

TITLE 3 REVENUE AND TAXATION

CHAPTER 3.04 GENERAL

3.04.010 Transfer of Duties.

- (a) Pursuant to the authority granted by Section 51501 of the Government Code of the State, the assessment and tax collection duties performed by the City Assessor and Tax Collector are hereby transferred to the Assessor and Tax Collector of the county.
- (b) The offices of City Assessor and Tax Collector are hereby abolished.
- (c) Pursuant to the authority granted by Section 51507 of the Government Code of the State, the duties of the City Assessor, other than the assessing of City property, and the duties of the Tax Collector, other than the collection of taxes, hereby are transferred to and shall be performed by the City Clerk or such officer of the county as may be contracted with the City be designated and authorized to perform such duties.

CHAPTER 3.08 OCCUPATIONAL LICENSE TAXES

3.08.010 Definitions.

As used in this chapter, the following terms shall have the meaning ascribed to them in this section:

Administrative Fee shall include, but not be limited to, the regulatory cost of issuing the license and conducting investigations and inspections relating thereto.

Applicable Laws shall mean codes, laws, and/or regulations of the City of San Marcos, the state, or the federal government applicable to the Business and/or premises for which a Person seeks a license.

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

Business License Tax or License Tax shall mean an annual fee to be paid to the City of San Marcos for the privilege of being licensed to do business within its jurisdictional boundaries.

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 natural persons, individually and/or collectively, transacting and carrying on any business in the city, other than as an employee. A **Person** may also be referenced in this chapter as **Applicant**.

(Ord. No. 2017-1451, § 2, 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, except as otherwise provided herein, including without limitation Chapter 3.08.040A of this Chapter,

for those Businesses and Persons that are in compliance with any and all Applicable Laws existing at the time of application for, or renewal of, a license under this chapter.

(Ord. No. 2017-1451, § 2, 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.
- (b) No License Tax and/or Administrative Fee 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 and/or Administrative Fee 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.
- (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, § 2, 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 submitted a complete application for and 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. The issuance of a license to do business under the provisions of this chapter shall in no way be construed to relieve the licensee from the obligation to comply with any and all Applicable Laws, nor shall such issuance be deemed a waiver by the City of existing, past, and/or future violations of such Applicable Laws. Doing business within the City without first complying with any and all regulations described within this chapter shall constitute a separate violation of this Code for each day that business is done.

(Ord. No. 2017-1451, § 2, 10-24-2017)

3.08.040A. Business license administrative fee.

(a) Prior to issuance or renewal of a business license, the Applicant shall pay a business license Administrative Fee in an amount established by city council resolution pursuant to section 3.08.080.

(b) This section 3.08.040A is intended to complement and aid in the enforcement of the provision of this chapter, but this particular section is not intended to impose any form of taxation in the business community nor to collect more than is necessary to recover the administrative costs of processing an application for the issuance or renewal of a business license and for conducting any inspections required to ensure that the Business or business premises comply with the provision of this Municipal Code and all Applicable Laws.

(c) The business license Administrative Fee shall be in addition to any other application, license, tax, or other fee required for a Business under any other ordinance or resolution of the City and shall remain subject to the regulatory provisions of other ordinances.

3.08.050 Separate licenses necessary for separate locations.

A separate license shall be obtained for each branch establishment or location of any Business located within the jurisdictional boundaries of the City of San Marcos.

(Ord. No. 2017-1451, § 2, 10-24-2017)

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 Tax and Administrative Fee(s) shall apply.

(Ord. No. 2017-1451, § 2, 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:
- (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 of each such location;
 - (4) Such other information as the Finance Director may deem necessary for the enforcement of this chapter.
- (b) At such time after July 1, 1963, as a Person establishes a new Business within the city, they 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, § 2, 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 such 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. Anyone who applies for or renews a business license shall pay an Administrative Fee for the processing of the license application as prescribed by this chapter and separate city council resolution as well as the License Tax prescribed by this chapter. Except as noted in section 3.08.090, below, upon payment of the Administrative Fee and the License Tax, the Finance Director shall issue a license to the Applicant, signed by the Finance Director, or his/her designee, in such form as he shall determine, but clearly setting forth all of the following:

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- (a) The name of the person to whom the license is issued;
 - (b) The location of the place of Business; and
 - (c) The date of issuance and expiration date of the license.

(Ord. No. 2017-1451, § 2, 10-24-2017)

3.08.090 Issuance of licenses where possible violation of Applicable Laws exists.

- (a) The Finance Director, or his/her designee, shall not accept applications for business licenses until the forms for the application have been complete in their entirety and signed by the applicant.
- (b) After the Finance Director has examined the application for a business license, including the zoning thereof and any written recommendations from City officials, if the Finance Director determines there is a possible 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 upon the license the following verbiage:

"The licensee hereunder has previously been advised that the use of the premises for which the license is sought, is in possible violation of Applicable Laws, and the issuance of this license in no way is a waiver of the terms of any Applicable Law which might be violated by the Applicant hereunder."

- (c) The issuance of a business license shall not be deemed evidence that a Person operating a Business in the City is in fact in compliance with all Applicable Laws, or that such Person has applied for or have been issued all permits or licenses which may otherwise be required.

(Ord. No. 2017-1451, § 2, 10-24-2017)

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, 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.
- (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, § 2, 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 License Tax and Administrative Fee 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 License 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. No. 2017-1451, § 2, 10-24-2017)

3.08.120 Reserved.

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 City code enforcement officers and officials, the City Attorney, and 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.
- (b) The Finance Director, pursuant to the duties imposed by this chapter, and acting through 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.
- (c) The Finance Director and their duly authorized 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 an authorized assistant to cause a complaint to be filed against any person found to be violating this chapter.

(Ord. No. 2017-1451, § 2, 10-24-2017)

3.08.140 Administrative fee, Tax and/or penalty to constitute a debt; action on debt.

The amount of any Administrative Fee, License Tax, and/or penalty imposed by the provisions of this chapter (and, in the case of the Administrative Fee, as adopted by separate resolution by the city council from time to time) 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, § 2, 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. 2017-1451, § 2, 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, § 2, 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, the Applicant 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 months after payment of the License Tax prescribed by this chapter. The application shall, by affidavit and supporting testimony, show the type and scope 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 or delegate the authority to do so, in 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, § 2, 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 the Business license Administrative Fee and an annual License Tax based upon the number of employees, workers and owners who work in and/or for the Business as follows:

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 - 1,000 employees	550.00
1,001 - 2,000 employees	650.00
2,001 - 3,000 employees	750.00
3,001 - 5,000 employees and more	1,000.00

(Ord. No. 2017-1451, § 2, 10-24-2017)

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 Business license Administrative Fee and License Tax of \$40.00 per year.

(Ord. No. 2017-1451, § 2, 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 Business license Administrative Fee and License Tax as follows:

- (a) All Class A and B general contractors, as defined in the Business and Professions Code of the state, \$100.00 per year.
- (b) All Class C subcontractors, as defined in the Business and Professions Code of the state, and other contractors, \$50.00 per year.

(Ord. No. 2017-1451, § 2, 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/or 3.08.200 of this Code shall pay a Business license Administrative Fee and License Tax of \$60.00 per year.

(Ord. No. 2017-1451, § 2, 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 an Administrative Fee and a penalty of 25 percent 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 100 percent of the amount of the License Tax due.

(Ord. No. 2017-1451, § 2, 10-24-201)