

Hanford Municipal Code

Title 8

HEALTH AND SAFETY

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- 8.08 CONVALESCENT TRANSPORT SERVICES**
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Chapter 8.04

ALARM SYSTEMS

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Section 8.04.010 Statement of purpose.

The city finds and determines that the regulation of alarm systems and the control of false alarms is necessary to promote the health, welfare and safety of the people in that some of the public are using alarm systems which either mechanically malfunction or are not operated properly by their users, causing an increase in false alarm reports, thereby constituting a hazard to the safety of peace officers and the public in general. (Prior code § 4-11.01)

Section 8.04.020 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Alarm agent" means any person who is self-employed or employed either directly or indirectly by an alarm business, whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, altering, replacing, moving or installing an alarm system in or on any building, place or premises.

"Alarm business" means any person, firm or corporation conducting or engaging in the business of selling, leasing, manufacturing, serving, repairing, altering, replacing, moving, installing or monitoring an alarm system in or on any building, place or premises.

"Alarm system" means any device designed for the detection of an unauthorized entry on any premises or for alerting others of the commission of an unlawful act or both, and, when actuated, emits a sound or transmits a signal to indicate that an emergency situation exists and to which police are expected to respond. "Alarm system" shall not include an audible alarm installed in a motor vehicle or a proprietor alarm, or a fire alarm.

"Alarm user" means any person using an alarm system at his place of business or residence.

"Audible alarm" means a device designed for the detection of the unauthorized entry on or attempted

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entry into a premises or structure or for alerting others of the commission of an unlawful act, or both, and which, when activated, generates an audible sound on the premises.

"Defective device" means:

1. Any alarm system which signals a false alarm; or
2. Any alarm system which is not registered with the Department pursuant to Section 8.04.030, or both.

"Department" means the Hanford police department.

"Direct dial telephone device" means any device which is interconnected to a voice grade telephone line and is programmed to select a predetermined telephone number and transmit by prerecorded voice, message or code signal an emergency message indicating a need for an emergency response.

"False alarm" means the activation of an alarm system resulting in an investigation by the department where no emergency exists. "False alarm" shall include, but not be limited to, the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of an alarm user. An alarm signal activated by violent conditions of nature, or by fire, shall not be included within this definition.

"Person" means a natural person or any firm, partnership, association, corporation or cooperative association.

"Proprietor alarm" means an alarm which is designated to signal persons within the premises in which the alarm is located or an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises. If, however, such an alarm includes any device whereby a signal shall be transmitted to persons outside the premises, such system shall fall within the definition of alarm system. (Prior code § 4-11.02)

Section 8.04.030 Registration of alarm company businesses and self-employed alarm agents.

Prior to conducting any alarm business in the city, every alarm company business or self-employed alarm agent, shall register its name and other information as required by the department and provide a copy of its current state license to the department. Any alarm company business or self-employed alarm agent that fails to register and provide its current state license to the department as required by this section shall be fined \$100 per day and shall cease all business operations within the city until such time as the alarm company business or self-employed alarm agent has fully complied with all of the provisions of this section. (Prior code § 4-11.03)

(03-04, Amended, 09/02/2003)

Section 8.04.040 Notification of change.

Any alarm business or alarm agent registered with the department shall report within five working days to the police chief any change of address, ownership, name of business or location of business. (Prior code § 4-11.04)

Section 8.04.042 Requirement of alarm company to provide registration materials.

At the time of installation of any alarm system, the alarm company business or self-employed alarm agent shall provide to the purchaser/lessee of the new alarm system the current alarm system registration materials made available by the department.

(03-04, Added, 09/02/2003)

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Section 8.04.050 Registration of alarm systems.

A alarm system shall not be activated or used in the City of Hanford until it is registered in accordance with the provisions of this section and a registration number and permit is issued by the department.

A. All alarm users shall register their alarm systems with the department at least thirty (30) days prior to activation. Said registration shall be on a form prepared by the department, which form shall contain the following:

1. The name, residence, mailing and business address and telephone numbers of the alarm user and its representative, if any;
2. The address of the building or property in or upon which the alarm system has been installed;
3. The type of alarm system installed;
4. The name, address and telephone number of the alarm monitoring company;
5. The name, address and telephone number of at least two (2) persons, other than the alarm user, or a person living on the premises, authorized to deactivate the alarm system; and
6. The location of the alarm system on the property and in the building in which it is installed and the location of the alarm system deactivator.

B. The registration form shall contain a copy of this chapter, and each alarm user, upon registration, shall receive a duplicate copy of the registration form.

Upon receipt of a completed registration form by the department, the department shall issue to the alarm user a registration number and alarm permit for the alarm system identified in the registration form. Within thirty (30) days of the receipt of the registration number, the alarm user shall display the registration number assigned by the department at the front entrance of the property or the building in which the alarm system is installed and the registration number shall be visible at all times.

Failure to display an alarm registration number as required by this chapter shall result in a suspension or revocation of permit as prescribed in Section 8.04.130.

C. Within thirty (30) days of the date that this section becomes effective, the department shall issue to each existing alarm system user a registration number and alarm permit for its existing alarm system. On or before March 1, 1998, an existing alarm user must display the registration number as required by this section.

D. Any alarm system user who fails to register an alarm system as required by this section shall pay a fine equal to fifty dollars (\$50.00) per day for each day the alarm system remains unregistered. The department may waive the fine provided for in this section if the alarm user registers the alarm system within ten (10) days of the date of notice from the department identifying the alarm system user's failure to register its alarm system with the department. (Prior code § 4-11.03)

(03-04, Amended, 09/02/2003; 97-13, Amended, 12/22/1997)

Section 8.04.060 Correction of information.

Whenever any change occurs relating to the written information as may be required in Section 8.04.050 of this chapter, the alarm user or his designate shall give written notice of such change to the police chief within five working days. (Prior code § 4-11.06)

Section 8.04.070 Alarm system standards.

All alarm systems and appurtenant equipment installed on any premises shall meet or exceed those standards which may be established by resolution of the council. The city reserves the right to inspect all alarm systems subject to all applicable laws, including Sections 1822.50 et seq. of the Code of Civil Procedure of the State. (Prior code § 4-11.07)

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Section 8.04.080 Alarm system regulations.

A. Automatic Deactivation. Audible residential alarms shall be equipped with an automatic shutoff mechanism capable of terminating the audible annunciator after activation within a maximum of fifteen (15) minutes. Audible commercial alarm systems shall be equipped with an automatic shutoff mechanism capable of terminating the audible annunciator after activation within a maximum of thirty (30) minutes. Those audible alarms installed prior to December 15, 1983, not capable of turning off the annunciator, shall have until December 15, 1984, to comply.

B. Maintenance Notification. The alarm user shall contact the communications supervisor of the department prior to any service, test, repair, maintenance, alteration or installation of an alarm system which might produce a false alarm. Any alarm activated where such prior notice has been given shall not constitute a false alarm.

C. Power Supply. Alarm systems shall be equipped with an uninterruptible power supply in such a manner that the failure or interruption of normal utility electricity will not activate the alarm system. The power supply shall be capable of at least four hours of operation.

