

Title 5

BUSINESS LICENSES AND REGULATIONS

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Chapter 5.02

BINGO GAMES

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5.02.010 Definitions.

A. As used in this chapter “bingo” means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. The game may include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend, “for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.”

B. “Minor” is any person under the age of 18 years.

C. A “qualified organization” to operate the game of bingo is a mobile home park association, a senior citizens' organization, or an organization exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) and 23701(1) of the Revenue and Taxation Code.

(Ord. 356 § 2, 2006)

5.02.020 Authority.

The authority for this chapter is contained in Section 19 of Article IV of the California Constitution and Section 326.5 of the Penal Code.

(Ord. 356 § 3, 2006)

5.02.030 License required.

A. It shall be unlawful for any organization to [advertise, solicit, promote, or](#) conduct any bingo games in the city of Murrieta unless such organization is a qualified organization and has been issued a license as provided in this chapter.

B. It shall be unlawful for any person to [advertise, solicit, promote, or](#) conduct any bingo games in the city of Murrieta unless such person is a member of a qualified organization

acting on behalf of such qualified organization that has been issued a license as provided by this chapter.

(Ord. 356 § 4, 2006)

5.02.040 Application for license.

Applications for a license or renewal thereof shall be filed with the office of business licensing with the city of Murrieta on forms prescribed by the finance department and shall be signed under penalty of perjury. Such applications shall be filed:

- A. Not less than 90 days prior to the proposed date of the bingo game or games; and
- B. Not later than 30 days after obtaining written verification from the planning department that there is sufficient vehicular access to the premises wherein a bingo game is to be conducted and that such premises contain off-street vehicle parking facilities as required by Chapter 16 of the City Municipal Code; and
- C. Not later than 30 days after obtaining written verification from the building and safety department that the operation of such game or games is in compliance with the California Building Code; and
- D. Attach a list of identifying information, including the proper name, sex, date of birth, residence address, phone number, driver's license number, and social security number of all board members or any other individuals deemed responsible in the management of the game of bingo for its organization, which must be provided to the office of business licensing at the time of the original application or renewal of permit; and
- E. Attach to the application proof showing they are a qualifying organization to operate a game of bingo, which may include proper tax information, organizational bylaws, or other supporting information required by the city of Murrieta.

Such applications shall not be filed unless the applicant is a qualified organization which has owned or leased property, or has property whose use is donated to it within the city of Murrieta that was used by the applicant for the performance of the purposes for which it is organized, for at least 12 months immediately preceding the filing of such application, and the property upon which the bingo game is to be conducted is property so owned or leased by, or whose use is donated to, the applicant.

(Ord. 356 § 5, 2006)

5.02.050 Term of license and fees.

The term of a bingo license is one year and may be renewed any time within one year from its date of issuance, upon application therefor. The fee for an initial bingo license shall be based on the fees established by the city council and set by resolution, ~~one hundred dollars (\$100.00)~~, and shall accompany the filing of the application. A license may be

renewed upon the payment of a renewal fee based on the fees established by the city council and set by resolution~~of one hundred dollars (\$100.00)~~, which has been paid at least 30 days prior to the expiration of the term of the current license, and provided the applicant is in good standing under the current license. When the renewal fee is not paid at least 30 days prior to the expiration of the current license, an additional late fee of twenty-five dollars (\$25.00) shall be paid.

(Ord. 356 § 6, 2006)

5.02.060 Application investigation.

A. Upon receipt of an application for a license, along with the appropriate fee, the chief of police, or his or her designee, shall investigate the truth of the matters set forth in the application.

B. The chief of police, or his or her designee, may make inquiries to any local board or association, or any state or federal agency which the Murrieta police department deems essential in order to carry out a proper investigation of applicant and the organization.

C. Upon approval of any application for a bingo license, the office of business licensing for the city of Murrieta will issue the license and the police department shall issue a permit.

(Ord. 356 § 7, 2006)

5.02.070 License not transferable.

Each license issued hereunder shall be issued to a specified qualified organization to conduct a bingo game at a specific location, and shall in no event be transferable from one organization to another or from one location to another.

(Ord. 356 § 8, 2006)

5.02.080 Limitations.

A. A qualified organization shall conduct a bingo game only on property owned or leased by it, or on property whose use is donated to such organization, and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized. Nothing in this subsection A. shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, such organization.

B. No minors shall be allowed to participate in any bingo game.

C. All bingo games shall be open to the public, not just to the members of the qualified organization.

D. A bingo game shall be operated and staffed only by members of the qualified organization which organized it. 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. Such organization shall have written policies incorporated in its constitution, articles, by-laws or other regulations setting forth the manner in which a person may become a member of the organization, and absent any such written policies, it shall be presumed that the organization has no members who may operate and staff a bingo game and, consequently, no license will be issued. This subsection D. does not preclude the employment of security personnel, who are not members of the qualified organization, at a bingo game by the organization conducting the game.

E. No person shall receive or pay a profit, wage, salary or percentage from any bingo game authorized by this chapter.

F. No individual, corporation, partnership or other legal entity except the organization authorized to conduct a game shall hold a financial interest in the conduct of such bingo game.

G. With respect to organizations exempt from payment of the bank and corporation tax by Section 23701(d) of the Revenue and Taxation Code, 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. Such profits shall be used only for charitable purposes, that is, for the purposes for which such organizations are organized pursuant to their articles of incorporation or for purposes clearly incidental thereto. With respect to other organizations authorized to conduct bingo games pursuant to the provisions of this chapter, all proceeds derived from a bingo game shall be kept in a special fund and account and shall not be commingled with any other fund or account. Such proceeds shall be distributed to organizations that are tax exempt under Section 23701(d) of the Revenue and Taxation Code, to be used for charitable purposes as above defined, except as follows:

1. Such proceeds may be used for prizes.
2. A portion of such proceeds, not to exceed 20 percent of the proceeds before the deduction of prizes or two thousand dollars (\$2,000.00) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, administrative expenses, security equipment and security personnel. The licensee shall keep full and complete accounting records supported by properly executed contracts, leases, receipts, and other related documents which pertain to all monies, or other forms of income, collected in connection with the conduct of any of its bingo games, disbursed for expenditures in connection therewith and remaining or distributed for charitable purposes. Such records shall be clearly identified and readily accessible. Officials of the city of Murrieta shall have the right to examine and audit such records at any reasonable time, and the licensee shall fully cooperate with such officials by making such records available. At the end of any month during which any bingo game is conducted, the licensee shall file with the Murrieta police department a full and complete financial statement of all monies collected and disbursed and the amount remaining or distributed for charitable purposes.
3. Such proceeds may be used to pay license fees.

H. 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.

I. The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250.00) in cash or kind, or both, for each separate game which is held.

J. No alcohol shall be served or consumed in the same room or physical location while the game of bingo is being played by any of the operators, managers, board members or players.

(Ord. 356 § 9, 2006)

5.02.090 Inspection.

Any peace officer or code enforcement officer of the city of Murrieta shall have access to inspect any bingo game licensed under this chapter. The licensee shall have the bingo license, lists of approved staff and accounting documents relating to all monies collected, disbursed and distributed available to such peace officer for inspection at all times during any bingo game or during licensee's normal business hours.

(Ord. 356 § 10, 2006)

5.02.100 Denial of application, license, suspension or revocation.

A. The chief of police may deny an application for a bingo license, if he or she finds:

1. That the applicant does not fulfill the specific requirements for such license as set forth in this chapter; or

2. That the applicant, or any agent or representative thereof, has knowingly made any false, misleading or fraudulent statement of a material fact in the application or any document in connection therewith; or

B. The chief of police may suspend or revoke a license if they find:

1. That the licensee has, or any of its members have, violated any of the provisions of this chapter; or

2. That the bingo games will not comport with the public welfare for any reason or that the same have been conducted in an illegal, improper or disorderly manner, or in a manner substantially different from that described in the application, or for any reason for which the license application could have been denied.

C. If, after an investigation, the chief of police, or his or her designee, determines that a bingo license should be suspended or revoked or that an application for such license be denied, they shall prepare a notice of suspension or revocation or denial of application

setting forth the reasons for such suspension, revocation or denial. Such notice shall be served personally on the licensee or applicant or sent by registered or certified mail, postage prepaid, return receipt requested to the licensee's or applicant's last address as provided in the application.

D. Any organization whose bingo license has been suspended or revoked may not apply for a license to conduct any bingo games for a period of ~~one year~~twenty-four months from the date notice of such suspension or revocation was served on it, or if affirmed on appeal ~~by the Murrieta city council as provided in this section~~, from the date of such affirmation; provided, however, if the reason for revocation is cancellation of the exemption granted under Section 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) and 23701(l) of the Revenue and Taxation Code, such organization may again apply for a bingo license upon proof of reinstatement of such exemption.

(Ord. 356 § 11, 2006)

~~5.02.110 Appeal.~~

~~—Any person who has had an application for a bingo license denied by the chief of police, or who has had a bingo license suspended or revoked by the police department, may appeal the decision of the police department by filing with the city clerk, within 15 days after the date of such decision, a written notice of appeal briefly setting forth the reasons why such denial, suspension or revocation is not proper. The city council shall give written notice of the time and place of the hearing to the appellant. Such appeal shall be heard by the city council which may affirm, amend or reverse the decision or take such other action as it deems appropriate. In conducting the hearing, the city council shall not be limited by the technical rules of evidence.~~

~~{Ord. 356 § 12, 2006}~~

5.02.1~~2~~10 Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are hereby declared to be severable.

(Ord. 356 § 13, 2006)

Chapter 5.04 BUSINESS LICENSES GENERALLY

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5.04.010 Definitions.

For the purpose of this chapter, unless the context clearly requires otherwise, the words, and phrases used in this chapter shall have the following meanings:

"Business" means profession, trade, occupation, gainful activities, and all and every kind of professional, commercial, and industrial calling whether or not carried on for profit.

"Business license officer" means the director of finance and general services of the city, or the designee of such person.

"Employed" means engaged in the operation or conduct of a business, or related activity, whether as a proprietor or otherwise.

"Employee" means any person who provides services or labor within the city for an employer for wages or any other remuneration. An independent contractor is not an employee for the purpose of this chapter.

(Ord. 466 § 1, 2011: Ord. 447 § 1, 2010: Ord. 3 § 1 (part), 1991: prior code § 5.02.001)

5.04.020 Licenses required.

There is imposed, upon each business conducted within the city, a business license fee in the amount hereinafter prescribed. It is unlawful for any person to [advertise, solicit, promote, or](#) conduct any business within the city without first having procured a license from the city to do so and paid the license fee therefor and without complying with all applicable provisions of this chapter.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.003)

5.04.030 Evidence of doing business.

When any person by use of signs, circulars, cards, telephone book, or newspapers, advertises, holds out, or represents that such person is conducting a business within the city, or when any person holds an active license or permit issued by a governmental agency indicating that such person is in business within the city, and such person fails to deny by a sworn statement given to the business license officer that he or she is not conducting a business within the city, after being requested to do so by the business license officer, then the foregoing facts shall be considered prima facie evidence that such person is conducting a business within the city. (Ord. 3 § 1 (part), 1991: prior code § 5.02.005)

5.04.040 Fixing of business license fees.

The city council from time to time shall set business license fees and related application and other administrative fees by resolution. The city council may differentiate in the amount of fees to be charged on the basis of gross receipts and may utilize the business categories established by Section 5.04.370 to differentiate between businesses as to the basis of the business license fee which will be charged. When it deems such action to be appropriate, the city council may establish flat-rate business license fees for specific types of businesses or units thereof.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.007)

5.04.050 Schedule of license fees generally.

A. Every person who engages in business within the city shall pay a license fee in the amount or at the rate which the city council may from time to time set by resolution.

B. This section shall not be construed to require any person to pay a license fee prior to conducting business within the city if such requirement conflicts with applicable state or federal law.

C. Persons not required to pay a license fee prior to conducting business within the city because of conflict with applicable state or federal law shall nevertheless obtain a business license upon the commencement of business within the city.

D. Any person claiming exemption pursuant to this section shall file a sworn statement with the business license officer, stating the facts upon which exemption is claimed.

E. The business license officer shall upon a proper showing contained in the sworn statement, issue a license to a person claiming exemption under this section. Issuance under this subsection shall be without payment to the city of any license fee required by this chapter.

F. The business license officer, after giving notice and reasonable opportunity for hearing to the affected licensee, may revoke any license granted pursuant to the provisions of this section upon a showing that the licensee is not entitled to the exemption as provided in this chapter.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.009)

5.04.060 Charitable activities exemption.

A business license shall be issued but the provisions of this section shall not be deemed or construed to require the payment of a business license fee:

A. For conducting any business by any nonprofit institution, corporation, organization, or association organized or conducted for nonprofit purposes only, when the receipts derived are to be used wholly for the benefit of the organization, and, except for wages paid to employees of such organization, not in whole or part for the private gain of any person. The exemption provided for in this section shall not apply to promoters employed by the nonprofit institutions, corporations, organizations or associations.

B. For conducting any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects, whenever the receipts thereof are to be distributed to any church or school or to any religious or benevolent purpose within the city.

C. For conducting any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, state, county, or municipal organization or association whenever the receipts thereof are to be for the purpose and objects for which such organization or association was formed, and from which profit is not derived either directly or indirectly by any person. This provision also applies to the Murrieta chamber of commerce.

D. By any business which is exempt from payment of the business license fee to municipal corporations under, on account, or by virtue of the provisions of the constitution or laws of the United States of America or of the state of California.

E. Any disabled veteran having honorable discharge papers showing disability incurred while in service who is unable to earn a livelihood by manual labor, who is a qualified elector of this city at the time of the application for a license and who shall have been a bona fide resident of this city for thirty (30) days immediately preceding the date on which application for such license is made shall be exempt from the business license fee. This exemption applies to the veteran personally and shall not apply to a distributing or other business conducted by such veteran in which others are employed.

F. By any person furnishing full or part time day care service to not more than fourteen children.

G. When a business, otherwise exempt pursuant to this section, is conducted by a nonexempt person on behalf of such business, the exemption shall be applicable only with

regard to the exempt business, and shall not be applicable with regard to the business or gross receipts of the nonexempt person.

H. Nothing in this section shall be deemed to exempt any person from complying with other provisions of this code, or any other law or regulation requiring a permit or other approval from the city council, or any other public officer or body to conduct any business.

(Ord. 557 § 2, 2020; Ord. 279 § 1 (part), 2003; Ord. 3 § 1 (part), 1991: prior code § 5.02.011)

5.04.070 Filing for exemptions.

A. Any person claiming an exemption from licensure requirements under this chapter shall file a sworn statement with the business license officer stating the facts upon which exemption is claimed. In the absence of such a statement substantiating the claim, such person shall be liable for the payment of the fees imposed by this chapter.

B. The business license officer shall, upon a proper showing contained in the sworn statement, and in such supplement thereto as may be required by the business license officer, issue a license to the person claiming exemption under this section without payment to the city of the license fee required in this chapter.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.013)

5.04.080 Fee adjustments required in cases of interstate commerce.

A. None of the license fees provided for in this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitution of the United States or of the state.

B. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, such person may apply to the business license officer for an adjustment of the fee. Such application may be made before, at the time of, or within six months after, payment of the prescribed license fee. The applicant or licensee shall, by sworn statement and supporting testimony, show his or her method of business and the gross receipts or estimated gross receipts of such business and such other information as the business license officer may deem necessary in order to determine the extent, if any, of undue burden or violation. The business license officer may then conduct an investigation, and fix as the license fee for the applicant or licensee an amount that is reasonable and nondiscriminatory. If the license fee has already been paid, the business license officer shall order a refund of the amount over and above the license fee so fixed. In fixing the license fee to be charged, the business license officer shall have the power to base the license fee upon any measure which will assure that the license fee assessed shall be uniform with that assessed upon businesses of like nature. Any adjusted fee fixed pursuant to this section

shall not exceed the license fee prescribed for similar businesses as to which no adjustment has been made pursuant to this section.

C. The business license officer may require the applicant or licensee to submit, either at the time of termination of the applicant's or licensee's business in the city, or at the end of each three-month or longer period, a sworn statement of the gross receipts from sources within the city upon which the license fee adjustment has been based; provided that no additional license fee during any one licensing year shall be required after the licensee shall have paid an amount equal to the annual license fee prescribed for businesses as to which no adjustment has been made pursuant to this section. (Ord. 3 § 1 (part), 1991: prior code § 5.02.015)

5.04.090 Payment of other licenses not excused.

Any person required to pay a license fee for conducting a business under this chapter shall not be relieved from the payment of any license fee for the privilege of conducting such business required under any other provision of this code or any other ordinance or regulation of the city or other agency, and such person shall remain subject to such other provisions.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.017)

5.04.100 Effect of chapter on past actions and obligations previously accrued.

Unless otherwise specifically or by necessary implication provided in this chapter, neither the adoption of this chapter nor its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for the violation of any other ordinance committed prior to the adoption hereof, nor be construed as a waiver of any license requirement or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect for the term prescribed therein.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.019)

5.04.110 Separate computation of license fee.

A. Where a license fee is imposed upon any business pursuant to this chapter, and such business is conducted with branch establishments or at separate fixed places, the fee shall be computed as if each such branch or place were a separate and independent business.

B. A separate license shall be obtained for each branch establishment or location of the business and for each separate type of business at the same location. Each license shall

authorize the licensee to transact and carry on only the business licensed thereby, at the location specified in the license, and in the manner designated in such license.

C. Warehouses and distributing plants used in connection with and incidental to a business shall be deemed to be separate places of business or branch establishments.

(Ord. 279 § 1 (part), 2003; Ord. 3 § 1 (part), 1991: prior code § 5.02.021)

5.04.120 Business classifiable under different categories.

Whenever a business may reasonably be classified under two or more separate categories established by the city council, with differing bases for fee computation, the fee shall be computed using the basis which will result in the highest fee.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.023)

5.04.130 License does not permit business otherwise prohibited.

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

(Ord. 3 § 1 (part), 1991: prior code § 5.02.025)

5.04.140 Other agency review.

The business license officer may refer to any governmental agency any statement and all other information submitted by persons subject to the provisions of this chapter in connection with the conduct of a business regulated or supervised or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations, or any other safeguard of the public interest. Failure to comply with conditions required by other agency review shall result in revocation of the license once granted.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.027)

5.04.145 Police review.

A. Certain business practices have historically been subject to abuse by certain unscrupulous practitioners and convicted criminals using the practice to commit fraud, larceny and other criminal acts upon clients. It is the purpose of this section to regulate the practice in such a manner as to reduce the risk of fraud and larceny to clients, while allowing businesses to provide their services to clients with only minimal restrictions.

B. The chief of police has the discretion to require police background checks for certain business practices. The fee for this background check will be established by the city council and set by resolution.

C. Upon filing of the business license application and payment of the applicable fees, the police department will investigate, report and recommend approval of the license. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report and recommendation made in writing to the business license officer within thirty (30) days after the filing of the application and contacting the Murrieta police department support division supervisor for a background investigation interview, unless the applicant requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth therein.

(Ord. 279 § 2 (part), 2003)

5.04.150 Unlawful manner of operation.

The granting of a license for a business shall not be deemed a permit to conduct, [advertise, solicit, or promote](#) the same in an unlawful manner or on premises where such business is prohibited by law.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.029)

5.04.160 New business license fee--When payable.

A. Initial business license fees are due and payable prior to issuance of the license for which application is made. The fee for the business license application and for new licenses shall be established by resolution of the city council. The payment of such fees shall not in any way constitute a right or permission to begin the operations of said business.

B. Unless otherwise specifically provided in this chapter, all fees for renewal of a business license under the provisions of this chapter shall be due and payable on the day of the anniversary date on which the license expired. The annual license fee shall become delinquent on the thirtieth day after the due date.

(Ord. 279 § 1 (part), 2003; Ord. 3 § 1 (part), 1991: prior code § 5.02.031)

5.04.170 Penalty for failure to pay license fee when due.

A. For failure to pay a gross receipts license fee by five p.m. on the day due, the business license officer shall add a penalty of twenty-five (25) percent of the license fee on the day following the due date thereof, plus interest at the rate of one and one-half percent per month from the due date until paid.

B. Any flat-rate license fee which has not been paid by five p.m. on the day due shall have added to the amount thereof a penalty of twenty-five (25) percent, plus interest at the rate of one and one-half percent per month from the due date until paid.

C. Any daily license fee which has not been paid by five p.m. on the day due shall have added the amount thereof a penalty of twenty-five (25) percent, plus interest at the rate of one percent per additional day of delinquency thereafter.

D. If any person has failed to apply for and secure a valid license to operate a business, the business license fee due shall be that amount due and payable from the first date on which the person was employed in business in the city, together with applicable penalties and interest.

E. Where an audit or inspection of the books or records of a business reveals that the amount of license fee paid for any license period is less than the amount which was actually due pursuant to this chapter, it shall be deemed for the purposes of this section that, to the extent of such deficiency, there was a failure to pay a license fee when due. Penalties and interest as provided in this section shall be assessed from the date when the deficiency should have been paid pursuant to this chapter.

F. Should court action be required to collect any license fee or penalties or interest, an additional penalty shall be charged equal to costs of suit, including reasonable attorneys' fees. Such penalty shall be added to the license fee and shall become due and payable as of the date of final judgment in such action.

G. Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of the city any material fact in procuring a license provided for in this chapter shall be deemed guilty of a misdemeanor.

(Ord. 279 § 1 (part), 2003; Ord. 3 § 1 (part), 1991: prior code § 5.02.033)

5.04.180 Failure to procure license.

A civil penalty of one hundred (100) percent of the prescribed license fee shall be added to the license fee for any person who conducts business within the city before applying for and securing a business license from the business license officer.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.035)

5.04.190 Term of license.

The term of any license issued hereunder shall be limited as follows:

A. If the license fee is an annual license fee, the license shall expire on the anniversary of the date on which the license was last issued or renewed or as otherwise designated by the chief finance officer.

B. If the license fee is a daily license fee, the license shall expire at eleven fifty-nine p.m. for the day for which the license was issued; provided, however, that such license may be issued for more than one day at a time. In respect to daily licenses, the license fee for the entire licensure period shall be due and payable in advance prior to issuance of the license.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.037)

5.04.200 Duplicate licenses.

A duplicate license may be issued by the business license officer to replace any license previously issued under this chapter which has been lost or destroyed, upon the licensee filing a sworn statement of such fact, and at the time of filing such statement, paying to the business license officer a duplicate license fee as set from time to time by resolution of the city council.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.039)

5.04.210 Nontransferability of licenses.

A. No license issued pursuant to this chapter shall be transferable.

B. Upon the issuance of a license which authorizes a person to conduct a business at a particular place, such licensee may, upon application therefor and payment of the required fee, have the license amended to authorize the conducting of such business under such license at some other location to which the business is to be moved in its entirety. The fee for such amendment shall be set by resolution of the city council.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.041)

5.04.220 Display of licenses.

All licenses shall be kept and posted in the following manner:

A. Each licensee conducting a business at a fixed place of business within the city shall keep its license posted in a conspicuous place upon the premises.

