

Title 9

HEALTH, SAFETY AND WELFARE

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Chapter 9.05**ANIMALS**

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Article I. County Animal Control Code**9.05.010 Adoption by reference.**

The board of supervisors of Contra Costa County has adopted County Ordinance Nos. 80-97, 83-10, 85-23, 87-74, 97-33, 2005-24 and 2006-05 (constituting Chapters 416-2 through 416-12 of Division 416 of the County Ordinance Code). Certified copies of Division 416 are on file with the city clerk and are open to public inspection. This animal control code is hereby referred to and adopted by reference as though set forth in full, as provided for in Government Code section 50022.2. (Ord. 812 § 1, 2006)

9.05.020 Request enforcement in city.

The county ordinance referred to and adopted contains the provisions of those sections of the California Food and Agricultural Code referred to in § 30501, and therefore the city ordinance codified in this section constitutes the city's request that the provisions of this county ordinance be applicable within this city, and they shall hereafter so apply, pursuant to Food and Agricultural Code section 30501. (Ord. 463 § 1, 1981; 1991 code § 7-1.2)

Article II. Pigeons**9.05.030 Purpose.**

The purpose of this article is to prevent unsightly neighborhood nuisances, prevent destruction of property, assure minimum standards of maintenance and cleanliness, and to protect public health by regulating the keeping and flying of pigeons as a recreation sport and hobby. (1991 code § 7-2.1)

9.05.040 Definitions.

As used in this article:

Pigeon means a pigeon either bred and trained for racing from a distant point of liberation to its home loft, or kept for recreation or as a hobby. (1991 code § 7-2.2)

9.05.050 Requirements.

Each person maintaining a pigeon shall do so in accordance with the following conditions:

- A. Feed for the pigeon shall be stored in containers which protect against rodents and insects;
- B. The pigeon shall be housed in a loft of sound construction. The loft shall be maintained and properly landscaped to conform to the surrounding area and shall be screened from view from adjacent property owners;
- C. The pigeon shall be regularly confined in a loft except for exercise or racing. The pigeon may be raced or exercised from 7:00 a.m. to 8:00 p.m. on weekdays and from 8:00 a.m. to 8:00 p.m. on Sundays and holidays;
- D. The loft shall be located at least 20 feet from an adjoining property;
- E. The loft shall be cleaned regularly and maintained in a sanitary condition and in compliance with the health regulations of the city. The loft shall be kept free of organic material which may cause offensive odors or allow propagation of flies and other insects. (1991 code § 7-2.3)

9.05.060 Leg bands required.

Each person who keeps a pigeon shall attach a seamless leg band to each pigeon for the purpose of identification. (1991 code § 7-2.4)

9.05.070 Inspection.

The authorized representative of the city may inspect each loft at any reasonable time. He or she may enter upon the property with the owner's consent or a warrant from the court, if legally required. (Amended during 2005 recodification; 1991 code § 7-2.5)

Article III. Animal Traps

9.05.080 Prohibition of steel-jawed leghold animal traps.

The use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, protected mammal, or any dog or cat is prohibited within the jurisdictional limits of the City of Pleasant Hill. (Ord. 747 § 1, 2000; 1991 code § 7-3.1)

9.05.090 Definitions.

For purposes of this article, furbearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by California Fish and Game Code section 3003.1. (Ord. 747 § 1, 2000; 1991 code § 7-3.2)

Chapter 9.10**COUNTY HEALTH ORDINANCES**

Sections:

- 9.10.010 County health ordinances.
- 9.10.020 Adoption of county regulations and fees.
- 9.10.030 County health officer enforcement in the city.
- 9.10.040 Penalty provisions.

9.10.010 County health ordinances.

The board of supervisors of Contra Costa County has adopted certain county ordinances, listed below. Copies of these ordinances are on file with the city clerk and are open to public inspection. These code provisions, as they existed in March, 2004, are hereby referred to and adopted by reference as though set forth in full, under Government Code section 50022.2.

A. Environmental health permits and fees. Title 4, Health and Safety, Division 413, Public Health Licenses and Fees, Chapter 413-3, Environmental Health Permits and Fees, Sections 413-3.204 through 413-3.1616.

B. Water supply. Title 4, Health and Safety, Division 414, Waterways and Water Supply, Chapter 414-4, Water Supply, Sections 414-4.2 through 414-4.1205.