D. Repairs. When any false alarm caused by a malfunction of an alarm system has occurred, the alarm user shall cause the alarm system to be repaired to eliminate the malfunction. The alarm system annunciator shall be disconnected while repairs are made.

E. Direct Dial Telephone Devices. On or after December 15, 1983, no person shall install any alarm system which directly dials any telephone number of the department, except as hereafter may be designated by the police chief. Any existing alarm system of such type shall have until March 14, 1984, to comply by reprogramming to another source. (Prior code § 4-11.08)

Section 8.04.090 Use of defective devices.

No person in any way shall activate, use, sell, rent or lease a defective device. (Prior code § 4-11.09)

Section 8.04.100 Deactivation of defective devices.

If a defective device is activated, the alarm user or his authorized agent shall deactivate the alarm. This section shall not apply to a registered alarm system represented to have an automatic shutdown feature. (Prior code § 4-11.10)

Section 8.04.110 Duties of alarm users.

It shall be the responsibility of alarm users to instruct employees or others who may have occasion to activate an alarm that alarm systems shall be activated only in emergency situations to summon an immediate police response. Alarm users shall also instruct appropriate employees as to the operation of the alarm system, including the setting, activating and resetting of the alarm. All instructions pertaining to alarm systems and procedures shall be in written form, suitable for distribution to employees, and shall be available for inspection by representatives of the department. The user shall be responsible for maintaining the alarm system in proper working order. (Prior code § 4-11.11)

Section 8.04.120 Deliberate false alarms.

It is unlawful for any person to deliberately and without just cause activate an alarm system to summon the department in a nonemergency situation. Nothing contained in this section shall apply to the periodic testing of direct transmittal alarms when sufficient notice is given to the communications

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supervisor of the department. (Prior code § 4-11.12)

Section 8.04.130 False alarms.

Any person having an alarm system which results in a police response to an alarm which proves to be a false alarm, shall pay a false alarm fee to the city as follows:

A. The first three (3) false alarms in any calendar year shall not incur a false alarm fee penalty amount.

B. For the fourth false alarm in any calendar year, the alarm user shall pay a false alarm fee in the amount of fifty dollars (\$50.00).

C. For the fifth false alarm in any calendar year, the alarm user shall pay a false alarm fee of seventy-five dollars (\$75.00).

D. For the sixth and each subsequent false alarm in any calendar year, the alarm user shall pay a false alarm fee of one hundred (\$100.00) for each such false alarm.

All false alarm fees shall be paid within thirty (30) days of the date of invoice. Any false alarm fee not paid within said thirty (30) day period shall incur a late payment charge of ten percent (10%) per annum on the unpaid amount of the fee, which late charge shall be paid by the alarm user at the same time as the payment of the fee.

(03-04, Amended, 09/02/2003; 97-13, Amended, 12/16/1997)

Section 8.04.140 Suspension and revocation of permits.

If at any time the department determines that an alarm user has violated any provision of this chapter or any rules or regulations promulgated pursuant to this chapter including, without limitation, failure to properly display the alarm registration number pursuant to section 8.04.140(b), or failure or refusal to pay any false alarm fee as required in section 8.04.130, or should an alarm system have more than seven false alarms (as verified by the department) in any calendar year, the department may suspend or revoke the alarm system permit and registration number issued to the alarm user. Upon determination by the department that an alarm system permit and registration number should be suspended or revoked, the department shall notify the alarm user and the alarm monitoring company, in writing, of the department's decision to suspend or revoke the alarm system permit and registration number at least seventy-two (72) hours prior to the effective hour of such suspension or revocation. Upon the suspension or revocation becoming effective, the alarm user and the alarm monitoring company shall immediately deactivate the alarm system from its power source so that the alarm system will not operate and cannot be used or reactivated until: (1) all violations of this chapter have been eliminated to the satisfaction of the department and (2) the department has either terminated the suspension of the alarm system permit and registration number or reissued the revoked alarm system permit and registration number for that alarm system. (Prior code § 4-11.15)

(97-13, Amended, 12/16/1997)

Section 8.04.150 Appeals.

If an alarm user disagrees with the decision of the department to charge any false alarm fee or to suspend or revoke an alarm system permit and registration number, the alarm user may appeal the decision of the department to the city council in accordance with the provisions of Chapter 8 of Title 1 of the Hanford Municipal Code. (Prior code § 4-11.16)

(97-13, Amended, 12/16/1997)

Section 8.04.160 Confidentiality.

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Information furnished and secured pursuant to this chapter shall be confidential in character and shall not be subject to public inspection, and shall be kept so that the contents thereof shall not be known, except to persons charged with the administration of this chapter. (Prior code § 4-11.17)

(97-13, Amended, 12/16/1997)

Section 8.04.170 Criminal penalties.

Any person who violates any provision of this chapter, excluding the provisions of Section 8.04.130 of this chapter, shall be guilty of an infraction and, upon conviction thereof, shall be punished in accordance with the Penal Code of the state regarding infractions.

Such persons shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such persons. (Prior code § 4-11.18)

(97-13, Amended, 12/16/1997)

Chapter 8.08

CONVALESCENT TRANSPORT SERVICES

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- 8.08.050 Penalty for operating a convalescent transport service without a license.**
- 8.08.060 Temporary license to operate.**
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- 8.08.100 Standards for vehicle and equipment.**
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Section 8.08.010 Purpose.

It is the policy of the city that those persons requiring convalescent transport services as defined hereinafter in Section 8.08.020 shall be assured that the vehicles are sound and safe condition, and are adequately equipped and staffed by appropriately trained personnel. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.01)

Section 8.08.020 Definitions.

As used in this chapter:

"City" is the city of Hanford.

"City license agency" is the city of Hartford finance department.

"Convalescent transport company" means any private or public entity operating one or more convalescent transport vehicles.

"Convalescent transport license" means a city convalescent transport license certifying a convalescent transport company as having complied with the provisions of this chapter.

"Convalescent transport service" means that operational service provided by a convalescent transport vehicle meeting the requirements of all federal, state, county and city regulations.

"Convalescent transport vehicle" means an ambulance or motor vehicle especially constructed or modified, equipped or arranged, or operated for the purpose of commercially transporting patients who could not reasonably be transported by another vehicle, but are not sick, injured or otherwise incapacitated to a degree requiring the services of an ambulance. Convalescent transportation vehicles

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include, but are not limited to, ambulances, litter vans and wheel chair vans (California Code of Regulations, Title 22, Division 3, Sections 51151.3 and 51151.5).

"Health officer" means the Kings County health officer or other designated official.

"Licensee" means any person to whom a city convalescent transport license has been issued pursuant to the provisions of this chapter.

"Local EMS agency" means the agency, department or office having primary responsibility for administration of emergency medical services in a county and which is designated pursuant to the provisions of Division 2.5 of the California Health and Safety Code.

"Patient" means an invalid, convalescent or infirm person.

"Person" means any individual, firm, partnership, association, corporation, company or group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.02)

Section 8.08.030 Duties of health officer.