B. Each licensee conducting a business within the city, but not operating a fixed place of business in the city, shall keep his or her license upon his or her person or in the vehicle from which the business is being conducted at all times while conducting such business.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.043)

5.04.230 Identification symbol--Affixing, altering, tampering, or changing.

Whenever an identifying sticker, tag, plate, or symbol has been issued for a vehicle, device, machine, or other piece of equipment as evidence of the issuance of a license pursuant to this chapter, the person to whom such sticker, tag, plate, or symbol has been issued shall firmly affix such symbol upon each such vehicle, device, machine, or piece of equipment and keep it affixed during the term of the related license at such place thereon as is designated by the business license officer. It is unlawful for any person to tamper with, change, or alter any such symbol or to otherwise fail to comply with the provisions of this section.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.045)

5.04.240 Application--Generally.

Prior to the commencement of any business, each person required by this chapter to obtain a license for such business shall make and file with the business license officer a written application for such license, upon a form prescribed by the business license officer, together with the required application fee. Fees for processing the application shall be based on the cost to the city for verification of the information contained in the application, shall be nonrefundable, and shall be set by resolution of the city council.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.047)

5.04.250 Conditions of application.

All business license applications shall contain as a sworn statement:

- A. The name, home address, and telephone number of each owner, officer, partner, and the applicant;
- B. The name, home address, and telephone number of each managing employee, if not included in division 1, of this section;
- C. The name, address, and telephone number of the business to be licensed;
- D. A detailed description of the business to be conducted; and
- E. Such other information as may be required by the application form or requested by the business license officer and convenient for the enforcement of this chapter.

(Ord. 466 § 1, 2011:Ord. 447 §, 1 2010: Ord. 3 §1 (part), 1991: prior code § 5.02.049)

5.04.260 Sworn statements by applicants.

- A. In respect to the license to be issued under this chapter for a business, in all cases where the amount of license fee to be paid is measured by gross receipts, the applicant for such license shall furnish to the business license officer for purposes of ascertaining the

amount of the license fee to be paid by the applicant, a sworn statement, upon a form provided by the business license officer, setting forth such information as may be therein required and as may be additionally requested by the business license officer to determine the amount of the license fee to be paid by the applicant.

B. If the amount of the license fee to be paid by the applicant for a new business is measured by gross receipts, the applicant shall estimate the gross receipts for the period to be covered by the license to be issued. Such estimate, if accepted by the business license officer as reasonable, shall be used in determining the amount of the license fee to be paid by the applicant; provided, that the amount of the license fee so determined shall be tentative only, and the licensee shall, within thirty (30) days after the expiration of the period for which such license was issued, furnish the business license officer with a sworn statement, upon a form furnished by the business license officer, showing the gross receipts during the period of such license. The license fee for such period shall thereupon be finally ascertained by the business license officer and paid in the manner provided by this chapter for the ascertaining and paying of annual license fees for other businesses, after deducting from the amount of the fee found to be due, the amount paid at the time the license was issued or renewed.

C. The business license officer shall not renew or issue to a licensee, any license for the same or any other business or location, until such licensee shall have furnished to the business license officer the sworn statement and paid all license fees as herein required.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.051)

5.04.270 Extension of time for filing--Compromise of claims.

In addition to all other powers conferred upon him or her by this chapter, the business license officer shall have the power, for good cause shown, to extend the time for filing any required sworn statement for a period not exceeding thirty (30) days, and in such cases to waive any penalty which would otherwise have accrued. The business license officer shall have the further power, with the advice and consent of the claims board of the city, to compromise any claim as to the amount of license fee due.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.053)

5.04.280 Renewal of licenses.

A. Information to determine fee. Every applicant for the renewal of a license shall submit to the business license officer the application fee determined by resolution of the city council therefor, together with a sworn statement, upon a form to be provided by the business license officer, setting forth such information concerning the applicant's business during the preceding year as may be required by the business license officer to enable him or her to ascertain the amount of the license fee to be paid by the applicant pursuant to the provisions of this chapter.

B. New licensing requirements. Whenever a new requirement is added to Section 5.04.250, Conditions of application, after a license has been issued, in order to renew the license, the license-holder must demonstrate compliance with all requirements of Section 5.04.250 in effect when the application for renewal is made.

(Ord. 447 § 1, 2010; Ord. 3 § 1 (part), 1991: prior code § 5.02.055)

5.04.290 Statements not conclusive--Information confidential.

A. No statements or applications required hereunder shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sums as are actually due and payable hereunder.

B. The business license officer shall not make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a license or pay a license fee under the provisions of this chapter, or to divulge the amount or source of income, profits, losses, expenditures, or any particular thereof set forth in any statement or application, or to permit any statement or application, or copy of either, or any other document relating thereto which contains specific information as to the amount or source of income or expenditures of any person obtaining a license to be seen or examined by any person; provided, that nothing to this section shall be construed to prevent the disclosure to or examination of records by another city agent for the sole purpose of administering or enforcing any of the provisions of this chapter or auditing of accounts of the business license officer, federal or state officials, or a grand jury or court of law upon subpoena or in a legal or administrative proceeding to determine the existence or amount of any license fee liability of the particular licensee to the city; nor shall the disclosure of the names and addresses of persons to whom licenses have been issued and the general type of their business be prohibited under this section, together with general statistics regarding business fees collected or business done in the city.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.057)

5.04.300 Failure to file statement or corrected statement.

A. If any person fails to file any required statement within the time prescribed, or if, after demand therefor made by the business license officer, any person fails to file a corrected statement, the business license officer may determine the amount of license fee due from such person by means of such information as he or she may be able to obtain or estimate.

B. If such determination is made, the business license officer shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the person so assessed at his or her last known address. Such person may, within fifteen (15) days after the mailing, or serving of such notice, make application in writing to the business license officer for a hearing on the amount of license

fee. If such application is made, the business license officer shall cause the matter to be set for hearing within fifteen (15) days. The business license officer shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The business license officer shall consider all evidence produced, and shall make findings and a decision based thereon. (Ord. 3 § 1 (part), 1991: prior code § 5.02.059)

5.04.310 Enforcement of chapter--Right of entry.

A. It shall be within the authority of the business license officer to enforce each and all of the provisions of this chapter. The chief of police shall render such assistance in the enforcement of this chapter as may from time to time be required by the business license officer.

B. The business license officer, and each and any of his or her assistants, and any police officer, shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed under this chapter, and demand an exhibition of its license. Any person having in his or her possession or control the license for such business, and who wilfully fails to exhibit it on demand is guilty of a violation of this chapter. It shall be within the authority of the business license officer to cause a civil or criminal complaint to be filed in a court of competent jurisdiction against any person found to be violating any provision of this chapter.

C. Each person subject to the provisions of this chapter shall keep complete records of business transactions, including sales receipts, purchases and other expenditures, state and federal income tax returns, including schedules and records included in such returns. Such persons shall retain such records for examination by the business license officer and maintain such records for a period of at least three years after preparation thereof or after the date of the last entry therein, whichever is later. No person required under this section to keep records shall refuse to allow authorized representatives of the business license officer to examine the records at reasonable times and places.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.061)

5.04.320 Penalty for violation.

Any person who violates any of the provisions of this chapter, upon conviction thereof, shall be punished in accordance with the provisions of Sections 1.32.010 through 1.32.020 of this code.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.063)

5.04.330 Continuing violations.

The carrying on of any business without complying with the requirements of this chapter is a separate violation of this code for each and every day that such business is carried on.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.065)

5.04.335 Suspension or Revocation of business license.

A. Any business license issued pursuant to the provision of this chapter may be suspended or revoked by the ~~city council~~business license officer on the basis of any of the following:

1. That the business or activity has been conducted in an illegal or disorderly manner;
2. That any operator of the business or activity has an unfit character;
3. That the purpose for which the permit has been issued is being abused to the detriment of the public;
4. That the permit is being used for a purpose different from that for which it was issued;
5. That the permittee has misrepresented any fact in the application for permit or has not answered each question therein truthfully;

B. Unless otherwise provided in this chapter, in the event a permit is suspended or revoked pursuant to the provisions of this chapter, another permit shall not be granted to such person within ~~twelve~~twenty-four (~~12~~24) months after the date of such suspension or revocation. The business license officer~~city council~~'s determination following a suspension or revocation hearing shall be subject to appeal as set forth herein~~final and conclusive in the matter~~.

(Ord. 466 § 1, 2011:Ord. 447 § 1, 2010: Ord. 279 § 2 (part), 2003)

5.04.340 Appeals from denial, suspension or revocation of business license or permit.

A. Any person aggrieved by the denial of an application for a business license or permit, denial of an application for renewal of a business license or permit, suspension or revocation of a business license or permit, or any other decision of the city with respect to the issuance or refusal to issue a license or permit or the suspension or revocation of such license or permit subject to the appeals provisions of this chapter ("administrative decision"), may appeal the administrative decision by filing an appeal with the office of the city clerk within fifteen (15) calendar days from the date the notice of the administrative decision was mailed to the applicant. If the fifteenth day falls on a Saturday, Sunday or city holiday, the appeal may be filed on the next day city hall is open for business. The appeal document must be received by the office of the city clerk within the applicable time period and not just mailed within such time. This appeal process applies to the denial, suspension or revocation of all licenses issued pursuant to Title 5 of this Code~~those permits referenced in sections 5.26 Alcoholic Beverage Sales, 5.18 Massage Business and Massage Therapists~~

~~and 5.27 Short-Term Vacation Rental.~~ The person who files such an appeal shall be known as the “appellant.” Except in those instances where an appeal is filed by the city manager or other public official in pursuance of official duties, the written notice of appeal from the action of an administrative official or from an administrative body of the city, as the case may be, shall be accompanied by a fee of fifty dollars (\$50.00) or such other fee as may be required by other enactment of the city council.

1. The appeal shall set forth the administrative decision being appealed and the reasons why the decision should be reversed or modified. The city clerk shall promptly forward a copy of the appeal to the city manager and ~~administrative~~ independent hearing officer.

2. In the event an appeal is timely filed, an administrative decision concerning the denial of business license or permit, or the suspension or revocation of a license or permit shall not be effective until a final decision by the ~~administrative hearing~~ independent officer has been made pursuant to this section. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person’s right to an appeal. If no timely appeal is filed, the administrative decision shall become effective upon expiration of the period for filing an appeal. In the event a notice of appeal fails to set forth any information required by this section, the city clerk shall return the same to the appellant with a statement of the respects in which it is deficient, and the appellant shall thereafter be allowed five (5) days in which to perfect and refile the notice of appeal.

3. Upon receipt of a timely appeal, the city clerk shall make arrangements for the selection of an ~~independent~~ administrative hearing officer to conduct the appeal hearing. The ~~independent~~ administrative hearing officer shall be a person knowledgeable in municipal affairs, including, but not limited to, attorneys, retired judges, a reputable firm providing mediators and arbitrators, local government officials, or the State Office of Administrative Hearings (or its successor office). Not less than fifteen (15) days prior to the appeal hearing, the city clerk shall notify the city manager and the appellant of the name of the hearing officer who has been selected to hear the appeal. The ~~independent~~ administrative hearing officer shall be fair and impartial and shall have no bias for or against the city or the appellant.

4. Any documents or evidence to be used by the city and/or the appellant during the appeal hearing must be provided to the ~~independent~~ administrative hearing officer and the other party for review at least ten (10) days prior to the appeal hearing.

5. At the appeal hearing, the ~~independent~~ administrative hearing officer shall receive oral and written evidence from the city and the appellant.

a. The evidence presented need not comply with the strict rules of evidence set forth in the California Evidence Code but shall be the type of evidence upon which reasonable and prudent people rely in the conduct of serious affairs.

b. The ~~independent~~ administrative hearing officer shall have broad authority to control the proceedings and to allow for cross examination of witness in a fair and

impartial manner. The ~~independent~~administrative hearing officer shall have authority to administer oaths to those persons who will provide oral testimony. Each party shall have the opportunity to offer testimony and evidence and cross-examine witnesses in support of their case.

c. The city shall have the burden of proof to establish by clear and convincing evidence the facts upon which his or her decision is based.

d. The appeal hearing shall be recorded by audio recording. Any party may, at its sole cost and expense, utilize the services of a certified court reporter to prepare the verbatim record of the hearing. If a court reporter is used, the transcript prepared shall be made available for purchase to both parties. The appellant's failure to appear at a hearing shall constitute a waiver of the right to a hearing and a forfeiture of the hearing fee deposit. An appellant's failure to appear at the hearing shall be presumed an admission of guilt to the municipal code violation charges as indicated on the administrative decision. Any administrative fine applicable to the administrative decision, and additional hearing fees, if any, shall be immediately due and payable to the city.

e. The ~~independent~~administrative hearing officer may continue the appeal hearing from time to time, but only upon written motion of a party showing good cause for the continuance. The party requesting the continuance shall pay the costs of the hearing officer, if any, for the cancelled hearing.

i. The ~~independent~~administrative hearing officer may uphold, modify or reverse the administrative decision of the city.

ii. Within ten (10) days of the conclusion of the appeal hearing, the ~~independent~~administrative hearing officer shall render his or her decision and make written findings supporting the decision. The ~~independent~~administrative hearing officer shall send the decision to the city clerk. Upon receipt of the hearing officer's decision, the city clerk shall notify the city manager, the respective department and the appellant of the decision and provide them with a copy of the hearing officer's decision, along with a proof of mailing.

iii. The ~~independent~~administrative hearing officer's decision shall be final and conclusive as to the city and the appellant and no further administrative appeal from the hearing officer's decision shall be available. Any legal action challenging the ~~administrative~~ ~~independent~~ hearing officer's decision shall be filed within ninety (90) days of the date of the proof of service of mailing of the hearing officer's opinion, pursuant to Section 1094.5 et seq., of the California Code of Civil Procedure.

f. Any notices which either party may desire to give to the other party in connection with the appeal under this section must be in writing and may be given either by: (1) personal service; (2) delivery by a reputable document delivery service, such as, but not limited to, federal express, that provides a receipt showing date and time of delivery; or (3) mailing in the United States mail, first class mail, postage prepaid, addressed to the address to the city at city hall or to the appellant at the address set forth in the notice of appeal.

Notice shall be effective on the date of personal delivery or the date when the notice was deposited in the mail or reputable document delivery service.

g. If the ~~independent~~~~administrative~~ hearing officer overturns the administrative decision or substantially modifies it in favor of the appellant, the appeal fee shall be refunded to the appellant.

h. The city manager shall have the authority to establish all appropriate administrative regulations for the fair and efficient implementation of this section, conducting hearings and rendering decisions pursuant to this section.

i. Notwithstanding the procedures set forth in this section, the city manager shall have the authority to enter into settlement agreements with an appellant that justice may require and that are consistent with the purposes of this title. (Ord. 579, Exhibit A, 2022)

5.04.350 Fees a debt to city--Actions for collection of fees.

The amount of any license fee, penalty, or interest, or any combination thereof, imposed by the provisions of this chapter shall be deemed a debt to the city. Pursuant to Section 3.04.080 of this code, an action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent fee, penalty, interest, or charge due hereunder.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.069)

5.04.360 Remedies cumulative.

All remedies and enforcement measures provided to the city by this chapter shall be cumulative, and the use of one or more such remedies by the city, or its duly authorized officers, shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter, whether such remedy is provided by this chapter or otherwise.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.071)

5.04.370 Establishment of business categories.

A. Category I. Category I businesses are businesses which are neither Category II, Category III, nor Category IV businesses. They shall be assessed business license fees on the basis of gross receipts plus fixed-rate fees, if any. The initial application fee and gross receipts assessment shall be established from time to time by resolution of the city council upon recommendation of the business license officer.

B. Category II. Category II businesses are businesses which require a complex inspection or investigation in order to grant a business license. Category II businesses also include businesses which require a greater use or frequency of public services in enforcing the

provisions of this chapter. The types of businesses to be placed in Category II, their initial application fee, and gross receipts or other assessment shall be set from time to time by resolution of the city council upon recommendation of the business license officer.

C. Category III. Category III businesses are those businesses which require the most complex inspection or investigation in order to grant a business license. Category III businesses also include those businesses which require the greatest frequency of public services in enforcing the provisions of this chapter. The types of businesses to be placed in Category III, their initial application fee, and gross receipts or other assessment shall be set from time to time by resolution of the city council upon recommendation of the business license officer.

D. Category IV. Category IV businesses are those businesses so designated by resolution of the city council, which, because of the manner in which their business is conducted, indicates a special method of assessment. The business license fee for Category IV businesses shall be set from time to time by resolution of the city council and shall be not less than the minimum business license fee for Category I businesses.

E. Flat Rates. Professional license fees shall be as established as flat rate fees. This category supersedes Section 5.04.120.

F. Exempt. This category includes businesses defined in Section 5.04.060.

(Ord. 279 § 1 (part), 2003; Ord. 3 § 1 (part), 1991: prior code § 5.02.075)

5.04.380 Fixed license fees--Coin-operated machines--Charges.

A. An additional business license fee shall be assessed against each business which owns, possesses, or maintains any coin-operated machine used or placed for business purposes. The business license fee prescribed by this section is in addition to any gross receipts business license fee prescribed by this chapter for such business.

B. Nothing contained in this chapter shall be construed to allow or provide for the use or possession of any machine or device prohibited by law.

C. The fee for each type of machine shall be set by the city council by resolution from time to time upon recommendation of the business license officer.

D. The business which owns, operates, or controls one or more coin-operated machines shall, at the time of application for issuance or renewal of a license, advise the business license officer in writing as to the type and location of each such machine which is to be used within the city in the conduct of said business.

E. A sticker, tag, plate, or symbol shall be issued for each machine. One license may be issued for any number of machines to be located at a specific location or premises, with the privilege of substituting machines which are reasonably estimated to have similar gross receipts expectations.

F. The provisions of this chapter relating to business license fees for coin-operated machines shall not be deemed to apply to:

1. Machines such as telephones and metered dispensers utilized in distributing, dispensing, or providing a public utility commodity or service by a public utility subject to regulation by the California Public Utilities Commission, or the United States Interstate Commerce Commission, or the Federal Energy Regulation Commission;

2. Vending boxes or machines for newspapers, magazines, or other periodical publications.

(Ord. 3 § 1 (part), 1991: prior code § 5.02.077)

Chapter 5.12
(RESERVED)

Chapter 5.14
CYBER CAFES

Sections:

5.14.010 Cyber café (defined).

5.14.020 Cyber Learning Center.

5.14.030 Judicial relief for permits proceedings affecting expressive conduct.

5.14.040 Cyber cafes.

5.14.010 Cyber café (defined).

“Cyber café” shall mean an establishment that provides more than six (6) computers and/or other electronic devices for access to the internet, email, video games, or computer software programs which are networked via LAN or WAN or which functions as a client/server program and which seeks compensation in any form from users. Cyber café is synonymous with PC café, internet café, or cyber centers, but does not include a cyber learning center as defined in Section 5.14.020.

(Ord. 310 § 4, 2004)

5.14.020 Cyber Learning Center.

“Cyber learning center” shall mean an establishment that provides computer access which is operated by the City of Murrieta, a school district, a college district, a private or charter school, or is operated by nonprofit organization without monetary charge, or a privately owned for-profit after school learning center as determined by the Planning Manager and Chief of Police.

(Ord. 310 § 5, 2004)

5.14.030 Judicial relief for permits proceedings affecting expressive conduct.

The provisions of Section 1094.8 of the California Code of Civil Procedure shall govern any application for administrative mandamus based upon final decisions rendered under the following provisions of this code:

- A. Adult or Sexually Oriented businesses; Chapter 5.16.
- B. News racks; Chapter 9.10.
- C. Cyber cafes; Chapter 5.14.

(Ord. 310 § 6, 2004)

5.14.040 Cyber cafes.

Notwithstanding any other provisions of this chapter, cyber cafes may be conducted in any Multiple Use-2 (MU-2) or Community Commercial (CC) zones, provided they are carried on in accordance with the limitations hereinafter set forth and provided a Conditional Use Permit (CUP) is first obtained, in accordance with Section 16.52 of this code. Cyber cafes shall not be permitted in special districts or a specific plan unless explicitly set forth as a permissible use.

A. Minors (under eighteen (18) years of age) shall not be permitted to enter or remain in a cyber café during the following periods unless accompanied by a parent or legal guardian:

1. Between 8:00 a.m. and 3:00 p.m. or after 10:00 p.m. on Monday through Friday of each week.
2. Saturday and Sunday after 10:00 p.m.
3. The above weekday daytime hours of restriction shall not apply to vacation days or school holidays as established by any public school district or private school, kindergarten through twelfth (12th) grade, operating within the city of Murrieta.
4. Notice of these hours of restriction for minors shall be posted at the entrance in lettering of at least two (2) inches in size.

B. The cyber café shall not be open to customers, patrons, or any member of the public between the hours of 12:00 a.m. to 7:00 a.m.

C. A "No loitering" sign, hours of operation sign, "Persons under eighteen (18) years of age may not enter before 3:00 p.m. on school days" sign, and signs specifying truancy and curfew ordinances shall be posted at the front and rear of the business. In addition, a waiting area with not less than eight (8) seats shall be provided for customers waiting to use the computer. No outside waiting or seating areas permitted.

D. No use shall be maintained within five hundred (500) feet of any church, public or private school below grade thirteen (13), park or public playground.

E. One (1) parking space for every three (3) machines, plus one space for every (4) seats in the waiting area.

F. Each cyber café shall provide bicycle parking.

G. Each center shall provide two (2) toilets and lavatory facilities.

H. No exterior pay phone shall be permitted.

I. No person shall be permitted to consume alcohol on the premises, nor shall any intoxicated person be permitted to remain in the café.

J. No persons who display boisterous conduct, profanity, or otherwise conduct oneself in a vulgar, indecent or violent manner shall be permitted to remain in the café.

K. It will be unlawful under this section to view, or allow viewing, of material depicting or simulating sexual conduct on the premises of any cyber café.

L. Employees shall be twenty-five (25) years of age. There shall be a minimum of one (1) employee managing the cyber café during all working hours. If the business has more than twenty (20) computers, the business is required to add one additional employee for every additional twenty (20) computers, or portion thereof, and for every twenty (20) computers thereafter, or any portion thereof. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name.

M. Occupancy shall not exceed that required under the uniform building code and uniform fire code, and the maximum occupancy load shall be posted at the main entrance.

N. The establishment shall maintain and operate a camera/video surveillance system acceptable to the Murrieta Police Department with recording capability during all business hours. This system shall cover the entire interior of the premises and all entrances to and exits from the establishment. The camera/video surveillance system shall be capable of delineating on play back of the system the activity and physical features of persons or areas within the premises.

1. Tapes/disks shall be kept a minimum of seventy-two (72) hours and be available to law enforcement officials immediately upon request.

2. The business owner shall permit the city to inspect the tapes/disks during business hours. The system shall be maintained in good working order, including the running of the tapes/disks.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

O. The business owner shall submit and receive approval of a fire exit plan from the Murrieta Fire Department. The plan shall address all existing requirements of the Uniform Building Code and Uniform Fire Code. This includes but not limited to providing an exiting

plan showing equipment location, aisle locations and dimensional widths, and having approved exit doors and panic hardware.