C. Sewage systems. Title 4, Health and Safety, Division 420, Sewage, Chapter 420-6, Subdivisions and Individual Systems, Sections 420-6.1 through 420-6.707. (Ord. 783 § 1, 2004; 1991 code § 9-1.1)

9.10.020 Adoption of county regulations and fees.

Within the above county ordinances adopted by reference is the authority for the county health services division to prepare implementing regulations and fees. (See Sections 413-3.12, 413-3.1404, 413-3.1614, 414-4.1003, 414-4.12, 420-6.307, 420-6.7.) The city hereby approves any such regulations and fees once they are first approved by the board of supervisors. (Ord. 783 § 1, 2004; 1991 code § 9-1.2)

9.10.030 County health officer enforcement in the city.

The county health officer is authorized to enforce the county codes set forth in PHMC § 9.10.010 within the city. (Ord. 783 § 1, 2004; 1991 code § 9-1.3)

9.10.040 Penalty provisions.

Pursuant to Government Code section 50022.4, the county penalty code provisions for the code sections listed above have been adopted in full in the ordinance which adopted this chapter. (Ord. 783 § 1, 2004; 1991 code § 9-1.4)

Chapter 9.15**NOISE**

Sections:

- 9.15.010 Findings – Policy.
- 9.15.020 Definitions.
- 9.15.030 Loud or unnecessary noises prohibited.
- 9.15.040 Special noise sources.
- 9.15.050 Amplified sound.

9.15.010 Findings – Policy.

The city council finds that at certain levels, noises are detrimental to the health and welfare of the citizenry and in the public interest should be systematically proscribed. It is the policy of the city to prohibit unnecessary, excessive and annoying noises from all sources. (Ord. 446 § 1, 1980; 1991 code § 5-1.1)

9.15.020 Definitions.

As used in this chapter:

Commercial purpose means and includes the use, operation, or maintenance of sound-amplifying equipment for the purpose of advertising business, goods and services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage to or for a performance, show, entertainment, exhibition or event, or for the purpose of demonstrating any such sound equipment.

Emergency work means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

Motor vehicle means motor vehicle as defined by the California Vehicle Code.

Noncommercial purpose means the use, operation, or maintenance of sound equipment for other than a commercial purpose. *Noncommercial purpose* includes philanthropic, political, patriotic and charitable purposes.

Sound-amplifying equipment means any machine or device for the amplification of the human voice, music, or any other sound. *Sound-amplifying equipment* does not include:

- A. A standard automobile radio when used and heard only by the occupant of the vehicle in which the radio is installed; nor
- B. A warning device on authorized emergency vehicle or horn or other warning device used for traffic safety purposes.

Sound truck means a motor vehicle regardless of motor power, whether in motion or stationary, having sound-amplifying equipment mounted or attached to it. (Ord. 446 § 1, 1980; 1991 code § 5-1.2)

9.15.030 Loud or unnecessary noises prohibited.

Notwithstanding any other provision of this chapter, it is unlawful for a person to willfully make or continue, or cause to be made or continued, a loud, unnecessary, or unusual noise which disturbs the peace or quiet of a neighborhood, or which causes discomfort or annoyance to a reasonable person of normal sensitivity residing in the area. The standards which shall be considered in determining whether a violation of this section exists shall include, but are not limited to, the following:

- A. Volume of the noise;
- B. Whether the nature of the noise is usual or unusual;
- C. Proximity of the noise to residential sleeping facilities;
- D. Nature and zoning of the area within which the noise emanates;
- E. Time of the day or night the noise occurs;
- F. Duration of the noise;
- G. Whether the noise is recurrent, intermittent, or constant; and
- H. Whether the noise is produced by a commercial or noncommercial activity. (Ord. 446 § 1, 1980; 1991 code § 5-1.3)

9.15.040 Special noise sources.

A. Radios, television sets and similar devices.

1. Use restricted. It is unlawful for a person to use, operate or permit to be played, used or operated a radio, receiving set, television set, jukebox, musical instrument, phonograph, or other machine or device for the producing or reproduction of sound in such manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or to do so with a louder volume than is necessary for convenient hearing for persons in the room, vehicle, or chamber in which the device is operated.

2. Prima facie violation. The operation of any such device specified in subsection A.1 of this section between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located is prima facie evidence of a violation of this subsection.

B. Hawkers and peddlers. It is unlawful for a person to sell anything by outcry within any land use district of the city zoned for residential uses. This subsection does not prohibit the selling by outcry of merchandise, food or beverages at a licensed sporting event, parade, fair, circus, or similar licensed public entertainment event.

C. Use of musical instruments restricted. It is unlawful for a person to use a musical instrument or other instrument or device for the purpose of attracting attention by the creation of noise. This subsection does not apply to a participant in a school band or licensed parade.

D. Places adjacent to schools, hospitals, and churches. It is unlawful for a person to create noise on a street, sidewalk, or public place adjacent to a school or church while in use or adjacent to a hospital, which noise unreasonably interferes with the working of the institution or which disturbs or unduly annoys a patient in the hospital. However, this subsection is effective only if a sign is displayed in the street, sidewalk, or public place indicating the presence of a school, church, or hospital.

E. Animals or birds in residential neighborhoods. No person shall keep or maintain an animal, fowl, or bird (otherwise permitted to be kept) which by sound, cry, or behavior causes annoyance or discomfort or disturbs the repose of a reasonable person of normal sensitivity.

F. Yelling or shouting in a building.

1. No person shall yell, shout, hoot, whistle or sing in a private residence or building of public assembly between 10:00 p.m. of one day and 7:00 a.m. of the next day in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants.