The health officer, or his designated representative, or any designated and authorized representative of the county, including but not limited to the local EMS agency, shall have the right to inspect the convalescent transport vehicle and the equipment of any licensee or applicant for a license, for the purposes of determining compliance with the provisions of this chapter. The health officer or his designee shall inform the city licensing agency of any lack of compliance by a licensee not corrected within thirty (30) days after licensee was notified of the violation. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.03)

Section 8.08.040 City convalescent transport license required.

A. It is unlawful for any person or persons to operate, conduct, advertise or otherwise be engaged in or profess to be engaged in the convalescent transport business, or provide for a charge or a fee convalescent transport service upon the streets, or any public way or place within the city pursuant to this chapter unless such person or persons hold a current city convalescent transport license issued pursuant to this chapter.

B. Notwithstanding anything to the contrary, nothing in this section is intended to prohibit a convalescent transportation company licensed under this chapter from using litters or gurneys when providing convalescent transportation service. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.04)

Section 8.08.050 Penalty for operating a convalescent transport service without a license.

The operation of a convalescent transport service without a license in the city is an infraction subject to the penalties set forth in Chapter 1.20. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.05)

Section 8.08.060 Temporary license to operate.

The city licensing agency may approve a temporary authorization for convalescent transport service operation to a provider agency based upon the city licensing agency's finding of an urgent need to implement such services in order to protect the public health and safety. Such temporary authorization shall be valid for a stated period of time not to exceed one hundred eighty (180) days from the date of approval and upon such conditions as the city licensing agency deems appropriate, or until such provider agency becomes fully licensed pursuant to the provisions of this chapter, otherwise, such temporary authorization shall expire and the service provided by the provider agency shall, without further notice, be terminated. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.06)

Section 8.08.070 Application for convalescent transport service license.

A. Application for a convalescent transport service license hereunder shall be made upon such forms as may be prescribed by the city licensing agency.

B. The application shall contain:

1. The name and address of the applicant and of the owner(s) of the convalescent transport service company;

2. The trade or other fictitious name, if any, under which the applicant does business and proposes to do business;

3. The business address of the applicant and all addresses where convalescent transport units, operating equipment and supplies are located or will be kept;

4. Possession of a valid city business license;

5. A description of each convalescent transport vehicle, including the make, model, year of manufacture, motor and chassis numbers; California vehicle license plate number; the length of time the convalescent transport vehicle has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate applicant's convalescent transport vehicles and a photograph of each unit as viewed from the left front corner and right rear corner of the vehicle;

6. Written proof of inspection and compliance with all policies and standards regarding convalescent transport vehicles as required by the local EMS agency;

7. Proof of ability to staff convalescent transport vehicles with persons possessing at least a current American Red Cross First Aid and Personal Safety Certification and a valid American Heart Association or Red Cross Basic Cardiac Life Support card at all times during the term of the license;

8. A certificate of consent to self-insure by the director of industrial relations, or a certificate of worker's compensation insurance issued by an admitted insurer, or an exact copy of duplicate thereof certified by the director or the insurer. The certificate shall state that there is in existence a valid policy of worker's compensation insurance, the expiration date of the policy and that the insurer shall give the city at least thirty (30) days' advance notice of a cancellation or nonrenewal of the policy;

9. Proof of current certification and licensure of all personnel as specified in Section 8.08.110. Such proof shall include photocopies of all pertinent licenses and certification;

10. Such other information as the city licensing agency shall deem reasonably necessary to a fair determination of compliance with this chapter;

11. An accompanying nonrefundable license fee to be established by resolution of the city council.

C. Applications shall be filed with a designated representative of the city who shall, within sixty (60) days after receipt of a completed application, complete or have completed such investigation as is deemed necessary; and either issue the license, or inform the applicant of the denial of license and reasons for such denial.

D. Any applicant denied licensure may appeal such decision pursuant to Sections 8.08.270 through 8.08.290 of this chapter.

E. The city licensing agency will issue a license hereunder for a specified convalescent transport service to be valid for a period of one year, unless earlier suspended, revoked or terminated, when it finds that the applicant meets the requirements of this chapter. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.07)

Section 8.08.080 Application for renewal of convalescent transport service license.

A. Application for renewal of a convalescent transport service license shall be submitted upon such form as may be prescribed by the city licensing agency no more than one hundred twenty (120) nor less than thirty (30) days prior to the expiration of such existing provider license.

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B. All applications for renewal must be accompanied by the prescribed nonrefundable renewal license fee as established by resolution of the city council.

C. Applications for renewal of an existing license shall be approved when the city licensing agency finds that all provisions of this chapter continue to be met.

D. Any application for renewal may be denied pursuant to the provisions of Section 8.08.180 of this chapter.

E. Any renewal application denial may be appealed pursuant to the provisions of sections 8.08.190 through 8.08.210 of this chapter. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.08)

Section 8.08.090 Provider license transfer.

No provided license issued pursuant to this chapter shall be transferred through sale, assignment, subcontract, change of ownership, reorganization, merger or otherwise, except upon written prior approval by the city licensing agency, and the issuance of a new provider license. Any transfer in violation of these provisions shall result in the provider license being null and void. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.09)

Section 8.08.100 Standards for vehicle and equipment.

Each litter and/or wheelchair van shall meet the minimum vehicle and equipment standards as required by any applicable state regulation, as well as any standards as required by the city licensing agency, and county health officer, or his designee, in emergency medical services administrative policies. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.10)

Section 8.08.110 Standards for personnel.

All personnel shall comply with the provisions of Sections 51231.1 and 51231.2 Title 22, California Code of Regulations, and all applicable local EMS agency policies and procedures. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.11)

Section 8.08.120 Standards for convalescent transport service licensees.

A. In addition to the other requirements of this chapter, convalescent transport services shall comply with the provisions of Sections 51231.1 and 51231.2 of Title 22, California Code of Regulations; and any other standards established by the city licensing agency or local EMS agency.

B. Licensee shall commence the provision of service within thirty (30) days after approval of licensure by the city licensing agency, unless city licensing agency extends such time based upon the showing of good cause by the licensee. In advance of any known or foreseeable interruptions, suspensions or delays in service which may endanger the health, safety and welfare of the public, the licensee shall, without delay, notify the city licensing agency if the interruption, suspension or delay is reasonably expected to be long term.

C. Licensee and its personnel shall exercise good judgment and demonstrate professional behavior and competence at all times.

D. Licensee shall maintain any vehicle and equipment it operates in good mechanical repair and in clean and sanitary condition. The vehicles shall be equipped with all safety, emergency, communications equipment and supplies required by the California Highway Patrol, California Vehicle Code, California Code of Regulations, California Welfare and Institutions Code, California Health and Safety Code, county EMS policy and procedures, and any additional equipment required by the county EMS agency, the medical director and the city. Licensee shall maintain medical supplies, instruments and

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equipment, used for the care and treatment of patients in such a manner that they are sterile or sanitary when ready for use. The vehicle shall not have exterior lights or markings which may cause the public to confuse the vehicle as an ambulance.