P. Any adult entertainment or sexually oriented business is prohibited unless specifically approved pursuant to the requirements of Chapter 5.16 of this code.

Q. Window areas shall not be covered or made opaque in any way. All windows and entrances must be unobstructed at all times so as to allow an unimpaired line of sight for a police officer.

R. The business operator, at his/her expense, shall provide a California licensed uniform security guard on the premises Monday through Friday between 4:00 p.m. and closing and Saturday through Sunday between 12:00 p.m. and closing.

~~1. The Chief of Police is authorized to require a specific owner/operator to provide a security guard(s) on the premises at other hours of the day in the event that there are significant calls for service relating to assaults, gang-related activity, weapons offenses, disturbances, and juvenile-related crimes, including truancy or other good cause.~~

~~— 2. Any decision of the Chief of Police may be appealed to the City Council. Any appeal shall be made within ten (10) calendar days following the date of the decision by the Chief of Police. Further, such appeal period shall end at 5:00 p.m. on the tenth calendar day following such date of the written decision by the Chief of Police. If such tenth calendar day ends on a Saturday, Sunday, or holiday, the ten-day period shall end at 5:00 p.m. on the next regular business day.~~

~~— 3. All appeals shall be in writing and on forms provided by the planning department and shall specify where in there was any error or decision or requirement by the Chief of Police. Furthermore, a copy of such appeal shall be filed with the planning department and the office of the City Clerk.~~

~~— 4. Upon receipt of such appeal, the planning department shall set the matter for hearing by the City Council.~~

~~— 5. The City Council may after public hearing, affirm, reverse, change, or modify the original decision and may make additional determination that shall consider appropriate within the limitations imposed by this chapter. Such decision shall be filed with the office of the City Clerk and the planning department; one (1) copy thereof shall be sent to the applicant.~~

S. Lighting levels on the premises within sixty (60) feet of the use and in all required parking areas shall be maintained at a minimum one (1) foot candle of light. Interior lighting shall be maintained at a minimum of thirty (30) foot candles of light.

T. No pool tables or other amusement devices not directly related to internet computer devices shall be permitted.

U. No gaming tournaments for cash prizes shall be permitted.

V. No live music or entertainment, amplified music or entertainment, or karaoke devices shall be permitted.

(Ord. 310 § 7, 2004)

Chapter 5.16

SEXUALLY-ORIENTED BUSINESS PERMITS

Sections:

5.16.010 Purpose and intent.

5.16.020 Permit required.

5.16.030 Investigation and application.

5.16.040 Issuance of permit.

5.16.050 Annual permit fee.

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5.16.070 Expiration of permit.

5.16.080 Suspension of permit.

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5.16.100 Transfer of permit.

5.16.110 Regulations pertaining to exhibition of sexually-explicit films or videos in video booths.

5.16.120 Prohibitions regarding minors and sexually-oriented businesses.

5.16.130 Advertising regulations.

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5.16.150 Additional criminal prohibitions for the operation of a sexually-oriented business without a valid permit.

5.16.160 Exemptions.

5.16.010 Purpose and intent.

It is the purpose of this chapter to regulate sexually-oriented businesses as defined in Section 16.44.020 of the Development Code, being Title 16 of this Municipal Code to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent deleterious location and concentration of sexually-oriented businesses within the city. The provisions of this

chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent or effect of this chapter to in any way condone or legitimize the distribution of obscene or harmful to minors material. References in this chapter to the city manager shall be deemed to include the city's city manager or his or her designee. Reference in this chapter to the chief of police shall be deemed to include the city's chief of police or his or her designee. (Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.010)

5.16.020 Permit required.

A. No sexually-oriented business shall be permitted to operate, advertise, solicit, or promote such operation within the City without a valid permit issued by the city for the particular type of business. It is unlawful and a person commits a misdemeanor if he/she operate, advertises, solicits, or promotes or causes to be operated, advertised, solicited, or promoted a sexually-oriented business without the permit.

B. The city manager is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually-oriented business permits for proposed or existing sexually-oriented businesses. The city manager is also responsible for ascertaining whether a proposed sexually-oriented business for which a permit is being applied for complies with all locational requirements of the city zoning ordinance, all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this chapter in the city and the city comprehensive plan.

The chief of police is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.

The city manager is responsible for inspecting a proposed, permitted or nonpermitted sexually-oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

C. An application for a permit must be made on a form provided by the city. Any person desiring to operate a sexually-oriented business shall file with the city an original and two copies of a sworn permit application on the standard application form supplied by the city manager.

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

1. If the applicant is:

a. An individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is eighteen (18) years of age;

b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

2. If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant; he or she must state (1) the sexually-oriented business' fictitious name and (2) submit the required California registration documents.

3. Whether the applicant or any of the other individuals listed pursuant to this section, within the two- or five-year period as immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

4. Whether the applicant or any of the other individuals and or licensees of this chapter has had a previous permit under ordinance or other similar sexually-oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this chapter whose permit has previously been denied, suspended or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant or any other individual listed pursuant to this section holds any other permits and/or licenses under this chapter or other similar sexually-oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.

6. The single classification of permit for which the applicant is filing.

7. The location of the proposed sexually-oriented business, including a legal description of the property, street address, and telephone number(s), if any.

8. The applicant's mailing addresses and residential address.

9. A recent photograph of the applicant.

10. The applicant's driver's permit number, Social Security number, and or his/her state or federally-issued tax identification number.

11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be

professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus-or-minus six inches.

12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a California registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within one thousand five hundred (1,500) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within one thousand five hundred (1,500) feet of the property to be certified; and the property lines of any residentially-zoned area or residential property within one thousand five hundred (1,500) feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

13. If a person who wishes to operate a sexually-oriented business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a ten percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually-oriented business or as the entity which wishes to operate such a business, each individual having a ten percent or greater interest in the corporation must sign the application for a permit as applicant.

E. Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that the information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the city manager, shall be grounds for suspension of a permit.

F. In the event that the city manager determines or learns at any time that the applicant has improperly completed the application for a proposed sexually-oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

G. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.

H. The applicant shall be required to pay a nonrefundable application fee of fifty dollars (\$50.00) at the time of filing an application under this section of this chapter.

I. Prior to obtaining any permit or license occupational license to operate any business defined in this chapter, and as part of any application for a permit under this section, the applicant shall obtain from the city manager a certification that the proposed location of such business complies with the locational requirements of the Murrieta zoning ordinance.

J. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually-oriented business permit.

K. By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the city manager, the chief of police's office and all other city agencies charged with enforcing the laws, ordinances and codes applicable in the city of their respective responsibilities under this chapter.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.020)

5.16.030 Investigation and application.

A. Upon receipt of an application properly filed with the city and upon payment of the nonrefund-able application fee, the city manager shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the chief of police's office and any other city agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually-oriented business in accordance with its responsibilities under law and as set forth in this chapter. The investigation shall be completed within twenty (20) days of receipt of the application by the city manager. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefor.

B. A department or agency shall disapprove an application if it finds that the proposed sexually-oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city manager.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.030)

5.16.040 Issuance of permit.

A. The city manager shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth day, the applicant may be permitted to begin operating the business for which the permit is sought, unless and until the city manager notifies the applicant of a denial of the application and states the reason(s) for that denial.

B. Grant of Application for Permit.

1. The city manager shall grant the application unless one or more of the criteria set forth in subsection C of this section is present.

2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall also indicate that the sexually-oriented business whether permitted or not may be subject to prohibitions against public nudity in indecency pursuant to the United States Supreme Court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 114 S.Ct. 2456, 59 USLW 4745 1991 and any applicable California statutes. The permit shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it can be easily read at any time.

C. Denial of Application for Permit.

1. The city manager shall deny the application for any of the following reasons:

- a. An applicant is under eighteen (18) years of age.
- b. An applicant or an applicant's spouse is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually-oriented business.
- c. An applicant is residing with a person who has been denied a permit by the city to operate a sexually-oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually-oriented business has been revoked within the preceding twelve (12) months.
- d. An applicant has failed to provide information reasonably necessary for the issuance of the permit or has falsely answered a question or request for information on the application form.
- e. The premises to be used for the sexually-oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating the compliance.
- f. The application or permit fees required by this chapter have not been paid.
- g. An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this chapter including but not limited to the zoning location requirements for a sexually-oriented business.
- h. The granting of the application would violate a statute, ordinance, or court order.
- i. The applicant has a permit under this chapter which has been suspended or revoked.
- j. An applicant has been convicted of a "specified criminal" act for which:
 - i. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are crimes against children, sexual abuse, rape or crimes connected with another sexually-oriented business including but not limited

to distribution of obscenity, harmful to minors violations, prostitution, pandering, or tax violations;

ii. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the “specified criminal” acts which are crimes against children, sexual abuse, rape or crimes connected with another sexually-oriented business including but not limited to distribution of obscenity, harmful to minors violations, prostitution, pandering, or tax violations;

iii. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanors for the “specified criminal” acts which are crimes against children, sexual abuse, rape or crimes connected with another sexually-oriented business including but not limited to distribution of obscenity, harmful to minors violations, prostitution, pandering or tax violations; offenses occurring within any twenty-four-month period;

iv. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

v. An applicant who has been convicted of the above described “specified criminal acts” may qualify for a sexually-oriented business permit only when the time period required above has elapsed.

2. If the city manager denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.

3. If the person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.040)

5.16.050 Annual permit fee.

The annual fee for a sexually-oriented business permit shall be set by resolution of the city council.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.050)

5.16.060 Inspection.

A. An applicant or permittee shall permit representatives of the city manager, city chief of police's office, the city health department, and the fire department to inspect the

premises of a sexually-oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

B. It is unlawful and a person who operates a sexually-oriented business, regardless of whether or not a permit has been issued for the business under this chapter, or his or her agent or employee commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.060)

5.16.070 Expiration of permit.

A. Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 5.16.020 (for renewals, filing of original survey shall be sufficient) of this chapter. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

B. When the city manager denies renewal of the permit, the applicant shall not be issued a permit under this chapter for one year from the date of denial. If, subsequent to denial, the city manager finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.070)

5.16.080 Suspension of permit.

The city manager shall suspend a permit for a period not to exceed thirty (30) days if he/she determines that a permittee, or an employee of a permittee, has:

- A. Violated or is not in compliance with any section of this chapter; or
- B. Engaged in excessive use of alcoholic beverages while on the sexually-oriented business premises; or
- C. Refused to allow an inspection of sexually-oriented business premises as authorized by this chapter; or
- D. Knowingly permitted gambling by any person on the sexually-oriented business premises; or
- E. Operated the sexually-oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, the determination being based on investigation by the division, department or agency charged with enforcing the rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the

permittee fails to correct the violation before the expiration of the seven-day period, the city or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension. The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected; or

F. Engaged in permit transfer contrary to this chapter. In the event that the city or its designee, suspends a permit on the ground that a permittee engaged in a permit transfer contrary to this chapter, the city or its designee shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.080)

5.16.090 Revocation of permit.

A. The city manager shall revoke a permit if a cause of suspension and the permit has been suspended within the preceding twelve (12) months.

B. The city manager shall revoke a permit upon determining that:

1. A permittee gave false or misleading information in the material submitted during the application process; or

2. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises; or

3. A permittee or an employee has knowingly allowed prostitution on the premises; or

4. A permittee or an employee knowingly operated the sexually-oriented business during a period of time when the permittee's permit was suspended; or

5. A permittee has been convicted of a "specified criminal act" for which the time period required of this chapter has not elapsed; or

6. On two or more occasions within a twelvemonth period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually-oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

7. A permittee is delinquent in payment to the city or state for any taxes or fees past due; or

8. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.

9. The permittee shall have the right to appeal any intended denial, suspension or revocation of the permit pursuant to ~~Sections Chapter 2.28.010 through 2.28.040~~ 5.04 of this code. All administrative actions shall be stayed pending the completion of the hearing process.

C. When the city manager revokes a permit, the revocation shall continue for one year and the permittee shall not be issued a sexually-oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the city or its designee finds that the basis for revocation has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.090)

5.16.100 Transfer of permit.

A. A permittee shall not operate sexually-oriented business under the authority of a permit at any place other than the address designated in the application for permit.

B. A permittee shall not transfer his/her permit to another person unless and until such other person satisfies the following requirements:

Obtains an amendment to the permit from the city or its designee, which provides that he/she is now the permittee, which amendment may be obtained only if he or she has completed and properly filed an application with the city manager, setting forth the information called for under Section 5.16.020 of this chapter in the application; and

2. Pays a transfer fee of twenty (20) percent of the annual permit fee set by this chapter.

C. No permit may be transferred when the city manager has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

D. A permittee shall not transfer his or her permit to another location.

E. Any attempt to transfer a permit either directly or indirectly in violation of this section is declared void and the permit shall be considered abandoned.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.100)

5.16.110 Regulations pertaining to exhibition of sexually-explicit films or videos in video booths.

A person who operates or causes to be operated a sexually-oriented business, other than a sexually-oriented motel/hotel and regardless of whether or not a permit has been issued to the business under this chapter, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video

reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

A. Upon application for a sexually-oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally-prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus-or-minus six inches. The city manager may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

B. The application shall be sworn to be true and correct by the applicant.

C. No alteration in the configuration or location of a manager's station may be made without the prior approval of the city manager.

D. It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

E. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designed, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

F. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in subsection F of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Section 5.16.130 of this chapter.

G. No viewing room may be occupied by more than one person at any one time.

H. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two foot candle as measured at the floor level.

I. The owners and operator insure that the illumination described above is maintained at all times that any patron is present on the premises.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.110)

5.16.120 Prohibitions regarding minors and sexually-oriented businesses.

No person shall operate or cause to be operated a sexually-oriented business, regardless of whether or not a permit has been issued for the business under this chapter, and knowingly or with reasonable cause to know, permit, suffer, or allow:

- A. Admittance of a person under eighteen (18) years of age to the business premises;
- B. A person under eighteen (18) years of age to remain at the business premises;
- C. A person under eighteen (18) years of age to purchase goods or services at the business premises; or
- D. A person who is under eighteen (18) years of age to work at the business premises as an employee.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.120)

5.16.130 Advertising regulations.

A. It is unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually-oriented business, regardless of whether or not a permit has been issued for the business under this chapter, and advertises the presentation of any activity prohibited by any applicable state statute or local ordinance.

B. It is unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually-oriented business, regardless of whether or not a permit has been issued for the business under this chapter, and displays or otherwise exhibits the materials and/or performances at such sexually-oriented business in any advertising. This prohibition shall not extend to advertising of the existence or location of such sexually-oriented business.

C. Nothing contained in this chapter shall relieve the operator(s) of a sexually-oriented business from complying with the requirements of the city zoning ordinance, as it may be amended from time to time, or any subsequently enacted city ordinances or regulations.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.130)

5.16.140 Hours of operation.

A. No person shall operate or cause to be operated a sexually-oriented business, regardless of whether or not a permit has been issued for the business under this chapter, and allow such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service, between the hours of one a.m. and nine a.m. of any particular day.

B. No person shall work as an employee of a sexually-oriented business, regardless of whether or not a permit has been issued for the business under this chapter, if the employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of one a.m. and nine a.m. of any particular day.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.140)

5.16.150 Additional criminal prohibitions for the operation of a sexually-oriented business without a valid permit.

A. In addition to the criminal provisions found at other sections of this chapter, the following additional criminal provisions shall also apply to sexually-oriented businesses.

B. No person shall operate or cause to be operated a sexually-oriented business, if:

1. The business does not have a sexually-oriented business permit under this chapter for any applicable classification;
2. The business has a permit which is under suspension;
3. The business has a permit which has been revoked; or
4. The business has a permit which has expired.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.150)

5.16.160 Exemptions.

A. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing, and

b. Where, in order to participate in a class a student must enroll at least three days in advance of the class, and

c. Where no more than one nude model is on the premises at any one time.

B. It is a defense to prosecution for a violation of this chapter that an employee of a sexually-oriented business, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(Ord. 29 § 1 (part), 1991: Ord. 3 § 1 (part), 1991: prior code § 5.10.160)

Chapter 5.17
(RESERVED)

Chapter 5.18
MESSAGE BUSINESSES AND MESSAGE THERAPISTS

Sections:

5.18.010 Citation of chapter.

5.18.020 Findings and purpose.

5.18.030 Definitions.

5.18.040 Massage, general requirements.

5.18.050 Massage business permits.

5.18.060 Existing residential massage establishments.

5.18.070 Couples massage permit.

5.18.080 Outcall massage.

5.18.090 Massage operating requirements.

5.18.100 Advertising.

5.18.110 Inspection by officials.

5.18.120 Violation and penalty.

5.18.130 Public nuisance.

5.18.140 Denial, suspension and revocation of permits.

5.18.150 Exemptions.

5.18.160 Fee modification and allocation.

5.18.010 Citation of chapter.

This chapter may be cited as the City of Murrieta Massage Businesses and Massage Therapists Ordinance.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.020 Findings and purpose.

The City Council finds and declares as follows:

A. The purpose of this chapter is to provide for the orderly regulation of massage businesses and massage therapists within the City of Murrieta.

B. The requirements and restrictions imposed by this chapter are reasonably necessary to protect the public health, safety and welfare.

C. This chapter is adopted under the authority of California Business and Professions Code sections 460(c), 4600 et seq., and 16000; California Government Code Sections 37101 and 51030 through 51034; and the California Constitution Article XI, Section 7.

D. This chapter shall not be construed in a manner that is inconsistent with any state law governing the practice of massage. (Ord. 565-21, Exhibit A (part), 2021)

5.18.030 Definitions.

Whenever the following words and phrases are used in this chapter, they shall mean:

"California Massage Therapy Council or CAMTC" shall mean the non-profit organization created by the State of California pursuant to California Business and Professions Code sections 4600 et seq. to regulate the massage industry.

"CAMTC Certificate" shall mean a current, valid and authentic certificate issued by the California Massage Therapy Council to a massage therapist.

"City" shall mean the City of Murrieta.

"Couples massage" shall mean a massage performed by two (2) massage therapists to two (2) persons in the same room at the same time within a massage establishment or massage accessory use business that possesses a current, valid and authentic couples massage permit.

"Couples massage permit" shall mean a permit issued by the city to perform a couples massage as required by this chapter.

"Existing massage business/establishment/ therapist" shall mean any massage business, massage establishment or massage therapist, as applicable, as those terms are defined by this chapter, legally operating or established in the city as of October 2, 2021, that

continuously operates in the city with a current, valid and authentic business license issued by the city and all other necessary approvals, and that operates in compliance with all local, state and federal laws, ordinances, rules and regulations.

"Health Department" shall mean the Department of Public Health and/or the Department of Environmental Health of the County of Riverside.

"Inspector" shall mean anyone employed with the City's Building and Safety Division, Code Enforcement Division, Fire Department, Police Department and/or City Attorney's Office who may conduct an inspection of a massage business pursuant to this chapter.

"Manager" shall mean any person(s) designated by the owner or operator of the massage business to act as the representative and agent of the owner and operator in managing the day-to-day operations of the massage business with the same liabilities and responsibilities as the owner and operator.

"Massage" shall mean the scientific manipulation of the soft tissues and any method of pressure on, friction against, channeling energy through, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the body, or other methods designed to create similar effects, to produce increased awareness, relaxation, pain relief, injury rehabilitation, or neuromuscular re-education. Regulations under this municipal code apply to all forms of massage, whether or not it is called massage and whether or not the massage is performed with the patron fully clothed, with or without the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. For purposes of this definition, the terms "massage," "massage therapy," "bodywork," or any other terms used within the massage industry shall have the same meaning. To "perform massage" shall mean the act of performing, providing, offering, delivering, dispensing, engaging in, or carrying on, or permitted to be performed, provided, offered, delivered, dispensed, engaged in, or carried on massage for any form of consideration whatsoever. Examples of massage include, but are not limited to, Swedish massage, sports massage, shiatsu, polarity therapy, rolfing, heller work, reiki, and reflexology. Massage does not include contact with specified anatomical areas, as defined by and prohibited under this municipal code.

"Massage accessory use" shall mean any establishment having a fixed place of business within the city where any person performs massage either permanently or temporarily in conjunction with a primary permitted land use, and the area where the massage occurs covers less than twenty percent (20%) of the gross square footage of the primary permitted land use. Massage accessory use shall be required to obtain a massage accessory use permit and shall be subject to the massage operating requirements under Chapter 5.18 and Title 16, unless expressly exempted.

"Massage accessory use permit" shall mean a permit issued by the city to operate a massage accessory use as required by this chapter.

"Massage business" shall mean any massage business authorized to operate in the city pursuant to this chapter, including massage accessory use, massage establishment, outcall massage, and residential massage establishment businesses, as those terms are defined by this section.

"Massage establishment" shall mean any establishment having a fixed place of business located within the city where any person performs massage. A massage establishment shall be required to obtain a massage establishment permit and shall be subject to the massage operating requirements under Chapter 5.18 and Title 16 of this municipal code.

"Massage establishment permit" shall mean a permit issued by the city to operate a massage establishment as required by this chapter.

"Massage therapist" shall mean any person who performs massage on another person for any form of consideration whatsoever. For purposes of this definition, the terms "massage therapist," "massage practitioner," or any other terms used within the massage industry shall have the same meaning.

"Operator" shall mean any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operations, conduct or activities of a massage business.

"Outcall massage" shall mean massage performed by a massage therapist employed by a massage establishment or massage accessory use location at any location other than the operational address of the massage establishment or massage accessory use location identified on the massage establishment permit or massage accessory use permit. For purposes of this definition, the term "off-premises massage", "mobile massage", or any other terms used within the massage industry shall have the same meaning.

"Outcall massage permit" shall mean a permit issued by the city to perform outcall massage as required by this chapter.

"Owner" shall mean any of the following:

- A. The sole practitioner of a sole proprietorship that owns a massage business;
- B. Any general partner of a general limited partnership that owns a massage business;
- C. Any person who has five percent (5%) or greater ownership interest in a corporation that owns a massage business;
- D. Any person who is a member of a limited liability company that owns a massage business;
- E. All owners of any other type of business entity that owns a massage business; or
- F. Any person identified as an owner on a massage establishment permit or any other license, permit or entitlement issued by the city to operate a massage business.

"Permit" shall mean any permit or license issued by the city pursuant to this chapter relating to operating a massage business.

"Person" shall mean any natural person, firm, association, business, trust, organization, partnership, corporation, company, joint venture, or any other entity or combination of individuals of whatever form or character.

"Residential massage establishment" shall mean a massage establishment legally operating in a residence in the city as of October 2, 2021, that continuously operates in the residence with a current, valid and authentic massage establishment permit, business license and home occupation permit issued by the city, and all other necessary approvals, and that operates in compliance with all local, state and federal laws, ordinances, rules and regulations.

"Residential massage establishment permit" shall mean a permit issued by the city to operate a residential massage establishment as required by this chapter.