2. Noise prohibited by subsection F.1 of this section which is plainly audible at a distance of 50 feet of the building or structure in which the noise occurs is prima facie evidence of a violation of this subsection.

G. Exhausts. It is unlawful for a person to discharge into the open air the exhaust of an engine, motorboat, stationary internal combustion engine or motor vehicle, except through a muffler or other device which prevents loud or explosive noise.

H. Machinery, equipment, fans, and air conditioning. It is unlawful for a person to operate machinery, equipment, a pump, fan, air-conditioning apparatus or similar mechanical device in the manner which creates noise, unless the noise is muffled and the device is equipped with a muffler sufficient to deaden the noise.

I. Whistles or horns. It is unlawful for a person to blow a horn or steam or air whistle except as a signal or as a warning.

J. Motor vehicle acceleration. It is unlawful for a person to operate a motor vehicle in the manner which causes a screeching of tires or excessive engine noise in a manner which annoys or disturbs the quiet, comfort or repose of persons in any building, structure or facility.

K. Vehicle repairs. It is unlawful for a person within 500 feet of a residential land use district to repair, rebuild, or test a motor vehicle between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitivity residing in that district is caused discomfort or annoyance.

L. Construction of buildings and projects.

1. It is unlawful for a person within a residential land use district to operate or perform construction or repair work on a building, structure or project, or to operate a pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other construction-type device on city-recognized holidays as designated by city council resolution, and on Monday through Friday, prior to 7:30 a.m. and after 7:00 p.m. on each day and on Saturdays and Sundays, prior to 9:00 a.m. and after 6:00 p.m. The above prohibition does not apply to emergency work.
2. Exemptions by special permit from the above prohibitions may be obtained from the city manager if the one applying for the exemption can demonstrate written consent from abutting residents and that the noise and disruption would not cause a reasonable person of normal sensitivity residing in the area major discomfort or annoyance. (Ord. 554 § 1, 1984; Ord. 446, 1980; 1991 code § 5-1.4)

9.15.050 Amplified sound.

A. Purpose. The sole purpose of this section is to secure and promote the public health, comfort, safety and welfare. While recognizing that the use of sound-amplifying equipment is protected by the constitutional rights of freedom of speech and assembly, the council nevertheless feels obligated to reasonably regulate the use of sound-amplifying equipment in order to protect the correlative constitutional rights of the citizens of this community to privacy and freedom from public nuisance of loud and unnecessary noise.

B. Registration required. It is unlawful for a person, other than a peace officer, to install, use, or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted upon a sound truck for the purpose of giving an instruction, direction, talk, address, lecture, or transmitting music to a person in or upon a street, alley, sidewalk, park, place, or public property without first filing a registration statement and obtaining approval as set forth in subsection C of this section.

C. Registration statements.

1. Filing. Every user of sound-amplifying equipment shall file a registration statement with the public works and community development department 10 days before the date on which the sound-amplifying equipment is intended to be used. The statement shall contain the following information:
 - a. The name, address and telephone number of both the owner and user of the sound-amplifying equipment;
 - b. The wattage to be used, and the approximate distance for which sound will be audible from the sound-amplifying equipment;

- c. The license and motor number, if a sound truck is to be used;
 - d. A general description of the sound-amplifying equipment which is to be used; and
 - e. Whether the sound-amplifying equipment will be used for commercial or noncommercial purposes.
2. Approval. The public works and community development department shall return to the applicant an approved certified copy of the registration statement unless it finds that:
 - a. The conditions of the motor vehicle movement are such that, in the opinion of the public works and community development department, use of the equipment would constitute a detriment to traffic safety;
 - b. The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or
 - c. The registration statement required reveals that the application would violate Penal Code section 415.
 3. Disapproval. If the registration statement is disapproved, the public works and community development department shall endorse upon the statement the reason for disapproval and return it promptly to the applicant.

D. Appeals. Persons who are dissatisfied with the findings of the public works and community development department may appeal to the city manager as provided in PHMC Chapter 1.10.

E. Fees. The fees for filing a registration statement for commercial purposes is as fixed by resolution of the city council. There is no fee for the operation of a loudspeaker or sound-amplifying equipment for noncommercial purposes.

F. Regulations.

1. The commercial use of sound-amplifying equipment is subject to the following regulations:
 - a. The only sounds permitted shall be either music or human speech, or both;
 - b. The operation of sound-amplifying equipment shall occur only between the hours of 9:00 a.m. and 10:00 p.m. each day. No operation of sound-amplifying equipment for commercial purposes is permitted on Sundays or legal holidays without the express written approval of the city;
 - c. Sound-amplifying equipment may not be operated within 200 feet of a church, school, hospital, or city or county building, except under the direction of such church, school, hospital, or city or county building; and
 - d. The volume of sound shall be so controlled that it is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to a reasonable person.
2. The noncommercial use of sound-amplifying equipment is subject to the following regulations:
 - a. The only sounds permitted shall be either music or human speech, or both;
 - b. The operation of sound-amplifying equipment shall occur only between 9:00 a.m. and 11:00 p.m. each day. No operation of sound-amplifying equipment for noncommercial purposes is permitted on Sundays or legal holidays without the express written approval of the city;
 - c. Sound-amplifying equipment may not be operated within 200 feet of a church, school, hospital, or city or county building, except under the direction of such school, church, hospital, or city or county building; and
 - d. The volume of sound shall be so controlled that it is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to a reasonable person. (Ord. 446 § 1, 1980; 1991 code § 5-1.5)