E. Licensee shall make available, upon request by any person, its schedule of fees for convalescent transport service.

F. Licensee shall prepare and submit all documents and data specified by the city licensing agency necessary to ensure compliance with all provisions of this chapter.

G. Licensee shall staff each transport vehicle unit with appropriately trained personnel which shall include an appropriately trained and certified driver and if applicable, attendant. Drivers and attendants shall wear clean uniforms, maintain themselves in a neat and clean condition, conduct themselves in a professional manner, and comply with the requirements of the chapter, as well as such other requirements that may be adopted by county or city policy and procedure. Drivers and attendants shall be at least eighteen (18) years of age and of good moral character. Drivers and attendants employed by the licensee shall be trained and competent in the proper use of all equipment and supplies required for the operation of said services.

H. Each driver of a convalescent transport service shall be proficient in safely operating the assigned vehicle, and shall hold the appropriate state licensure for such class of service. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.12)

Section 8.08.130 Standards for convalescent transport service liability insurance.

A. No convalescent transport service license shall be issued under this chapter, nor shall such license be valid after issuance, nor shall any convalescent transport service be operated in the city unless there is at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the state of California, for each and every convalescent transport vehicle owned or operated by or for the applicant or licensee and providing for the payment of damages:

1. For injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him by law, regardless of whether the convalescent transport vehicle was being driven by the owner or his agent; and

2. For the loss of or damage to the property of another, including personal property, under like circumstances, in such sums and under such terms as may be required in regulations promulgated by the city; and

3. For injury or death resulting from malpractice, error or mistake in rendering or failing to render professional services.

B. Liability policy limits for convalescent transport service shall not be less than three hundred thousand dollars (\$300,000.00). All liability policies shall be combined single limit and the policy shall be endorsed naming the city, its officers, officials, agents and employees, and the Kings County EMS agency, its officers, agents and employees as additional insureds under said policy.

C. A certificate of insurance shall be submitted to the city licensing agency prior to issuance of each convalescent transport service license. The certificate shall show the periods covered, the limits of liability, the expiration date of the policy, and shall state that the insurer shall provide the city with at least thirty (30) days' advance notice of the cancellation or nonrenewal of the policy. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.13)

Section 8.08.140 Licensing exception.

A. Licensing requirements of this chapter shall not apply to convalescent transport vehicle or service, or to the driver, or attendant of a convalescent transport vehicle, which:

1. Is rendering assistance to licensed ambulances in the case of a major catastrophe or emergency for which the licensed ambulances are insufficient or unable to cope;

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2. Is operated by a nonlicensed provider in response to a mutual aid request made by a licensed provider or designated communications center;
3. Is providing nonurgent transportation of patients picked up at licensed hospitals, nursing homes or extended care facilities within the city to locations beyond the limits of the city;
4. Is transporting patients to a facility inside the city from a pick-up point outside the city;
5. Is providing specialized medical care and transportation services which are unavailable through an ambulance company. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.14)

Section 8.08.150 Notification requirements for convalescent transport service.

If the operator of a convalescent transport service has reasonable cause to believe that a patient or prospective patient requires, or will require within the time frame of the expected transport, the services of an ambulance rather than convalescent transport, he/she shall be required to immediately notify the designated communications center and shall report such incidents on the form provided by the city licensing agency, within forty-eight (48) hours of occurrence. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.15)

Section 8.08.160 Enforcement.

The city licensing agency shall enforce the requirements of this chapter and any other rules and regulations adopted by the city council for the governing of convalescent transport services. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.16)

Section 8.08.170 Suspension, revocation or denial.

Any license, certificate or permit issued pursuant to the provisions of this chapter may be suspended, or revoked, or the issuance thereof denied by the city licensing agency based upon the grounds set forth in Section 8.08.180 of this chapter and after following the procedures set forth in Sections 8.08.180 through 8.08.200 inclusive, of this chapter. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.17)

Section 8.08.180 Grounds for suspension or revocation or denial.

A. The city licensing agency may revoke or suspend a city license, or deny the application therefor, of any vehicle which fails to meet the mechanical and equipment requirements set out in state law or regulations, and the provisions of this chapter.

C. Emergency Suspension. The city licensing agency may suspend a license for a violation of any provision of this chapter. Such suspension of a license may be invoked without satisfying the provisions of Section 8.08.190 of this chapter upon finding by the city licensing agency that the violation cited constitutes an urgent threat to public health and safety. Such emergency suspension may not exceed thirty (30) days. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.18)

Section 8.08.190 Hearing.

A license issued pursuant to the provisions of this chapter may be denied, suspended or revoked only after complying with the following procedures:

A. Upon an alleged violation of any of the provisions of this chapter or other applicable laws and regulations, the city licensing agency shall file with the city clerk, a statement of the charges identifying the acts or omissions, constituting the violation, and shall specify the chapter sections or other applicable laws or regulations violated. The statement shall also identify the recommended action that

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will be taken by the city licensing agency.

B. The city clerk shall serve a copy of the statement of charges, and recommendation of the city licensing agency, upon the licensee charged, by delivering a copy to the licensee by certified mail, postage prepaid, return receipt requested, addressed to the licensee at the place of business as shown on the license application.

C. Within thirty (30) days of the date of service on the licensee, the licensee may file a written request with the city clerk for a hearing upon said charges and recommendations.

D. If no request for a hearing is received by the city clerk within said thirty (30) day period, the hearing shall be deemed waived and the charges admitted. The city licensing agency may thereupon suspend or revoke the license.

E. Upon receipt of a request for a hearing, the city clerk shall contact the hearing officer and arrange a date, time and place for the hearing. Notice thereof shall be given to all parties, by certified mail, postage prepaid, return receipt requested. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.19)

Section 8.08.200 Hearing officer.

A. Hearing Officer. The city manager, or his designee, shall appoint a hearing officer for any hearing conducted pursuant to this chapter. The Hearing Officer shall hear all evidence presented and at the conclusion of the hearing, rule on the charges presented. If the hearing officer determines that there is sufficient evidence to deny, suspend or revoke the license, certificate or permit, then the hearing officer may thereafter direct the city licensing agency to deny, suspend or revoke the same subject to right of appeal as set hereafter.

B. The hearing officer is not bound by the ordinary rules of civil cases and the burden of proof is on the licensee to be established by a preponderance of the evidence that the alleged violations did not occur. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.20)

Section 8.08.210 Appeals.

Any person whose application for a certificate, license or permit is denied, or whose existing certificate, license or permit is suspended or revoked pursuant to Sections 8.08.190 and 8.08.200 of this chapter, may appeal to the city council within thirty (30) days after the date of such denial, suspension or revocation. The appeal shall be in the form of a written notice filed with the city clerk and signed by the applicant. The notice shall have attached a copy of the written application, suspension or revocation, and shall state clearly and concisely the reasons upon which the appellant relies for its appeal. The city clerk shall set the matter for hearing within twenty-one (21) days after the notice is filed and shall notify the appellant by certified mail, postage prepaid, return receipt requested, of the setting at least ten days before the hearing by the city council. At the hearing, the appellant shall have the burden of establishing to the satisfaction of the city council that it is entitled to relief sought, otherwise the denial of the application, or the suspension or revocation of the certificate, license or permit, shall stand. The determination of the city council shall be final. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.21)

Section 8.08.220 Variances.