"Specified anatomical area" shall mean any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the female breasts. (Ord. 565-21, Exhibit A (part), 2021)

5.18.040 Massage, general requirements.

A. CAMTC Certificate required.

1. Massage therapist. Except as otherwise provided in this chapter, it shall be unlawful for any person to perform massage [or advertise, solicit or promote the performance of massage](#), whether as full-time, part-time or temporary status, as an employee, sole practitioner, or independent contractor of a massage business, or in any other capacity within the jurisdiction of the city, unless that person possesses a current, valid and authentic CAMTC Certificate.

2. Massage business. Except as otherwise provided in this chapter, it shall be unlawful for any massage business to operate [or advertise, solicit or promote such operation](#), within the jurisdiction of the city, unless all persons utilized by the massage business to perform massage, whether as full-time, part-time or temporary status, as an employee, sole practitioner, or independent contractor, or otherwise, possess a current, valid and authentic CAMTC Certificate.

B. City business license required. All massage businesses must obtain a city business license pursuant to Chapter 5.04 of this municipal code.

C. Independent contractors. Any independent contractor(s) utilized by a massage business to perform massage must obtain a city business license and must provide a current valid, and authentic CAMTC Certificate to the city prior to performing massage.

D. Permit issuance. Except as otherwise provided in this chapter, the procedures to follow to obtain a permit under this chapter are those set forth in the uniform licensing procedures under Chapter 5.04 of this municipal code. Any permit issued pursuant to this chapter shall be issued by the Chief of Police, or his or her designated representative, and shall be valid for a period of one (1) year from the date of such issuance. The Chief of Police,

or his or her designated representative, shall have the authority to review the requirements contained in the permit application and renewal application forms, and modify the applications, as necessary.

E. Existing massage businesses/therapists. Unless expressly exempted by this chapter, the provisions of this chapter shall be applicable to all massage businesses and massage therapists described herein, whether or not the activities herein described were established before or after October 2, 2021. Any existing massage business/therapist must be in full compliance with the applicable requirements of this chapter and Title 16 of this municipal code no later than October 2, 2021.

(Ord. 565- 21, Exhibit A (part), 2021)

5.18.050 Massage business permits.

This section shall apply to the issuance or renewal of any permit issued pursuant to this chapter.

A. Permit application. An application for a permit shall be filed on a form provided by the city, shall be signed and submitted under penalty of perjury, and shall include the appropriate filing fee. A permit application shall include the following information, which must be updated when there is any personnel change to ensure that the city has current information on file at all times relating to the massage business; the owners, operators and managers of the massage business; and all massage therapists who perform massage or who will perform massage for the massage business, as applicable:

1. Legal name of the massage business.
2. Form of business under which the massage business will operate (i.e. corporation, limited liability company, general or limited partnership, sole proprietorship, or any other form).
3. Address of the massage business.
4. Legal name, address and telephone number of the real property owner of the premises at which the massage business will operate, and an executed copy of any lease or rental agreement for the premises.
5. Complete description of all services to be provided by the massage therapists.
6. Legal name of all massage therapists who will perform massage for the massage business, and a copy of their current, valid and authentic CAMTC Certificates. The legal name of any massage therapist hired after the submittal of an application must be reported to the city prior to the massage therapist performing any massage for the massage business.
7. Legal name of all owners, operators and managers of the massage business.

8. Current residential address and telephone number, previous two residential addresses, and current business address and telephone number of all owners, operators and managers of the massage business.

9. Current, valid and authentic driver's license and/or photo identification card issued by a state or federal government agency, or other photographic identification bearing a bona fide seal by a foreign government, of all owners, operators and managers of the massage business.

10. Date of birth, gender, height, weight, color of hair, and color of eyes of all owners, operators and managers of the massage business.

11. Signed statement by each owner, operator and manager of the massage business who does not possess a current, valid and authentic CAMTC Certificate, authorizing the Police Department to conduct a background check of that individual, and including the following: (i) any and all aliases and fictitious names used by the individual within the last five (5) years; (ii) the individual's business, occupation and employment history for the last five (5) years; (iii) the inclusive dates of such employment history; (iv) the name and address of any massage business or similar business owned, operated or managed by the individual; and (v) any other information as may be reasonably required to identify the individual and to ensure compliance with all applicable laws, rules and regulations.

12. Signed statement by each owner, operator and manager of the massage business acknowledging the following: (i) all of the information contained in the permit application is true and correct; (ii) all owners, operators and managers are familiar with the requirements of this chapter and all applicable requirements of Title 16 of this municipal code, and shall communicate those requirements to employees of the massage business, and also to patrons of the massage business on inquiry or as called for by specific circumstances; (iii) all owners, operators and on-duty managers are responsible for the massage business and the conduct of all persons who perform massage for the massage business, and ensuring compliance with this chapter and all applicable requirements of Title 16 of this municipal code; (iv) any act or omission of any employee of the massage business constituting a violation of any provision of this chapter and all applicable requirements of Title 16 of this municipal code shall be deemed to be an act or omission of the owner, operator and on-duty manager for purposes of determining whether to suspend or revoke a permit and/or a city business license, or deny the renewal of a permit and/or a city business license; and (v) failure to comply with Business and Professions Code section 4600 et seq., or with any local, state or federal laws, rules or regulations and/or the provisions of this chapter and all applicable requirements of Title 16 of this municipal code may result in the suspension, revocation or non-renewal of a permit and/or a city business license.

13. Proof of insurance provided by an insurance company authorized to do business in the State of California evidencing that the massage business and all massage therapists performing massage for the massage business, are insured under a liability insurance policy providing minimum coverage of two million dollars (\$2,000,000) for personal injury or death to any person arising out of or in connection with the operation of any massage

business and the performance of massage for the massage business. All massage businesses must comply with the requirements of California Labor Code section 3700 et seq. Such insurance required by this subdivision shall remain in full force and effect at all times throughout the operation of the massage business.

B. Permit renewal application. An annual permit renewal application shall be required for any permit issued pursuant to this chapter. Renewal applications shall be filed on a form provided by the city no later than thirty (30) days prior to the expiration date of an existing permit, shall be signed and submitted under penalty of perjury, and shall include the appropriate renewal filing fee. Renewal applications shall include updated information to the information required under subdivision (a) of this section when there is any personnel change to ensure that the city has current information on file at all times relating to the massage business, the owners, operators and managers, and all massage therapists who perform massage or who will perform massage for the massage business.

C. Approval or denial of permit. The city shall issue a permit or renewal permit, as applicable, upon demonstration of the following:

1. The massage business, the owners, operators and managers, and all massage therapists who perform massage or who will perform massage for the massage business would comply with all applicable laws, including, but not limited to, the city's building, fire, zoning, land use approvals, business license regulations; applicable Health Department regulations; and all other applicable local, state and federal health, zoning, fire and safety laws, rules, requirements, standards, and regulations, including, but not limited to, the California Building Standards Code and the California Fire Code.

2. The massage business employs or uses only massage therapists to perform massage who possesses a current, valid and authentic CAMTC Certificate.

3. The owners, operators and managers of the massage business have provided all information, documentation, and assurances required by this chapter and all applicable requirements of Title 16 of this municipal code to the city; have not failed to reveal any fact material as to qualification; and have not supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

4. The background check for any owners, operators and managers authorized by this chapter shows that such owners, operators and managers have not been required to register under the provisions of Penal Code section 290 (sex offender registration); have not been convicted of a violation of Penal Code sections 266(h) (pimping), 266(i) (pandering), 314 (indecent exposure), 315 (keeping or residing in a house of ill-fame for the purposes of prostitution or lewdness), 316 (keeping a disorderly house, disturbing the peace for the purposes of assignation or prostitution), 318 (prevailing upon any person to visit a place for prostitution), 647(a) (soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute), or have not pled nolo contendere or have not been convicted of a violation of any lesser related offense, including, but not limited to, Penal Code section 415, in satisfaction of, or as a substitute for, any of the aforementioned offenses; have not been convicted of any felony drug-related offense involving the controlled substance specified in Health and Safety Code sections

11054, 11055, 11056, 11057 or 11058; have not been convicted of any act involving theft, dishonesty, fraud, deceit or moral turpitude; have not been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the aforementioned offenses; have not had an individual or business permit, certificate or license with any agency, board, city, county, territory or state-denied, revoked or suspended within the last ten (10) years; and have not been subject to an injunction for nuisance under Penal Code sections 11225 through 11235 (red light abatement) within the last ten (10) years.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.060 Existing residential massage establishments.

An existing massage business operating as a residential massage establishment in the city as of October 2, 2021, shall be considered a legal, non-conforming use, and may continue to operate so long as there is no lapse in the timely renewal of a city business license and/or residential massage establishment permit. A residential massage establishment must comply with all of the following requirements:

- A. Maintain a home occupation permit issued by the city and comply with the home occupation permit requirements under Chapter 16.60;
- B. The massage operations shall be purely incidental and secondary to the location's primary use as a residential dwelling unit;
- C. The operator of the residential massage establishment must reside at the residence and may not employ any persons other than immediate family members;
- D. All materials or mechanical equipment utilized by the residential massage establishment must be of a type normally associated with household or hobby use;
- E. No products shall be for sale or sold at a residential massage business, unless the residential massage business obtains an appropriate vending or sales permit from the County of Riverside;
- F. Pedestrian and vehicular traffic generated by the residential massage establishment must be consistent with the location of the residential dwelling unit;
- G. All general sign regulations applicable in the residential land use district in which a residential massage establishment is located shall apply at a residential massage establishment; and
- H. Massage must be provided in a facility separate from any living quarters. Business access to a residential massage establishment shall be separate from residential access and must comply with the requirements applicable to massage establishments, generally.

I. A residential massage establishment and all massage therapists who perform massage at the residential massage establishment must comply with the massage operating requirements under Section 5.18.090, unless expressly exempted.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.070 Couples massage permit.

A couples massage may be performed at a massage establishment or massage accessory use business pursuant to compliance with all of the following requirements:

A. The massage business where the couples massage is performed must obtain a couples massage permit. A copy of the couples massage permit shall be posted in the room where the couples massage takes place at the massage business.

B. An Inspector may inspect the massage business where the couples massage will take place to determine whether the location meets the requirements of this section and all other requirements imposed by this chapter and all applicable requirements of Title 16 of this municipal code prior to the issuance of a couples massage permit.

C. A couples massage may only be performed in a room of at least 100 (one hundred) square feet in size.

D. Two (2) massage tables must be present in the room where the couples massage takes place and only one (1) patron is allowed to receive a massage on each table.

E. A massage business and all massage therapists who perform couples massage at the massage business must comply with the massage operating requirements under Section 5.18.090, unless expressly exempted.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.080 Outcall massage.

Outcall massage may be performed pursuant to compliance with all of the following requirements:

A. A massage establishment or massage accessory use business permitted to perform outcall massage services must obtain an outcall massage permit. A copy of the outcall massage permit shall be posted at the massage establishment or massage accessory use business.

B. Any massage performed at an outcall massage location must be booked by a massage establishment or massage accessory use business. Massage therapists shall not perform any massage at any location other than the location booked by the massage establishment or massage accessory use business with which the massage therapist is affiliated.

- C. No massage business will be permitted to operate solely as an outcall massage service.
- D. Outcall massage services may comprise no more than forty percent (40%) of the annual proceeds generated by a massage establishment or massage accessory use.
- E. No outcall massage may be performed at a commercial establishment, other than at the patron's own place of business.
- F. Any violation of this chapter by a massage therapist performing outcall massage may result in the suspension, revocation or non-renewal of the massage establishment permit or massage accessory use permit with which the massage therapist is affiliated.
- G. An outcall massage and all massage therapists who perform outcall massage for the massage establishment or massage accessory use, as applicable, must comply with the massage operating requirements under Section 5.18.090, unless expressly exempted.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.090 Massage operating requirements.

No person shall engage in, conduct, carry on or perform, or permit to be engaged in, conducted, carried on or performed, massage within the jurisdiction of the city unless all of the following requirements are met, and the person is in compliance with all applicable provisions of Title 16 of this municipal code.

- A. CAMTC Certificate to city. No owner, operator or manager shall operate a massage business unless a copy of a current, valid and authentic CAMTC Certificate is provided to the city for each massage therapist employed or utilized to perform massage for the massage business, prior to performing any massage.
- B. Certificates posted in public view.
 - 1. No owner, operator or manager shall operate a massage business unless a copy of a current, valid and authentic CAMTC Certificate is posted in public view for each massage therapist employed or utilized to perform massage for the massage business.
 - 2. No owner, operator or manager shall operate a massage business unless a copy of a current, valid and authentic permit is posted in public view at the massage business.
- C. CAMTC identification card worn at all times. No owner, operator or manager shall operate a massage business unless an original CAMTC-issued identification card is worn and clearly visible on each massage therapist employed or utilized to perform massage for the massage business, at all times while on-site at the massage business or at any location where an outcall massage or residential massage is performed, whether or not the massage therapist is performing massage.
- D. Owner, operator or manager on-site. An owner, operator or manager approved by the city must be on the premises of the massage business at all times during business hours. The name of the designated owner, operator or manager on-duty shall be posted in an open

and conspicuous public place in the lobby/reception area of the massage business, and updated on a daily basis.

E. Prohibited locations. No massage shall be performed in a short-term vacation rental, hotel or motel room, vehicle, or in the private residence of the massage therapist performing massage. Existing residential massage establishments shall be permitted to perform massage in the private residence of the massage therapist.

F. Hours of operation. Massage shall be performed only between the hours of 7:00 a.m. and 9:00 p.m. no massage shall be performed between the hours of 9:00 p.m. and 7:00 a.m. Hours of operation must be displayed in an open and conspicuous public place in lobby/reception area of the massage business and in a location clearly visible from the outside of the massage business.

G. List of services. A list of the services available and the costs of such services shall be posted in an open and conspicuous public place in the lobby/reception area of the massage business. The services shall be described in English. No owner, operator or manager shall permit to be offered or performed, and no massage therapist shall offer or perform, any service other than those posted on the list of available services, nor shall any owner, operator, manager, or massage therapist request or charge a fee for any service other than those included on the list of available services.

H. Massage log. For each massage performed, the massage business shall keep a complete and legible written record of the following information stated in English on a form provided by the city, as may be updated from time to time by the city, or by some other method that provides substantially the same information as required by this subdivision: (i) the date and hour the massage was performed; (ii) the service received; (iii) the name of the massage therapist performing the massage; and (iv) the address where services were provided for outcall massage. Such records shall be retained on the premises of the massage business for a period of not less than two (2) years, and shall be available for inspection and copying by an Inspector during business hours.

I. Signage. A recognizable and legible sign complying with the sign regulations of this municipal code (Refer to Chapter 16.38 (Sign Standards) for further details) shall be posted at the main entrance of each massage establishment identifying the premises as a massage establishment. The signage shall not be illuminated by strobe or flashing lights. This subdivision shall not apply to massage accessory use, existing residential massage establishment, or outcall massage businesses.

J. Lighting. A minimum light level of no less than five (5) foot candles at any point within the room shall be maintained in each room or enclosure where massage is performed.

K. Lavatories, bathing facilities, saunas, steam/heat/vapor rooms.

1. Lavatories shall be provided for patrons with hot and cold running water, soap and single service towels in wall-mounted dispensers or electric hand dryers, and a trash receptacle.

2. All walls, floors and ceilings in lavatories, bathing facilities, saunas, steam/heat/vapor rooms, and all other physical facilities must be kept in good repair and maintained in a clean and sanitary condition.

3. Steam/heat/vapor rooms shall be thoroughly cleaned and disinfected each day that the massage business is in operation.

4. Walls in lavatories, bathing facilities, saunas, and steam/heat/vapor rooms shall be smooth and waterproof.

5. Floors in lavatories, bathing facilities, saunas, and steam/heat/vapor rooms shall have a waterproof covering that extends up the walls at least six (6) inches and shall be covered at the floor-wall juncture with at least a three-eighths (3/8) inch radius.

6. Separate bathing facilities, saunas, and steam/heat/vapor rooms shall be provided for male and female patrons if male and female patrons are to be served simultaneously.

L. Massage table, table pads. A massage table shall be provided in each room at a massage business where massage is performed. Massage may only be performed on a massage table with a minimum height of eighteen (18) inches. Massage table pads up to two (2) inches thick with a maximum width of four (4) feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. A massage table or pad used for an outcall massage must be inspected and approved by the Police Department before use.

M. Linens. Towels, sheets and linens of all types and items for personal use of massage therapists shall be clean and freshly laundered. Towels, clothes, and sheets shall not be used by more than one (1) person unless the same has first been laundered. Heavy white paper may be substituted for sheets provided that such paper shall not be used by more than one (1) person and must be discarded into a sanitary receptacle after such use.

N. Storage cabinets, containers for linens. Cabinets shall be provided for the storage of clean linens. Containers shall be provided for the storage of all soiled linens.

O. Sterilized instruments. Disinfecting agents and sterilizing equipment shall be provided for any instruments used to perform massage.

P. Ventilation. Minimum ventilation shall be provided in accordance with the building code of the city.

Q. Plumbing and electrical. All plumbing and electrical installations shall be installed under permit in accordance with current local, state and federal laws, rules and regulations, and be subject to inspection by the Inspector.

R. Exterior windows and doors. No massage business located in a building or structure with exterior windows and/or doors facing a public street, highway, walkway, or parking area shall block visibility into the interior reception area through the use of curtains, screens, closed blinds, tints or any other material that obstructs, blurs or unreasonably darkens the view into the premises. This subdivision shall not apply to existing residential massage establishments or outcall massage.

S. Unlocked doors.

1. No interior door of a room where massage is performed in the massage business shall be fitted with a temporary or permanently affixed lock of any kind (such as a locking door knob, padlock, dead bolt, sliding bar or similar device).

2. No exterior door which is regularly used by the public for ingress or egress shall be locked during business hours, unless the massage business is owned by only one (1) individual with one (1) or no employees or independent contractors, provided that any such exterior door is equipped with panic hardware or other similar equipment that would provide an accessible form of egress in the event of an emergency.

T. Inspection of unoccupied rooms and areas. All unoccupied rooms and areas shall be subject to reasonable inspection during business hours.

U. Access to massage businesses. No person, other than an employee of the massage business reported to the city pursuant to this chapter, shall be allowed in the massage business other than the lobby/reception area during business hours.

V. Specified anatomical areas.

1. No owner, operator, manager, or massage therapist shall perform massage on or intentionally touch, or permit the performance of massage on or intentional touching of, the specified anatomical areas of another person, regardless of whether the contact is over or under the patron's clothing.

2. No owner, operator, manager, or massage therapist shall enter any area of the massage business which is used by the patrons, unless the patron's specified anatomical areas are fully covered, except to use the lavatory or dressing room.

W. Professional attire. No owner, operator or manager shall permit any massage therapist to be on the premises of a massage business during business hours to perform massage or be available to perform massage, and no massage therapist may perform massage unless the massage therapist is dressed in professional attire based on the custom and practice of the massage profession in California. The uniform shall be made of non-transparent material and may not expose any specified anatomical area. Swim attire, lingerie and undergarments may not be used as a uniform or displayed as a part of a uniform. Appropriate swim attire may be worn while performing a water-based massage modality approved by CAMTC.

X. No residential use. No massage business shall be used for residential purposes. No owner, operator or manager shall permit any person, including but not limited to any owner, operator, manager, or massage therapist to live on the premises of a massage business. This subdivision shall not apply to existing residential massage establishments or outcall massage.

Y. No school use. No massage business shall operate as a massage school, or use the same facilities as that of a massage school to operate a massage business.

Z. Alcohol and drugs prohibited. Service, consumption and use of alcoholic beverages, drugs, and other controlled or intoxicating substances, including cannabis, is prohibited at any massage business or at any location where an outcall massage or residential massage is performed, unless legally permitted pursuant to the provisions of this municipal code applicable to the commercial service of alcohol, including Section 16.44.030, and in compliance with all other local, state, and federal laws, rules and regulations. No person shall otherwise enter, be in or remain in any part of a massage business while in possession of, consuming, using, or under the influence of any alcoholic beverage, drug, or other controlled or intoxicating substance, including cannabis.

AA. Communicable diseases. Massage may not be performed on any person while that person has a communicable disease that may be transmitted by the performance of massage. Massage may not be performed by a massage therapist while the massage therapist has a communicable disease that may be transmitted by the performance of massage.

BB. Contraception devices prohibited. No contraception devices (e.g., condoms or other prophylactics) shall be possessed by any massage therapist while on premises of the massage business or at any location where an outcall massage or residential massage is performed.

CC. Sex devices prohibited. No device, the primary purpose of which is for sexual stimulation, shall be sold, utilized or be present at any time at a massage business or at any location where an outcall massage or residential massage is performed.

DD. Food. No food shall be prepared for sale or sold at a massage business or at any location where an outcall massage or residential massage is performed, unless the massage business obtains an appropriate food vending or sales permit from the County of Riverside.

EE. Parking. Required parking shall be provided on-site consistent with Chapter 16.34 (Off-Street Parking and Loading Standards).

FF. Refuse and recycling. Refuse and recycling containers shall be provided on-site for operations, consistent with state and city requirements. See Section 16.18.150 (Solid Waste/Recyclable Materials Storage) for requirements.

(Ord. 576, Exhibit A (part), 2022; Ord. 565-21, Exhibit A (part), 2021)

5.18.100 Advertising.

A. All advertising to perform massage by any massage therapist within the jurisdiction of the city shall include the name of the massage therapist and their CAMTC Certificate number. This requirement shall apply to any and all types of advertising, including, but not limited to, business cards, written pamphlets, social media, and internet websites, including online bulletin boards.

B. All advertising to perform massage at any massage business within the jurisdiction of the city shall include the name of the massage business and the city business license

number. This requirement shall apply to any and all types of advertising, including, but not limited to, business cards, written pamphlets, social media, and internet websites, including online bulletin boards.

C. No person, massage therapist or massage business shall engage in sexually suggestive advertising, including sexually suggestive photographs and language, related to massage services.

D. No person, massage therapist or massage business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter related to performing any service prohibited by this chapter.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.110 Inspection by officials.

The investigating and enforcing officials, including, but not limited to, any Inspector and the Health Department, shall have the right to enter the premises of any massage business from time to time during business hours for the purpose of making a reasonable inspection to observe and enforce compliance with the provisions of this chapter, all applicable requirements of Title 16 of this municipal code and all other applicable local, state and federal laws, rules and regulations.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.120 Violation and penalty.

Every person, except those persons who are specifically exempt from this chapter, whether acting as an individual, employee, independent contractor, owner, operator, manager, or acting in any other role for the individual, employee, independent contractor, owner, operator or manager, who violates any provision of this chapter or applicable requirements of Title 16 of this municipal code shall be guilty of a misdemeanor. Upon a conviction under this section, the court shall, in addition to any other punishments it imposes, impose a fine of \$100 (one hundred dollars), no part of which shall be suspended.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.130 Public nuisance.

It shall be unlawful and a public nuisance for any person to operate, conduct or maintain a massage business contrary to the provisions of this chapter and all applicable requirements of Title 16 of this municipal code. The city may, in addition to, or in lieu of, prosecuting a criminal action hereunder, commence proceedings for the abatement, removal and/or enjoinder thereof in any manner provided by law.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.140 Denial, suspension and revocation of permits.

