director is authorized to permit installation of pipes or conduits where three feet of cover cannot be provided because of topography, structures, or other engineering necessity.

14.16.350 Abandonment of pipes, conduits and appurtenances. Whenever any pipe, conduit, duct, tunnel, or other equipment or structure located under the surface of any public street, thoroughfare or other public place, or the use thereof, is abandoned, the person or entity owning, using, controlling or having an interest in same, shall, within thirty days after such abandonment, file in the office of the director a map giving in detail the location of the pipe, conduit, duct, tunnel or other equipment or structure so abandoned. Upon written demand by the city, the abandoned equipment shall be removed by such person or entity which abandoned the facility, and at no cost to the city.

14.16.360 Trenching regulations. (a) TRENCH LENGTH LIMIT. No trench shall be opened in any street or thoroughfare for the purpose of laying pipes or conduits more than six hundred feet in advance of pipe or conduit placed therein, except in cases of emergency or by written consent of the director.

(b) PILING OF EXCAVATED MATERIAL. All excavated material shall be piled along the trench leaving clear the area at least one foot on each side thereof.

(c) SEGREGATION OF SURFACE MATERIAL, SUBSOIL. The surface material shall be piled on one side of the trench and the subsoil on the other side of the trench.

(d) DRIVEWAYS AT INTERSECTIONS. When a crossing street intersects with an excavation, a driveway for vehicles shall at all times be maintained, unless a detour plan is approved in advance by the director.

(e) PRIVATE DRIVEWAYS. All private driveways shall be kept open to the maximum extent feasible.

14.16.370 Backfilling of excavations. Backfilling of an excavation shall be in accordance with plans and specifications established by resolution of the city council. Backfill shall not be placed in any excavation without compaction of the material used therein, in accordance with said specifications.

14.16.375 Resurfacing of excavations and trenches. Resurfacing of excavations and trenches shall be accomplished as follows:

(1) TEMPORARY RESURFACING. Unless permanent pavement is placed immediately, temporary bituminous resurfacing two inches (fifty-one millimeters) thick shall be placed and maintained at locations determined by the director wherever excavation is made through pavement, sidewalks or driveways. In sidewalk areas, the temporary bituminous resurfacing shall be at least one inch (twenty-five millimeters) thick. At major intersections and other critical locations, a greater thickness may be ordered by the director. Temporary resurfacing shall be placed and rolled with a minimum three-ton roller or equivalent, as soon as the condition of the backfill is suitable to receive it the same day. The bituminous mixture used shall conform to the applicable sections of the city's most currently adopted standard specification for public works construction.

(2) **PERMANENT RESURFACING.** The permanent pavement shall be installed within fifteen calendar days of the date of the initial excavation on major and secondary thoroughfares, thirty calendar days on collector streets, unless otherwise directed by the director. The temporary pavement shall be removed and disposed of by the permittee. The edges of the street excavation shall be cut to a neat edge in a manner approved by the director. The permanent pavement shall be installed in two lifts and shall be one inch (twenty-five millimeters) greater in thickness than existing pavement, or four inches (one hundred two millimeters) minimum thickness; rolled with a minimum three-ton steel roller or equivalent. The subgrade and the permanent paving shall conform to the applicable section of the city's most currently adopted standard specifications for public works construction. If the permittee fails to complete a permanent resurfacing within the time specified above, a code violation notice may be issued to him, and the matter will thereafter be subject to other appropriate remedies such as the city completing the work and charging the permittee for the costs and expenses thereof, or referral of the matter to the city attorney or to other appropriate agencies such as the Contractors' State License Board, for suitable enforcement or disciplinary proceedings.

14.16.380 Poles and transmission line carriers. (a) Clearance and types in the construction of poles and transmission line carriers shall be in accordance with rules, regulations, and orders of the Public Utilities Commission and other public agencies having jurisdiction.

(b) No guy wires shall be attached to trees without specific authorization to do so in the permit, and in no event shall guy wires be so attached as to girdle the tree or interfere with its growth. Guy wires shall not be below the minimum elevation above the ground, prescribed in the rules, orders, and regulations of the Public Utilities Commission.

(c) When a pole, brace, stub, or similar timber is removed and not replaced, the entire length thereof shall be removed from the ground and the hole backfilled and compacted.

14.16.390 Aids to visibility. When the location or position of a pole or other obstruction makes accentuation of its visibility to vehicular traffic necessary, the director may require that the pole or other obstruction be painted, or equipped with reflectors or other aids to visibility prescribed or authorized by the Public Utilities Commission or the Department of Public Works of the state, at the expense of the permittee.

14.16.400 Movement of vehicles. When authorized by a permit issued pursuant to this chapter to move a vehicle or combination of vehicles or load of dimension or weight in excess of that permitted by law, the permittee shall comply with the general law regulating travel over a public street, including posted signs or notices which limit speed or direction of travel, or weight which may be placed upon a structure or the width or height that may be moved thereon or thereover, or otherwise

restricting or controlling travel on a public street. The permittee shall at all times conform to and abide by the practice and procedure necessary to make safe and convenient the travel of the general public, and to keep safe and preserve the public highway over and on which movement is being made. Any violation of this section shall cancel the permit issued to the permittee. (This section shall not be deemed to apply to housemoving so long as such subject is regulated elsewhere in this code.)

14.16.410 Mailboxes in rights-of-way. No permit pursuant to this chapter need be obtained for the placing and maintaining of a mailbox within a public right-of-way so long as the mailbox and its placement comply with the rules and regulations of the United States Post Office, and also the following regulations:

(1) Mailboxes and containers for the collection and storage of mail shall be so placed or maintained as to not endanger the life or safety of the traveling public or inhibit the flow of vehicular traffic, irrespective of when such situation should first come into existence;

(2) No box for delivery of mail shall be placed or maintained over or within any sidewalk.

14.16.420 Hedges or fences--Permit--Limitation on location. (a) No hedge, fence or similar structure, except as provided in Section 14.16.440, shall be planted, erected or maintained in a right-of-way without a permit.

(b) No hedge, shrub, or other planting whatever, fence, or similar structure, shall be maintained across any existing walkway in a sidewalk area or shoulder. The intent of this restriction is to keep free a walkway for pedestrian or other lawful public travel without interference by or with vehicular travel. No encroachment of any nature shall be permitted or maintained which impedes, obstructs, or denies such pedestrian or other lawful travel within the limits of the right-of-way of a public street or which impairs adequate sight distance for safe pedestrian or vehicular traffic.

14.16.430 Hedges or fences--Maintenance. The permittee, or the owner of the adjacent property, shall maintain the hedges, shrubs, walls, fences or similar structures erected for landscaping purposes in a neat and orderly condition at all times. If the encroachment is not maintained as specified in this chapter, the director may order the permittee or property owner to remove the encroachment and restore the right-of-way to its former condition, at the expense of the permittee or property owner. In addition, any such unlawful condition is hereby declared to be a public nuisance and subject to abatement pursuant to Chapters 11.72 and 11.80 of this code or other applicable provisions of law.

14.16.440 No permit required for lawns--Restrictions. Notwithstanding anything contained herein to the contrary, any person may plant and maintain a lawn of any grass, or type not prohibited by other law, within the right-of-way of a public street without a permit. However, the lawn shall not extend into

the traveled way of the public street nor into drainage ditches, gutters or other drainage facilities. The general public may not be denied the use of the planted area for pedestrian or other lawful travel. The city may use the planted area for any purpose whatever, and may issue a permit to any applicant to go thereon to perform work or otherwise encroach pursuant to this chapter. If the lawn is damaged or disturbed in the course of an authorized encroachment, it shall be removed and replaced by the permittee unless the permit specifically states otherwise.

14.16.450 Marking of streets, curbs and sidewalks prohibited without permit. No person, without first having obtained a permit, shall solicit on a commercial or donation basis, to place, or shall place, or maintain any number, figure, letter, carving, drawing, design, or other marking upon any street, sidewalk, or curb; except that markings for the purpose of identifying survey, utility or construction locations shall not be subject to this section.

14.16.460 Monuments. No person shall remove or disturb or cause to be removed or disturbed, any monument of granite, concrete, iron or other lasting material set for the purpose of locating or preserving the lines and/or elevation of any public street or right-of-way, property subdivision, or a precise survey point or reference point, without first obtaining permission from the director to do so. Replacement of removed or disturbed monuments shall be at the expense of the permittee.

14.16.461 Publication vending machines--Permit required.
(a) For the purposes of this chapter, "publication vending machine" means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display or sale of any written or printed material, including but not limited to, newspapers, news periodicals, magazines, books, pictures, photographs and records.