Chapter 9.20

ALARM SYSTEMS

Sections:

- 9.20.010 Findings and purpose.
- 9.20.020 Definitions.
- 9.20.030 Alarm user permit required.
- 9.20.040 Alarm user permit – Application.
- 9.20.050 Alarm user permit – Grant or denial.
- 9.20.060 Alarm user permit – Duration and renewal.
- 9.20.070 Alarm user permit – Changes – Nontransferability.
- 9.20.080 Alarm systems standards.
- 9.20.090 Prohibitions.
- 9.20.100 Alarm company responsibilities.
- 9.20.110 Fees.
- 9.20.120 False alarms.
- 9.20.130 Suspension and revocation.
- 9.20.140 Reinstatement of alarm permit and police response.
- 9.20.150 Appeals.
- 9.20.160 Violations.

9.20.010 Findings and purpose.

A. Findings. The city council finds that the regulation of the sale, installation and use of alarm systems and the control of false alarms are necessary to promote the health, welfare and safety of the people. The sale, installation and use of substandard alarm equipment and the occurrence of false alarms constitute a threat to the safety of public safety officers and to the public in general.

B. Purpose. The purposes of this chapter are to: (1) license and regulate alarm systems, alarm users, and the activities of alarm companies in the city; and (2) protect public safety by reducing or eliminating the number of false alarms within the city that prevent, hinder or delay public safety officers from responding to other calls for service. (Ord. 827 § 1, 2007)

9.20.020 Definitions.

As used in this chapter:

Alarm administrator means the person designated by the chief of police to administer this chapter.

Alarm company means a person or entity engaged in the sale, providing, monitoring, maintaining, leasing, servicing, repairing, altering, replacing, removing, or installing of any alarm system.

Alarm dispatch request means a notification to the police department by the alarm company or alarm user that an alarm has been activated at a particular alarm site.

Alarm permit or *alarm user permit* means the annual permit required under PHMC § 9.20.030 by the alarm user to operate an alarm system.

Alarm site means a single premises or location served by an alarm system.

Alarm system means an assembly of equipment and devices arranged to signal the presence of a situation requiring urgent attention, including the commission or attempted commission of an unauthorized entry into a building or premises. It includes, but is not limited to, hardwired systems and systems interconnected by radio

frequency which, when activated, emit a sound or light or transmit a remote, local, visual, or electronic signal or message that is intended to summon a law enforcement response to such location. An alarm system may be manual or automatic.

Alarm user means a person having or maintaining an alarm system on real property owned or controlled by the user. It includes an alarm subscriber. *Alarm user* does not include an alarm company.

Calendar year means the period of January 1st through December 31st in which alarm dispatch requests and false alarms are calculated.

Chief of police means the chief of police of the city or his or her designee.

Excessive false alarm means more than one false alarm during a calendar year. Excessive false alarms do not include false alarms that occur during the 30-day period immediately following the installation and activation of an alarm system.

False alarm means an alarm dispatch request to the police department when the situation or activation of the alarm system does not require a police response or when the responding officer finds no evidence of a criminal offense or attempted criminal offense after having completed a standard investigation of the alarm site. The circumstances described in PHMC § 9.20.120.A will not be counted as a false alarm.

False alarm response fee or false alarm fee means the fee assessed under PHMC § 9.20.120.

Monitoring means the process by which an alarm company receives signals from an alarm system and relays an alarm dispatch request to the police department. (Ord. 827 § 1, 2007)

9.20.030 Alarm user permit required.

Each alarm user must have a permit issued by the police department alarm administrator at least 24 hours before activation of an alarm system. A separate alarm user permit is required for each alarm system. The alarm user permit is valid for one year and must be renewed annually. See PHMC § 9.20.060.

This chapter and the permit requirement do not apply to any of the following: audible alarms affixed to motor vehicles, boats, trailers, or recreational vehicles; alarms designed or intended to detect the presence of fire or smoke; devices installed on a temporary basis by the police department; handheld or portable personal safety devices; or alarm systems that are deactivated, disconnected, or turned off. (Ord. 827 § 1, 2007)

9.20.040 Alarm user permit – Application.

The application for an alarm user permit shall be on a form provided by the alarm administrator. The completed application and the alarm permit fee under PHMC § 9.20.110 shall be submitted to the alarm administrator. The information in the application form shall include:

- A. Alarm user. The name, complete address (including apartment/suite number), and telephone numbers of the alarm user.
- B. Alarm site.
 1. The address of the alarm site;
 2. The classification of the alarm site as either residential or commercial;
 3. Type of business conducted at a commercial alarm site;
 4. For each alarm system at the alarm site, the classification of the alarm system (i.e., burglary, holdup, duress, panic alarm or other) and for each classification whether such alarm is audible or silent;
 5. Any dangerous or special conditions present at the alarm site;
 6. The date of the last on-site service by an alarm company.