A. Grounds. In addition to the grounds for denial, suspension or revocation imposed under Chapter 5.04 of this municipal code, a permit issued by the city under this chapter, and/or city a business license issued by the city may be denied, suspended or revoked upon any of the following grounds:

1. An owner, operator or manager of the massage business is required to register under the provisions of Penal Code section 290 (sex offender registration); is convicted of a violation of Penal Code section 266(h) (pimping), 266(i) (pandering), 314 (indecent exposure), 315 (keeping or residing in a house of ill-fame for the purposes of prostitution or lewdness), 316 (keeping a disorderly house, disturbing the peace for the purposes of assignation or prostitution), 318 (prevailing upon any person to visit a place for prostitution), 647(a) (soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute), or has pled nolo contendere or has been convicted of a violation of any lesser related offense, including, but not limited to, Penal Code section 415, in satisfaction of, or as a substitute for, any of the aforementioned offenses; have not been convicted of any felony drug-related offense involving the controlled substance specified in Health and Safety Code sections 11054, 11055, 11056, 11057 or 11058; has been convicted of any act involving theft, dishonesty, fraud, deceit or moral turpitude; has an individual or business permit, certificate or license with any agency, board, city, county, territory or State-denied, revoked or suspended; is subject to an injunction for nuisance under Penal Code sections 11225 through 11235 (red light abatement); or is convicted of any other offense which, if committed or attempted in this state, would have been punishable as one or more of the aforementioned offenses.

2. A material misrepresentation was included on the application for a permit, and/or city business license, renewal or transfer application.

3. Violations of California Business and Professions Code sections 4600 et seq., any local, state or federal laws, rules or regulations, and/or the provisions of this chapter or Title 16 of this municipal code have occurred on the premises of the massage business.

4. An owner, operator or manager of the massage business has failed to comply with one or more of the massage operating requirements under this chapter.

5. A massage therapist, owner, operator or manager of the massage business has failed to comply with the massage advertising requirements under this chapter and/or state law.

6. Any repeat violations or any arrests that result in criminal charges shall provide a prima facie basis for revocation.

7. A permit issued by the city that is not timely renewed shall be automatically suspended. To reinstate the status of a permit suspended pursuant to this subdivision, the owner or operator must submit a permit renewal application and filing fee, together with a

reinstatement fee of ten percent (10%) of the filing fee, no later than thirty (30) days following the suspension date. Civil, criminal and/or administrative citations may also be issued for failure to maintain the permit. A permit that is not reinstated within thirty (30) days of the suspension date shall automatically expire and be deemed of no further force or effect. In that event, a new permit will be required to operate a massage business in the city, contingent upon city approval and subject to all applicable provisions of this chapter and Title 16 of this municipal code, including, but not limited to, any cap limitations and distance restrictions.

B. Appeal of denial, suspension or revocation. The appeal procedures for the denial, suspension or revocation of a permit shall be those set forth in Chapter 5.04 of this municipal code.

C. Prohibited operations. Upon revocation of a massage accessory use permit, massage establishment permit, residential massage establishment permit, and/or city business license pursuant to this chapter or any other provision of this municipal code, the permittee shall not operate a massage business within the jurisdiction of the city for a period of five (5) years from the date of such revocation. No massage accessory use permit, massage establishment permit, residential massage permit, and/or city business license that is revoked by the city may be transferred to any other person or entity.

D. Prohibition at same location. After a permit is revoked or not renewed for a violation of this chapter, the city will not issue a permit to operate a new massage business at the same location for a period of five (5) years following the revocation or non-renewal of the permit. For the purposes of this section, "same location" means the real property on which the massage establishment was located upon as a stand-alone business, or all parcels and addresses of real property within a shopping center, office complex, industrial park, or other multi-tenant building on which the massage establishment was established pursuant to a city-issued permit.

(Ord. 576, Exhibit A (part), 2022; Ord. 565-21, Exhibit A (part), 2021)

5.18.150 Exemptions.

The requirements of this chapter shall not apply to the following classes of persons, and no permit required under this chapter shall be required of such persons, while engaged in the performance of the duties of their respective professions:

A. Physicians, surgeons, chiropractors, osteopaths, podiatrists, physical therapists, occupational therapists, exercise physiologists, and acupuncturists who are licensed to practice under the laws of the State of California.

B. Registered nurses, practical nurses, or licensed vocational nurses who are licensed or registered to practice under the laws of the State of California.

C. Hospitals, nursing homes, mental health facilities, or any other health facility licensed under the laws of the State of California.

D. Athletic trainers of any amateur, semiprofessional or professional athletes or teams, or athletic trainers hired by a local, state or federal government entity, while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event, such as track meets, triathlons, or similar single occurrence athletic events.

E. Barbers, beauticians, cosmetologists, aestheticians, and manicurists who are licensed under the laws of the State of California.

F. Any educational institution licensed and regulated by the State of California, including any portion of the institution providing massage, such as student clinics and work study programs.

G. Any other business or profession exempt from the provisions of this chapter by state law.

(Ord. 565-21, Exhibit A (part), 2021)

5.18.160 Fee modification and allocation.

The City Council shall establish, by resolution, the nonrefundable permit application and nonrefundable permit annual renewal fees for each permit issued pursuant to this chapter. The appropriate fee shall accompany the submission of each permit application, or renewal application, as applicable, to defray in part the reasonable costs of the administration, inspection, investigation, and enforcement of this chapter and all applicable requirements of Title 16 of this municipal code. Such fees shall be:

A. Reviewed annually and adjusted, as necessary, by the City Manager, or his or her designated representative, to determine whether such fees are adequate to cover the costs of implementing the provisions of this chapter and all applicable requirements of Title 16 of this municipal code.

B. Deposited in the city's general fund to be allocated as determined by the city.

C. Paid in addition to any other fees required under this municipal code.

(Ord. 565-21, Exhibit A (part), 2021)

Chapter 5.20 SOLICITATIONS

Sections:

5.20.010 Purpose.

5.20.020 Definitions.

5.20.030 License required.

5.20.040 Terms of license and fees.

- 5.20.050 Nontransferability of solicitor license.
- 5.20.060 License to peddle food; public health permit required.
- 5.20.070 Contents of license or identification card application.
- 5.20.080 Fingerprint report and photographs required.
- 5.20.090 Identification card requirement, denial, suspension or revocation.
- 5.20.100 Issuance of solicitor's identification card.
- 5.20.110 Solicitations to unwilling recipients prohibited.
- 5.20.120 Commercial handbill.
- 5.20.130 Littering prohibited.
- 5.20.140 Methods of distribution.
- 5.20.150 Exceptions.
- 5.20.160 Commercial solicitation on any public street (Reserved).
- 5.20.170 Hours of solicitation.
- 5.20.180 Soliciting at public parks.
- 5.20.190 Allowed temporary uses.
- 5.20.200 Violation - penalties.

5.20.010 Purpose.

The city council finds and declares as follows:

- A. That unrelated practice of solicitation of unwilling residents for any purpose jeopardizes the right of residents in the city to enjoy the privacy of their homes in tranquility and security;
- B. That the interests of residents in privacy and the quiet enjoyment of residential premises are protected by reasonable regulation of the time and manner solicitation may take place at residences in the city;
- C. That the risk of consumer fraud increases when the solicitor has no fixed place of business in the city and consumer complaints cannot be resolved locally and expediently;
- D. That the distribution of solicitation materials upon residential property in the city creates widespread litter which is unsightly, unhealthy, and difficult to remove;
- E. That the distribution of solicitation materials upon residential property in the city creates a serious police problem and a threat to public safety and welfare in that residential

property becomes cluttered with an accumulation of such materials inadvertently advertising the absence of the owner or occupant and increasing the likelihood of criminal activities on the property; and,

F. That such practices, if not in compliance with the reasonable regulation thereof, are injurious and contrary to the public health, safety and welfare of residents of the city, create a public nuisance, and should therefore be regulated by the city.

(Ord. 108 § 3 (part), 1993: Ord. 3 § 1 (part), 1991: prior code § 5.06.010)

5.20.020 Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from context:

“Charitable solicitation” includes solicitation for philanthropic social services or welfare.

“Contribution” includes alms, food, clothing, money, property, subscription, pledge, and donations under the guise of loans of money or property.

“Established place of business is a fixed place, location or building, owned or leased or rented on a yearly or monthly basis, by the person who uses such place, location or building as his or her permanent place of business.

“Goods” means goods, wares, merchandise, products, chattels or any description, magazines, periodicals, or other publications or subscriptions therefore; regularly published newspapers as defined herein excepted.

“House” means any structure, building or dwelling which has walls on all sides and is covered by a roof. House includes the land area surrounding it.

“Identification card” means the solicitor’s identification card issued to a person who possesses a valid solicitor’s license or who is employed or engaged to solicit by a person licensed to do business as a solicitor with the City of Murrieta.

“License” means that solicitor license which is issued to a person who is doing business as a solicitor in the City of Murrieta.

“Newspaper” means a publication appearing at regular intervals at short periods of time, as daily, weekly, biweekly, usually in sheet form and containing news that is reports of recent occurrences, political, social, moral, sporting events and items of varied character, both local and foreign, intended for the information of the general reader and has reference to the natural, plain and ordinary significance of the word newspaper and does not refer to or comprehend magazines or periodicals. Newspaper does not include regular or periodic advertising circulars, certificates, papers, coupons, books, or pamphlets.

“Person” means any individual, firm, co-partnership, corporation, company, association, or joint stock organization, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent, employee or other similar representative thereof.

“Public place” means any place to which anyone may have access without trespassing.

“Religious solicitation” as used in this chapter shall not mean and include the word “charitable” as defined in this chapter, but shall be given its commonly accepted definition.

“Residence” means any house, apartment, condominium unit, flat, or dwelling intended for residential use.

“Services” means any act performed for the benefit of another under some arrangement or agreement whereby such act was to have been performed.

“Solicit” and “solicitation” means any request directly or indirectly, verbally or in writing, for money, credit, property, financial assistance or other thing of value on the person's own behalf or on behalf of

another. Solicitation shall also include such requests made by use of the press, radio, television, telephone, or telegraph where such solicitation is not otherwise specifically regulated by state or federal law. Solicitation as defined in this chapter shall be deemed to have taken place when the request is made, whether or not the person making the same receives any contribution.

“Solicitor” for the purpose of this chapter, the term “solicitor” shall also include “peddler,” “canvasser,” “hawker,” “huckster,” “transient dealer,” “salesperson” or “itinerant vendor” and shall mean all persons, both principal or agent, who go from house to house, or to only one house, or upon any street, sidewalk, alley, plaza, or in any park or public place in the City of Murrieta, by foot or vehicle, who sell or solicit either by sample or otherwise the sale for value of goods, wares, merchandise, services, magazines, periodicals, or other publications, or subscriptions for the same, for themselves or for firms which do or do not have an established place of business in the City of Murrieta or who offer to sell or distribute for value to any person any coupon, certificate, ticket or card which is redeemable in goods, wares, merchandise or services.

(Ord. 302 § 1 (part), 2004; Ord. 108 § 3 (part), 1993: Ord. 3 § 1 (part), 1991: prior code § 5.06.020)

5.20.030 License required.

It is unlawful for any person, whether or not a resident of the city, or whether or not the person maintains or is employed at an established place of business, to engage in business of solicitation within the city unless a valid solicitor license has been issued to that person pursuant to the provisions of this chapter. Each individual solicitor shall obtain a license.

(Ord. 302 § 1 (part), 2004; Ord. 108 § 3 (part), 1993: Ord. 3 § 1 (part), 1991: prior code § 5.06.030)

5.20.040 Terms of license and fees.

The term of a solicitor license or identification card shall be valid for whichever is shorter - the actual solicitation period or one (1) year. Thereafter, the license or identification card may be renewed for a period of one year anytime within thirty (30) days prior to the expiration date of said license or identification card upon application therefore.

(Ord. 302 § 1 (part), 2004)

5.20.050 Nontransferability of solicitor license.

No license issued under this chapter shall be transferred or assigned, and any attempt at assignment or transfer shall be void.

(Ord. 302 § 1 (part), 2004)

5.20.060 License to peddle food; public health permit required.

Peddling food is defined as selling and delivering, and offering to sell and deliver, items of food and drink for immediate human consumption by a vendor to regular customers along established routes. An application for an initial or renewed license to peddle food anywhere in the city shall provide the business license clerk with a current public health permit issued to the applicant.

(Ord. 302 § 1 (part), 2004)

5.20.070 Contents of license or identification card application.

A. The applicant for a license and/or identification card shall apply to the business license division on forms prescribed by the business license division and may be required to furnish the following information about himself or herself and his or her proposed activity:

1. Name;
2. Physical description;
3. Local address;
4. Permanent address;
5. Description of the nature of his or her business;
6. Description of the nature of his or her goods or services to be offered;
7. Name and address of employer and a description of the relationship between the applicant and such employer;
8. The length of time for which such license is desired up to one year;

9. A statement of all convictions for all misdemeanors and felonies.

10. Upon receipt of an applicant for a license and identification card, the business license division may send copies of such applications to any officer or department which is deemed essential in order to carry out a proper investigation of the applicant. (Ord. 302 § 1 (part), 2004)

5.20.080 Fingerprint report and photographs required.

The applicant for an initial or renewed license and/or identification card shall pay a fee to the city for a fingerprint report and photograph for the applicant and each employee.

(Ord. 302 § 1 (part), 2004)

5.20.090 Identification card requirement, denial, suspension or revocation.

Identification cards shall be issued to all applicants who have paid an application fee, who have complied with Section 5.20.070 of this chapter, and who have complied with all local, state and federal laws regulating such trade, business or employment, unless the proposed sales proposition shall include some element of trickery, fraud or deceit, or the applicant has been convicted of a felony involving moral turpitude within the past five (5) years or has been convicted of any crime involving sexual matters within the previous ten (10) years, in which case, in the interest of public safety and protection, the applicant shall not be granted an identification card or license.

In addition to the reasons stated above, the business license division may cause for denial, suspension or revocation of any application or identification card if it is determined that the applicant, his or her agent, representative, or employee:

A. Is convicted of any misdemeanor involving violation of any statute or ordinance regulating or taxing any business, or

B. Is convicted of any crime involving any of the offenses described under California Penal Code Section 290, or

C. Is convicted of any crime, the nature of which indicated the applicant's unfitness to act as a solicitor, or

D. Who has violated any of the provisions of this chapter, or

E. Who makes any false statement or misrepresentation in his or her application for such license and/or identification card. For purposes of this section, a plea of nolo contendere, or a plea or verdict of guilty, of a finding of guilt by a court, or a forfeiture of bail is deemed to be a conviction whether probation is granted or not. (Ord. 302 § 1 (part), 2004)

5.20.100 Issuance of solicitor's identification card.

A. After completing its investigation of the applicant and application, and within thirty (30) days from receipt of such application, the business license division shall approve or deny the issuance of the identification card. Upon approval by the business license division, the identification card issued to the applicant shall show the physical description of the applicant, his or her name and address, both temporary and permanent, and the name of his or her principal if other than the licensee, and the nature of the business for which the license has been issued. The identification card shall show the expiration date of the license and shall contain a photograph of the licensee.

B. The license and the identification card shall also contain a statement that the card does not constitute an endorsement by the City of Murrieta or any of its employees, of the purpose or persons conducting the solicitations.

(Ord. 302 § 1 (part), 2004)

5.20.110 Solicitations to unwilling recipients prohibited.

A. No person shall solicit at any residence or at any business to which is affixed a sign indicating "No Solicitors," "No Peddlers," or any similar indication that solicitation is not desired by the owner or occupant, unless, however, expressly permitted by the owner, lessee, agent or occupant of the premises.

B. No person shall continue to solicit from another after the desire not to make a contribution has been expressed. No person shall solicit where the owner or occupant of the property has notified the solicitor that he or she is not allowed on the property.

C. No solicitor shall intentionally obstruct the free movement of any person or vehicle.

D. No solicitor shall refuse to leave any residence or other private property within the city where requested to leave by the owner or occupant, or agent of the owner or occupant.

E. No person shall distribute, peddle, pass out, give away, or circulate printed or written literature of any kind whatsoever within the city when the intended recipient thereof, or the owner, occupant or resident of any property where the literature is left has notified the distributor or disseminator of such material that they do not desire to receive such materials.

F. No person shall distribute, peddle, pass out, give away, or circulate printed or written literature of any kind whatsoever at any residence or at any business to which is affixed a sign indicating "No Handbills," or words of similar meaning, unless, however, expressly permitted by the owner, lessee, agent or occupant of the premises.

(Ord. 302 § 1 (part), 2004)

5.20.120 Commercial handbill.

Commercial handbill is defined and regulated by Chapter 8.24 of this code.

(Ord. 302 § 1 (part), 2004)

5.20.130 Littering prohibited.

Litter is defined in Chapter 8.24 of this code. Littering on occupied private property and public places is regulated by Chapter 8.24 of this code.

(Ord. 302 § 1 (part), 2004)

5.20.140 Methods of distribution.

Any printed or written material which may be passed out, given away, circulated or delivered in the city pursuant to law shall be:

- A. Placed in the hand of the intended recipient; or
- B. Bound, folded or weighted in such a manner that the material cannot be blown away, scattered or fragmented by the action of the elements and/or normal pedestrian or vehicular traffic; or
- C. Affixed to the premises for which it is intended by being tied or slipped over a doorknob or other protrusion.

(Ord. 302 § 2 (part), 2004)

5.20.150 Exemptions.

A. The prohibitions in Sections 5.20.120 through 5.20.140 shall not apply to solicited newspapers of general circulation as defined in the Government Code or mail distributed by the United States Government.

B. Sections 5.20.030 through 5.20.100 shall not apply to students from an elementary school, junior high school, high school, public junior or community college, public college, public university, or any private educational institution listed in Education Code Section 29003, while such students are engaged in activities associated with academic or scholastic functions sponsored by and authorized by such schools or similar organizations including Boy Scouts of America and Girl Scouts of America.

(Ord. 302 § 2 (part), 2004)

5.20.160 (Reserved).

5.20.170 Hours of solicitation.

No solicitor shall ring the bell or knock on the door of, or attempt to gain entrance to, any residence before ten a.m. of any day and after five (5:00) p.m. during Pacific Standard Time and seven (7:00) p.m. during Pacific Daylight Savings Time.

(Ord. 302 § 2 (part), 2004)

5.20.180 Soliciting at public parks.

Vending units at public parks are permitted if the following conditions are met:

A. Section 12.08.140 of the Murrieta Municipal Code relates to the Solicitation and/or Sale on Public Parks. A person shall not solicit in any manner or for any purposes, or sell or offer for sale, any goods, wares, or merchandise, therein, except:

B. By any city granted concession; or

C. By any person acting pursuant to a contract or agreement with the city.

D. Only food, beverages or recreational equipment or related items may be disposed, offered for sale, sold, rented or offered for rent except during city sponsored events whereby the city is seeking vendors for a craft fair or business expo.

E. Units vending food or beverages shall possess a valid health permit issued by the Riverside County Department of Health Services. A valid health permit is not required if waived by the Riverside County Department of Health Services.

F. Every operator shall obtain a business license as well as a solicitor license.

G. Every operator shall agree in writing to indemnify and hold harmless the City of Murrieta from and against all claims, suits, damages, costs, losses or expenses in any manner resulting from, arising out of or connected with the operation.

H. Every operator shall provide to the City of Murrieta proof of insurance coverage in the amount of one million dollars (\$1,000,000) listing the City of Murrieta as an additional insured.

I. No operator shall operate any vending unit without prior authorization from the city.

(Ord. 302 § 2 (part), 2004)

5.20.190 Allowed temporary uses.

An application for a temporary use permit shall be required. Temporary use is defined and regulated in Murrieta Development Code Chapter 16.70.

(Ord. 302 § 2 (part), 2004)

5.20.200 Violation - penalties.

Any person violating any provision of this chapter upon conviction thereof, shall be punished in accordance with the provisions of Section 1.32.010 through 1.32.020 of the Murrieta Municipal Code. Each such act of solicitation shall constitute a separate offense.

(Ord. 302 § 2 (part), 2004)

Chapter 5.22

FORTUNETELLING ESTABLISHMENTS

Sections:

5.22.010 Definitions.

5.22.020 License required .

5.22.030 Exemptions.

5.22.040 Establishment.

5.22.050 Fortunetelling.

5.22.060 License application and renewal—Fees.

5.22.070 Application contents.

5.22.080 Required information and documents.

5.22.090 Separate license for individuals.

5.22.100 Notification of change.

5.22.110 Investigation.

5.22.120 Refusal to issue license.

5.22.130 Revocation.

~~5.22.140 Appeal.~~

~~5.22.150 Inspection.~~

5.22.~~160~~—140 Records.

5.22.~~170~~—150 Display of license.

5.22.~~180~~—160 Compliance.

5.22.~~190~~—170 Violation—Penalty.

5.22.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings given in this section:

“Chief of police” means the chief of police or another city official designated by the chief of police to act for him or her.

“Establishment” means the premises, location or place advertised for or purported to be used for the practice of fortunetelling and/or occult arts.

“Fee” means a fee, reward, donation, loan or receipt of anything of value in exchange for the practice of fortunetelling and occult arts.

“Fortuneteller” means any person who advertises by sign, circular, handbill, newspaper, periodical, magazine or other means whatsoever the practice of fortunetelling and/or occult arts, and shall include any person who advertises as a “psychic” or “spiritual reader” or “spiritual counselor” for the purpose of the practice of fortunetelling and/or the occult arts.

“Fortunetelling and occult arts” means telling of fortune and forecasting of futures by means of an occult, psychic power, faculty, force, clairvoyance, cartomancy, psychology, psychometry, numerology, hypnosis, phrenology, spirits, tea leaves or other such reading, mediumship, seership, augury, astrology, palmistry, necromancy, mind reading, telepathy or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, cunning or foresight, crystal gazing, mysteries or magic of any kind or nature.

“Fortunetelling establishment” means the premises, location or place advertised for, or purported to be used, for the practice of fortunetelling and/or occult arts by a fortuneteller as defined by this code.

(Ord. 339 § 2, 2005)

5.22.020 License required.

A. No person, association, partnership or corporation shall conduct, operate or advertise for an establishment in which the practice of fortunetelling and occult arts is carried on for pay, compensation or gratuity without obtaining and maintaining in effect a license as required by this chapter.

B. No licensee hereunder shall employ any person who practices fortunetelling and/or occult arts, and who offers to or solicits to perform fortunetelling and occult arts, or who holds himself or herself out to be a fortuneteller if said person does not hold a current, unrevoked license as required by this chapter. No license shall be issued to any person who is not 18 years of age or older.

(Ord. 339 § 3, 2005)

5.22.030 Exemptions.

This chapter shall not apply to:

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

B. Any person who conducts or participates in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer or clairvoyant from any bona fide church or religious association maintaining a church and holding regular services, and having a creed or set of religious principles that is recognized by all churches of like faith; provided, further, that the fees, gratuities, emoluments and profits thereof shall be regularly accounted for and paid solely to or for the benefit of said church or religious association.