(b) No person shall install, place, use or maintain any publication vending machine in or on any right-of-way without first having obtained a permit as required by this chapter, or without such permit being in full force and effect.

(c) No person who has installed, placed, used or maintained any publication vending machine in or on any right-of-way shall fail, refuse or neglect to comply with all standards and requirements specified in this chapter or in regulations duly adopted by the city manager pursuant to authority delegated by this chapter, nor shall any such person fail, refuse or neglect to comply with all terms and conditions of any applicable permit issued pursuant to this chapter.

14.16.462 Publication vending machines--Standards for installations and for continued maintenance. Every publication vending machine, or group of such machines, installed, placed used or maintained in or on any right-of-way, shall conform at all times to each and all of the following standards:

(1) No publication vending machine shall project onto, into or over any part of the roadway (as that term is defined by

Section 530 of the Vehicle Code) of any public street or highway, nor shall any such machine rest, wholly or in part, upon, along, or over any portion of such roadway.

(2) No person shall install, place, use or maintain any publication vending machine when such installation, placement, use or maintenance endangers the safety of persons or property, or when the site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such publication vending machine unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location.

(3) No publication vending machine shall exceed four feet in height, thirty inches in width, or two feet in thickness provided that stacking of machines may be allowed if adjacent to a building or mounted in a wall.

(4) Publication vending machines shall be placed near a curb or adjacent to, or in a wall or a building. Such machines placed near the curb shall be placed no less than thirty-six inches from the edge of the curb unless it is marked red, and in that event no less than eighteen inches from the edge of the curb. Those machines placed adjacent to the wall of a building shall be placed parallel to such wall and not more than eighteen inches from the wall. No such machine shall be placed or maintained on the sidewalk or parkway opposite another publication vending machine or group of such machines where placement will cause the effect of an alleyway. ("Parkway" for purposes of this chapter means that area between the sidewalks and the curb of any street or highway, and when there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway also includes any area with a roadway which is not open to vehicular traffic.)

(5) No publication vending machine shall be chained, bolted or otherwise attached to property not owned by the owner of said machine or to any permanently fixed object, unless the owner of said machine shall have first obtained the written permission of the owner of the object to which the machine is affixed.

(6) Publication vending machines may be placed next to each other, provided they are uniform in nature and that no group of said machines shall extend more than twelve and one-half feet along the curb and a space of no less than three feet shall separate such group of machines where such grouping affects passageway. Groups of machines may be placed in "L" or "U" shapes where such grouping does not interfere with the flow of traffic.

(7) Such machines may be chained or otherwise attached to one another.

(8) No such machine permitted under subsection (6) of this section shall weigh, in the aggregate, in excess of one hundred fifty pounds when empty unless easily separable.

(9) Notwithstanding any other provision of this chapter, no publication vending machine shall be placed, installed, used or maintained:

(A) Within five feet of any marked crosswalk;
(B) Within fifteen feet of the curb return of any unmarked crosswalk;
(C) Within five feet of any fire hydrant, fire callbox or any other emergency facility;
(D) Within five feet of any driveway;
(E) Within five feet ahead of or twenty-five feet to the rear of any sign marking a designated bus stop;
(F) Within six feet of any bus bench;
(G) In any location whereby the cross space or the passageway of pedestrians is reduced to less than six feet;
(H) Within three feet of any area improved with lawn or flowers, or within three feet of any display window or any building abutting the sidewalk or parkway or in such manner as to impede or interfere with the reasonable use of such window for display purposes;

(I) Within one hundred feet of any other such machine on the same side of the street within the same block containing the same edition of the same publication, unless said machine is immediately adjacent to the machine carrying said same edition and is necessary to satisfy greater market demand.

(10) No such machine shall be used for advertising signs or publicity purposes other than dealing with the display sale, or purchase of the publications sold therein.

(11) Each such machine shall be maintained in a clean, neat and attractive condition and in good repair at all times.

(12) Should the regulations contained in subsections (6), (7) and (9) of this section result in less space being available at a given location than would be necessary to accommodate all the applicants desiring to place machines thereat, then the priority for permit issuance shall be in the following order (provided that this is not intended to be authority to displace any existing permittee without such permittee's consent):

- (A) Newspapers carrying legal notices of the city;
- (B) Daily newspapers;
- (C) Weekly publications;
- (D) All other publications.

(13) Each such machine shall have affixed thereto the dealer's and the owner's name and address in a place where it may be seen by anyone using the machine, in compliance with these and any other requirements of Section 17570 of the California Business and Professions Code.

14.16.463 Publication vending machines--Authority of city manager to adopt regulations. (a) The city manager is empowered to adopt, and cause to be enforced, reasonable standards and regulations (not inconsistent with this chapter) to implement the provisions and purposes of this chapter, based upon street and pedestrian traffic requirements, access to parking places and facilities, and public safety, health and welfare. This includes authority to promulgate standards for uniformity of design and appearance of machines for which permits will be issued, in an effort to minimize adverse visual aspects and other detriments to the public interest.

(b) The city manager is further empowered to adopt a reasonable program for fixing times for compliance by present users who are nonconforming with respect to possessing permits or being in compliance with this chapter or the standards and regulations to be adopted in implementation, with a view to not causing nonconforming users to have to be in compliance at any earlier time than would be practically and economically reasonable in each individual case, while at the same time achieving the purposes herein sought at the earliest time which is legal and appropriate.

14.16.464 Publication vending machines--Special provisions for permits and applications. No permit under this chapter for a publication vending machine shall be issued, nor be deemed in force and effect, unless the following items are complied with, and kept current as applicable:

(1) Every applicant shall file a written statement (satisfactory to the city attorney) that he understands and agrees that upon a permit being issued the permittee assumes liability and "hold harmless" obligations as specified in Section 14.16.110 of this chapter.

(2) Every applicant shall demonstrate that any required permit or license for the business activity involved has been issued or applied for. Thereafter the said license shall be kept current as a condition of the permit remaining in effect.

(3) Every applicant and permittee shall provide initially, and thereafter upon demand by the director, satisfactory evidence that he has, and will keep in force as long as the publication vending machine is allowed to remain on public property, a policy of public liability insurance against liability for injuries to persons or property arising out of accidents attributable to the publication vending machine(s) on city property, with limits of at least one hundred thousand dollars for injury or death to any one person, three hundred thousand dollars for injury or death arising from any one accident or occurrence, and ten thousand dollars for property damage. The policy of insurance so provided shall contain a contractual liability endorsement covering the "hold harmless" liability assumed by the permittee by the terms of his permit and shall contain a provision that such policy may not be cancelled except after thirty days notice in writing given to the city clerk of the city. Copies of these policies or certificates evidencing the same shall, after approval of the city attorney, be filed with the officer of the city in charge of the city's insurance program.

(4) The bond requirement in Section 14.16.200 of this chapter may be waived by the director in any case when he deems it in the public interest to do so.

14.16.465 Publication vending machines--Removal of machines in violation. Upon determination by the director that a publication vending machine has been installed, placed, moved, used or maintained in violation of any provision of this chapter, the following procedure may be utilized in lieu of, or in addition to, other available legal remedies (such as prosecution or public nuisance abatement). If the offending machine is not

properly identified as to the owner, under the provisions of this chapter, and if its ownership is otherwise not apparent to the director, the machine shall be removed immediately and processed as unclaimed property (unless ownership is thereafter claimed and substantiated) under applicable provisions of law. In other cases, an order to correct the offending condition may be issued to the owner or custodian of said machine. Such order shall be telephoned (if practicable) to the owner or custodian and confirmed by mailing a copy of said order by certified mail, return receipt requested. The order shall specifically describe the offending condition and suggest actions necessary to correct it. Failure to properly correct the offending condition within seven days after the mailing of the order may result in the offending machine being summarily removed. Thereafter the director shall take reasonable steps to notify the owner thereof. Upon failure of the owner to claim such machine and pay the expenses of removal and storage within thirty days after such removal, the machine shall be processed as unclaimed property under applicable provisions of law. Whenever a machine mentioned in this section has had a violation corrected, or has been reinstalled after removal under this section, the director shall cause an inspection to be made thereof, and the permittee shall be charged an additional inspection fee or fees in such amount or amounts as may have been established by resolution of the city council. Any person aggrieved by any action taken under this section shall have his rights of appeal per Sections 14.16.510 et seq. of this chapter. Upon the filing of any such appeal, if the city manager does not take action to adjust the matter to the appellant's satisfaction, the appeal shall be presented to the city council per the above-mentioned sections.