C. Responders. Names and telephone numbers of at least two individuals who are able and have agreed to: (1) receive notification of an alarm system activation at any time; (2) respond to the alarm site within 45 minutes; and (3) upon request, grant access to the alarm site and deactivate the alarm system if necessary.

D. Signed certification. Signed certification from the alarm user stating the following:

1. The date of installation, conversion or takeover of the alarm system, whichever is applicable;
2. The name, address, and telephone number of the alarm company performing the installation, conversion or takeover;
3. The alarm company responsible for providing repair service to the alarm system;
4. That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been left with the alarm user by the alarm company;
5. That the alarm company has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms; and
6. Acknowledgment that law enforcement response may be influenced by factors including, but not limited to, the availability of police units, priority of calls, and staffing levels.

E. Other. Such other information as the alarm administrator may reasonably deem necessary to carry out the purpose and intent of this chapter. (Ord. 827 § 1, 2007)

9.20.050 Alarm user permit – Grant or denial.

The alarm administrator shall grant an alarm user permit unless the alarm administrator finds any one of the following:

- A. The alarm system is deficient in that it does not comply with the alarm systems standard established by this chapter.
- B. The applicant or his or her agent has knowingly made any false, misleading or fraudulent statement of a material fact in the application for an alarm user permit, or in any report or record required to be filed with the city.
- C. The alarm company or alarm user refuses inspection, examination or evaluation of the alarm system.
- D. The applicant has had a similar-type alarm user permit previously revoked for good cause within the past year, unless the applicant can provide evidence to the alarm administrator’s satisfaction that a material change in circumstances has occurred since the date of revocation indicating his/her ability to comply with the provisions of this chapter. (See PHMC § 9.20.140.)
- E. A violation of this chapter within three years before the date of application, unless the applicant complies with the reinstatement requirements of PHMC § 9.20.140.

If the application is denied, the alarm administrator shall notify the applicant in writing of the denial, stating the reasons for such denial, and advising the applicant of the right to appeal under PHMC § 9.20.150. (Ord. 827 § 1, 2007)

9.20.060 Alarm user permit – Duration and renewal.

The alarm permit fee is an annual fee for each alarm user, in an amount adopted by resolution of the city council and set forth in the master fee schedule. For a new alarm user, the permit fee is based on the proportionate number of months remaining in the calendar year.

The alarm user permit (or renewal) is valid for one calendar year, January 1st through December 31st. The annual renewal fee is delinquent if not paid by January 15th of each year. (Ord. 827 § 1, 2007)

9.20.070 Alarm user permit – Changes – Nontransferability.

An alarm user shall inform the alarm administrator in writing of a change that alters any of the information listed on the alarm permit application. The alarm user shall inform the administrator within 15 calendar days of the change.

An alarm user permit is not transferable. (Ord. 827 § 1, 2007)

9.20.080 Alarm systems standards.

An alarm system shall be a system listed with Underwriters Laboratory, Inc., or be marked to state by other nationally recognized testing organizations, “Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction.”

The alarm administrator may grant an exception to this requirement when the alarm administrator determines that the alarm system is substantially equivalent to, or exceeds, the applicable Underwriters Laboratory, Inc., alarm testing standards. The alarm administrator may require the alarm company or alarm user to submit documentation and certification from a qualified authority necessary to make the exception determination.

Each alarm system shall have an uninterruptible power supply or backup power supply so that the failure or interruption of the normal electric service will not activate the alarm system. This backup power supply must be capable of at least four hours of operation. (Ord. 827 § 1, 2007)

9.20.090 Prohibitions.

The alarm administrator may immediately revoke the alarm permit of any alarm user who knowingly installs, operates, or permits the operation of an alarm system in violation of these prohibitions.

A. Shutoff. No audible alarm may sound for more than 15 minutes from the time of activation. This may be accomplished with either an automatic shutoff, or by manual operation. If the alarm system has an automatic shutoff with a rearming phase, the rearming phase must be able to distinguish between an open and a closed circuit, and if the circuit is broken the system shall not rearm.

B. Type of sound. No alarm system shall be installed or operated which emits a sound that is similar to that of an emergency vehicle siren or civil defense warning system.

C. No automatic connection to city. No person shall use or cause to be used any equipment or device that terminates directly to the police department or that automatically sends any prerecorded message or signal to the emergency 9-1-1 telephone line, city, police department, its officers or employees without the prior written consent of the chief of police.