C. Nothing in this section shall be construed as exempting any person from the payment of any applicable business license fee which may be required to be paid by the licensing provisions of this code.

(Ord. 339 § 4, 2005)

5.22.040 Establishment.

Every person who engages in and is licensed for the practice of fortunetelling and occult arts shall maintain a fixed establishment for said practice, and shall maintain a current business license for said establishment as required by the licensing provisions of this code and shall conduct said practice only on the premises of the fixed establishment.

(Ord. 339 § 5, 2005)

5.22.050 Fortunetelling.

Notwithstanding any other provisions of this chapter, fortunetelling establishments may be conducted in any Multiple Use-2 (MU-2) Zones. This is provided that fortunetelling establishments are carried on in accordance with the limitations hereinafter set forth and provided a conditional use permit (CUP) is first obtained, in accordance with Chapter 16.52 of this code. Fortunetelling establishments shall not be permitted in special districts or a specific plan unless explicitly set forth as a permissible use.

- A. Minors (under 18 years of age) shall not be permitted to enter or remain in a fortunetelling establishment. Notice of restriction for minors shall be posted at the entrance in lettering of at least two inches in size.
- B. The fortunetelling establishment shall not be open to customers, patrons, or any member of the public between the hours of 9:00 p.m. to 8:00 a.m.
- C. One parking space for every licensed fortuneteller, plus one space for every four seats in the waiting area.
- D. Each center shall provide at least one publicly accessible unisex toilet and lavatory facilities.
- E. No exterior pay phone shall be permitted.
- F. No person shall be permitted to consume alcohol on the premises, nor shall any intoxicated person be permitted to remain in the establishment.
- G. It will be unlawful under this section to view, or allow viewing, of material depicting or simulating sexual conduct on the premises of any establishment.
- H. Fortunetellers shall be 18 years of age. There shall be a minimum of one employee managing the establishment during all working hours.
- I. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code, and the maximum occupancy load shall be posted at the main entrance.
- J. The business owner shall submit and receive approval of a fire exit plan from the Murrieta fire department. The plan shall address all existing requirements of the Uniform Building Code and Uniform Fire Code. This includes but is not limited to providing an exiting plan showing equipment location, aisle locations and dimensional widths, and having approved exit doors and panic hardware.
- K. Any adult entertainment or sexually oriented business is prohibited unless specifically approved pursuant to the requirements of Chapter 5.16 of this code.

(Ord. 339 § 6, 2005)

5.22.060 License application and renewal—Fees.

An application for a license to practice fortunetelling and occult arts shall be made to a duly authorized representative of the chief of police under penalty of perjury on forms provided by the chief of police. The application to practice fortunetelling and occult arts shall be accompanied by the scheduled background investigation filing fee, plus the fee charged by department of justice for fingerprinting processing. Said fees are not refundable in the event such application is denied. Each license under this chapter shall expire one calendar year from the date of issuance. The renewal application shall be accompanied by an investigation filing fee of two hundred fifty dollars (\$250.00). Licenses and fees required

under this chapter shall be in addition to any license, permit or fee required under any other chapter of this code.

(Ord. 339 § 7, 2005)

5.22.070 Application contents.

Any applicant for a license under this chapter shall submit the following information under penalty of perjury:

- A. The full name and present residence and business address and telephone numbers of the applicant;
- B. Any and all maiden, fictitious or other names ever used by the applicant;
- C. Prior residence and business addresses used by the applicant during the ten-year period preceding the date of the application;
- D. The birthdate and place of birth of the applicant;
- E. The Social Security number and a California driver's license or California identification card number or other satisfactory government issued identification number of the applicant;
- F. The applicant's height, weight, hair and eye color, and all distinguishing marks, scars or tattoos;
- G. Business, occupation or employment history of the applicant for a period of ten years preceding the date of application;
- H. The name or names under which the applicant proposes to conduct said activity or practice and the business address of the premises where such practice is to be carried on and if it is to be in connection with a similar or other kind of business;
- I. The name or names, both true and fictitious, and addresses of any and all persons, associations, partnerships or corporations holding an interest or involvement in said activity;
- J. A statement of any and all criminal convictions, except minor traffic offenses not designated as a felony, including the nature thereof where they occurred and the sentence therefor;
- K. A list of fortunetelling or similar licenses currently or previously held by the applicant and whether any such license had been revoked or suspended and the reason therefor;
- L. Such other identification and information as is necessary to discover the validity of the matters hereinabove specified as required to be set forth in the application.

(Ord. 339 § 8, 2005)

5.22.080 Required information and documents.

Before the application is considered to be complete, the applicant must produce, provide and submit to the following:

- A. A California driver's license or California identification card, or other valid and satisfactory documentary evidence of the age and identity of the applicant. To be satisfactory, the documentary evidence of age and identity must be of official issue of some governmental agency, be currently valid and furnish a photograph, weight, height, color of eyes and hair, sex, age and/or date of birth and signature of the applicant. Birth certificates are not satisfactory identification as they do not include evidence of identity by description of the person named;
- B. A photograph of the applicant, to be taken by an authorized employee of the chief of police at the time of application;
- C. Fingerprints of the applicant, to be taken by an authorized employee of the chief of police at the time of application;
- D. Consent in writing, on a form determined by the chief of police, for the use of all information available in the investigation herein provided to be made;
- E. The applicant has paid the license fee required in Sections 5.22.060 and 5.22.090.

(Ord. 339 § 9, 2005)

5.22.090 Separate license for individuals.

Each and every person engaged in or who proposes to engage in the practice of fortunetelling and occult arts shall file a separate and individual application as set forth in this chapter and shall pay separate and individual filing and renewal fees. This shall include persons who engage in said practice under one common establishment.

(Ord. 339 § 10, 2005)

5.22.100 Notification of change.

Any person granted a license to practice fortunetelling and occult arts shall report immediately to the chief of police, or his or her authorized representative, any change of individuals, associations, partnerships or corporations having a financial interest in the fortunetelling establishment, or any transfer of interest in said establishment by such individuals, associations, partnerships or corporations. Further, any person granted said license shall report immediately to the chief of police or his or her authorized representative, any change of location or address of the fortunetelling establishment. Said change shall be approved by the chief of police upon the determination that the provisions

of this chapter have been fully met and upon the payment of a fifty dollar (\$50.00) change of location fee.

(Ord. 339 § 11, 2005)

5.22.110 Investigation.

The chief of police or his or her authorized representative, shall conduct and complete an investigation of the moral character and reliability of the applicant and either grant or deny the license within a period of 30 days after the submission of the completed applications, except as provided by the following exceptions:

A. If good cause exists the chief of police may extend the period of investigation for a period of time not to exceed 30 days, provided that applicant is notified in writing that the investigation has not been completed;

B. If good cause exists the applicant may appear in person and submit a written request for a 30-day extension on a form provided by the chief of police. Said request must be submitted no later than five working days prior to the last day required herein for the chief of police to grant or deny the license. Said request may or may not be granted by the chief of police.

(Ord. 339 § 12, 2005)

5.22.120 Refusal to issue license.

The chief of police shall not issue or grant a license if any of the following occurs:

A. An applicant fails to or refuses to furnish the information and documents required by this chapter or who submits false or misleading information on said application;

B. The fortunetelling establishment does not comply with the city's building, fire, health or zoning regulations;

C. Upon receiving satisfactory evidence that the applicant has been convicted of, or has entered plea of guilty or nolo contendere to any violation of the provisions of this chapter or any other law or ordinance relating to morals, sex offenses, theft, fraud or narcotics or other restricted drugs, unless the chief of police finds that the offense occurred ten years or more before the date of application, denial of a license shall be given to the applicant in writing and shall specify the grounds for such denial. Notice of the denial of the license shall be deemed to have been served upon personal service of the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her last known address.

(Ord. 339 § 13, 2005)

5.22.130 Revocation.

A. The chief of police shall revoke any license upon any grounds for which he or she may have refused the issuance thereof or upon conviction or upon a plea of guilty or nolo contendere for any violation of this chapter or the operation of the establishment does not comport with the peace, health, safety and general welfare of the public.

B. To revoke a license the chief of police, or his or her authorized representative, shall serve upon the holder thereof, a written notice either by personal service or by deposit in a United States mail receptacle with appropriate postage affixed, to the address shown on the application or otherwise more recently of record, that said license shall be revoked effective upon personal service or five days after the date of mailing of said notice.

C. A revoked license shall be immediately surrendered to the chief of police or his or her authorized representative.

(Ord. 339 § 14, 2005)

~~5.22.140 Appeal.~~

~~—A. A notice of appeal must be deposited with the city clerk within 30 days after denial of the application or revocation of the license has been served. Upon the filing of a notice of appeal, the revocation of a license shall remain in effect until such time as a decision has been rendered.~~

~~—B. Upon the filing of the written notice of appeal, the city clerk shall set the matter for hearing before the planning commission, which hearing shall be within 30 days after the date of said notice. The planning commission shall receive a copy of the denial or revocation notice and shall conduct a hearing to determine whether or not the license should be granted or reinstated. The scope of evidence presented to the planning commission shall be limited to evidence regarding the reasons for denial or revocation. The burden of proof shall be upon the appellant/applicant.~~

~~—C. The decision of the planning commission shall be final with no right of further appeal to the city council.~~

~~(Ord. 339 § 15, 2005)~~

~~5.22.150—Inspection.~~

~~—The city's police chief, fire chief, code enforcement and building officials and their authorized representatives shall have the right to enter the fortunetelling establishment from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with applicable building, fire or electrical regulations and the provisions of this chapter.~~

~~(Ord. 339 § 16, 2005)~~

5.22.~~160~~140 Records.

Every person, association, partnership or corporation operating a fortunetelling establishment under a license as herein provided shall keep accurate business records. Said records shall be maintained and open for inspection for a period of three years and shall be kept on the premises of the fortunetelling establishment. Failure to keep and maintain said records as provided in this section shall be grounds for suspension or revocation.

(Ord. 339 § 17, 2005)

5.22.~~170~~150 Display of license.

The license issued to a fortuneteller shall be prominently displayed at the licensed premises.

(Ord. 339 § 18, 2005)

5.22.~~180~~160 Compliance.

A. No person shall commence, engage in, carry on or advertise that he or she will engage in or carry on any fortunetelling or occult arts activity as described in this chapter without first having procured a license as required by the licensing provisions of this chapter, or without complying with any and all regulations of such activity contained in this chapter or any other ordinance of the city.

B. Failure to comply with the provisions contained in this chapter shall constitute a separate violation of this chapter for each and every day that such activity is so advertised and engaged in or carried on.

C. Revocation of a license shall not be a defense against prosecution.

(Ord. 339 § 19, 2005)

5.22.~~190~~170 Violation—Penalty.

A violation of this chapter is a misdemeanor punishable by a fine of five hundred dollars (\$500.00) or imprisonment in the county jail for six months or both such fine and imprisonment.

(Ord. 339 § 20, 2005)

Chapter 5.23
SMOKING POLLUTION CONTROL

Sections:

- 5.23.010 Findings and purpose.
- 5.23.020 Applicability.
- 5.23.030 Definitions.
- 5.23.040 Prohibition of smoking in public places and places of employment.
- 5.23.050 Duty of employer, business, or nonprofit entity.
- 5.23.060 Reasonable smoking distance required–15 feet.
- 5.23.070 Posting of signs.
- 5.23.080 Retaliation prohibited.
- 5.23.090 Public education by city.
- 5.23.100 Public education–Cooperation with other agencies.
- 5.23.110 Tobacco self-service displays and tobacco samples prohibited.
- 5.23.120 Interpretation.
- 5.23.130 Enforcement–Administrative officer designated.
- 5.23.140 Violation–Penalty.
- 5.23.150 Appeal process.
- 5.23.160 Severability.

5.23.010 Findings and purpose.

A. The city council finds and declares as follows:

1. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution;
2. Reliable studies have shown that breathing secondhand smoke and vapor is a significant health hazard for certain population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease;
3. Health hazards induced by breathing secondhand smoke and vapor include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm;

4. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing secondhand smoke and vapor may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same;

5. Numerous studies have shown that a majority of both nonsmokers and smokers desire to have restrictions on smoking in public places and places of employment; and

6. Smoking is a documented cause of fires, and cigarette and cigar burns and ash stains on merchandise and fixtures cause economic losses to businesses.

7. Use of electronic smoking devices has increased significantly in recent years among both youths and adults.

8. Existing studies on electronic smoking devices' vapor emission and cartridge contents have found a number of dangerous substances including chemicals known to the State of California to cause cancer such as formaldehyde, acetaldehyde, lead, nickel and chromium; inconsistent labeling of nicotine levels in electronic smoking device products; and other substances that have been linked to negative health effects such as skin, eye and respiratory irritation, neurological effects, damage to reproductive systems and premature death from heart attacks and strokes.

9. The use of electronic smoking devices in smoke free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.

B. Accordingly, the city council finds and declares that the purposes of this chapter are:

1. To protect the public health and welfare by prohibiting smoking in public places except in designated smoking areas, and by regulating smoking in places of employment; and

2. To strike a reasonable balance between the needs of smokers and the need of nonsmokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air shall have priority.

3. To facilitate uniform and consistent enforcement of smoke-free air laws.

4. To reduce the potential for re-normalizing smoking in public places and places of employment.

5. To reduce the potential for children to associate the use of electronic smoking devices with a normative or healthy lifestyle.

(Ord. 515 § 1, 2016; Ord. 373 § 2, 2006)

5.23.020 Applicability.

All areas and facilities owned by the city or any other government entity shall be subject to the provisions of this chapter.

(Ord. 373 § 3, 2006)

5.23.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

"Bar" means an area that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the service of food is incidental to the consumption of beverages and in which persons younger than 21 years of age are at all times excluded.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Dining area" means any area containing a counter or table upon which meals are served or any area designed, established, or regularly used for consuming meals.

"Electronic smoking device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

"Employee" means any person who is employed by any employer or hired as an independent contractor in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

"Employer" means any person, partnership, corporation or nonprofit entity, including a municipal corporation, who employs the services of one or more persons.

"Enclosed" means closed in by roof and four walls with appropriate openings for ingress and egress.

"Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, educational, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain. A public agency is not a "nonprofit entity" within the meaning of this section.

"Parks and recreation areas" means any outdoor area, owned and operated by the city of Murrieta, open to the general public for park or open space use, including, but not limited to, public parks, picnic areas, playgrounds, sports or playing fields, open turf areas, athletic

courts, swimming pools, public skate park facilities, dog parks, walking paths, gardens, hiking trails, bike paths, wilderness areas, parking areas within a park, and any other areas designated a park by the director of community services.

"Place of employment" means any area under the control of a public or private employer that employees may have cause to enter during the normal course of employment, including, but not limited to, work areas, vehicles, employee lounges and restrooms, conference rooms and classrooms, cafeterias and hallways, except that a private residence is not a place of employment unless it is used as a child care or a health care facility.

"Public place" means any area in which the public is invited or in which the public is permitted, including, but not limited to: banks, educational facilities, health facilities, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail stores, theaters and waiting rooms.

"Reasonable distance" means a distance that insures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. Except as provided below, this distance shall be a minimum of 15 feet unless the application of the 15 foot minimum would place the smoker in a potentially unsafe location, in which case a "reasonable distance" shall be a location closer than 15 feet which does not place the smoker in a potentially unsafe location.

"Restaurant" means any coffee shop, cafeteria, tavern, sandwich stand, soda fountain, private or public school cafeteria, and any other eating establishment, organization, club, boardinghouse or guest house, which gives or offers food for sale to the public, guests, patrons, members or employees.

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories.

"Self-service display" means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.

"Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this chapter.

"Sports arena" means sports parks, pavilions, sporting fields and courts, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events. Adjacent seating areas are included as part of the sports arena.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of tobacco products.

"Tobacco product" means:

A. Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and

B. Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low-cost samples of tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Vapor" means aerosol produced from use of an electronic smoking device.

"Vending machine" means a machine, appliance, or other mechanical or electrical device operated by currency, token, debit card, credit card, or any other form of payment, or any other thing representative of value that is designed or used for vending purposes including, but not limited to, machines or devices that use remote control locking mechanisms, which dispenses or releases tobacco products and/or tobacco accessories.

(Ord. 515 § 2, 2016; Ord. 459 § 1, 2011; Ord. 373 § 4, 2006)

5.23.040 Prohibition of smoking in public places and places of employment.

A. Smoking shall be prohibited in any enclosed public place, business, restaurant, or place of employment within the city of Murrieta except in the enclosed places identified in California Labor Code Section 6404.5(d), or its successor.

B. Smoking shall be prohibited in the following enclosed places:

1. Common interior areas of multi-unit, multi-residence, or multi-family buildings including, but not limited to, apartments, condominiums, retirement facilities, and nursing homes; and

2. Areas that have a common or shared air space with other enclosed areas in which smoking is prohibited such as, without limitation, air conditioning systems, heating systems, ventilation systems, entries, doorways, hallways, and stairways.

C. Smoking shall be prohibited in the following unenclosed places:

1. Dining areas that are part of a restaurant, business, nonprofit entity, place of employment, or located in any public place;
2. Any parks, recreation areas, sports arenas, and parking lots located in a park or recreation area;
3. Any place where people are using or waiting for a service, entry, or a transaction whether or not such service includes the exchange of money including, but not limited to, ATMs, bank teller windows, telephones, ticket lines, bus stops and cab stands.
4. On the grounds of any public or private elementary or secondary school designated and posted as a "Tobacco Free Zone", tobacco possession shall also be prohibited.
5. Any other location where there is a posting of a "No Smoking" sign which is properly posted as described in this chapter.

D. No person shall provide or place ash receptacles such as, without limitation, ashtrays or ash cans, within an area in which smoking is prohibited, including, without limitation, inside the perimeter of any reasonable smoking distance required by this chapter.

E. Notwithstanding the exception in subsection A. of this section for enclosed places identified in California Labor Code Section 6404.5(d) or its successor, "place of employment" shall include retail or wholesale tobacco shops and private smokers' lounges, as such terms are defined in California Labor Code Section 6404.5(d)(4).

(Ord. 459 § 2, 2011:Ord. 373 § 5, 2006)

5.23.050 Duty of employer, business, or nonprofit entity.

A. No employer, business, or nonprofit entity shall knowingly or intentionally permit the smoking of tobacco products in an area which is under the employer's, business', or nonprofit entity's control and in which smoking is prohibited.

B. No employer, business, or nonprofit entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, without limitation, ash trays or ash cans, within an area which is under the employer's, business', or nonprofit entity's control and in which smoking is prohibited, including, without limitation, inside the perimeter of any reasonable smoking distance required by this chapter.

C. Notwithstanding any other provision of this chapter, any employer, business, nonprofit entity, or other person who controls any area may declare that any part of such area in which smoking would otherwise be permitted is a nonsmoking area.

(Ord. 373 § 6, 2006)

5.23.060 Reasonable smoking distance required—15 feet.

A. Smoking shall be prohibited within a reasonable distance, as defined in this chapter, from any main entrance into an enclosed area in which smoking is prohibited except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited.

B. Smoking shall be prohibited within a reasonable distance, as defined in this chapter, from any unenclosed area in which smoking is prohibited except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited.

(Ord. 373 § 7, 2006)

5.23.070 Posting of signs.

A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in or outside of every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place. When a sign is posted on the exterior of a building to indicate no smoking, it shall include the distance limitations contained in this chapter.

B. Every theater owner, manager or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.

(Ord. 373 § 8, 2006)

5.23.080 Retaliation prohibited.

No person or employer shall discharge, refuse to hire, or in any manner, retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter.

(Ord. 373 § 9, 2006)

5.23.090 Public education by city.

A. The city manager, or his or her designees, shall engage in a continuing program to explain and clarify the purposes of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance with it.

B. The city manager, or his or her designees, shall leave the responsibility of conducting a public education campaign regarding the health consequences of smoking to other governmental and health agencies equipped with the needed expertise to conduct such campaigns.

(Ord. 373 § 10, 2006)

5.23.100 Public education–Cooperation with other agencies.

The city manager, or his or her designees, shall annually request other governmental and educational agencies having facilities within the city to establish local operating procedures in cooperation and compliance with this chapter. The city manager shall urge federal, state, county and special school district agencies to enforce their existing smoking control regulations and to comply voluntarily with this chapter.

(Ord. 373 § 11, 2006)

5.23.110 Tobacco self-service displays and tobacco samples prohibited.

A. It is unlawful for any person to display tobacco products or tobacco paraphernalia by means of a self-service display or to engage in tobacco retailing by means of a self-service display. Tobacco retailing by means of a vending machine is prohibited by this section.

B. No person shall knowingly distribute or furnish without charge, or cause to be furnished without charge to the general public, cigarettes or other tobacco products, at any event open to the public, or in any public place including but not limited to, any right-of-way, mall or shopping center, school, park, playground and any other district, or any park district, except in retail tobacco stores.

(Ord. 373 § 12, 2006)

5.23.120 Interpretation.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. 373 § 13, 2006)

5.23.130 Enforcement–Administrative officer designated.

A. Enforcement shall be implemented by the city manager, or his or her designees, or any peace officer or code enforcement officer employed by the city of Murrieta.

B. Any citizen who desires to register a complaint hereunder may initiate enforcement with the city manager, or his or her designees.

C. Any owner, manager, operator or employer of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the appropriate provisions thereof.

D. Notwithstanding any other provisions of this chapter, a private citizen may bring legal action to enforce this chapter.

(Ord. 373 § 14, 2006)

5.23.140 Violation–Penalty.

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the regulation under this chapter to fail to comply with its provisions.

B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.

C. Any person who violates any provision of this chapter shall be guilty of an infraction and punishable according to Section 1.32.010 of this code.

(Ord. 373 § 15, 2006)

5.23.150 Appeal process.

Administrative decisions made by the city manager, or his or her designee, relating to this chapter may be appealed to the city council in accordance with Section 2.28 of this code.

(Ord. 373 § 16, 2006)

5.23.160 Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are hereby declared to be severable.

(Ord. 373 § 17, 2006)

Chapter 5.24

TOBACCO SALES RESTRICTIONS

Sections:

- 5.24.010 Purpose and intent.
- 5.24.020 Definitions.
- 5.24.030 Sale and distribution of tobacco products; tobacco retailer license required.
- 5.24.040 Tobacco retailer license application process.
- 5.24.050 License issuance; standards.
- 5.24.060 License non-transferable.
- 5.24.070 Fees for license; license renewal and expiration.
- 5.24.080 Other licensing requirements and prohibitions.
- 5.24.090 Compliance monitoring.
- 5.24.100 Revocation of license.
- 5.24.110 Tobacco retailing without a license.
- 5.24.120 Enforcement of license violations.
- 5.24.130 Settlement in lieu of hearing.
- 5.24.140 Severability.

5.24.010 Purpose and intent.

The purpose and intent of this chapter is to encourage responsible tobacco retailing and discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or provision of tobacco and nicotine products to minors. There is no intent, however, to expand or reduce the degree to which the acts regulated by federal or state laws are criminally proscribed or to alter the penalties provided therein.

