

CHAPTER 6.02GENERAL PROVISIONS

6.02.010 Purpose. In addition to any other licenses or permits required by this Code, an operations permit is required for those activities set forth in this Title. The described activities require regulation by the City to protect and promote the health, safety and public peace of the community. It is the purpose of this Chapter to provide a standard procedure for the administration of such operations permits. Notwithstanding the provisions of this Title, proposed activities shall be subject to Zoning Regulations and Coastal Development requirements, pursuant to Title 30 of this Code. (Ord. 94-06)

6.02.020 Definitions.

- A. As used in this Title "Director" shall mean the City Manager.
- B. An "Issuing Authority" is the individual designated to exercise the specific authority relating to an operations permit in accordance with the general authority granted to all issuing Authorities by this Chapter.
- C. "Notice to Permittee" includes notice to a responsible employee or agent of the permittee conducting the activity.
- D. "Person" includes an individual, associate, partnership or corporation.

6.02.030 Permit Required.

- A. It is unlawful for any person to commence, conduct, manage, participate in or sponsor any activity regulated by this Title without an operations permit.
- B. When an operations permit has been issued, it is unlawful for any person to conduct the identified activity:
  - 1. When that permit is suspended, expired or revoked; or
  - 2. Contrary to the provisions of the permit.
- C. This Title shall not be construed to require any person to obtain an operations permit if such requirement conflicts with the Constitutions or applicable statutes of the United States or the State of California.

6.02.040 Claim of Exemption.

A. Any person claiming an exemption from the provisions of this Title shall file a statement under penalty of perjury with the Director stating the facts upon which the exemption is claimed.

B. The Director shall approve, disapprove or conditionally approve the claim of exemption and notify the applicant.

6.02.050 Fees. Fees for this Title may be established, from time to time, by resolution of the City Council, as follows:

A. An application fee based upon the costs of processing application; payable at the time of application.

B. A permit issuance fee based upon the costs of issuing the permit and enforcing the applicable provisions; payable as a condition to the issuance of the permit.

C. A permit replacement fee based upon the costs of replacing a lost or destroyed permit; payable at the time of application.

D. A permit renewal fee based upon the costs of processing the application; payable at the time of the application.

6.02.060 Application.

A. The Director and each Issuing Authority shall prepare and have available application forms calling for such information as is necessary to accomplish the purposes of this Title.

B. Applications for initial, renewal and replacement permit shall be submitted under penalty of perjury to the Director and referred to the appropriate Issuing Authority for action.

C. If the application is submitted by an agent, then the agent shall file (with the application) written evidence that the principal has authorized the agent to apply for the permit on the principal's behalf.

D. If the application is not filed within the specified time, the Director may still accept the application for processing provided that the application can be thoroughly analyzed for purposes of approving the issuance of the permit.

6.02.070 Investigation. The Issuing Authority shall conduct an investigation for the purpose of reaching a determination as to whether to approve, conditionally approve or deny the application for permit. As part of the investigation, the Issuing Authority may conduct a background investigation and may publish notice in a local newspaper including the name of the applicant, the permit applied for, the proposed location of the activity and a date before which interested persons may file written statements, under penalty of perjury, with the Issuing Authority regarding the application.

6.02.080 Confidential Information. No person having access to or charge over the information or records obtained in the course of administering this Title shall disclose or release or allow the examination by any unauthorized third person of such information and records, in whole or in part, in abstract or particulars. Authorization to access the information and records may be obtained from the City Manager or in accordance with a lawful court order.

6.02.090 Approval for Issuance. The Issuing Authority shall approve or conditionally approve the issuance of the permit unless one or more of the following conditions is found to exist:

A. The applicant or persons having a direct influence on the conduct of the activity are not qualified in terms of skill or experience to carry on the proposed activity; or, have been convicted of an offense related to the conduct of the same or similar type of activity and has not shown a significant and material change in circumstances since the conviction.

B. The activity at the location proposed will endanger the public peace, health or safety.

C. The proposed manner for conducting the activity will endanger the public peace, health or safety; or will not comply with all the requirements, policies, standards or laws applicable to such activity; or adversely impact on the aesthetic quality of the community.

D. The applicant or any person connected or associated with the applicant has knowingly made a false, misleading or fraudulent statement of a material fact:

1. In the application for permit;
2. In a report or record required to be filed with the City; or
3. In response to inquiries by the City.

E. The applicant has had the same or similar type of permit previously revoked or denied and has not shown a significant and material change in circumstances since the date of revocation or denial.

F. The applicant fails to meet the requirements for the issuance of the particular permit set forth in this Title.

G. The applicant has not submitted (in a timely and complete manner) the application and all other documents required for the issuance of the permit.

H. The request for City personnel, property or equipment will require the diversion of City resources so as to inhibit the normal level of protection and service provided to the City.

I. The activity will interfere with the fire protection, police protection, ambulance service or other public services provided to the City.

J. Zoning and/or coastal development permit approvals, if required under Title 30 of this Code, have not be obtained. (Ord. 94-06)

6.02.100 Hearing on Denial or Conditional Approval. If the Issuing Authority denies or conditionally approves the issuance of the permit, the applicant shall be notified in writing and provided an opportunity to present further information to the Issuing Authority within two working days of receipt of such notice.