D. Proper use. No person shall knowingly activate or use an alarm system for any purpose other than its intended purpose (i.e., burglary, holdup, duress, panic alarms or other). (Ord. 827 § 1, 2007)

9.20.100 Alarm company responsibilities.

A. Notification of changes. If an alarm user changes or contracts with another alarm company for monitoring services at a particular alarm site, or if an alarm company assigns or transfers an alarm user’s account to another alarm company, the alarm company to which the transfer or assignment is made shall report the transfer or assignment to the alarm administrator in writing within 15 calendar days. The notice of assignment or transfer shall be provided on a form provided by the alarm administrator. (See also PHMC § 9.20.070.)

B. License requirements. Each alarm company operating in the city shall have a state alarm company operator license and a city business license, as follows:

1. State alarm company operator license. No person shall engage in, conduct or carry on an alarm company within the city without possessing and presenting upon request a valid state alarm company operator license, in accordance with California Business and Professions Code Section 7500 and following. Every person engaged in, conducting, or operating an alarm company within the city shall post a copy of the license on the premises where the alarm company is located. If the license is suspended, revoked or otherwise rendered invalid by the state issuing authority, the alarm company shall immediately (within three days) notify the city alarm administrator in writing of the state action. Failure to do so constitutes a separate violation of this code.
2. City business license. A city business license is required for each alarm company doing business in the city, under PHMC Chapter 5.05.

C. Payment of false alarm response fee. An alarm company is responsible for the payment of a false alarm fee when the responding police officer determines that an on-site employee of the alarm company directly caused the false alarm. (See PHMC § 9.20.120.C.) (Ord. 827 § 1, 2007)

9.20.110 Fees.

A. Fees generally. Each alarm user in the city is subject to the following fees, which are established by resolution of the city council and set forth in the city's master fee schedule. Each fee shall represent the estimated reasonable cost of providing the service:

1. Alarm user permit fee, under PHMC §§ 9.20.030 and 9.20.060.
2. Alarm user permit renewal fee, under PHMC §§ 9.20.030 and 9.20.060.
3. False alarm response fee, under PHMC § 9.20.120.

B. Public agencies. A public agency (including the federal, state and county government, and school district) or a special purpose agency (such as irrigation or water district) is required to obtain an alarm user permit, but is exempt from the alarm user permit fee and the renewal fee. However, a public agency is subject to the false alarm response fee.

C. Time of payment. All fees owed by an applicant must be paid at the time of submitting the completed alarm permit application and before issuance or renewal of an alarm permit.

D. No refunds. No refund of a new or renewed permit fee will be made, except in extraordinary circumstances not the fault of the alarm user and when approved by the chief of police. (Ord. 827 § 1, 2007)

9.20.120 False alarms.

A. False alarm defined. "False alarm" is defined at PHMC § 9.20.020. However, the following circumstances will not be counted as false alarms under this chapter:

1. A false alarm caused by a power failure;
2. A false alarm, if the alarm company or alarm user promptly notifies the police department dispatch before the arrival of police officers at the property that a police response is not necessary.

Multiple false alarms occurring in a 24-hour period will only be counted as one to allow for corrective measures by the alarm company or alarm users.

B. False alarm penalty. A false alarm is not punishable as a criminal matter under PHMC Chapter 1.30. Otherwise, all violations of this chapter are subject to enforcement as set forth in PHMC § 1.25.010.

C. False alarm response fee. The city may assess a false alarm fee for each police response to a false alarm after the first false alarm in a calendar year. The amount of the fee is established by resolution of the city council. (See PHMC § 9.20.110.)

The alarm administrator shall notify the alarm user in writing after each false alarm. The notification shall include: the amount of the fine for the false alarm, the fact that police response will be suspended effective with the third false alarm within the calendar year (excluding duress, holdup and panic alarms), and a description of the appeals procedure. (See PHMC § 9.20.130 (suspension) and PHMC § 9.20.150 (appeal).)

False alarm response fees are due within 30 calendar days of the date of invoice. The alarm user is responsible for payment of the fee whether the alarm site is monitored or not. However, if the responding officer determines that an on-site employee of the alarm company directly caused the false alarm, the false alarm fee will be charged to the alarm company, which shall be responsible for its payment. (See also PHMC § 9.20.100.C.) (Ord. 827 § 1, 2007)

9.20.130 Suspension and revocation.

A. Suspended police response.

1. Grounds for suspension. The alarm administrator may suspend law enforcement response to an alarm site for any of the following:

- a. The alarm user has had more than three false alarms in one calendar year (under PHMC § 9.20.120.A);
- b. There is no current alarm user permit;
- c. Failure by the alarm user or designated responder (under PHMC § 9.20.040.C) to respond within 45 minutes to a request made by a police department representative to permit or provide access to the property where an alarm system has been activated.

2. Procedure. At least 10 days before suspending an alarm user permit, the alarm administrator shall notify the alarm user in writing of the intended action, with a copy to the alarm company. The notice shall specify:

- a. The reason(s) for the suspension.
- b. The alarm user's right to appeal the suspension under PHMC § 9.20.150.
- c. Whether enhanced verification status will be imposed to reinstate the police response. (See PHMC § 9.20.140.C.)
- d. That the alarm user or alarm company has 30 calendar days to bring the system into compliance. Failure to comply within the time specified in the notice will result in the revocation of the alarm user's permit.