The city licensing agency may grant a variance to a provider from any of the terms of this chapter to the extent allowed under federal, state and local law, if it is found by the city licensing agency that such action is necessary to protect the public health, safety and welfare. In any case where a variance is allowed, such variance and any condition thereof, must be specified in writing by the city licensing agency. (Ord. 96-01 § 1 (part), 1996: prior code § 5-2.22)

Chapter 8.12

FIREWORKS

Sections:

- 8.12.010 Purpose.**
- 8.12.020 Period for discharge of safe and sane fireworks.**
- 8.12.030 Time period for sale of fireworks.**
- 8.12.040 Number of permits.**
- 8.12.050 Applicants.**
- 8.12.060 Pre-application.**
- 8.12.070 Continued eligibility to obtain fireworks permit.**
- 8.12.080 Permits for retail sale of fireworks.**
- 8.12.090 Insurance.**
- 8.12.100 Revocation.**

Section 8.12.010 Purpose.

The city has determined that in order to protect the health, safety and welfare of the citizens of the city, it is necessary to regulate the sale of safe and sane fireworks as set forth in this chapter. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.201)

Section 8.12.020 Period for discharge of safe and sane fireworks.

"Safe and sane fireworks," as defined by Section 12529 of the California Health and Safety Code, as amended ("fireworks"), may be discharged within the city limits of the city during the period beginning at twelve noon on July 1st and ending at midnight on July 4th of any year, unless July 4th falls on a Sunday, in which case, fireworks may be discharged within the city limits of the city until midnight July 5th. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.202)

Section 8.12.030 Time period for sale of fireworks.

Fireworks may be sold within the city limits of the city during the period beginning twelve noon on July 1st and ending at midnight on July 4th, unless July 4th falls on a Sunday, in which case, the period for sale of fireworks would end at midnight on July 5th. The sale of any fireworks shall be made strictly in accordance with the provisions of this chapter and not otherwise. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.203)

Section 8.12.040 Number of permits.

The city fire department may, upon due application, issue to properly qualified persons, a permit for the retail sale of fireworks. No person may receive more than one permit during any one calendar year. The maximum number of permits which may be issued during any one calendar year shall not exceed one permit for every two thousand (2,000) residents of the city. The city shall review census information provided to it by the appropriate governmental agencies on an annual basis to determine the number of permits available for issuance each calendar year. However, if the number of permits issued to prior permittees as defined in Section 8.12.070 in any one year exceeds the maximum number of permits that may be used under this section for that year, the maximum number of permits that may be issued for that year shall equal the total number of permits issued that year to prior permittees. If the number of permits issued to prior permittees in any one year are less than the maximum number of permits that may

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be issued under this section for that year, the city fire department may only issue additional permits to new applicants, the number of which would be equal to the maximum number of permits that may be issued under this section for that year less the number of permits issued to prior permittees for that year. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.204)

Section 8.12.050 Applicants.

Applicants must be a nonprofit association or corporation. Each applicant must have had its principal place of business and permanent meeting place within the city limits of the city for a period of at least one year prior to the date of application for a permit. Each applicant shall provide any and all documentation that the city or the city fire department may request in order to establish that all requirements of this chapter have been satisfied. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.06)

Section 8.12.060 Pre-application.

On or before five p.m. on December 15th of each calendar year, an applicant shall submit to the city fire department a pre-application form for a fireworks permit. Pre-application forms shall be obtained from the city fire department. Each properly completed pre-application form received by the city fire department on or before five p.m. on December 15th of any calendar year shall be assigned a number in the order in which the pre-application is received. If the number of pre-applications received is greater than the number of permits that may be issued, a random drawing of the applicants' assigned numbers will be performed and the numbers drawn will be listed in the sequence in which they were selected. Applications for fireworks permits will then be provided to those applicants whose drawn assigned number is sequentially within the total number of permits to be issued. All other applicants will be placed on a waiting list in the sequence of their drawn assigned number. If an applicant does not satisfy the requirements of this chapter within the time periods identified in this chapter, the next drawn assigned number on the waiting list will be notified and provided with an application which must be completed and submitted to the city fire department as required in this chapter. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.206)

Section 8.12.070 Continued eligibility to obtain fireworks permit.

Any person or entity who was issued a fireworks permit by the city in 1995 ("prior permittee"), and who satisfies all of the other requirements of this chapter, including, without limitation, all the requirements of Section 8.12.050, will not be required to participate in the selection process identified in Section 8.12.060 in subsequent years. However, in order for a prior permittee to obtain a fireworks permit to sell fireworks in subsequent years, the prior permittee must timely submit a properly completed pre-application and application and receive a fireworks permit for each subsequent year. Should a prior permittee fail to timely and properly apply for a fireworks permit or fail to qualify for issuance of a fireworks permit in any subsequent year or should a prior permittee's fireworks permit ever be revoked, such prior permittee shall be required to again participate in the selection process identified in Section 8.12.060. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.207)

Section 8.12.080 Permits for retail sale of fireworks.

All applications for a fireworks permit shall comply with the provisions of Section 12,000 et seq. of the California Health and Safety Code and Title 19 of the California Administrative Code, Subchapter 6, Article V, any and all rules and regulations established by the state of California, the city or the city fire department, and in addition shall be governed by the following:

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1. An application for a fireworks permit shall be filed with the chief of the city fire department on or before April 1st of each year, along with payment of a fifty dollars (\$50.00) nonrefundable permit fee. Such fee may be charged by resolution of the city council.

2. No fireworks permit will be granted to the applicant if the following items are not properly and completely prepared and presented to the city fire department on or before April 1st of the calendar year during which the fireworks will be sold:

- a. State Fire Marshal's license;
- b. Temporary seller's permit from the State Board of Equalization;
- c. Property owner's permission form (original) signed and currently dated;
- d. Storage of safe and sane fireworks form;
- e. Address of property where stand will be located; and
- f. Certificate of insurance as required by the city.

If all of the above-identified items are not submitted in proper form to the city fire department on or before April 1st of the calendar year during which the fireworks will be sold, that applicant's application shall automatically terminate and the next sequentially numbered applicant on the waiting list shall be notified by the city fire department of its opportunity to obtain a fireworks permit. No fireworks permit will be granted to this newly designated applicant unless the items identified above are delivered to the city fire department on or before June 1st of the calendar year during which the fireworks will be sold. If any newly designated applicant fails to deliver the above-identified items, in proper form, on or before June 1st of the calendar year during which the fireworks will be sold, that applicant's application will automatically terminate and no further applications will be accepted by the city for that calendar year.

The city fire chief, or his/her designee, shall have the right to extend the time periods identified in subsections 1 and 2 of this section, if the fire chief or his/her designee determine, in his/her sole discretion, that an applicant has attempted in good faith and with due diligence to satisfy all of the requirements in said subsections within the time periods set forth therein and that as a result of action or inaction on the part of other persons or entities, which are beyond the applicant's control, the applicant has been unable to satisfy the requirements of said subsections within the required time periods.