(Ord. 365 § 2, 2006)

5.24.020 Definitions.

Unless the context clearly indicates otherwise, the following definitions shall apply to all provisions of this chapter:

"Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between

relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an "arm's length transaction."

"Business" means any sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

"Department" refers to the Riverside County Department of Health and Human Services or other county department, or if so designated by the city manager, any city department designated to administer and/or enforce the provisions of this chapter.

"Drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled substance, possession of which is unlawful under any federal or state statute.

"Person" is defined in § 1.04.010 of this code.

"Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories; and in which at least 80% of the square footage of the available retail floor and shelf space is devoted to the sale of tobacco-related products and accessories.

"Self-service display" means an open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of "self-service display."

"Smoking" means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, bong, or cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, bong, or cigarette of any kind).

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking material of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing or consumption of tobacco products.

"Tobacco product" means:

A. Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and

B. Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low-cost samples of tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Vending machine" means a machine, appliance, or other mechanical or electrical device operated by currency, token, debit card, credit card, or any other form of payment, or any other thing representative of value that is designed or used for vending purposes including, but not limited to, machines or devices that use remote control locking mechanisms, which dispenses or releases tobacco products and/or tobacco accessories.

"Vendor-assisted" means that only a store or tobacco retailer employee has access to the tobacco product or tobacco paraphernalia and assists the customer by supplying the tobacco product or tobacco paraphernalia. The customer does not take possession of the tobacco product or tobacco paraphernalia until it is purchased.

(Ord. 365 § 3, 2006)

5.24.030 Sale and distribution of tobacco products; tobacco retailer license required.

A. It shall be unlawful for any person, business, or tobacco retailer, except for a retail tobacco store, to sell, permit to be sold, offer for sale, or display for sale any tobacco product or tobacco paraphernalia by means other than vendor-assisted sales. A vending machine, as defined in § 5.24.020, is not a vendor-assisted sale.

B. It shall be unlawful for any person, business, or tobacco retailer to engage in the sale of tobacco products or tobacco paraphernalia without first posting a plainly visible sign at the point of purchase of tobacco products or tobacco paraphernalia which states: "THE SALE OF TOBACCO PRODUCTS OR TOBACCO PARAPHERNALIA TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. PHOTO IDENTIFICATION IS REQUIRED." The letters of the sign shall be at least one-quarter inch high.

C. It shall be unlawful for any person, business or tobacco retailer to sell any tobacco product or tobacco paraphernalia to any individual who appears younger than 18 years of

age, without first verifying, by means of photographic identification containing the bearers date of birth, that the purchaser is at least 18 years old, unless the person, business, or tobacco retailer has some other reliable basis for determining the purchasers age.

D. It shall be unlawful for any person, business or tobacco retailer to sell or offer any drug paraphernalia to any person.

E. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailers license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailers license is a public nuisance.

F. A tobacco retailer or proprietor without a valid tobacco retailer license, including, for example, a revoked license:

1. Shall keep all tobacco products and tobacco paraphernalia from public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute an "offer for sale" for the purposes of § 5.24.120.

2. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailers location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

G. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailers license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the permit. For example, nothing in this chapter shall be construed to render inapplicable, supercede, or apply in lieu of, any other provision of applicable law including, but not limited to, any provision of this code, or any condition or limitation on smoking in an enclosed place of employment pursuant to Cal. Labor Code § 6404.5. For example, obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of Cal. Labor Code § 6404.5.

(Ord. 365 § 4, 2006)

5.24.040 Tobacco retailer license application process.

A. Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or any authorized agent thereof. It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license.

B. No proprietor may rely on the issuance of a license as a determination by the city that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to § 5.24.100. Nothing in

this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

C. All applications shall be submitted on a form supplied by the department and shall contain the following information:

1. The name, address, and telephone number of each proprietor of the business that is seeking a license;

2. The business name, address, and telephone number of the single fixed location for which a tobacco retailer's license is sought;

3. The name and mailing address authorized by each proprietor to receive all license-related communication and notices (the "authorized address"). If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection C.2. above;

4. Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization;

5. Whether or not any proprietor is a person who has been determined to have violated this chapter or whose proprietorship has admitted violating, or has been found to have violated, this chapter, and, if so, the dates and locations of all such violations within the past six years; and

6. Such other information as the department deems necessary for the administration or enforcement of this chapter.

7. All information required to be submitted to apply for a tobacco retailers license shall be updated with the department whenever the information changes. A tobacco retailer shall provide the department with any updates within ten business days of a change.

(Ord. 365 § 5, 2006)

5.24.050 License issuance; standards.

A. No license may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot and tobacco retailing from vehicles are prohibited.

B. Upon receipt of an application for a tobacco retailers license and the license fee required by this chapter, the department shall issue a license unless substantial evidence demonstrates that one or more of the following basis for denial exists:

1. The application is incomplete, inaccurate, or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

2. The application seeks authorization for tobacco retailing at a location for which this chapter prohibits issuance of tobacco retailers licenses. However, this subsection shall not constitute a basis for denial of a license if the applicant provides the department with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction. Clear and convincing evidence can be oral or written and must be the kind of evidence upon which a responsible person would rely in making an important business, personal, or other decision.

3. The application seeks authorization for tobacco retailing for a proprietor to whom this chapter prohibits a license to be issued.

4. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter, that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.

(Ord. 365 § 6, 2006)

5.24.060 License non-transferable.

A. A tobacco retailers license may not be transferred from one person to another or from one location to another. Whenever a tobacco retailing location has a change in proprietors, a new tobacco retailers license is required.

B. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location, and license ineligibility periods shall continue to apply to a location unless:

1. The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and

2. The new proprietor(s) provide the department with clear and convincing evidence that the new proprietor(s) have acquired, or are acquiring, the location in an arm's length transaction.

(Ord. 365 § 7, 2006)

5.24.070 Fees for license; license renewal and expiration.

A. License Fees. The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the governing body of the "department". The fee shall be calculated as to recover the total cost of both license administration and license enforcement including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violation, and prosecution of violators, but shall not exceed the cost of the regulatory program

authorized by this chapter. All fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

B. License Renewal. A tobacco retailer license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of a tobacco retailer license is one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than 30 days prior to the expiration of the term.

C. License Expiration. A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired, or to renew a license not timely renewed pursuant to division B above, the proprietor must:

1. Submit the license fee plus a reinstatement fee of 10% of the license fee.
2. Submit a signed affidavit affirming that the proprietor:

(a) Has not sold and will not sell any tobacco product or tobacco paraphernalia after the license expiration date and before the license is renewed; or

(b) Has waited the appropriate ineligibility period established for tobacco retailing without a license, as set forth in § 5.24.110 of this chapter, before seeking renewal of the license.

(Ord. 365, § 8, 2006)

5.24.080 Other licensing requirements and prohibitions.

A. Lawful Business Operation. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license is issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to:

1. Violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, or tobacco retailing;
2. Violate any local, state, or federal law regulating exterior, storefront, window, or door signage.

B. Display of License. Each tobacco retailer license shall be prominently displayed in a publicly-visible location at the licensed location.

C. Minimum Age for Person Selling Tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.

(Ord. 365, § 9, 2006)

5.24.090 Compliance monitoring.

A. The city may monitor compliance with this chapter using city staff, or the city manager may designate the Riverside County Health and Human Services Department or another agency to perform these functions under agreement with that agency. Any peace officer may enforce the penal provisions of this chapter.

B. The city, or the city managers designee as described in subsection A. above, shall endeavor to check the compliance of each tobacco retailer at least three times per 12-month period. Nothing in this division shall create a right of action in any licensee or other person against the department or its agents.

C. Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.

D. The city, or the city managers designee as described in subsection A. above, shall not enforce any law establishing a minimum age for tobacco purchases or possession against any person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:

1. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the city; or
2. The youth decoy is participating in a compliance check funded, in part, either directly or indirectly through subcontracting, by the city or the County Department of Health and Human Services, or funded, in part, either directly or indirectly, through subcontracting, by the California Department of Health Services.

(Ord. 365 § 10, 2006)

5.24.100 Revocation of license.

A. **Revocation of License for Violation.** In addition to any other penalty authorized by law, a tobacco retailer's license shall be revoked if the city, using city staff, or the Riverside County Hearing Officer, if so designated by the city manager per an agreement with the Riverside County Health and Human Services Department, finds, after the licensee is afforded notice, as described in Sections 1.04.120 through 1.04.130 of this code, and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions or prohibitions of this chapter or, in a different legal proceeding, has pleaded guilty, "no contest," or its equivalent, or admitted to a violation of any law designated in Section 5.24.080 of this chapter.

B. **New License After Revocation.**

1. After revocation for a first violation of this chapter at a location within any 60-month period, no new license may be issued for the location until ten days have passed from the date of revocation.

2. After revocation for a second violation of this chapter at a location within any 60-month period, no new license may be issued for the location until 30 days have passed from the date of revocation.

3. After revocation for a third violation of this chapter at a location within any 60-month period, no new license may be issued for the location until 90 days have passed from the date of revocation.

4. After revocation for a fourth or subsequent violation of this chapter at a location within any 60-month period, no new license may be issued for the location until five years have passed from the date of revocation.

C. Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the department finds, after the licensee is afforded a reasonable notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section 5.24.050 existed at the time application was made or at any time before the license was issued. The decision by the department shall be the final decision of the city. The revocation shall be without prejudice to the filing of a new license application.

(Ord. 365 § 11, 2006)

5.24.110 Tobacco retailing without a license.

In addition to any other penalty authorized by law, if the department finds or any court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the person shall be ineligible to apply for or be issued a tobacco retailing license for that location as follows:

A. After a first violation of this chapter at a location within a 60-month period, no new license may issue for the person at the location until 30 days have passed from the date of the violation.

B. After a second violation of this chapter at a location within a 60-month period, no new license may issue for the person at the location until 90 days have passed from the date of the violation.

C. After a third or subsequent violation of this chapter at a location within a 60-month period, no new license may issue for the person at the location until five years have passed from the date of the violation.

(Ord. 365 § 12, 2006)

5.24.120 Enforcement of license violations.

The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or equity:

A. Whenever evidence of a violation of this chapter is obtained, in part, through the participation of a person under the age of 18 years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter, and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

B. Violations of this chapter are subject to a civil action brought by the city attorney, or, if designated by the city manager, the county counsel, punishable by:

1. A fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for a first violation in any 60-month period; or

2. A fine not less than one thousand dollars (\$1,000) and not exceeding two thousand five hundred dollars (\$2,500) for a second violation in any 60-month period; or

3. A fine not less than three thousand dollars (\$3,000) and not exceeding ten thousand dollars (\$10,000) for a third or subsequent violation in any 60-month period.

C. Violations of this chapter may, in the discretion of the city attorney or, if so designated by the city manager, county Counsel, be prosecuted as infractions or misdemeanors.

D. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.

E. Violations of this chapter are hereby declared to be public nuisances.

F. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney or, in the discretion of the city manager, the county counsel, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

(Ord. 365 § 13, 2006)

5.24.130 Settlement in lieu of hearing.

For a first or second alleged violation of this chapter within any 60-month period, the city attorney or, if so designated by the city manager, county counsel, may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter without approval from the city council. Notice of any settlement shall be provided to the department and no hearing shall be held. Settlements shall not be confidential and shall contain the following minimum terms:

A. After a first alleged violation of this chapter at a location within any 60-month period:

1. An agreement to stop acting as a tobacco retailer for at least one day;

2. A settlement payment to the city of at least one thousand dollars (\$1,000); and

3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

B. After a second alleged violation of this chapter at a location within any 60-month period:

1. An agreement to stop acting as a tobacco retailer for at least ten days;
2. A settlement payment to the city of at least five thousand dollars (\$5,000); and

3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

(Ord. 365 § 14, 2006)

5.24.140 Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are hereby declared to be severable.

(Ord. 365 § 15, 2006)

Chapter 5.25

CHARITABLE SOLICITATIONS

Sections:

5.25.010 Definitions.

5.25.020 License required.

5.25.030 Contents of license application.

5.25.040 Information on the license.

5.25.050 Health department approval - when required.

5.25.060 License fee exemption.

5.25.070 Nontransferability of license.

5.25.080 Violation - penalties.

5.25.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Charitable solicitation” includes solicitation for philanthropic social services or welfare. “Religious solicitation” as used in this chapter shall not mean and include the word “charitable” as defined in this chapter, but shall be given its commonly accepted definition.

“Sales solicitation for charitable or religious purposes” means the sale of, offer to sell, or attempt to sell any advertisement, advertising space, book, card, chance, coupon device, magazine, subscription, membership merchandise, ticket of admission or any other thing or service in connection with which:

- A. Any appeal is made for charitable or religious purposes; or
- B. The name of the charity, religion, philanthropic or charitable or religious organization is used or referred to in any such appeal as an inducement for making any such sale; or
- C. Any statement is made to the effect that the whole or any part of the proceeds from such sale will go to or be used for any charitable or religious purpose or organization.

(Ord. 302 § 2 (part), 2004)

5.25.020 License required.

No person shall solicit contributions for any charitable or religious purpose within the city without a valid, current license authorizing such solicitations.

(Ord. 302 § 2 (part), 2004)

5.25.030 Contents of license application.

- A. An application for a license to solicit as provided by Section 5.20.030 of this chapter shall be made upon forms provided by the city.
- B. Such application shall be signed under penalty of perjury of the person managing the solicitation activity and filed at least thirty (30) days prior to the time the solicitation activity is planned to commence; provided, however, that for good cause shown, the license may be assigned an effective date less than thirty (30) days after the application.

C. The application required in this section shall contain the following information, or in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished:

- 1. The name and address of the organization applying for the license;
- 2. If the applicant is not an individual, the names and addresses of the applicant's principal officers;

3. The exact purpose for which the proceeds of the solicitations, sale, bazaar, exhibition, promotion, amusement, show, lecture, entertainment or other enterprise, or any part thereof, are to be used;

4. The names, addresses, dates of birth, social security numbers and driver's license numbers of all persons who will be soliciting or in direct charge of conducting the solicitation;

5. Whether the applicant, its officers, employees or paid fund-raisers have ever been convicted of any crime involving soliciting or use of funds solicited for charitable purposes, or whether the applicant, its officers, employees or paid fund-raisers have ever been enjoined from soliciting or had its application denied or license revoked;

6. An outline or description of all methods to be used in conducting the solicitation;

7. The dates when solicitations shall be made;

8. The tax-exempt number of the applicant organization and a copy of the exemption letter from the federal or state taxing authorities;

9. The bank or other financial institution and the account number where all or any part of the funds raised by such activity will be placed on deposit or invested;

10. The name and address of a person available to accept service of notice and process during business hours on behalf of the license holder;

11. Such other information in respect to the character, past activities and the proposed activity of the applicant and the parties directly interested in or engaged in the work as may be necessary or desirable to enable the business license clerk to make a full and complete investigation;

12. If, while any application is pending, or during the term of any license granted thereof, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the city in writing within twenty-four (24) hours of such change.

(Ord. 302 § 2 (part), 2004)

5.25.040 Information on the license.

Information on the license shall be presented and shall include the following:

A. The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable or religious purposes;

B. If there is no organization or fund, the manner in which the money collected will be utilized for charitable or religious purposes;

C. The amount, stated as a percentage of the total gift or purchase price, that will be used for direct fund raising expenses. If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fund raising expenses. If the solicitation is not a sales solicitation, the card may state, in place of the amount of fund raising expenses, that an audited financial statement of such expenses may be obtained by contacting the organization at the address disclosed;

D. The non-tax-exempt status of the organization or fund, if the organization or land for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law;

E. The percentage of the total gift or purchase price which may be deducted as a charitable or religious contribution under both federal or state law. If no portion is so deductible, the license shall state that "This contribution is not tax deductible."

(Ord. 302 § 2 (part), 2004)

5.25.050 Health department approval - when required.

Organizations conducting solicitations pursuant to Section 5.25.020 of this chapter which include the sale of certain types of packaged, processed or prepared foods or of materials such as, but not limited to, used wearing apparel, bedding or other items commonly included in the term "rummage" shall do so in compliance with the applicable regulations of the state and the health department of the county. No charitable solicitation license shall be issued for any such event without approval from the health department of the county.

5.25.060 License fee exemption.

The applicant for an initial or renewed license and/or identification card as provided in this chapter is exempt from paying a fee for the license.

5.25.070 Nontransferability of license.

No license issued under this chapter shall be transferred or assigned, and any attempt at assignment or transfer shall be void.

(Ord. 302 § 2 (part), 2004)

5.25.080 Violation - penalties.

Any person violating any provision of this chapter upon conviction thereof, shall be punished in accordance with the provisions of Sections 1.32.010 through 1.32.020 of the Murrieta Municipal Code. Each such act of solicitation shall constitute a separate offense.

(Ord. 302 § 2 (part), 2004)

Chapter 5.26

ALCOHOLIC BEVERAGE SALES

Sections

5.26.010 Application.

5.26.020 Application fee.

5.26.030 Approval or denial.

5.26.040 Inspection of licensed premises - temporary suspension and revocation.

5.26.050 Police officer access - nuisance abatement and closure.

5.26.060 Renewal and expiration of license.

5.26.070 Compliance with laws and regulations required prior to licensing.

5.26.010 Application.

A. Upon receipt of each application by the city of Murrieta for a business license ("license") for any use that includes alcohol sales, the license shall not be issued until the applicant has received an alcoholic beverage sales permit ("permit") as provided in Chapter 16.44 of the Murrieta Development Code.

B. When requested to provide input on a public convenience or necessity determination pursuant to Development Code Section 16.44.030, the chief of police of the city shall conduct such investigation as he or she may deem pertinent or essential for the protection of the public health and safety of the community and facts related to the criteria for consideration of determination of public convenience or necessity as provided in Section 16.44.030.F.2.

C. The chief of police shall have the enforcement rights and authority as provided below in Sections 5.26.040 and 5.26.050, which are supplemental to the suspension and revocation procedures of Development Code Section 16.44.030. Nothing in this chapter shall prohibit or restrict the general authority of the chief of police or of the police department as to the regulation and enforcement of all state and local laws, including temporary closures in order to protect against any serious threat to the public health or safety.

(Ord. 456 § 1, 2011)

5.26.020 Application fee.

All applications for licenses to be issued under the provisions of this chapter and Chapter 5.04 shall be accompanied by an application investigation fee in an amount as set forth by the city council. In the event such license is denied, the application fee is not refundable.

(Ord. 456 § 1, 2011)

5.26.030 Approval or denial.

Approval or denial of the license shall be in accordance with Chapter 5.04 of this code.

(Ord. 456 § 1, 2011)

5.26.040 Inspection of premises - temporary suspension and revocation.

A. Inspection of premises. The chief of police shall inspect all places licensed under this chapter as often as deemed necessary and shall investigate all complaints.

B. Suspension/revocation. Notwithstanding any other provision of this chapter, the suspension and revocation procedures of Section 5.04.335 shall apply to any license.

(Ord. 456 § 1, 2011)

5.26.050 Police officer access - nuisance abatement and closure.

A. Access. Any peace officer of the city, county or state, or any officer or official of the United States government charged with the duty of enforcing police laws of the United States government shall have free access during business hours to any establishment regulated by this chapter and Chapter 16.44, in addition to those enforcement rights provided by Section 5.04.310.

B. Nuisance. In the event the chief obtained evidence that the permitted location is operating in violation of any law, or in violation of this code, or has become a nuisance the chief is authorized to cause to be personally served on the subject property notice of such evidence and notice/service of a complaint for temporary restraining order or injunction pursuant to the Drug Abatement Act set forth in Health and Safety Code Section 11570 et seq.

C. Closure. In addition to the nuisance abatement above, the chief of police may file a written request to the community development director to close the premises temporarily or permanently, pursuant to the suspension and revocation procedures of Section 16.44.030 for any violation of the permit or conditions attached thereto. The chief of police may, after consulting with the city attorney, temporarily close any business in certain circumstances to protect against a serious threat to public health or safety, subject to an

immediate due process hearing prior to the temporary closure, or at the earliest possible date following the closure. The due process hearing shall be held by the city manager or a hearing officer appointed by the city manager.

(Ord. 456 § 1, 2011)

5.26.060 Renewal and expiration of license

A. Renewal. A license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of the license is one (1) year. Each alcoholic beverage sales proprietor shall apply for the renewal of his or her license and submit the license fee no later than thirty (30) days prior to the expiration of the term.

B. Expiration. A license that is not timely renewed shall expire at the end of its term.

C. Automatic expiration. All licenses issued under this chapter shall automatically expire when the following conditions arise:

1. There is a transfer of ownership of the business;
2. The business moves to a new location;
3. There is a change in the nature of the business.

(Ord. 456 § 1, 2011)

5.26.070 Compliance with laws and regulations required prior to licensing.

No license shall be granted under the provisions of this chapter unless the business or place conforms to and complies with all laws and regulations of the city.

(Ord. 456 § 1, 2011)

Chapter 5.27

SHORT-TERM VACATION RENTALS

Sections

5.27.010 Purpose.

5.27.020 Definitions.

5.27.030 Short-term vacation rental permit required.

5.27.040 Permit application and issuance.

5.27.050 Maximum number of short-term vacation rental permits.

5.27.060 Operating requirements.

- 5.27.070 Advertising.
- 5.27.080 Inspections.
- 5.27.090 Public nuisance.
- 5.27.100 Violations and penalties, enforcement.
- 5.27.110 Denial, suspension and revocation of permits.
- 5.27.120 Termination of property use as a short-term vacation rental.
- 5.27.130 Permit fee allocation and modification.
- 5.27.140 False claims.
- 5.27.150 Requirements not exclusive.

5.27.010 Purpose.

A. The purpose of this chapter is to establish regulations for the use of privately owned single-family residential dwellings and condominiums as short-term vacation rentals to provide the framework for a permit system regulating these facilities; impose operational requirements to minimize the potential adverse secondary effects of such uses on surrounding neighborhoods, including, but not limited to, traffic, noise and density; prevent the increase and over concentration of transient uses in residential neighborhoods and zoning districts; impose reasonable limitations to ensure the long-term availability of housing stock in compliance with the housing element of the city's general plan; ensure neighborhood compatibility and maintain harmony with surrounding uses; ensure the collection and payment of Transient Occupancy Taxes (TOT); to protect the health, safety and welfare of transient occupants and guests patronizing the short-term vacation rentals; and to continue protecting the health, safety and welfare of the city's residents.

B. This chapter is not intended to regulate hotel(s) or motel(s), as those terms are defined in Section 16.44.090 (Hotels and Motels) and Section 16.110.020 (Definitions of Specialized Terms and Phrases) of this municipal code.

C. This chapter is not intended to regulate a bed and breakfast inn, as that term is defined in Section 16.110.020 (Definitions of Specialized Terms and Phrases) of this Municipal Code.

D. This chapter is not intended to regulate a rooming and boarding house(s), as that term is defined in Section 16.110.020 (Definitions of Specialized Terms and Phrases) of this municipal code.

E. This chapter is not intended to provide any owner of a single-family residential dwelling or condominium with the right or privilege to violate any Conditions, Covenants and Restrictions (CC&Rs) applicable to the owner's single-family residential dwelling or condominium.