14.16.466 Publication vending machines--Other violations.

In the case of violations of this chapter relative to restrictions upon attachments of said machines to property other than that owned by the owner of the machine, to fixed objects or to each other, and upon locations of said machines, any city employee authorized by the city manager may, as an alternative to removal under the provisions of this chapter, remove such attachment and/or move such machine or machines in order to restore them to a legal condition.

14.16.470 Franchises.

(a) Every person having a franchise, special permit, license or other effective permission to erect, construct, place and maintain utilities or other facilities or equipment within public streets or rights-of-way of the city, shall not by reason of such permission be deemed to be relieved from the requirements and provisions of this chapter.

(b) Any proposal or application by any person not already having a franchise or other effective permission, to place utilities facilities or equipment within public streets or rights-of-way of the city, shall be submitted to the city manager prior to the granting of any encroachment permits pursuant to this chapter. The city manager shall report to the city council the fact of such proposal or application and any pertinent information, regarding the granting of a franchise, license or

special permit for the proposed use of the streets or other privilege. If the city council determines to require a franchise, license or special permit as a condition to the use of the streets or other privilege to be granted by the city, the provisions of Sections 6000 et seq., or Sections 6201 et seq. of the Public Utilities Code of the state or any other applicable provisions of law shall pertain to such franchise, license or permit. If the city council determines that a franchise, license or special permit is not necessary to provide for the best interests of the city, or that a requirement for such a franchise, license or special permit is precluded by applicable law, the matter shall be referred back to the director for the granting of encroachment permits pursuant to this chapter. No provision of this subsection shall be deemed to relieve an applicant, whether or not a franchise or other privilege is granted, from obtaining any necessary conditional use permit pursuant to the city's zoning ordinance, or from complying with any other applicable regulations and laws.

14.16.480 Maps showing pipes and conduits. Every public service corporation and corporation providing cable television service, maintaining pipes, conduits or other equipment in the streets of the city shall file with the director during the month of January of each year, maps indicating the size and location of each pipe or conduit owned and maintained by such corporation in the streets of the city.

14.16.490 Revision of maps. After said corporation has in the first instance filed such map, it may thereafter in lieu of filing a new map each year revise the map on file so as to show changes and extensions.

14.16.500 Maps showing abandoned equipment. Each map or set of maps filed pursuant to the provisions of Sections 14.16.480 through 14.16.500 shall show in detail the location of all such pipes, conduits, ducts, tunnels or other equipment or structures abandoned by such corporation subsequent to the filing of the last preceding map or set of maps.

14.16.510 Appeal--Right. Any person aggrieved by the action of any administrative official of the city acting under this chapter may appeal such decision to the city council.

14.16.520 Appeal--Filing method. Such aggrieved person as provided in the preceding section shall file notice of appeal in writing with the city clerk within seven days after final action of the administrative official whose action is being appealed.

14.16.530 Appeal--Action of city council. Unless an adjustment of the matter is made by the city manager satisfactory to the appellant, the city council shall promptly hear the appeal, and the city council may affirm, modify or reverse the action of the administrative official from whom the appeal is taken.

Chapter 14.20

MOVING BUILDINGS

Sections:

- 14.20.010 Title.
- 14.20.020 Permit--Required.
- 14.20.030 Permit--Issuance.
- 14.20.040 Application for permit--Forms.
- 14.20.050 Separate applications, permits required.
- 14.20.060 Filing fee.
- 14.20.070 Indemnity deposit.
- 14.20.080 Prerequisites to issuance--Absence of public detriment.
- 14.20.090 Permit upon terms--Conditions.
- 14.20.100 Contents of application.
- 14.20.110 Submission of plans to planning commission--Public hearing.
- 14.20.120 Approval of plans by the planning commission.
- 14.20.130 Deposit or bond--Conditions--Forfeiture.
- 14.20.140 Clean-up bond.
- 14.20.150 Use of clean-up bond.
- 14.20.160 Plot plan--Photographs of building.
- 14.20.170 Plans of proposed appearance of building.
- 14.20.180 Supervision of moving.
- 14.20.190 Inspection fee.
- 14.20.200 Damage to street or property--Restoration--Cost.
- 14.20.210 Lights on building.
- 14.20.220 Hours for use of streets.

14.20.010 Title. This chapter shall be known as and may be referred to at the "housemoving ordinance."

14.20.020 Permit--Required. No person, firm or corporation shall move any building or structure heretofore or hereafter constructed or any section thereof over, upon, along or across any public street within this city without first obtaining a permit for that purpose from the city manager.

14.20.030 Permit--Issuance. No permit shall be issued by the city manager except upon compliance with the terms and conditions hereinafter in this chapter set forth.

14.20.040 Application for permit--Forms. Application to the city manager shall be made prior to the issuance of any permit; and said application shall be made in writing upon blanks and forms to be provided by the city manager and filed with the city manager.

14.20.050 Separate applications, permits required. A separate application shall be made to, and a separate permit obtained from the city manager for the moving of each separate structure or building or section or portion thereof.

14.20.060 Filing fee. There shall be paid to the city manager at the time of the filing of said application or applications, a processing fee or fees in an amount or amounts as established by resolution of the city council to defray the expense of investigation and processing.

14.20.070 Indemnity deposit. There shall be deposited in the office of the city manager at the time of filing the application for a permit a sum of money in such amount as has been established by resolution of the city council, to indemnify the city for the expense of any repair to city streets, rights-of-way, or other public property, occasioned by the applicant and chargeable to the applicant under Section 14.20.090, for each such application. No application shall be accepted for filing unless accompanied by the said deposit.

14.20.080 Prerequisites to issuance--Absence of public detriment. No such permit shall be issued by the city manager unless the city manager shall first find that the granting of such permit will not be materially detrimental or injurious to the public safety or public welfare; or to the property and improvements in the district to which such building or structure is proposed to be moved.

14.20.090 Permit upon terms--Conditions. Upon determining that the granting of any such permit is justified and meets said requirements, the city manager may grant such permit upon such terms and conditions as he may deem necessary and proper, to the end that the relocation of such building or structure will not be materially detrimental or injurious to public safety or public welfare, or the property and improvements in the district to which such building or structure is proposed to be moved, or to any person or property necessarily involved in such removal, whether public or private.

14.20.100 Contents of application. Each application shall show:

- (1) KIND OF BUILDING. The kind of building or structure to be moved;
- (2) PROPOSED LOCATION. The street location or other identifying description to which the said building or structure is to be moved;
- (3) ROUTE. The route over, along, across or upon which such building or structure is to be moved;
- (4) PLANS. Detailed plans and specifications showing the building or structure in its completed form at its new location;
- (5) NUMBER OF SECTIONS. The number of sections in which the building or structure will be moved;
- (6) TIME SCHEDULE. The time proposed for the moving of said building or structure, together with the time required to complete the removal;
- (7) OWNER OF BUILDING. The name of the owner of such building or structure;
- (8) AGE OF BUILDING. The approximate date when such building or structure was erected;

(9) PRESENT VALUE, PROSPECTIVE VALUE OF BUILDING. The estimated cost or value of the building or structure proposed to be moved, and the estimated cost or value of same when the removal or reconstruction has been completed;

(10) OTHER INFORMATION. Such other pertinent information as the city manager may require.

14.20.110 Submission of plans to planning commission--Public hearing. The detailed plans and specifications provided for by Section 14.20.100(4) shall be first submitted to the city planning commission. The planning commission shall thereupon provide for a public hearing to be held in the manner provided for conditional use permits in the zoning ordinance of the city.

14.20.120 Approval of plans by the planning commission. The planning commission, after holding the public hearing provided for by Section 14.20.110, shall make a determination to approve or disapprove the housemoving permit applied for. The planning commission shall make a finding as to whether the move of the building to the proposed site in the application will be compatible with the best interests of the public health, safety, morals and general welfare. If the planning commission does grant the house moving permit, the planning commission may impose such conditions as are necessary to protect the public health, safety, morals and general welfare.

14.20.130 Deposit or bond--Conditions--Forfeiture. A cash deposit or surety bond in favor of the city shall be deposited with the city manager in an amount equal to the value of the work contemplated by the building permit, upon condition that such work will be fully completed in accordance with the directions of the planning commission, the building permit and all applicable city regulations within a period of ninety days following issuance of the building permit; otherwise the full amount of the deposit or bond will be forfeited to the city.

14.20.140 Clean-up bond. In addition to the bond required pursuant to Section 14.20.130, an applicant shall post with the city a cash bond in an amount to be determined by the city manager, not to exceed such maximum amount as may have been established by resolution of the city council, to insure clean-up of debris, concrete, foundations, and other materials left at the site. This bond shall be required only of an applicant desiring to move a building or structure from a point within the city to a point outside the city limits.