3. No change of stand locations will be permitted without the prior approval of the city fire department.

4. All fireworks stands must be removed on or before midnight July 7th of each respective year.

5. No person shall sell, or offer for sale, any fireworks within a distance of one hundred (100) feet of any pump or dispensing device of any flammable liquids.

6. No fireworks stand shall be located within thirty (30) feet of any adjacent buildings, burnable materials, grass, paper or like flammable materials.

7. No fireworks stand shall be located closer than ten feet from any public roadway or back of curb, or in any location which does not otherwise meet the approval of the city fire department.

8. No sale or display of fireworks will be allowed inside any permanent building.

9. Each fireworks stand shall have a minimum of two exits which shall be located and provided on opposite sides. Each exit shall be at least thirty-two (32) inches wide. Fireworks stands with only three sides and open from the back will not require exits.

10. If stands are operated at night, only electric lights may be used.

11. "No Smoking" signs shall be located on all sides of the stand. Each sign shall have the words "No Smoking" in red letters, not less than two inches in height, with the minimum one and one-half inch stroke on white background.

12. One approved two and one-half gallon pressurized, water-type fire extinguisher and/or one five pound multi-purpose ABC fire extinguisher or garden hose fully charged with shut-off nozzle attached, shall be provided in the stand's sale area. There shall be no exceptions to this requirement. The fire extinguisher must be in operating condition, with an up-to-date inspection tag indicating that the fire extinguisher has been serviced within the past year.

13. Fireworks signs shall not create a traffic hazard and must be approved by the city fire

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department.

14. All employers shall instruct their employees who handle fireworks, in any capacity, of the hazards of said fireworks and with these rules and safety precautions governing fireworks.

15. All persons selling fireworks shall be trained in emergency procedures, including use of the fire extinguishers.

16. Persons employed for the sale of fireworks shall be at least eighteen (18) years of age. Proof must be shown at any time when requested by fire officials.

17. No person under sixteen (16) years of age shall purchase fireworks.

18. No sleeping inside the fireworks stand will be permitted at any time.

19. The stand and surrounding area shall be maintained in a clean, neat and orderly condition at all times and be free from any condition that would create a fire nuisance.

20. No person shall use or handle fireworks while under the influence of intoxicating liquids or narcotics. Alcohol and narcotics are prohibited within the fireworks stands.

21. Smoking shall be prohibited where fireworks are stored or handled.

22. No person, other than a member of the organization or a volunteer who is associated with the organization having a permit shall be permitted to sell or otherwise participate in the sale of fireworks.

23. No permit issued or authorized shall be transferrable or assignable.

24. The hours of operation of any stand shall be limited to nine a.m. to eleven p.m. daily during the days identified in this chapter, except that the hours of operation of any stand on July 1st shall commence at twelve p.m.

25. No person shall light or caused to be lighted, any fireworks or other combustible article within any stand or within two hundred (200) feet thereof.

26. All unsold stock and accompanying litter shall be removed from the stand on or before midnight on July 4th, or if July 4th falls on a Sunday, by midnight on July 5th.

27. The applicant's state license and city fireworks permit and temporary sales permit issued by the State Board of Equalization shall be displayed in a prominent place in the fireworks stand. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.208)

Section 8.12.090 Insurance.

Prior to issuance of a permit, the eligible organization shall procure a certificate of insurance acceptable to the city. The certificate shall name the city, its officers, officials, agents and employees as additional insureds in an amount of not less than one million dollars (\$1,000,000.00) combined bodily injury and property damage for each occurrence. The certificate must specify the time, location and dates to be covered by the policy. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.209)

Section 8.12.100 Revocation.

Any violation of this chapter or any other city ordinance, or the terms and conditions of the permit, or state law or administrative regulations, or safety rules of the city fire department, shall be grounds for immediate revocation of the permit. Any such violation shall be determined in the sole discretion of the city fire department. The decision of the city fire department with regards to revocation shall be conclusive and binding upon any permit holder. (Ord. 95-15 § 1 (part), 1995: prior code § 4-3.210)

Chapter 8.16

SMOKING

Sections:

- 8.16.010 Title.**
- 8.16.020 Purpose and findings.**
- 8.16.030 Definitions.**
- 8.16.040 Prohibition of smoking in public places.**
- 8.16.042 General responsibilities of manufacturers, distributors and retailers.**
- 8.16.044 Incorporation of 21 CFR Part 897.**
- 8.16.050 Where smoking is not regulated.**
- 8.16.060 Posting of signs.**
- 8.16.070 Enforcement.**
- 8.16.080 Violations.**
- 8.16.090 Penalties.**
- 8.16.100 Governmental agency cooperation.**
- 8.16.110 Other applicable laws.**
- 8.16.120 Exemption procedures.**

Section 8.16.010 Title.

This chapter shall be known as the "tobacco sale and smoking pollution control ordinance." (Prior code § 6-8.01)
(98-03, Amended, 03/03/1998)

Section 8.16.020 Purpose and findings.

A. The U.S. Environmental Protection Agency (EPA) has determined that tobacco smoke is a major source of indoor air pollution, and the Surgeon General's 1986 report on the Health Consequences of Involuntary Smoking concludes that exposure to tobacco smoke places healthy nonsmokers at increased risk for developing lung cancer. Other health hazards of involuntary smoking include respiratory infection, broncho-constriction and broncho-spasm. While all members of the population are truly at increased risk due to exposure to second-hand tobacco smoke, second-hand smoke constitutes a special health hazard for children, the elderly and people with chronic lung disorders, including asthmatics and those with obstructive airway disease and cardiovascular disease.

B. Second-hand smoke from tobacco has caused a significant amount of cardiovascular disease in the United States and the number of deaths from this cause may exceed the deaths caused by lung disease associated with second-hand smoke.

C. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers.

D. Second-hand smoke has been found by the Environmental Protection Agency to be a known carcinogen.

E. The use of cigarettes and smokeless tobacco by children and adolescents represents life threatening consequences over their life time.

Accordingly, the city council finds and declares that the purposes of this chapter are: (1) to protect the public health, safety and welfare of the citizens of the city by prohibiting smoking in public places except in designated smoking areas; (2) to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air; and (3) to recognize that, where these needs conflict, the need to protect the health, safety and welfare and to breathe smoke-free air shall have priority. (Prior code § 6-8.02)

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(98-03, Amended, 03/03/1998)

Section 8.16.030 Definitions.

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

"Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. When a bar is operated within a building in conjunction with another use, including, without limitation, a restaurant, only an enclosed area utilized primarily for the consumption of alcoholic beverages shall constitute the bar. The dining area of a restaurant utilized primarily for the serving and consumption of food shall not constitute a bar, or a portion of a bar, even though alcoholic beverages may be served therein.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including, without limitation, 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.

"Cigarette" means any product which contains nicotine, is intended to be burned under ordinary conditions of use, and consist of:

(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this section.

"Cigarette tobacco" means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements pertaining to cigarettes shall also apply to cigarette tobacco.