F. This Chapter is not intended to provide the owner of a single-family residential dwelling or a condominium with a vested right or privilege to use any such dwelling or the parcel upon which it is situated for short-term vacation rental purposes on an ongoing, permanent basis. (Ord. 561-20 Exhibit A, 2020)

5.27.020 Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Advertise, advertising or advertisement" means the publication of any statements, phrases, words, photographs, drawings or other images for the purpose of informing any member of the public about the ability or availability to use a single-family residential dwelling or condominium unit as a short-term vacation rental. For purposes of this definition, publication shall include, but shall not be limited to, verbal, written, printed, electronic, televised or broadcast set forth or contained in any newspaper, magazine, newsletter, website, solicitation, handbill, business card, flyer, outdoor advertising display, billboard, cable, satellite, digital radio, television broadcast, social networking site, technology-based platform (i.e. AirBnB, VRBO, etc.) or any other form of printed, electronic, broadcast, or digital media.

"Applicable laws, rules and regulations" means any federal, state and local laws, rules, and regulations.

"Applicant" means the owner of the short-term vacation rental. The owner's signature is required on all short-term vacation rental application forms, and the city may prescribe reasonable requirements to verify that an applicant is the property owner in fact.

"Bedroom" means a private room furnished with a bed and intended primarily for sleeping. This includes the sleeping area within the primary livable area of a studio unit.

"City" means the City of Murrieta.

"City Manager" means the City Manager of the City of Murrieta, or his or her designee.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel, together with a separate interest in space in a residential dwelling unit.

"Designated local contact person" means the person designated by the owner or the owner's authorized agent or representative in writing to be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding to complaints, as required by this chapter.

"Guest" means any person(s) invited by the transient occupant(s) to visit the short-term vacation rental during the designated rental period, as permitted by this chapter.

"Good neighbor brochure" means a document prepared by the city that summarizes the general rules of conduct, consideration, and respect, including, without limitation, applicable provisions of this municipal code and other applicable laws, rules or regulations pertaining to the use, noise, refuse storage, location, occupancy, required on-site parking of short-term vacation rentals operating within the city.

"Hosted rental unit." A short-term vacation rental where bedroom(s), or a habitable detached structure (non-accessory dwelling unit, as that term is defined in Government Code Section 65852.2, which may be amended from time-to-time) on the property of a primary residence is rented, while a property owner, or their designated permanent resident, who is at least twenty-one (21) years of age or older, remains on-site and resides on the property during the short-term vacation rental period (except during daytime and/or working hours).

"Non-hosted rental unit." A short-term vacation rental where bedroom(s), or a habitable detached structure (non-accessory dwelling unit, as that term is defined in Government Code Section 65852.2, which may be amended from time-to-time) is rented without concurrently being occupied by the property owner.

"Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the subject short-term vacation rental property.

"Owner's authorized agent or representative" means a person designated by the owner in writing to ensure compliance with the requirements of this chapter with respect to the short-term vacation rental unit on the owner's behalf.

"Property" means a residential legal lot of record on which a short-term vacation rental is located.

"Responsible person" means a transient occupant who is at least twenty-one (21) years of age or older who shall be legally responsible for ensuring that all transient occupants of the short-term vacation rental and their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term vacation rental.

"Short-term vacation rental" means a privately owned single-family residential dwelling or condominium, as applicable, rented for a period of thirty (30) consecutive calendar days or less, for dwelling, lodging, or sleeping purposes, regardless of home-sharing and/or subletting arrangements. For the purposes of this chapter, non-monetary forms of compensation shall also qualify a property as a short-term vacation rental. This definition is inclusive of both hosted rental units and non-hosted rental units.

"Short-term vacation rental permit or permit" means a permit issued by the city that allows the owner of a single-family residential dwelling or condominium to use the owner's privately owned single-family residential dwelling or condominium as a short-term vacation rental pursuant to and in compliance with the provisions of this chapter.

"Single-family residential dwelling" means a detached structure that is permitted as a dwelling unit, intended for use by a single family that is situated on a single lot or parcel zoned as residential. This shall also include a privately owned mobile or modular home,

which is located on a space, lot or parcel owned by the same owner of the mobile or modular home.

"Transient occupant" means any person(s) permitted to exist as a renter of the single-family residential dwelling unit or condominium unit during the short-term vacation rental period. (Ord. 561-20 Exhibit A, 2020)

5.27.030 Short-term vacation rental permit required.

No person shall rent, offer to rent, or advertise for rent a single-family residential dwelling or condominium as a short-term vacation rental to any person without a valid short-term vacation rental permit issued by the city pursuant to and in the manner provided for by this chapter. (Ord. 561-20 Exhibit A, 2020)

5.27.40 Permit application and issuance.

A. Application. An application for a short-term vacation rental permit, or renewal thereof, shall be filed on a form provided by the city, and shall be signed and submitted to the city manager, under penalty of perjury, by the applicant. A permit application must include all of the following information, which shall be updated when there is any change to ensure that the city has current information on file at all times relating to the short-term vacation rental and its owner(s), owner's authorized agent or representative, and designated local contact person, as applicable:

1. Legal name, address, and telephone number of the owner of the single family residential dwelling or condominium.
2. Legal name, address, and telephone number of the owner's authorized agent or representative, if any.
3. Legal name, address, and twenty-four (24) hour availability via telephone number of the designated local contact person, if different from the owner.
4. The address of the single-family residential dwelling or condominium proposed to operate as a short-term vacation rental.
5. The number of bedrooms within the single-family residential dwelling or condominium, which shall prescribe the overnight and daytime occupancy limits of the proposed short-term vacation rental.
6. Signed statement acknowledging receipt and inspection of the good neighbor brochure, and agreeing to distribute the brochure in-person to all transient occupants of the short-term vacation rental.
7. Signed statement acknowledging that the owner is permitted to use the owner's property as a short-term vacation rental, per applicable private governing documents, including, without limitation, CC&Rs that are valid and enforceable pursuant to the Davis-

Stirling Common Interest Development Act, as set forth in California Civil Code Section 4000 et seq.

8. Copy of any application and all other forms that renters of the short-term vacation rental will be required to complete.

9. Copy of the owner's rules and regulations for the short-term vacation rental.

10. Copy of a city business license.

11. Signed statement by the owner acknowledging all of the following: (i) all of the information contained in the short-term vacation rental permit application is true and correct; (ii) all owner(s), the owner's authorized agent or representative, and the designated local contact person, are familiar with the requirements of this chapter and all applicable requirements of Title 16 of this municipal code; (iii) all owner(s), the owner's authorized agent or representative, and the designated local contact person, are responsible for ensuring compliance with this chapter and all applicable requirements of Title 16 of this municipal code; (iv) failure to comply with all applicable laws, rules and regulations, including the provisions of this chapter and all applicable requirements of Title 16 of this municipal code, may result in the suspension and/or revocation of a short-term vacation rental permit.

12. Evidence of liability insurance for the property in the amount of at least one million dollars (\$1,000,000) to cover the short-term vacation rental operations, which insurance shall be maintained during the entire term of any permit issued by the city.

13. Such other information as the city manager deems reasonably necessary to administer this chapter.

14. The short-term vacation rental permit application, shall be accompanied by proof of payment tendered to the city for the requisite application fee established by resolution of the city council pursuant to Section 5.27.130 of this chapter.

B. Issuance. Upon receipt of a completed application, the city manager will review the application and supporting documents, and shall approve and issue a permit to the owner authorizing the use and occupancy of such property as a short-term vacation rental if the city manager finds that the required permit fee has been paid, and that the information provided conforms to the requirements of this chapter. A permit shall be valid for a period of one (1) year from the date of issuance.

C. Notice to neighbors. Within fourteen (14) days of permit issuance, the owner must provide a written mailed notice of the short-term vacation rental, on a form provided by the city, to all property owners within three hundred (300) feet of the short-term vacation rental. Such notice shall include the address of the short-term vacation rental, number of bedrooms available for rent, number of available on-site parking spaces, and contact information of the owner and the owner's authorized agent or representative, and designated local contact person, as applicable.

D. Renewal. An annual renewal application shall be required for a short-term vacation rental permit, and shall be submitted to the city manager in accordance with this section. The annual renewal application shall be accompanied by proof of payment tendered to the city for the requisite application fee established by resolution of the city council pursuant to Section 5.27.130 of this chapter. Each renewal permit shall be valid for a period of one (1) year from the date of issuance.

E. Transfer. A permit issued by the city pursuant to this chapter for said location is personal to the owner who applies for and is issued a permit such that a permit shall not be transferred, sold or assigned to any other person or entity. This means that upon transfer of the ownership of the property, a permit shall automatically terminate and the new owner of the property must apply for a new permit. A new permit is not required for changes in title to the property resulting from marriage, death, transfers into a trust, or transfers into a corporate entity where an original owner under the existing permit remains an owner, trustee, or corporate manager under the new title. In such an event, notice of the change of title shall be provided to the city immediately upon such transfer.

(Ord. 582 § 3, 2022; Ord. 561-20 Exhibit A, 2020)

5.27.050 Maximum number of short-term vacation rental permits.

Permits shall be issued on a first-come, first-served basis. The maximum number of short-term vacation rental permits issued by the city shall be limited to not more than three hundred (300) permits. After the maximum number of permits has been issued by the city, any additional applications submitted to the city shall be placed on a waiting list in the order in which the applications were received. If a permit becomes available, applications will be reviewed by the city in the order listed on the waiting list.

(Ord. 561-20 Exhibit A, 2020)

5.27.060 Operating requirements.

No person shall operate a short-term vacation rental within the jurisdiction of the city unless all of the following requirements are met, and the person is in compliance with all applicable provisions of Title 16 of this municipal code:

A. Business license. The owner must maintain a current and valid business license issued by the city pursuant to Chapter 5.04 of this municipal code at all times while operating a short-term vacation rental at the property.

B. Owner's authorized agent or representative. If the owner designates an owner's authorized agent or representative to act on the owner's behalf in the day-to-day operations of the short-term vacation rental, the owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental unit, regardless of whether such noncompliance was committed by the owner's

authorized agent or representative or the transient occupants of the owner's short-term vacation rental unit or their guests. The owner must be the applicant for and holder of a short-term vacation rental permit and business license and shall not authorize an agent or a representative to apply for or hold a short-term vacation rental permit and business license on the owner's behalf.

C. Responsible person. A short-term vacation rental must have a responsible person designated for the rental period who shall be legally responsible for ensuring that all transient occupants and their guests comply with all applicable laws, rules and regulations relating to the use and occupancy of the short-term vacation rental. The responsible person(s) shall be a transient occupant of the short-term vacation rental who is at least twenty-one (21) years of age.

D. Bedrooms. Each bedroom in a short-term vacation rental shall have at least one (1) window, one (1) emergency escape/rescue opening, and one (1) closet or storage nook. Additionally, the bedroom must be accessible to a bathroom without crossing into another bedroom.

E. Maximum number of transient occupants. The maximum number of transient occupants and guests, including the responsible person(s), permitted to occupy any short-term vacation rental unit shall be within the ranges set forth in Table 5.27-01, below, to comply with all applicable building, fire, health and safety standards and requirements of local, state and federal law, including, but not limited to, this municipal code:

TABLE 5.27-01 SHORT-TERM VACATION RENTAL OCCUPANCY LIMITS AND PARKING VIOLATIONS*					
Number of Bedrooms	Total Overnight Transient Occupants	Additional Day Time Transient Occupants (Guests)	Total Daytime Occupancy	Total Vehicles Allowed On-Site (Overnight)	Total Vehicles Allowed On-Site (Daytime)
Studio	2	1	3	1	2
1	2	1	3	1	2
2	4	1	5	2	3
3	6	1	7	3	3
4	8	1	9	3	3
5	10	0	10	3	3

For Estate Residential (ER) and Rural Residential (RR) Zones:					
Studio	2	1	3	1	2
1	2	1	3	1	2
2	4	1	5	2	3
3	6	1	7	3	4
4	8	1	9	3	4
5	10	0	10	3	4
*Residents of "hosted rental unit" locations do not count towards maximum occupancy levels					

This requirement shall not apply to hosted rental units.

F. Compliance with applicable laws. The owner, the owner's authorized agent or representative and the designated local contact person, as applicable, shall use reasonably prudent business practices to ensure that the transient occupants and guests of the short-term vacation rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental.

G. Prompt response to complaints. During the period that a short-term vacation rental is rented, the owner, the owner's authorized agent or representative and/or the designated local contact person, as applicable and as so designated by the owner, must be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding in person to the property within thirty (30) minutes of a complaint being made regarding the condition, operation, or conduct of transient occupants and/or guests of the short-term vacation rental, and must take such remedial action as is necessary and reasonable to resolve such complaints. Upon notification that any transient occupant and/or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental, the owner, owner's authorized agent or representative and/or the owner's designated local contact person, as applicable, shall promptly respond to immediately halt or prevent a recurrence of such conduct by the transient occupants and/or guests. Failure of the owner, the owner's authorized agent or representative and/or the owner's designated local contact person, as applicable, to respond to calls or complaints regarding the condition, operation, or conduct of transient occupants and/or guests of the short-term vacation rental in a timely and appropriate manner as required by this section shall be subject to all administrative, legal and equitable remedies available to the city.

H. City notification of violations. The owner, the owner's authorized agent or representative and/or the owner's designated local contact person, as applicable, shall report to the city manager the name, violation, date, and time of disturbance of each person involved in any disorderly conduct activity, disturbance or other violation of any applicable

law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental.

I. Listings. All internet listing sites and listing numbers associated with a short-term vacation rental shall be submitted to the city with the monthly Transient Occupancy Tax (TOT) return forms due to the city pursuant to Section 3.24.080 (Reporting and Remitting) of this municipal code.

J. Sound equipment. No radio receiver, musical instrument, phonograph, compact disk player, loudspeaker, karaoke machine, sound amplifier, or any machine, device or equipment that produces or reproduces any sound shall be used outside or be audible from the outside of any short-term vacation rental at any time.

K. Noise requirements. The short-term vacation rental shall be subject to the provisions as described under Section 16.30 (Noise).

L. Renter requirements. Prior to occupancy of a short-term vacation rental, the owner or the owner's authorized agent or representative shall:

1. Obtain the name, personal telephone number, address, and a copy of a valid government identification of the responsible person and all transient occupants over the age of eighteen (18);

2. Provide a copy to and review the good neighbor brochure with the responsible person and all transient occupants over the age of 18;

3. Require the responsible person to execute a formal acknowledgment that he or she is legally responsible for compliance by all transient occupants of the short-term vacation rental and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term vacation rental; and

4. The information required by this subsection shall be maintained by the owner or the owner's authorized agent or representative for a period of three (3) years and shall be made readily available upon request to the city.

M. No self check-in. Self check-in shall be prohibited at the short-term vacation rental. Lock boxes shall not be permitted for access to the short-term vacation rental. The owner or the owner's authorized agent or representative shall meet the responsible person at the subject property to verify the identity of transient occupants, provide a copy of the good neighbor brochure, and conduct check-in procedures to all transient occupants eighteen (18) years and older.

N. Trash and refuse. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the city's authorized waste hauler on scheduled trash collection days. The owner, the owner's authorized agent or representative shall use reasonably prudent business practices to ensure compliance with all the provisions of Chapter 8.20 (Nuisances Generally) and Chapter 8.24 (Litter) of this Municipal Code.

O. Parking. Parking for the short-term vacation rental shall comply with the requirements as specified under Table 3-7, Table 5.27-01, and Section 16.44.260 of this municipal code.

P. No roof access. Due to neighborhood privacy concerns and potential risks of bodily harm, accidental death and other safety concerns, standing, sitting, sleeping, lying, walking or running on the roof of any short-term vacation rental is prohibited. Violation of this prohibition shall result in the immediate removal of all transient occupants and guests from the subject property.

Q. Permit and good neighbor brochure displayed on-site. The owner, the owner's authorized agent or representative and/or the designated local contact person shall post a copy of the short-term vacation rental permit and a copy of the good neighbor brochure in a conspicuous place within the short-term vacation rental.

R. Payment of transient occupancy tax. The owner and/or the owner's authorized agent or representative shall comply with all provisions of Chapter 3.24 (Transient Occupancy Tax) of this municipal code concerning the payment of Transient Occupancy Taxes (TOT), including, but not limited to, submission of a monthly reporting and remitting requirements in compliance with Section 3.24.080 of this municipal code, which shall be required to be filed monthly even if the short-term vacation rental was not rented during such month. This calculation shall include "cleaning fees", "resort fees", and "other" fees as part of the total "rent" charged for the short-term vacation rental.

S. Life/safety compliance. The property that is the subject of the short-term vacation rental must meet basic life/safety requirements (including, but not limited to, operable smoke and carbon monoxide alarms, fire extinguisher, first aid kit) and shall comply with minimum operating standards.

T. Signage. All short-term vacation rentals shall comply with the signage requirements under Section 16.38.050 of this municipal code.

U. No commercial filming permitted on-site. No commercial filming or related activities described under Section 16.70.030 of this municipal code, shall occur on-site of the short-term vacation rental property concurrently with an active short-term vacation rental permit.

V. No commercial, special or temporary events permitted on-site. No commercial, special or temporary events, or similar non-residential activities requiring the issuance of a temporary use permit pursuant to Chapter 16.70 of this municipal code or other approval issued by the city, shall occur on-site of the short-term vacation rental property concurrently with an active short-term vacation rental permit.

W. Permitted guest hours. Guest hours permitted at the short-term vacation rental shall be limited from 7:00 a.m. to 10:00 p.m. daily.

X. Additional requirements. The city manager shall have the authority to impose additional conditions or restrictions on any permit in the event of any violation of the

operating requirements under this section or the provisions of this chapter or applicable provisions of Title 16.

(Ord. 582 § 4, 2022; Ord. 561-20 Exhibit A, 2020)

5.27.070 Advertising.

All advertising for short-term vacation rentals shall include the following information:

- A. City short-term vacation rental permit number;
- B. Maximum number of transient occupants and guests permitted to occupy the short-term vacation rental pursuant to Table 5.27-01 of this chapter; and
- C. Maximum number of designated on-site parking spaces pursuant to Table 5.27-01 of this chapter. (Ord. 561-20 Exhibit A, 2020)

5.27.080 Inspections.

The owner shall permit the city to inspect the short-term vacation rental and property at any time prior to issuance of a permit, or during the operation of the short-term vacation rental for the purpose of making a reasonable inspection to observe and enforce compliance with all applicable laws, rules and regulations, including the provisions of this chapter and all applicable requirements of Title 16 of this municipal code. The owner may be required to reimburse the city for the cost of an inspection, not to exceed the actual cost of such inspection. (Ord. 561-20 Exhibit A, 2020)

5.27.090 Public nuisance.

It shall be unlawful and a public nuisance for any person to commit, cause or maintain a violation of this chapter. The city may, in addition to, or in lieu of, prosecuting a criminal action hereunder, commence proceedings for the abatement, removal and/or enjoinder thereof in any manner provided by law. (Ord. 561-20 Exhibit A, 2020)

5.27.100 Violations and penalties, enforcement.

- A. It shall be unlawful for any person to fail to comply with any of the requirements of this chapter, or operate a short-term vacation rental within the jurisdiction of the city contrary to or in violation of any of the provisions of this chapter, any applicable provisions of Title 16 of this municipal code, or any other applicable laws, rules and regulations.
- B. Violations of this chapter, may be enforced by any method allowed in Chapters 1.32, 1.26 and 8.20 of this municipal code, or any other applicable enforcement mechanism available to the city. (Ord. 561-20 Exhibit A, 2020)

5.27.110 Denial, suspension, and revocation of permits.

A. Denial, suspension or revocation. In addition to any other remedy provided by this chapter, a short-term vacation rental permit may be denied, and if already issued, may be suspended or revoked by the city manager, pursuant to this section.

B. Grounds. In addition to the grounds for denial, suspension or revocation imposed under Chapter 5.04 of this municipal code, a permit issued under this chapter, and/or a city business license issued by the city may be denied, suspended or revoked upon any of the following grounds:

1. A material misrepresentation, false or misleading information was included on the application or renewal application for a permit and/or city business license application.

2. A violation of any provision under this chapter, any applicable provision under Title 16 of this municipal code, and/or any other applicable law, rule or regulation has occurred on the premises of the short-term vacation rental.

3. An authorized official has given notification of existing health or safety violations on the property or non-compliance with applicable laws, rules and regulations relating to health and safety.

4. A short-term vacation rental permit for the property has been suspended or revoked in the previous twelve (12) months, unless the property has been sold and the new owner can demonstrate to the city change of property ownership during that time period.

5. The applicant is delinquent in the payment of any outstanding fees, assessments or taxes owed to the city related to any property located in the city that is owned by the applicant, including, but not limited to Transient Occupancy Taxes (TOT).

C. Appeal of denial, suspension or revocation. The appeal procedures for the denial, suspension or revocation of a permit shall be those set forth in Chapter 5.04 of this municipal code.

D. Public notice of suspension or revocation. If a short-term vacation rental permit is suspended or revoked pursuant to this section, notification shall be provided by the city to all record property owners located within three hundred (300) feet of the subject short-term vacation rental of any imposed suspension or revocation of the permit. Posting of the suspension or revocation shall also be provided on the city's short-term vacation rental webpage.

E. Prohibited operations. If a short-term vacation rental permit is revoked pursuant to this Section, the applicant shall not operate a short-term vacation rental at the property for a period of twelve (12) months from the date of such revocation. No permit that is revoked by the city may be transferred to any other person or entity to operate a short-term vacation rental at the property during such period of revocation. (Ord. 561-20 Exhibit A, 2020)

5.27.120 Termination of property use as a short-term vacation rental.

Where the owner of property used and occupied as a short-term vacation rental pursuant to a permit issued pursuant to this chapter decides to terminate such use and restore the property either to an owner-occupied residence or a long-term rental, the owner shall promptly cause a notice of such determination to be filed with the city manager. The short-term vacation rental permit shall go back into the pool of available permits in accordance with Section 5.27.050 of this chapter and Section 16.44.260 of this municipal code. (Ord. 561-20 Exhibit A, 2020)

5.27.130 Permit fee allocation and modification.

The city council shall establish, by resolution, a non-refundable short-term vacation rental permit application and renewal application fee. The appropriate fee shall accompany the submission of each short-term vacation rental permit application, or renewal application, as applicable, to defray in part the reasonable costs of the administration and enforcement of this chapter. The fee shall be reviewed annually and adjusted, as necessary, by the city manager to determine whether such fees are adequate to cover the costs of implementing the provisions of this chapter. (Ord. 561-20 Exhibit A, 2020)

5.27.140 False claims.

No person shall knowingly report, submit or file a false claim alleging a violation of this chapter. (Ord. 561-20 Exhibit A, 2020)

5.27.150 Requirements not exclusive.

The requirements of this chapter shall be in addition to any license, permit, or fee required under any other provision of this municipal code. The issuance of a short-term vacation rental permit pursuant to this chapter shall not relieve the owner of the obligation to comply with all other provisions of this municipal code pertaining to the use and occupancy of their property. (Ord. 561-20 Exhibit A, 2020)