14.20.150 Use of clean-up bond. An applicant desiring to move a building out of town shall have a period of thirty days in which to clean up the site in accordance with the instructions of the city manager. If the site is cleaned in accordance with the instructions of the city manager within thirty days, the entire cash bond shall be returned to applicant or the person posting same. If the site is not cleaned in accordance with the instructions of the city manager, then the city manager shall be empowered to use all or a portion of the cash bond to accomplish

the remaining clean-up requirements. If all the bond is not used by the city manager, then that portion remaining shall be returned to the applicant or the person posting the bond. Should the cleaning up of the site require an amount in excess of the bond posted, then such cost shall be a claim against the applicant, due and owing to the city.

14.20.160 Plot plan--Photographs of building. Each such application shall be accompanied by a plot plan showing the location and size of the lot to which the building or structure is to be moved together with photographs of all sides of said building or structure, showing the general architectural design and appearance of the building or structure proposed to be moved.

14.20.170 Plans of proposed appearance of building. In the event that any material alteration, repair or other work is proposed to be done upon the building or structure after removal has been completed, then plans shall be furnished showing the general architectural design and appearance of the building or structure on all sides after such work has been completed.

14.20.180 Supervision of moving. Every building or structure or portion thereof moved over, upon, along, or across any street shall be moved under the inspection and supervision of the city manager.

14.20.190 Inspection fee. The applicant shall pay to the city an inspection fee in an amount as established by resolution of the city council, in addition to the fees and deposits hereinbefore mentioned and required in this chapter.

14.20.200 Damage to street or property--Restoration--Cost. In case of damage to any street or other public property by reason of the moving of any building or structure or portion thereof, the city manager shall do such work as may be necessary to restore the street or other public property to as good condition as same was in prior to such damage and shall charge the cost thereof to the applicant for permit, and deduct said costs from the indemnity deposit required by Section 14.20.070.

14.20.210 Lights on building. No person moving any building or structure or portion thereof over, upon, along or across any street shall fail, neglect or refuse to keep a red light burning at all times between sunset and sunrise at each corner of such building or structure or portion thereof and at the end of any projection thereon while the same or any part thereof is located in or upon any street or other public place.

14.20.220 Hours for use of streets. The hours during which moves are to be made on public highways shall be determined by the city manager.

Chapter 14.24

WATER AND RUBBISH IN STREETS

Sections:

- 14.24.010 Sweeping and washing of debris and petroleum products into street.
- 14.24.020 Permitting water to flow into street.
- 14.24.030 Washing of pavement adjoining street.
- 14.24.040 Care in washing.
- 14.24.050 Notice to ban water during street repair.
- 14.24.060 Draining of swimming pools--Permit required.

14.24.010 Sweeping and washing of debris and petroleum products into street. No person shall wash, sweep or brush any waste, trash or rubbish, grease, oil or similar petroleum products from sidewalks, driveways, courtyards, service yards, or service station premises, or from any private premises, into the public streets, roadways, or gutters. Such materials shall be collected in suitable containers and disposed of as refuse.

14.24.020 Permitting water to flow into street. Excepting as expressly permitted by Sections 14.24.030 and 14.24.060, no person shall use water upon any sidewalk, driveway, courtyard, service yard, parkway, lawn or any private premises within the city for any purposes, in such a manner that water is allowed to run into and accumulate in, or flow away in, the public streets, roadways or gutters.

14.24.030 Washing of pavement adjoining street. Between the hours of five a.m. and nine a.m., water may be used to cleanse paved surfaces of public and private premises; provided it is used only in such quantity and with such pressure necessary to remove dirt or foreign matter from the paved surfaces; and provided that no grease, oil or other petroleum products are washed into the public streets, roadways or gutters.

14.24.040 Care in washing. In the process of such cleansing as permitted by Section 14.24.030, no person shall interfere with the free and unrestricted passage of pedestrians or vehicles on the public streets or sidewalks, or cause or allow water to fall upon such pedestrians or vehicles.

14.24.050 Notice to ban water during street repair. In order to provide for the repair and maintenance of public streets, works and property, the city manager is authorized to give written notice to the persons owning or controlling any premises in the city, either by personal delivery or by posting upon the premises, providing for a specified time, to commence not less than twenty-four hours after the delivery or posting of the notice, and to continue for not more than thirty days in all, during which period of time so specified in the notice, no person shall cause or allow any water to run into the public streets, roadways or gutters from the premises specified in the notice, or

the sidewalks, driveways, courtyards, service yards, parkways or lawns on such premises or adjacent thereto.

14.24.060 Draining of swimming pools--Permit required.

No person shall drain or permit to be drained, to a public street, any swimming pool owned or controlled by such person, unless and until a permit so to do has been obtained from the city manager. Such permits shall be issued upon appropriate application therefor, accompanied by such fee as may have been prescribed by resolution of the city council, and upon the city manager determining that the time and place when and where such pool draining will be allowed will not be detrimental to the public interest or welfare, will not result in any undue hazard or inconvenience to the public, and will not result in any damage to public or private property.

Chapter 14.28

UNDERGROUND UTILITY DISTRICTS

Sections:

- 14.28.010 Definitions.
- 14.28.020 Public hearing by council.
- 14.28.030 Council may designate underground utility districts by resolution.
- 14.28.040 Unlawful acts.
- 14.28.050 Exception--Emergency or unusual circumstances.
- 14.28.060 Other exceptions.
- 14.28.070 Notice to property owners and utility companies.
- 14.28.080 Responsibility of utility companies.
- 14.28.090 Responsibility of property owners.
- 14.28.100 Responsibility of the city.
- 14.28.110 Extension of time.

14.28.010 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:

(1) "Commission" shall mean the Public Utilities Commission of the State of California.

(2) "Underground utility district" or "district" shall mean 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 14.28.030.

(3) "Person" shall mean and include individuals, firms, corporations, partnerships, and their agents and employees.

(4) "Poles, overhead wires and associated overhead structures" shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, 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.

(5) "Utility" shall include all persons or entities supplying electric, communication or similar or associated services by means of electrical materials or devices.

14.28.020 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 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.

14.28.030 Council may designate underground utility districts by resolution. (a) 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.

(b) The council shall also make one or more of the following findings:

(1) That such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electric facilities;

(2) The street or road right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;

(3) The street or road right-of-way passes through a civic area or public recreation area or an area of unusual scenic interest to the general public.

(c) 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 funds, labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

14.28.040 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 14.28.030, it shall be 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 said overhead facilities are required to be removed by such resolution, except as said 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 14.28.090, and for such reasonable time required to remove said facilities after said work has been performed, and except as otherwise provided in this chapter.

14.28.050 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 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.

14.28.060 Other Exceptions. In any resolution adopted pursuant to Section 14.28.030, the following are exempted unless specifically included in the resolution:

(1) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer.

(2) Poles, or electroliers used exclusively for street lighting.

(3) 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.

(4) Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts.

(5) 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.

(6) Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services.

(7) Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts.

(8) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.

14.28.070 Notice to property owners and utility companies.

(a) Within ten days after the effective date of a resolution adopted pursuant to Section 14.28.030, the city clerk shall notify all affected utilities and all persons owning real property within the district created by said resolution of the adoption thereof. Said 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.

(b) Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 14.28.030, 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.

14.28.080 Responsibility of utility companies. If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to

Section 14.28.030, 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.

14.28.090 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 14.28.080 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 14.28.030, the city engineer 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 days after receipt of such notice.

(b) The notice to provide the required underground facilities may be given either by personal service or by 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 La Quinta. 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 hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the city engineer shall within forty-eight hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by ten inches in size, to be posted in a conspicuous place on said premises.

(c) The notice given by the city engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty days after receipt of such notice, the city engineer 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 day period, the said required underground facilities have not been provided, the city engineer 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 city engineer may in lieu of providing the required facilities, authorize 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 city engineer, 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 days thereafter.

(e) The city engineer 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 thereof 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 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 city engineer, and the city engineer is directed to turn over to the Assessor and Tax Collector a notice of lien on each of said properties on which the assessment has not been paid, and the said Assessor and Tax Collector shall add the amount of said assessment to the next regular bill for taxes levied against the premises upon which said assessment was not paid. Said assessment shall be due and payable at the same time as said property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of ten percent (10%) per annum.

14.28.100 Responsibility of the city. City shall remove at its own expense all city-owned equipment from all poles required to be 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 14.28.030.

14.28.110 Extension of time. In the event that any act required by this chapter or by a resolution adopted pursuant to Section 14.28.030 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 shall be extended for a period equivalent to the time of such limitation.

