

CHAPTER 3.08OCCUPATIONAL LICENSE TAXESSECTIONS:

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3.08.010 Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this section:

Business shall mean and include professions, trades, occupations and all and every kind of calling, whether or not carried on for profit.

Person shall mean and include all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts trust, business or common law trusts, societies and individuals transacting and carrying on any business in the city, other than as an employee.

(Ord. No. 2017-1451, 10/24/2017)

3.08.020 Purpose of this Chapter. This Chapter is for the purpose of raising revenue for city purposes and use and not for the purpose of regulation. (Ord. No. 2017-1451, 10/24/2017)

3.08.030 Persons exempt from the application of this Chapter.

(a) Nothing in this Chapter shall be deemed or construed to apply to any utility, public or private, which pays a franchise fee under a contract with the City. (Ord. No. 2017-1451, 10/24/2017)

(b) No license tax shall be payable for any show, entertainment, concert or exhibition operated or carried on under the auspices of any local religious, fraternal, musical or charitable organization

or public school, the receipts of which are used for the furtherance of their respective work.

(c) Any person claiming one of the foregoing exemptions from the license tax shall file a verified statement with the Finance Director stating the facts upon which exemption is claimed. The Finance Director shall, upon a proper showing contained in the verified statement, issue an exemption certificate to the person claiming exemption under this section. **(Ord. No. 2017-1451, 10/24/2017)**

(d) The Finance Director, after giving notice and a reasonable opportunity for hearing to a person granted an exemption under subsection (c), may revoke any exemption certificate granted, upon information that the person is not entitled to the exemption as provided in this section. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.040 License required. An annual license tax is hereby imposed upon each person doing business within the City, except as specifically excepted in this Chapter, which license tax shall be due and payable in such amount and at such time as are prescribed in this Chapter. It shall be unlawful for any person to do business within the City without first having procured a license issued under the provisions of this Chapter and, upon payment of the license tax, the Finance Director shall issue a license to the person applying therefore for the privilege of doing business within the City as provided in this Chapter. Doing business within the City without complying with any and all regulations of this chapter shall constitute a separate violation of this Code for each day that business is done. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.050 Separate licenses necessary for separate locations. A separate license shall be obtained for each branch establishment or location of the business transacted and carried on.

3.08.060 License required for ownership transfer or relocation of business. Any person having a fixed place of business within the City of San Marcos who transfers ownership of a business or moves a business to another location shall obtain a new license in the same manner as the original license and the same license fees shall apply. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.070 Application.

(a) On or before May 15, 1963, and each year thereafter each person then doing business in the City and required to have a license under the provisions of this Chapter, shall make application therefore to the Finance Director, on forms obtainable from the Finance Director and signed under penalty of perjury, containing the following information: **(Ord. No. 2017-1451, 10/24/2017)**

- (1) The name of the person to whom the license shall be issued;
- (2) A description of the business to be licensed;
- (3) The location or locations of the business and the zoning thereof;
- (4) Such other information as the Finance Director may deem necessary for the enforcement of this Chapter. **(Ord. No. 2017-1451, 10/24/2017)**

(b) At such time after July 1, 1963, as a person establishes a new business within the City he shall, prior to commencement thereof, file an application for a license required by this Chapter, on forms obtainable from the Finance Director and signed under penalty of perjury, containing the same information as set forth in subsection (a). **(Ord. No. 2017-1451, 10/24/2017)**

3.08.080 Issuance generally. On the basis of the information contained in the application for a license filed pursuant to this Chapter, the Finance Director shall assess the amount of the license tax to be paid by the applicant for the privilege of doing business within the City under the provisions of this Chapter for the period of time expiring on the last day of the Month of the next calendar year succeeding the date of the application for the license. Upon payment of the license tax, the Finance Director shall issue a license to the applicant, signed by the Finance Director in such form as he shall determine, but clearly setting forth all of the following: **(Ord. No. 2017-1451, 10/24/2017)**

- (a) The name of the person to whom the license is issued;
- (b) The location of the place of business; and **(Ord. No. 2017-1451, 10/24/2017)**
- (c) The date of issuance and expiration date of the license. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.090 Issuance of licenses where possible violation of Zoning Ordinance exists.

(a) The Finance Director shall not accept applications for business licenses until the forms for the application have been completely filled out and signed by the applicant. **(Ord. No. 2017-1451, 10/24/2017)**

(b) After the Finance Director has examined the application for a business license, including the zoning thereof, if the Finance Director determines there is a possible zoning violation in the use of the premises for which the license is issued, then the Finance Director shall call this to the attention of the applicant by furnishing the applicant the notice in writing of the prospective violation; if the applicant insists that the Finance Director issue the business license after receipt of the notice, then the Finance Director shall issue the license to the applicant, but shall stamp on the license the following: **(Ord. No. 2017-1451, 10/24/2017)**

"The licensee hereunder has previously been advised that the use of the premises for which the license is sought, is in possible violation of the City of San Marcos Zoning Ordinance, and the issuance of this license in no way is a waiver of the terms of the zoning ordinance or any other ordinances of the City of San Marcos which might be violated by the applicant hereunder." (Res. No. 68-393, Secs. 1, 2, 11-26-68)

3.08.100 Scope of privilege conferred by license.

(a) Each license issued pursuant to this Chapter shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in the license; however, warehouses, distributing plants and vending machines used in connection with and incidental to a business licensed under the provisions of this Chapter shall not be deemed to be separate places of business or branch establishments. **(Ord. No. 2017-1451, 10/24/2017)**