"Dining area" means any enclosed area containing a counter, booths or tables upon which meals are served.

"Distributor" means any person who furthers the distribution of cigarettes or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for the purposes of this section.

"Employee" means any person who is employed by any employer in consideration of direct or monetary wages and/or profit and any person who volunteers his or her services for a nonprofit entity.

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

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways for ingress and egress), with a separate and complete ventilation, air conditioning and heating system including all ducting and venting required.

"Manufacturer" means any person, including any repacker and/or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product.

"Members of the general public" means any and all shoppers, customers, patrons, patients, students, clients and other similar invitees of a business, non-profit entity or public agency, and excluding employees, sales representatives, service repair persons, and persons delivering goods, merchandise or services to a business, nonprofit entity or public agency.

"New restaurant construction" means construction of a new building to be used as a restaurant or the renovation, improvement, or remodeling of an existing building to be used as a restaurant when the gross cost of such renovation, improvement or remodeling is equal to or exceeds fifty (50) percent of the value of the building or structure within which the restaurant is located as shown on the current assessment roles at the Kings County assessor's office.

"Nicotine" means the chemical substance names 3-(1-Methyl-2-pyrrolidinyl)pyridine or C₁₀H₁₄N₂,

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including any salt or complex of nicotine.

"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.

"Package" means a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco are offered for sale, sold or otherwise distributed to consumers.

"Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to:

1. Work areas;
2. Conference and classrooms;
3. Employee cafeteria;
4. Employee lounges and restrooms; and
5. Hallways.

A private residence is not a place of employment unless it is used as a child care or health care facility.

"Point of sale" means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.

"Private function" means any function to which the general public is not invited.

"Public entity" means any federal, state or local government.

"Public place" means any enclosed area, other than a private residence, to which the public is invited or in which the public is permitted, including, but not limited to:

1. Banks;
2. Child care facilities;
3. Educational facilities;
4. Health care facilities;
5. Public transportation facilities;
6. Recreation areas;
7. Recreation facilities;
8. Restaurants;
9. Retail stores;
10. Retail service establishments;
11. Retail food production and marketing establishments;
12. Waiting rooms.

"Recreational facilities" means enclosed sports pavilions, gymnasiums, health spas, boxing areas, swimming pools, roller and ice rinks, bowling alleys, pool halls and other similar places where members of the public assemble to engage in physical exercise, participate in athletic activities or competition or witness sports events.

"Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria and any other eating establishment, organization or club which gives or offers for sale, food to the public, guests or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in this chapter.

"Retailer" means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where vending machines or self service displays are permitted under this code.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind whether or not such service involves the exchange of money.

"Smokeless tobacco" means any product that consist of cut, ground, powder, or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity.

"Tobacco store" means any retail store utilized primarily for the sale of tobacco products and

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accessories and in which the sale of other products is merely incidental.

"Ventilation and smoke air filtering system" means any air recycling and smoke filtering system approved by the city's chief building official and placed on file with the city's chief building official.

"Work area" or "work place" means any area in which an employee or employees perform work for an employer. (Prior code § 6-8.03)
(98-03, Amended, 03/03/1998)

Section 8.16.040 Prohibition of smoking in public places.

A. Smoking is prohibited in all enclosed public places within the city, including, but not necessarily limited to, the following places:

1. Elevators and restrooms;

2. Buses, taxicabs and other means of public transit operated by or licensed by the city.

Smoking may be allowed in waiting areas of public transit terminals in a specific designated area provided such area is an enclosed area. In such facilities, a minimum of seventy (70) percent of the facility will be designated as smoke-free. The prohibitions contained in this section shall be applicable to depots and other terminals utilized by members of the public for the purpose of being transported upon or departing from airlines, trains, buses, taxis and other forms of transportation;

3. Service lines;

4. Retail stores and retail service establishments, except areas in said stores and establishments not open to the public;

5. Retail food marketing establishments, including grocery stores and supermarkets, except those areas not open to the public;

6. All areas available to and customarily used by the general public in all businesses, nonprofit entities and public entities, including, but not limited to, business offices, banks, hotels and motels;

7. Restaurants. Restaurants shall be totally smoke-free unless the following conditions are met:

a. A separate nonsmoking area shall be provided and designated in an existing restaurant, which non-smoking area shall not be less than seventy (70) percent of the total area where food is served. Where physically possible, there shall be a minimum twenty (20) foot separation between the designated nonsmoking area and the smoking area unless said designated smoking area is an enclosed area in which case the twenty (20) foot separation will not be required.

b. The separate smoking area identified in subdivision a above, may be used by an existing restaurant only for a period of twenty-four (24) months from the effective date of the ordinance codified in this chapter. Commencing with the first day of the twenty-fifth month from the effective date of said ordinance, all existing restaurants intending to provide a smoking area for its customers shall have constructed and have ready for occupancy, a separate enclosed area which separate enclosed area shall include:

i. Walls and doors reasonably impermeable to tobacco smoke,

ii. A separate and complete ventilation, air conditioning and heating system including all ducting and venting required. Any existing restaurant which does not have a separate enclosed area as identified in subdivision b above, is prohibited from allowing smoking in such restaurant.

c. New restaurant construction shall provide a separate enclosed area to be used by customers who smoke which enclosed area shall include:

i. Walls and doors reasonably impermeable to tobacco smoke, and

ii. A separate and complete ventilation, air conditioning and heating system including all ducting and venting required.

d. Restaurants shall have the option of prohibiting smoking throughout the restaurant;

8. Theaters, including motion pictures theaters, concert halls, auditoriums and meeting halls where motion pictures or live theatrical, musical or dramatic productions, lectures or any other type of

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presentation are made to an audience consisting of members of the general public assembled for the purpose of witnessing the performance or presentation; however, this section shall not be construed to prevent smoking by performers in connection with a stage production or by persons making a presentation concerning addiction to tobacco and other drugs.

9. Recreational facilities, including, without limitation, enclosed sports pavilions, gymnasiums, exercise rooms, pool halls, excepting the bar area thereof, provided it has a ventilation and smoke air-filtering system, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble to either engage in physical exercise, participate in athletic activities or witness sports events.

Smoking may be allowed in limited and specific designated areas other than seating areas or where food or beverages are dispensed or served so long as such designated areas have an approved ventilation and smoke air-filtering system.

Smoking may be allowed only in a designated area of bowling alleys on those occasions when league play occupies the majority of bowling lanes in the establishment. Such designated area shall have an approved ventilation and smoke air filtering system as referenced herein;

10. Any building not open to the sky which is used primarily as a museum or for exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance, except when smoking is part of any such production;

11. Every room, chamber and place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee or agency of the city or any other public entity during such time as a public meeting is in progress.