Title 16

MISCELLANEOUS COUNTY ORDINANCES
ADOPTED BY REFERENCE

Chapters:

16.02 County Ordinances Remaining In Effect As City
Ordinances

Chapter 16.02

COUNTY ORDINANCES REMAINING IN
EFFECT AS CITY ORDINANCES

Sections:

- 16.02.010 Incorporation by reference.
- 16.02.020 Adoption by reference of implementing regulations.
- 16.02.030 Substitution of terms.

16.02.010 Incorporation by reference. The hereinbelow listed ordinances of the County of Riverside, three (3) copies of each of which are on file in the office of the City Clerk of the City of La Quinta, California, including any and all amendments thereto in effect as of February 3, 1982, except as hereinafter modified, have been adopted as ordinances of the City of La Quinta by reference, and shall remain in effect until appropriately repealed, amended or superseded by the City Council:

<u>RIVERSIDE COUNTY</u> <u>ORDINANCE NUMBER</u>		<u>SUBJECT MATTER</u>
(1)	340	- Drilling of Water Wells;
(2)	348	- Land Use Ordinance Including Zoning District Maps;
(3)	369	- Permit System for Discharging or Depositing Sewage;
(4)	421	- Requiring Certain Excavations to be Covered;
(5)	431	- Controlling the Location and Operation of Hog Ranches;
(6)	454	- Regulating Storage, Installation and Maintenance of Motor Fuels and Facilities and Apparatus Therefor;
(7)	458	- Regulating Flood Hazard Areas and Implementing the National Flood Insurance Program;
(8)	460	- Regulating Land Subdivision;
(9)	461	- Subdivision Road Development Standards;
(10)	463	- Providing for a County-Wide House Numbering System;

- (11) 465 - Regulating the Sanitation, Safety and Cleanliness of Public Swimming Pools;
- (12) 468 - Control of Diseases in Livestock and Regulating Corrals, Stockyards and Feed Yards;
- (13) 471 - Operation of Motor Vehicles on Riders' and Hikers' Trails;
- (14) 484 - Control of Blowing Sand;
- (15) 492 - Regulating Food Establishments Other Than Restaurants;
- (16) 521 - Regulating Transporting of Food For Commercial Purposes in Wholesale Food Vehicles;
- (17) 522 - Regulating Rock Festivals and Other Outdoor Festivals;
- (18) 523 - Control of Files by Health Officials;
- (19) 524 - Regulating Oversize and Overweight Vehicles and Loads;
- (20) 525 - Regulating the Inspection, Maintenance and Testing of Water Backflow Prevention Devices;
- (21) 527 - Control and Abatement of Fly Breeding;
- (22) 534 - Control of Animals Running at Large Other Than Dogs and Cats;
- (23) 540 - Regulation of Persons Cleaning Cesspools and Similar Facilities;
- (24) 543 - Prohibiting Public Exposure of Private Parts and Female Breasts by Waiters, Waitresses and Entertainers;
- (25) 547 - Implementing the Alquist-Priolo Special Studies Zones Act re Geologic Reports;
- (26) 551 - Control of Bees;
- (27) 554 - Establishing Health Service Fees;
- (28) 555 - Implementing the Surface Mining and Reclamation Act of 1975;
- (29) 565 - Establishing Health Service Fees Relating to Commercial Poultry Ranches;
- (30) 567 - Regulating Food Handlers.

16.02.020 Adoption by reference of implementing regulations. Additionally, all resolutions, rules and regulations of the County of Riverside which have been so applicable in implementation of the aforesaid ordinances or of mandates of State law (such as, but not limited to, the California Environmental Quality Act), including the fixing of fees, to the extent that the same are effective as of the date of February 3, 1982 and are not inconsistent with any similar enactment or ordinance of this City, are to remain in full force and effect as resolutions, rules and regulations, respectively,

of the City of La Quinta, unless or until superseded by any enactment, rule or regulation, present or future, of this City.

16.02.030 Substitution of terms. (a) Whenever in the enactments of the County of Riverside which are continued in effect as aforesaid, there is a reference to "Board of Supervisors", this reference shall be interpreted to mean the "City Council of the City of La Quinta."

(b) Whenever in the enactments of the County of Riverside which are continued in effect as aforesaid, there is reference to "unincorporated area", this reference shall be interpreted to mean "area within the City of La Quinta."

(c) Whenever it is appropriate under the circumstances, and in the enactments of the County of Riverside which are continued in effect as aforesaid, there is a reference to the "County of Riverside", said reference shall be interpreted to mean the "City of La Quinta."

(d) Whenever in the enactments of the County of Riverside which are continued in effect as aforesaid, there is a reference to an office, department, official title, or other designation, the reference shall be interpreted to mean that office, department, title, or designation in the governmental structure of the city, or if there is none, any official or department or titleholder in the city which has been specifically directed by the city council or the city manager to perform the functions referred to or the duties imposed. If the Riverside County official, department, titleholder or other designation continues by law or by contract or otherwise to perform the functions referred to or the duties imposed, then the said reference shall not be changed until such time as there is a change in that situation of functions performed or duties imposed.

(e) Whenever in the enactments of the County of Riverside which are continued in effect as aforesaid, there is a reference to "Planning Commission," "Area Planning Council," "East Area Planning Council," "Land Division Committee" or "Desert Area Land Division Committee," such reference shall be interpreted to mean that these agencies are acting as agents or agencies of the City of La Quinta, until such time as the city council has created an agent or agency(s) within the city government structure to otherwise perform the functions of the said county agency or agencies, and until such time as said city agent or agency has commenced functioning and has been directed to undertake the particular function or functions theretofore performed by the said county agency or agencies.

(f) Whenever in any provision of any county enactment which is continued in effect as aforesaid, the word "shall" is used in connection with actions, functions or responsibilities of any public officer, employee, agent, department, division, bureau, council, commission, board, agency or the city itself, such word is not intended by the city council and shall not be construed as imposing any mandatory duty to act in any specific manner, but such word shall be construed in the same sense as "may" and is intended only to vest a discretion to act or not to act, in accordance with the reasonable exigencies of the particular situation.

SECTION 2. VIOLATION--PUNISHMENTS. All the provisions of this Ordinance are subject to Sections 1.01.200 and 1.01.230 of the La Quinta Municipal Code, as follows:

Violation--Infraction. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Code or the provisions of any code adopted by reference by this Code or any provision of any ordinance of the city not included within this Code. Any person violating any of such provisions or failing to comply with any of the mandatory requirements of this Code or any code adopted by reference by this Code or any other city ordinance shall be guilty of an infraction, unless such violation is specifically designated as constituting a misdemeanor. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code, or any provision of any code adopted by reference by this Code, or of any other city ordinance, is committed, continued, or permitted by such person, and may be punished accordingly.

Any provision or requirement of this Code or otherwise as referred to above, the violation of which or the failure to comply with which, is designated as an infraction, shall be prosecutable as a misdemeanor upon a third violation and each violation thereafter of the same provision by the same individual. In addition, any such violation or failure to comply may be prosecuted originally as a misdemeanor in the discretion of the city attorney or any deputy district attorney, upon a showing by the enforcing agency of the seriousness of the particular alleged violation.

Punishments. (a) Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not more than Five Hundred Dollars (\$500), or by imprisonment in the County jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(b) Any person convicted of an infraction under the provisions of this Code shall be punishable for a first conviction by a fine of not more than Fifty Dollars (\$50), for a second conviction within a period of one year by a fine of not more than One Hundred Dollars (\$100), and for a third or any subsequent conviction within a period of one year by a fine of not more than Two Hundred Fifty Dollars (\$250).

SECTION 3. EXISTING PERMITS AND LICENSES MAY SUFFICE. In those instances where the provisions of this Ordinance require the obtaining of any permit or license or other entitlement, and the person so required to obtain the same has previously been issued the same or similar permit, license or other entitlement for the same purpose from authorities of the County of Riverside, the City Manager may exempt the person from obtaining a new entitlement for such period of time as is deemed appropriate and proper by the City Manager, in his discretion.

SECTION 4. EFFECTIVE DATE, AND OPERATIVE DATE. This Ordinance shall be in force and effect thirty (30) days after passage, provided, however, that the provisions of this Ordinance shall not become operative until the date of August 29, 1982.

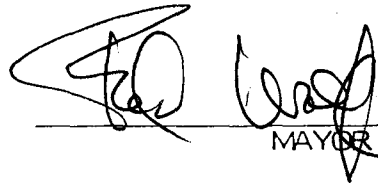
SECTION 5. POSTING. The City Clerk shall, within 15 'days after the passage of this ordinance, cause it to be posted in at least the 3 public places designated by resolution of the city council; shall certify to the adoption and posting of this ordinance; and shall cause this ordinance and its certification, together with proof of posting, to be entered in the book of ordinances of this City.