6.02.110 Preparation of Permit.

A. If the application for permit is approved or conditionally approved for issuance, the Issuing Authority shall prepare a permit containing, without limitation, the following:

1. The name and address of the permittee to whom the permit is issued;
2. The name under which the activity is to be conducted;
3. A description of the activity permitted;
4. The location or locations where such activity is to be conducted;
5. The date of expiration of such permit;
6. The amount of the permit issuance fee;

7. A statement for signature by the Permittee whereby the Permittee agrees:

a. To abide by each and every term and condition imposed on the activity and further agrees to reimburse the City for all costs incurred, including attorney's fees, in enforcing those terms and conditions against the permittee.

b. To hold the City harmless and indemnify the City and each and every one of its employees and officials from and against all claims, demands, costs, losses, damages, injuries, litigation and liability arising out of or related to the activity for which the permit is issued.

c. To post evidence of liability insurance in favor of the City, in an amount to be determined by the Issuing Authority equal to the anticipated maximum amount of potential liability that could arise out of the activity for which the permit is issued. The policy shall contain an express requirement that the insurance company notify the City thirty (30) to sixty (60) days prior to any termination, cancellation, suspension or expiration of the policy of insurance. In lieu of liability insurance, the permittee may post a bond with similar provisions.

8. Such additional conditions and restrictions as are necessary for the enforcement and administration of this Title to protect the public peace, health and safety.

B. The Issuing Authority shall forward the completed permit to the Director.

6.02.120 Issuance of Permit.

A. Upon receipt of the completed permit from the Issuing Authority, the Director shall issue the operations permit to the applicant when:

1. The prescribed issuance fee is paid;
2. The permittee has signed the permit; and
3. All other preconditions to the issuance of the permit have been satisfied.

- B. On issuance of the permit, the Director shall notify:
1. All interested City department heads;
  2. Any public entity that will be affected by the conduct authorized by the permit;
  3. Any person requesting notification and who has paid to the City the costs involved in providing such notice.

6.02.130 Term of Permit.

A. Unless otherwise prescribed, the term of an operations permit shall be concurrent with the term of business license required for such activity.

B. The Issuing Authority may establish a specific term for a permit to accomplish the purpose of this Title.

6.02.140 Replacement Permit. Upon application by a permittee, a replacement permit may be issued by the Director to replace a permit which has been lost or destroyed.

6.02.150 Permit Nontransferable. A permit issued in accordance with this Title shall be nontransferable.

6.02.160 Display of Permit. An issued permit shall be displayed in accordance with the provisions applicable to the display of business licenses as specified in Title 5 of this Code.

6.02.170 Revocation/Additional Conditions.

A. An operations permit may be revoked or additional conditions may be imposed by the Issuing Authority upon five (5) working days written notice to the permittee setting forth the basis of the intended action and giving the opportunity to present responding information to the Issuing Authority.

B. After the five (5) day period, or the presentation of responding information, whichever shall first occur, the Issuing Authority shall determine whether to revoke the permit or impose additional conditions upon the permit and thereafter, give written notice to the permittee and to the Director.

C. A revocation shall become effective two (2) working days after notice, unless a timely \*appeal is made to the City Council.

\*(See Chapter 1.12.010 through 1.12.060).

6.02.180 Grounds for Revocation/Additional Conditions. After issuance of the permit, the imposition of additional conditions or revocation may take place only upon one or more of the following grounds:

A. The applicant or any person connected or associated with the applicant has knowingly made a false, misleading or fraudulent statement of a material fact:

1. In the application for permit;
2. In information required to be submitted to the City; or
3. In response to inquiries by the City.

B. License taxes required by the City have not been paid;

C. The conduct of the activity:

1. Has resulted in a conviction against any principal or employee of the activity;
2. Is contrary to local, State or Federal laws;
3. Constitutes a public nuisance; or
4. Is contrary to any condition or restriction previously established in the operations permit.

6.02.190 Emergency Suspension.

A. When the conduct of the activity immediately threatens the public peace, health or safety, any City official responsible for enforcing this Code may immediately suspend the operations permit by serving notice to the permittee.

B. The City official suspending the permit shall reinstate the permit when the threat is removed. The permittee may request that the City Manager determine whether an existing threat requires the continuation of the suspension.

C. A reinstatement of the permit after an emergency suspension shall not preclude an action to revoke the permit.

6.02.200 Appeal.

A. Except as otherwise provided, a permittee or applicant may appeal, in accordance with this section, any final determination taken under the authority of this Title.

B. An appeal must be initiated by submitting a written statement (signed under penalty of perjury) to the Office of the City Manager within two (2) working days of receipt of notice of the appealed determination. The statement shall set forth all facts and arguments upon which the appellant relies.

C. The City Manager shall review the record of the matter and determine whether to affirm, set aside or modify the determination and thereafter notify the appellant.

D. Within two (2) working days of notice of the City Manager's determination, the appellant may \*appeal the City Manager's determination by orally requesting that the City Manager file the previously submitted statement with the City Clerk who shall set the matter for administrative hearing at the next available City Council meeting. (\*See Chapter 1.12.010 through 1.12.060).

E. The action of the City Council shall be final as to all issues involved.

6.02.210 Enforcement.

A. The Issuing Authority, Director and any other authorized officer or employee of the City may enforce the provisions of this Title.

B. During hours of operation at the location for which an operations permit has been issued, the permittee shall allow authorized officers and employees of the City to enter the premises, free of charge or restraint, for the purpose of ascertaining compliance with the provisions of this Title.

6.02.220 Violation.

A. Any person who violates a regulatory provision of this Title, or who knowingly misrepresents to any officer or employee of the City any material fact either in procuring an operations permit or in reference to the activity for which the permit is issued, shall be guilty of an infraction.

B. Commencing, conducting, managing, participating in or sponsoring an activity in violation of this Title or commencing, conducting, managing, participating in or sponsoring a permitted activity in light of a material misrepresentation of fact knowingly made to an officer or employee of the City regarding such activity shall constitute a separate violation of this Title for each and every day that the activity is carried on.