3. Notice. When actually suspending police responses to an alarm site, the alarm administrator shall provide timely written notice of the action to the alarm user and alarm company.

B. Revocation.

1. Grounds for revocation. The alarm administrator may revoke an alarm user permit for noncompliance to an order to correct or on any of the following grounds:

- a. Any false, misleading or fraudulent statement of a material fact is made in the application for an alarm user permit, or in any report or record submitted to the city;
- b. The alarm user has failed to make payment within 30 days of fee imposed under this chapter; or
- c. Any violation of PHMC § 9.20.090.

2. Procedure. The notification and appeal procedures for revocation are the same as those for suspension, set forth in subsection A.2 of this section.

C. Consequences of suspension or revocation.

1. An alarm user may not operate an alarm system during the period in which their alarm user permit is suspended or revoked.
2. An alarm company may not continue alarm dispatch requests to an alarm site after the alarm administrator notifies it that the permit has been suspended or revoked.

D. Non-response status – Other ground to refuse response. Unless there is separate indication of a crime in progress, the police department, independently of the alarm administrator, may refuse law enforcement response to an alarm dispatch request if:

1. The alarm permit is suspended or revoked;

2. Two or more false alarms have occurred at the alarm site during a consecutive 24-hour period; or
3. The alarm user or designated responder has failed or refused to respond to the alarm site at the request of the police department. (Ord. 827 § 1, 2007)

9.20.140 Reinstatement of alarm permit and police response.

A. Reinstatement after suspension. An alarm user may reinstate police response after suspension (under PHMC § 9.20.130.A) or non-response status (under PHMC § 9.20.130.D) if:

1. Reinstatement is ordered by the chief of police for good cause; or
2. All of the following occur:
 - a. All delinquent fees are paid;
 - b. The alarm user receives alarm training by the department;
 - c. The alarm system has been inspected by an alarm company that certifies in writing that the system is in good working order;
 - d. The alarm user and alarm company accept in writing the conditions of the two-call alarm verification program specified in subsection C of this section.

B. Reinstatement after revocation. The alarm administrator may reinstate the alarm user permit after a revocation when the alarm user does all of the following:

1. Submits a new application and pays a reinstatement fee equal to the initial permit fee;
2. Pays or otherwise resolves all outstanding fees; and
3. Submits a certification from an alarm company stating that the alarm system has been inspected and is in good working order.

C. Enhanced verification response.

1. When required. Whenever an alarm permit has been suspended, the alarm administrator shall require as a condition of reinstatement that the alarm user and alarm company implement an enhanced verification response.
2. Enhanced verification response described. Enhanced verification means the alarm company makes two or more telephone calls, or uses other means, to verify the veracity of an alarm signal before requesting a police response. The purpose of enhanced verification is to reduce the number of false alarms. The alarm administrator shall prepare written procedures stating the minimum requirements for enhanced verification. The verification may include any of the following methods:
 - a. Two or more calls by the alarm company. The first call is to the alarm site, and the second and more calls are to designated responders under PHMC § 9.20.040.C.
 - b. Confirmation that the alarm company has verified the request by a listening device, a camera, or a person at the alarm site.
 - c. Confirmation that the alarm company has verified the request by two or more independent detectors at the site, or two or more zones at the site.
3. Alarm company requirements. To comply with this subsection, the alarm company responsible for monitoring services shall have written procedures to ensure efforts are made to verify every alarm signal (except duress, robbery, or panic alarm) before requesting a police response. The alarm company shall provide a copy of its procedures to the alarm administrator. (Ord. 827 § 1, 2007)

9.20.150 Appeals.

A. Right to appeal. A determination of the alarm administrator may be appealed to the chief of police, and a determination of the chief may be appealed to the city manager, following the procedures in this section. The appeals provisions of PHMC Chapter 1.10 do not apply, and a decision of the city manager is final.

The action proposed by the alarm administrator shall not be implemented while an appeal is pending.

B. Requirements for filing appeal. An alarm user or alarm company wishing to appeal must file the appeal in writing within 10 days from the date of the notice (or action taken, if there is no notice). The appeal shall be

in writing, filed with the police department, and shall state the reasons for the appeal, including any evidence available to the appellant.

Before filing an appeal on any matter, all delinquent fees must be paid at or before the time of filing the appeal.

C. Failure to file appeal constitutes waiver. If the alarm user (or alarm company) fails to file an appeal within the prescribed time, the failure constitutes a waiver of the right to appeal, and the intended action shall take effect without further notice, action, or proceeding.

D. Hearing. The city shall notify the appellant of an appeal hearing date, which shall be within 15 business days after the appeal is filed. The chief of police (or city manager upon appeal from the chief's decision) shall conduct an informal hearing on the appeal. The chief shall consider the evidence presented before or at the hearing, and shall make a decision based on the preponderance of evidence presented at the hearing.