The foregoing ordinance was, approved and adopted at a meeting of the city council held on July 20, 1982, by the following vote:

Ayes: Council Members Abbott, Baier, Cox, Henderson and Mayor Wolff.

Noes: None.

Absent: None.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

APPROVED AS TO CONTENT:


CITY MANAGER

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of La Quinta, California, at a meeting held on July 20, 1982, and that the Ordinance was posted in at least the three public places specified for such postings by the City Council.


FRANK M. USHER, CITY CLERK

ORDINANCE NO. 450

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, AMENDING CHAPTERS 6.04 AND 6.05 OF TITLE 6, OF THE LA QUINTA MUNICIPAL CODE RELATED TO THE COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY

WHEREAS, the City Council of the City of La Quinta is committed to protecting the public health, safety, and welfare of the community, and to meet these goals it is necessary for the City Council to adopt measures, from time to time, to meet threats to the public health, safety, and welfare; and

WHEREAS, the City Council has granted an exclusive franchise for solid waste handling services within City (the "Agreement") to a solid waste enterprise (the "Contractor"), and finds the uniform collection and disposal of solid waste in a manner consistent with the terms of the Agreement to be in furtherance of the public health, welfare, and efficient administration of municipal waste management; and

WHEREAS, the City finds it necessary to amend its current ordinances related to the collection and disposal of solid waste and recyclable materials in order to maintain uniformity between local regulations, State laws governing solid waste disposal and recycling, and the Agreement; and

WHEREAS, the City desires to enable residential and commercial property owners to "self haul" waste generated on said properties in lieu of contracting for solid waste handling services with Contractor; and

WHEREAS, in order to protect the public health, safety and efficient administration of municipal waste hauling, it is necessary for the City to oversee and regulate the frequency and quality of self hauling activities within the City's jurisdiction;

NOW, THEREFORE, the City Council of the City of La Quinta does ordain as follows:

SECTION 1. RE-TITLING OF AND AMENDMENT TO MUNICIPAL CODE TITLE 6, CHAPTER 6.04: Chapter 6.04 of Title 6 of the La Quinta Municipal Code is hereby re-titled to read "Solid Waste Collection and Disposal" and is hereby amended in its entirety to read as set forth on the attached Exhibit A.

SECTION 2. RE-TITLING OF AND AMENDMENT TO MUNICIPAL CODE
TITLE 6, CHAPTER 6.05: Chapter 6.05 of Title 6 of the La Quinta Municipal Code is hereby re-titled to read "Reserved" and is hereby amended in its entirety such that its entire content is deleted from the Municipal Code.

SECTION 3. PUBLIC WELFARE: Based on the recitals in this Ordinance and the information in the staff report, the City finds and determines that this Ordinance will not create conditions that are materially detrimental to the public health, safety or general welfare, and rather, the adoption of this Ordinance will contribute to the general health, safety and welfare of the community.

SECTION 4. SEVERABILITY: If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 5. EFFECTIVE DATE: This Ordinance shall be in full force and effect thirty (30) days after adoption.

SECTION 6. POSTING: The City Clerk shall cause this Ordinance to be posted in at least three public places designated by resolution of the City Council, shall certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting to be entered into the BOOK of ORDINANCES of the City of La Quinta.

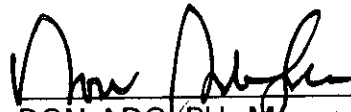
PASSED, APPROVED, and ADOPTED at a regular meeting of the La Quinta City Council held on this 15th day of January, 2008, by the following vote:

AYES: Council Members Henderson, Kirk, Osborne, Sniff, Mayor Adolph

NOES: None


ABSENT: None

ABSTAIN: None



DON ADOLPH, Mayor
City of La Quinta, California

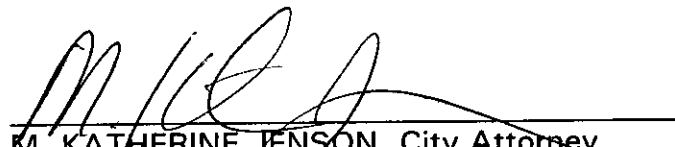
ATTEST:



VERONICA J. MONTECINO, CMC, City Clerk
City of La Quinta, California

(SEAL)

APPROVED AS TO FORM:



M. KATHERINE JENSON, City Attorney
City of La Quinta, California

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LA QUINTA)


I, VERONICA J. MONTECINO, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true, and correct copy of Ordinance No. 450 which was introduced at a regular meeting on the 18th day of December, 2007, and was adopted at a regular meeting held on the 15th day of January, 2008, not being less than 5 days after the date of introduction thereof.

I further certify that the foregoing Ordinance was posted in three places within the City of La Quinta as specified in City Council Resolution No. 2006-115.


VERONICA J. MONTECINO, CMC, City Clerk
City of La Quinta, California

DECLARATION OF POSTING

I, VERONICA J. MONTECINO, City Clerk of the City of La Quinta, California, do hereby certify that the foregoing ordinance was posted on January 25, 2008 pursuant to Council Resolution.


VERONICA J. MONTECINO, CMC, City Clerk
City of La Quinta, California

ORDINANCE NO. 450

EXHIBIT A

06.04.010 Definitions.

The words and phrases contained in this Chapter shall have the meaning commonly associated with them unless special meaning is ascribed to them by the California Public Resources Code or the California Code of Regulations (as either may be amended from time to time) in which case such meaning shall apply; except that the following words shall, for the purpose of this Chapter, be defined as follows:

(a) "AB 939" shall mean that State legislation commonly known as the California Integrated Waste Management Act (Stats. 1989, Chapter 1095, as amended) as codified in Public Resources Code section 49000, *et seq.*

(b) "Bins" shall mean a metal container, commonly referred to as dumpsters, including compactors and any similar such devices, with a capacity of under ten (10) cubic yards.

(c) "Cart" means a plastic container provided by a Franchisee for Collection, with a hinged lid and wheels serviced by an automated or semi-automated process, as opposed to a manual process of lifting and dumping.

(d) "City" means the City of La Quinta.

(e) "City Manager" means the City Manager of the City or his duly-authorized representative or designee.

(f) "Collect" or "Collection" or "Collecting" shall mean to take physical possession of, transport, and remove solid waste from a premises.

(g) "Commercial Premises" means premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding residential premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary herein, for purposes of this Chapter, premises upon which hotels and motels are operated, and premises upon which four or more dwelling units exist, shall be deemed to be Commercial Premises.

(h) "Container" means any and all types of solid waste receptacles, including Carts, Bins, rolloff boxes and receptacles, provided to customers or utilized by Self Haulers.

(i) "Food Preparation Establishments" means any restaurant, and any other business, that sells, serves, distributes or manufactures food products such that it generates food-based solid waste in excess of two (2) cubic yards per week.

(j) "Franchisee" means a person, persons, firm or corporation that has been issued a franchise by City to provide solid waste handling services within the City.

(k) "Hazardous Waste" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in Health and Safety Code sections 25110.02, 25115 and 25117, or in the future amendments to or re-codifications of such statutes, or identified and listed as hazardous waste by the US Environmental Protection Agency (EPA) pursuant to the Federal Resource Conservation and Recovery Act (42 U.S.C. §6901, *et seq.*), all future amendments thereto, and all rules and regulations promulgated thereunder.

(l) "Multi-Family Dwelling" means either (i) any building or lot containing four (4) or more dwelling units; or (ii) any building or lot containing two (2) or more dwelling units which Franchisee determines (and City agrees) must receive solid waste handling services through the use of shared Bins, since they are not reasonably able to receive individualized solid waste handling services through the use of Carts or customer-provided Containers. Any ambiguity as to whether a customer's premises qualifies as a single-family dwelling or Multi-Family Dwelling shall be resolved by the City Manager whose decision shall be final.

(m) "Premises" shall mean any land, building and/or structure within the City limits where solid waste is generated or accumulated.

(n) "Person" means any individual, firm, corporation, association, group or other entity.

(o) "Recycle" or "Recycling" means the process of Collecting, sorting, cleaning, treating and reconstituting materials that would otherwise become solid waste and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products which meet the quality standards used in the marketplace.

(p) "Recyclable Material" means that solid waste capable of being recycled, including but not limited to glass, newsprint, newspaper, aluminum, cardboard, certain plastics or metal.