12. Doctors' offices, dentists' offices, waiting rooms, hallways, wards and rooms of health facilities, including, but not limited to, hospitals, clinics and physical therapy facilities. In bed space areas of health care facilities used for two or more patients, smoking shall be prohibited unless all patients within the room are smokers and request in writing upon the health care facility's admission forms to be placed in an enclosed area where smoking is permitted;

13. Hospitals, rest and convalescent homes, medical clinics, physical therapy facilities and other places where medical, dental, psychiatric or counseling services are delivered to members of the general public. Operators of facilities treating psychiatric or chemically impaired patients may permit smoking by patients in an enclosed area, provided the medical director of such facility has determined that the practice is beneficial for the recovery or treatment of such patients and that the practice will not interfere with the recovery and treatment of non-smoking patients. Such designated smoking area shall not be construed to prevent smoking in locations or otherwise under conditions in which smoking is expressly authorized by or under statutes or administrative regulations applicable to such licensed facilities;

14. Polling places;

15. Schools or educational institutions operated by a commercial enterprise, public agency or non-profit entity for the purpose of providing academic classroom instruction, trade, craft, computer or other technical training, or instruction in dancing, artistic, musical or other cultural skills;

16. Day care facilities, including private residences during the time when such residences are operated as day care facilities for children or the elderly.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that the entire establishment is a nonsmoking establishment. Further, provided that notwithstanding this chapter, the owner or person who controls such establishment may, but is not restricted to, set aside in any facility described in this section, an enclosed area for use as an employee lounge or break room. Such designated area shall have an approved ventilation and smoke air filtering system as defined herein. (Prior code § 6-8.04)

Section 8.16.042 General responsibilities of manufacturers, distributors and retailers.

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A. Each manufacturer, distributor, and retailer is responsible for ensuring that the cigarettes or smokeless tobacco it manufactures, labels, advertises, packages, distributes, sells, or otherwise holds for sale comply with all applicable requirements of this code.

B. In addition to the other responsibilities under this code, each manufacturer shall remove from each point of sale all self service displays, advertising, labeling and other items that the manufacturer owns that do not comply with the requirements under this code and 21 CFR Part 897.

C. In addition to the other requirements under this code, each retailer is responsible for ensuring that all sales of cigarettes or smokeless tobacco to any person comply with the following requirements.

1. No retailer may sell cigarettes or smokeless tobacco to any person younger than 18 years of age;
2. Each retailer shall verify by means of photographic identification containing the bearers date of birth that no person purchasing the product is younger than 18 years of age;
3. No such verification is required for any person over the age of 26;
4. A retailer may sell cigarettes or smokeless tobacco only in a direct, face-to-face exchange without the assistance of any electronic or mechanical device such as a vending machine, except that vending machines (including vending machines that sell packaged single cigarettes) and self-service displays that are located in facilities where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time, shall be permissible;
5. No retailer may break or otherwise open a cigarette or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the quantity in the minimum cigarette package size as defined in 21 CFR Part 897.16(b) or any quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the the manufacturer for individual consumer use;
6. Each retailer shall ensure that all self service displays, advertising, labeling, and other items located in the retailers establishment and that do not comply with the requirements of this section, are removed or are brought into compliance with the requirements under this section;
7. No outdoor advertising for cigarettes or smokeless tobacco including billboards, posters, or placards may be placed within 1,000 feet of any public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds, or basketball courts), elementary school, or secondary school.
8. This section does not apply to cigarettes or smokeless tobacco package labels. (Prior code § 5-11.02;)
(98-03, Amended, 03/03/1998)

Section 8.16.044 Incorporation of 21 CFR Part 897.

The entirety of 21 CFR Part 897 is herein incorporated into Chapter 8.16 by this reference and made a part hereof, including but not limited to those portions of 21 CFR Part 897 identified in Section 8.16.042 of the Hanford Municipal Code, and as 21 CFR Part 897 may be amended from time to time. (Prior code § 5-11.02;)
(98-03, Amended, 03/03/1998)

Section 8.16.050 Where smoking is not regulated.

- A. Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:
1. Bars;
 2. A private residence, including an attached or detached garage whether or not the residence is utilized for office or other business purposes except when such residence is operated as a day care facility for children or the elderly or as a health care facility;
 3. Hotel and motel rooms rented to guests and designated as smoking rooms. The

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availability of nonsmoking rooms will be prominently posted in the lobby sign-in area. The rooms so designated will be posted as smoking prohibited and ash trays removed;

4. Tobacco stores, whether operated as a separate business entity or as a section within a department store, mall or other business entity so long as the tobacco store is located in an enclosed area;
 5. Private clubs during events attended exclusively by members of the organization and their invited guests and from which members of the general public are excluded;
 6. Cardrooms licensed by the city;
 7. Those enclosed areas in restaurants as allowed in this chapter.
- B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare the entire establishment, or any portion thereof, as a nonsmoking establishment. (Prior code § 6-8.05)

Section 8.16.060 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 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.
- B. Every theater owner, manager or operator shall conspicuously post signs in the lobby and restrooms 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. (Prior code § 6-8.06)

Section 8.16.070 Enforcement.

- A. The regulations contained herein shall be enforced by the city manager or his/her designee.
- B. Any citizen who desires to register a complaint hereunder shall register that complaint with the city manager or his/her designee.
- 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. (Prior code § 6-8.07)

Section 8.16.080 Violations.

- A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with its provisions.
- B. It is unlawful for any person to smoke in an area restricted by the provisions of this chapter. (Prior code § 6-8.08)

Section 8.16.090 Penalties.

- Any person who willfully violates any provision of this chapter shall be guilty of an infraction, punishable by:
- A. A fine not exceeding fifty dollars (\$50.00) for a first violation.
 - B. A fine not exceeding one hundred dollars (\$100.00) for a second violation of this chapter within one year of the date of the first violation.

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C. A fine not exceeding two hundred dollars (\$200.00) for each additional violation of this chapter within one year of the date of the first violation. (Prior code § 6-8.09)

Section 8.16.100 Governmental agency cooperation.

The city shall 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, city and school district agencies to enforce their existing smoking control regulations and to comply voluntarily with this chapter. (Prior code § 6-8.10)

Section 8.16.110 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Prior code § 6-8.11)

Section 8.16.120 Exemption procedures.

Any owner, manager or operator of a business or other establishment subject to this chapter may apply to the city manager, or his/her designee, for an exemption or modification of the provisions of this chapter due to unique or unusual circumstances or conditions. The city manager, or designee, shall have the sole authority and discretion to grant or deny requests for exemptions submitted under this section. The following factors shall be considered, to the extent they reasonably apply to an application for exemption:

- A. Whether the application is based upon a misunderstanding of the minimum requirements of compliance of this chapter;
- B. The extent of effort made towards compliance;
- C. The physical construction of the area for which exemption is sought;
- D. The number of employees in the area for which exemption is sought;
- E. The nature and frequency of contact that the applicant's business has with the public;
- F. Whether physical disabilities of employees would render compliance with the requirements of this chapter unreasonably difficult.

The burden of proof shall be upon the applicant to show by substantial evidence that such unique or unusual circumstances exist and that there is a necessary and compelling reason to grant an exemption.

The decision of the city manager or designee, may be appealed to the city council within twenty (20) days of the date of the city manager's written notice of determination. The city council's decision shall be final and conclusive. (Prior code § 6-8.13)