(b) No license issued pursuant to this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.110 Renewal. A business license shall be valid for one year from the last day of the month in which the license is first issued. A licensee may renew a license by filing an application for renewal and paying the appropriate tax on or before the day of expiration as determined according to this section. The application for renewal shall contain the same information as an application for an original license and shall be executed under penalty of perjury. The Finance Director shall determine the amount of tax to be paid, and, upon receipt of payment, shall issue a

renewal license in the same manner as an original license. The expiration day of the renewal license shall be determined based on the expiration day of the original license regardless of whether the license is delinquent when renewed. (Ord. 89-829, 11-14-89), (Ord. No. 2017-1451, 10/24/2017)

3.08.120 Reserved. (Ord. 89-829, 11-14-89)

3.08.130 Enforcement of this Chapter generally.

(a) It shall be the duty of the Finance Director to enforce each and all of the provisions of this Chapter, and the law enforcement shall render such assistance in the enforcement of this Chapter as may from time to time be required by the Finance Director or the City Council. (Ord. No. 2017-1451, 10/24/2017)

(b) The Finance Director, in the exercise of the duties imposed upon him by this Chapter, and acting through his deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Chapter have been met. (Ord. No. 2017-1451, 10/24/2017)

(c) The Finance Director and each and all of his assistants and law enforcement shall have the authority to enter, free of charge, at any reasonable time, any place of business required to be licensed by this Chapter, and to demand an exhibition of its license certificate. Any person having a license certificate issued pursuant to this Chapter in his possession or under his control, who willfully fails to exhibit the certificate on demand, shall be guilty of a misdemeanor and subject to the penalties provided for by the provisions of this Chapter. It shall be the duty of the Finance Director or each of his assistants to cause a complaint to be filed against any person found to be violating this Chapter. (Ord. No. 2017-1451, 10/24/2017)

3.08.140 Tax and penalty to constitute a debt; action on debt. The amount of any license tax and penalty imposed by the provisions of this Chapter shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent license tax and penalties. (Ord. No. 2017-1451, 10/24/2017)

3.08.150 Violation and Penalty. Any person who under penalty of perjury knowingly or intentionally misrepresents to any officer or employee of this City any material fact in procuring a license required by this Article shall be deemed guilty of a misdemeanor. Any person violating any of the other provisions of this Chapter shall be deemed guilty of an infraction of this Chapter and shall be punished in accordance with section 1.12.010. (Ord. No. 99-1053, 2/1/99), (Ord. No. 2017-1451, 10/24/2017)

3.08.160 Remedies declared to be cumulative. All remedies prescribed by this Chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter. (Ord. No. 2017-1451, 10/24/2017)

3.08.170 Adjustment of tax on persons engaged in interstate commerce. None of the license taxes provided for in this Chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license tax is believed by a licensee or an applicant for a license under this Chapter to place an undue burden upon interstate commerce, he may apply to the Finance Director for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to interstate commerce. The application may be made before, at or within six (6) months after payment of the license tax prescribed by this Chapter. The application shall, by affidavit and supporting testimony, show his method of business and such other information as

the Finance Director may deem necessary in order to determine the extent, if any, of the alleged undue burden on interstate commerce. The Finance Director shall then conduct an investigation and make full report thereof to the City Council which shall fix as the license tax for the applicant, an amount that is reasonable and nondiscriminatory or, if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.180 Flat rate. Each person transacting and carrying on a business having a fixed place of business within the City shall pay an annual license tax based upon the number of employees, workers and owners who work in and/or for the business as follows: **(Ord. No. 2017-1451, 10/24/2017)**

0 -	5 employees-----	\$ 20.00
6 -	10 employees-----	30.00
11 -	20 employees-----	50.00
21 -	30 employees-----	70.00
31 -	50 employees-----	80.00
51 -	100 employees-----	100.00
101 -	200 employees-----	150.00
201 -	300 employees-----	200.00
301 -	400 employees-----	250.00
401 -	500 employees-----	300.00
501 -	600 employees-----	350.00
601 -	700 employees-----	400.00
701 -	800 employees-----	450.00
801 -	900 employees-----	500.00
901 -	1000 employees-----	550.00
1001 -	2000 employees-----	650.00
2001 -	3000 employees-----	750.00
3001 -	5000 employees and more---	1,000.00

3.08.190 Delivery by vehicle. Each person not having a fixed place of business within the City, who delivers goods, wares or merchandise of any kind by vehicle or who provides any service by the use of vehicles in the City, shall pay a license tax of forty dollars (\$40.00) per year. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.200 Contractors. Each person who engages in the business of contracting within the City, whether or not the business is located in the City or outside the City, shall pay a license tax as follows:

- (a) All Class A and B general contractors, as defined in the Business and Professions Code of the state, one hundred (\$100.00) per year. **(Ord. No. 2017-1451, 10/24/2017)**
- (b) All Class C subcontractors, as defined in the Business and Professions Code of the state, and other contractors, fifty dollars (\$50.00) per year. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.210 Other outside businesses. Each person not having a fixed place of business within the City who engages in business within the City and is not subject to the provisions of sections 3.08.190 and 3.08.200 of this Code shall pay a license tax of sixty dollars (\$60.00) per year. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.220 Penalty for late payment of tax. For failure to pay a license tax required by this Chapter when it is due, the Finance Director shall add a penalty of twenty-five percent (25%) of the license tax on the last day of each month after the due date thereof; however, the amount of the penalty shall in no event exceed one hundred percent (100%) of the amount of the license tax due. **(Ord. No. 2017-1451, 10/24/2017)**

3.08.230 Vehicle Decals. **Section Repealed (Ord. No. 2017-1451, 10/24/2017)**