(q) "Residential Premises" shall mean all Premises upon which Dwelling Units exist. Notwithstanding any provision to the contrary herein, for purposes of this Chapter, Premises upon which hotels and motels are operated, and Premises upon which four (4) or more Dwelling Units exist, shall be deemed to be Commercial Premises.

(r) "Rolloff Box" means Containers of ten (10) cubic yards or larger, including compactors.

(s) "Self Hauler" means any Person or entity that, pursuant to Section 10.04.090 of this Chapter, provides for the Collection, transportation and disposal of solid waste generated by his/her/its own Premises.

(t) "Solid Waste" shall mean and include all discarded putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, and any other discarded solid, semisolid and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of "Nonhazardous Solid Waste" set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Waste (Class I), low-level radioactive waste, untreated medical waste, or Special Wastes as defined herein.

(u) "Special Wastes" shall mean wastes other than Solid Waste, including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Hazardous Waste, animal body parts, explosive substances, radioactive materials, acids, solvents and other materials which may not be disposed of at a Class III landfill or which require special handling.

(w) "Yard Waste" means all leaves, grass cuttings and shrubs that accompany routine household or property maintenance functions.

6.04.020 Authority to Grant Franchises. The City Council may by resolution or ordinance grant one or more franchises for solid waste handling services related to Solid Waste generated within the City.

6.04.030 Subscription to Collection Service or Self-Hauling.

(a) Arrangements for Removal of Solid Waste Mandatory. Except as otherwise provided in this Chapter, the owner, property manager, tenant and/or Person in charge or control of each Residential Premises and each Commercial Premises in the City shall either (i) subscribe to solid waste handling services with a Franchisee for said Premises; or (ii) obtain and maintain registration as a self-hauler as set forth in this Chapter in connection with said Premises.

(b) Exception; Vacant Premises. The above requirement to provide for solid waste handling services shall not apply in connection with any Residential Premises at which all dwelling units are vacant, or Commercial Premises that are vacant, for a period of one hundred twenty (120) days or more, provided this exception shall only apply during the period of vacancy. Any Person seeking to avail himself/herself of the exception provided herein shall bear the burden of providing reasonable evidence to City, pursuant to such regulations or guidelines as the City Manager is hereby authorized to develop, demonstrating the Premises was vacant for the period in question.

06.04.040 Public Nuisance.

(a) It is unlawful, and a public nuisance, for any Person to occupy or inhabit any property within the City for which arrangements have not been made and kept in full force and effect for solid waste handling services in a manner consistent with the provisions hereof.

(b) The keeping of Solid Waste in Containers other than those prescribed by this Chapter, or the keeping upon Premises of Solid Waste which is offensive, obnoxious or unsanitary, is unlawful, constitutes a public nuisance, and may be abated in the manner now or hereafter provided by law for the abatement of nuisances.

06.04.050 Containers.

(a) Every owner, occupant or Person in possession, charge or control of any Premises within the City shall deposit or cause to be deposited all Solid Waste generated or accumulated on such Premises, and intended for Collection and disposal, in sealed, watertight Bins, Carts, Rolloff Boxes or other Containers that are either (i) provided by, or acceptable to, a Franchisee; or (ii) approved by the City Manager for self-hauling purposes pursuant to this Chapter. No owner, occupant or Person in possession, charge or control of any Premises shall utilize a Bin, Cart, Rolloff Box or other Container not in conformance with the requirements hereof for the Collection, accumulation or storage of Solid Waste.

(b) No Bin, Cart, Rolloff Box or other Container shall be placed adjacent to or in a street or public right-of-way for Collection service more than twenty-four (24) hours prior to the normal Collection time, and all Containers so placed shall be removed from the street or right-of-way within twelve (12) hours after Collection.

(c) Container lids shall remain closed at all times that the Container is unattended. If the Solid Waste contained within a Bin, Cart, Rolloff Box or other Container exceeds the actual capacity of the Container, then a larger Container or multiple Containers must be utilized. Any Solid Waste that does not reasonably fit within a Container (such as furniture or other large bulky items) must be covered

and protected, as by a tarp, netting or other secured material, in order to prevent the scattering of debris by natural forces such as wind or animals. The owner, tenant, occupant and/or Person or entity in control of a Premises shall be responsible for the clean-up of any Solid Waste spilled, dumped or scattered as a result of a Container overflow.

(d) It is unlawful for any Person to share, place Solid Waste in, or to otherwise use the Bin, Cart, Rolloff Box or other Container of another Person or business. Notwithstanding anything contained herein to the contrary, the sharing of Containers shall be permitted under the following conditions:

(1) The owner, property manager or Person in charge or control of a Premises upon which a Multi-Family Dwelling exists may arrange for Bins, Carts, Rolloff Boxes or other Containers for shared use by the occupants, tenants or Persons in possession of the dwelling units on such Premises.

(2) The occupants of a single commercial building or contiguous and adjacent commercial building may share a Bin, Cart, Rolloff Box or other Container for solid waste handling services at a common location, subject to approval of the City Manager, which may be delegated to a Franchisee. Approval by the City Manager shall be based upon (i) the type of Solid Waste generated by each Commercial Premises; and (ii) the number of Containers and frequency of Solid Waste Collection needed to protect the public health, welfare and safety.

(e) Bins and Rolloff Boxes shall not be located at Single-Family Dwellings or dwelling units within the RVL, RL and RC zones except for the following purposes:

(1) Home improvement and/or temporary cleanup of a vacant lot or dwelling provided that all applicable permits and licenses have been obtained; or

(2) Holding special events including, but not limited to, sponsored and permitted cleanup campaigns. Placement of such Containers for the event shall be limited to forty-eight (48) hours prior to the event and forty-eight (48) hours following the event.

(f) It is unlawful to use any Bin, Cart, Rolloff Box or other Container furnished by a Franchisee for any purpose other than the Collection, accumulation and storage of Solid Waste; or to convert or alter such Containers for other uses; or to intentionally damage such Containers.

(g) All Carts as well as Containers provided by residents for Collection by a Franchisee shall be stored out of public view in a side or rear yard or an enclosed garage except on Collection day. If the physical design of the dwelling does not

allow for obscuring Containers from public view because of the type of fencing or lack thereof, Containers shall be stored in an area adjacent to the dwelling at the point furthest from the closest street or roadway or in an enclosure adjacent to the dwelling designed to conform with the exterior design of the dwelling.

(h) A trash bin enclosure shall be provided to obscure any Bin used for Solid Waste Collection from public view. Such enclosure shall meet the construction, location and access requirements established by City's community development department. Upon receipt of notification from City to provide an enclosure, the owner of any property so notified shall have six (6) months to complete construction of the enclosure. A six (6) month extension to complete construction of an enclosure may be granted by the director of community development and/or the City Council based on individual need, but in no event shall completion of construction of a bin enclosure exceed one (1) year from the date of receipt of notification to provide an enclosure.

(i) No Commercial Premises nor any Premises upon which a Multi-Family Dwelling is located shall be granted a certificate of occupancy unless and until a bin enclosure meeting the specifications of the community development department has been constructed.

06.04.060 Frequency of Collection.

(a) Residential Premises. With the exception of vacant Premises meeting the provisions of Section 06.040.030(b) above, not less than once per week, every owner, occupant or Person in possession, charge or control of any Residential Premises within the City shall remove by self-hauling (as provided herein) or cause to be removed by subscription to services provided by a Franchisee all Solid Waste stored, generated, Collected or accumulated on such Premises.

(b) Commercial Premises.

(1) *General.* With the exception of vacant Premises meeting the provisions of Section 06.040.030(b) above, not less than once per week, every owner, occupant or Person in possession, charge or control of any Commercial Premises within the City shall remove by self-hauling (as provided herein), or cause to be removed by subscription to services provided by a Franchisee, all Solid Waste stored, generated, collected or accumulated on such Premises.

(2) *Food Preparation Establishments.* Commercial Premises upon which Food Preparation Establishments exist shall remove by self-hauling (as provided herein), or cause to be removed by subscription to services provided by a Franchisee, all Solid Waste generated, stored, collected or accumulated thereon not less than twice per week. A Food Preparation

Establishment may obtain an exemption from the minimum bi-weekly Collection requirement if the City Manager determines that based on unique factors at such business, a lesser frequency of Solid Waste Collection will not result in an unreasonable detriment to the public health, safety and sanitary needs.

(c) Modifications to Collection Frequency. The City Manager may provide written notice to the owner of any Premises that the above minimum removal requirements are not sufficient to avoid the creation of a public nuisance due to unique circumstances at such Premises. City may direct that Solid Waste shall be removed by the owner of any Premises so notified on a more frequent schedule (as determined by City) and/or that additional or larger Containers shall be utilized (as determined by City).

06.04.070 Unlawful and Prohibited Acts.

(a) It is be unlawful for any Person other than a Franchisee (or its agents and employees) to Collect any discarded Solid Waste including Recyclable Material, or otherwise provide solid waste handling services within the City. This prohibition shall not, however, apply to:

- (1) registered Self-Haulers as defined in this Chapter;
- (2) the owner, tenant or occupant of Residential or Commercial Premises who has subscribed for and is receiving solid waste handling services with a Franchisee, when such owner, tenant or occupant is hauling materials generated at his/her own Premises to a lawful disposal or recycling facility. This exemption does not permit the hiring of any Person or entity, other than a Franchisee, to haul Solid Waste from one's own Premises;
- (3) the Collection, transportation and disposal of construction and demolition debris by a contractor, handyman, repairman or other similar service provider as an incidental part of the services provided to its customers rather than as a hauling service, provided that such Solid Waste is not Collected or transported by a third party hired for the primary purpose of Collecting and transporting said materials, and further provided that such services comply with any ordinances, policies and regulations of City relating to the Collection of such materials (i.e., the City's C&D Ordinance);
- (4) the Collection, transportation and disposal of Yard Waste, green waste and related Solid Waste by a gardener or landscaper as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service, provided that such Solid Waste is not Collected or transported by a third party hired for the primary purpose of Collecting and transporting said materials

(5) any Person or entity Collecting Recyclable Material sold or donated to it by the Person or entity that generated such Recyclable Material (the "generator") provided, however, to the extent permitted by law, if the generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer or processing of Recyclable Material, the fact that the generator receives a reduction or discount in price therefor (or in other terms of the consideration the generator is required to pay) shall not be considered a sale or donation.

(b) It is unlawful for any Person, other than the owner, occupant or Person in possession, charge or control of any Residential or Commercial Premises, or a Person authorized by law (such as a Franchisee), to remove any Bin, Cart, Rolloff Box or other Container from any such Premises or from any location where it was lawfully placed for Collection, without the prior written approval of the owner, occupant or Person in possession, charge or control of such Premises.

(c) No Person shall place Solid Waste adjacent to a street or public right-of-way for Collection by a Franchisee without having first subscribed for solid waste handling services with such Franchisee.

(d) It is unlawful for any Person to place or deposit institutional, commercial or industrial Solid Waste in any Container placed upon the public street by public authority, and meant primarily for the disposal of Solid Waste by pedestrians using the sidewalk.

(e) No Person shall burn any Solid Waste within the City, except in an approved incinerator or other device for which a permit has been issued by the building official and fire marshal, and which complies with all applicable local, state and/or federal permit requirements, laws, rules and regulations.

(f) It is unlawful for any Person, other than a Franchisee, to take, remove or appropriate for his/her own use any Solid Waste, including Recyclable Materials, which has been placed in any street or alley for Collection or removal by a Franchisee, regardless of whether the Solid Waste is placed in a Bin, Cart, Rolloff Box or other Container.

06.04.080 Use of Containers for Solid Waste Generated During Construction and Demolition.

Any Person who generates Solid Waste in connection with the construction of a new building, a building addition, remodel, or the demolition of any structure for which a building permit is required, shall either make arrangements for solid waste handling service with the use of Containers from a Franchisee, be registered to Self Haul such Solid Waste in the manner set forth herein, or make arrangements pursuant to Section 06.04.070(3). In addition to constituting a violation of this

Chapter, failure to produce evidence of compliance with this Section upon the request of a City building inspector, code enforcement officer or other City officer shall result in the red-tagging of the project by the City and a requirement that all work cease until compliance with this Section.

06.04.090 Self Haulers.

(a) Self Haulers registered and operating in accordance with this Chapter are only permitted to Collect, transport and dispose of Solid Waste generated by and upon the Self Hauler's own Premises. Under no circumstances may a Self Hauler Collect, transport or dispose of Solid Wastes generated upon Premises that are not owned, operated or controlled by the Self Hauler. Notwithstanding any other provision of this Chapter, registered Self Haulers shall not be permitted to share, place Solid Waste in, or to otherwise use the Bin, Cart, Rolloff Box, or other Container of another Person or business.

(b) Registration. All Self Haulers shall subscribe to the following registration requirements:

(1) Each Self Hauler shall obtain registration from the City Manager. Self Haulers must renew their registrations the commencement of each fiscal year. Initial applications following the adoption of these regulations, for the 2007-2008 fiscal year, must be submitted to the City Manager on or before March 1, 2008.

(2) The application to register for self-hauling, whether upon initial application or renewal, shall include the following: (i) a list of all Bins, Carts, Rolloff Boxes and other Containers to be used by the Self Hauler; (ii) a list of all transport and disposal equipment to be used by the Self Hauler; (iii) a written explanation of where all Solid Waste will be delivered for disposal and diversion; (v) a written plan explaining to the reasonable satisfaction of the City Manager how not less than fifty percent (50%) of Solid Waste Collected will be diverted from disposal in compliance with AB 939; and (vi) any other information deemed necessary by the City Manager to ensure protection of public health, safety and sanitary needs.

(3) Renewal applications shall additionally include: (i) receipts from self-hauling activities undertaken in the prior year demonstrating that the applicant has effectively diverted at least fifty percent (50%) of all Solid Waste generated at its Premises from landfills in a manner that complies with the requirements of AB 939; and (ii) receipts from self-hauling activities undertaken in the prior year demonstrating that the applicant has delivered Solid Waste generated at its Premises to appropriate disposal or recycling facilities at least as frequently as Collection is required for such Self Hauler by the City Manager.

(4) The City Manager shall approve the application if it meets the requirements of this Section, and if the equipment, Containers, diversion plan and disposal plan meet with his reasonable satisfaction, and if evidence of past diversion and disposal requirements demonstrate the applicant has complied with the fifty-percent (50%) diversion requirement and otherwise complied with all laws related to disposal of Solid Waste.

(c) Containers. Each Self Hauler shall provided its own Bins, Carts, Rolloff Boxes or other Containers. Bins, Carts, Rolloff Boxes or other Containers utilized by a Self Hauler must conform to industry standards for solid waste disposal and must be approved by the City Manager in writing prior to issuance of a self-hauler registration. In addition, any Containers utilized by a Self Hauler shall comply with the following requirements:

- (1) All Containers shall be maintained in good repair, and any question as to the meaning of this standard shall be resolved by the City Manager.
- (2) All Containers shall be maintained in a sealed, watertight condition;
- (3) Self Haulers shall remove any graffiti that appears on Containers within twenty-four (24) hours after becoming aware of it.

(d) Collection and Transport Equipment. Collection and transport equipment, including but not limited to transport trucks and vehicles, utilized by a Self Hauler must be approved by the City Manager in writing prior to issuance of a self-hauler registration.

(e) Non-Commercial Venture. It is the intent of this Chapter to prevent and proscribe self-hauling activities undertaken as a commercial enterprise. Self Haulers must obtain all equipment, including Containers and Collection and transportation equipment, at a fair market value that does not include any hauling services, "free" or otherwise. A Self Hauler may utilize its own employees to undertake self-hauling activities, but under no circumstance may a Self Hauler utilize an independent contractor or any other Person or entity for waste disposal services other than a Franchisee.

(f) Other Recycling Obligations. Self Haulers shall Recycle all Recyclable Materials not otherwise addressed by this Section to a degree and in a manner consistent with standards generally applicable to the solid waste disposal industry and as required by State law.

(g) Collection Frequency. Unless otherwise specifically provided in this Chapter, Self Haulers shall remove Solid Wastes from their Premises at least once per week. However, upon application to the City for a self-hauler permit, the City Manager may determine a different frequency for Solid Waste Collection, transport and

disposal from the Self Hauler's Premises. This determination shall be based upon the nature of the Premises, the type of Solid Waste generated by the Premises, and the Collection capacity of the Self Hauler as demonstrated by information in the application.

(h) Hazardous and Special Wastes. Unless lawfully and currently licensed under state, federal and local laws, no Self Hauler shall engage in the Collection, transport or disposal of Hazardous Waste or Special Wastes.

(i) Revocation. The City Manager may revoke a self-hauler permit if the permittee either (i) fails to divert at least fifty percent (50%) of all Solid Waste generated at its Premises from landfills in a manner that complies with the requirements of AB 939; or (ii) fails to deliver Solid Waste generated at its Premises to appropriate disposal or recycling facilities at least as frequently as Collection is required for such Self Hauler by the City Manager.

06.04.100 Violations.

Any violation of this Chapter is punishable as a misdemeanor.