The chief (or city manager) will render a written decision within five business days after the date of the hearing, affirming, reversing or modifying the decision appealed from. (Ord. 827 § 1, 2007)

9.20.160 Violations.

In addition to the false alarm fee under PHMC § 9.20.120.C, a person in violation of this chapter is subject to any other remedy for violation of the municipal code authorized in PHMC § 1.25.010 (except that under PHMC § 9.20.120.B, a false alarm will not be prosecuted as a criminal matter). (Ord. 827 § 1, 2007)

Chapter 9.25**FEE FOR SUBSEQUENT POLICE RESPONSES**

Sections:

- 9.25.010 Liability for police response.
- 9.25.020 Person or persons responsible for event.
- 9.25.030 Amount of fee.
- 9.25.040 Subsequent response.

9.25.010 Liability for police response.

The person or persons responsible for a party, gathering or event occurring on public or private property which results in a subsequent police response shall pay a fee to cover the cost of said response as provided in PHMC § 9.25.030, if, in connection with said party, gathering or event, a second or subsequent police response is necessary because a responsible party previously failed to carry out a lawful order by a police officer to:

- A. Stop a fight between two or more persons attending the party, gathering or event;
- B. Stop the malicious and willful disturbance of another by the making of loud or unreasonable noise by a person or persons attending the party, gathering or event;
- C. Stop a person or persons attending the party, gathering or event from using offensive words in a manner which is likely to provoke an immediate violent reaction;
- D. Stop a person or persons attending the party, gathering or event from rioting or using force or violence;
- E. Stop a person or persons attending the party, gathering or event from committing one or more specified unlawful acts; or
- F. Stop the party, gathering or event or disburse the crowd. (Ord. 667 § 1, 1992; 1991 code § 5-21.1)

9.25.020 Person or persons responsible for event.

Those persons who own, rent, lease or otherwise control the premises where the party, gathering or event occurs, those persons in charge of said premises and those persons who organized the party, gathering or event shall all be considered responsible parties under PHMC § 9.25.010. If a responsible party is a minor then his or her parents or guardian will also be considered responsible parties. (Ord. 667 § 1, 1992; 1991 code § 5-21.2)

9.25.030 Amount of fee.

The fee to be assessed under PHMC § 9.25.010 shall cover the cost of police personnel and equipment used in a subsequent response, but shall in no event exceed \$500.00 per response. Nothing herein shall be interpreted as waiving the city's right to seek reimbursement for actual costs including those exceeding \$500.00 through other legal remedies. The amount of such fee shall be deemed a debt owed to the city by the responsible party. If the city prevails in a court action to collect this fee it shall be entitled to attorney's fees and cost. (Ord. 667 § 1, 1992; 1991 code § 5-21.3)

9.25.040 Subsequent response.

A subsequent police response is any contact made by police to a responsible person, whether by loudspeaker or in person, in response to a complaint concerning a party, gathering or event, after police have made such contact previously concerning that same party, gathering or event. (Ord. 667 § 1, 1992; 1991 code § 5-21.4)

Chapter 9.30**CURFEW FOR MINORS¹**

Sections:

- 9.30.010 Designated.
- 9.30.020 Restaurants and dance halls after certain hours.
- 9.30.030 Permitting or encouraging violation.
- 9.30.040 Reporting presence of minor required.
- 9.30.050 Arrest of minor – Probation officer notified.
- 9.30.060 Exceptions.

9.30.010 Designated.

It is unlawful for any minor under the age of 18 years to loiter, wander or play in or upon public streets, sidewalks, alleys, parks, playgrounds, building or other public places, places of amusement and entertainment, or vacant lots or other unsupervised places between the hours of 10:00 p.m. and 6:00 a.m. of the following day. However, the provisions of this chapter shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the minor's care or custody, or where the minor is on an emergency errand or legitimate business directed by said parent, guardian or other adult. (1991 code § 5-5.1)

9.30.020 Restaurants and dance halls after certain hours.

It is unlawful for a person having charge or control of a cafe, tavern, restaurant, bar, eating place, or public dance hall to permit a person under 18 years to remain in the public place between 10:00 p.m. and daylight immediately following unless the minor is accompanied by a parent, guardian, or other adult person having the legal care and custody of the minor. (1991 code § 5-5.2)

9.30.030 Permitting or encouraging violation.

It is unlawful for a parent or any person to permit or encourage a minor under 18 years to violate PHMC § 9.30.010. (1991 code § 5-5.3)

9.30.040 Reporting presence of minor required.

Each owner, manager or keeper of a hotel, boardinghouse, lodging house, tenement house, motor court, or apartment house shall immediately report to the office of the chief of police the presence of a minor under 18 years, unless the minor is accompanied by a parent, guardian, or other adult person having the legal care and custody. The person making the report shall state the name, age, last known place of residence, the name and residence of the parent, guardian, or custodian of the minor. (1991 code § 5-5.4)

9.30.050 Arrest of minor – Probation officer notified.

When a minor is arrested for the violation of this chapter the Youth Services Bureau shall be notified, and a copy of the arrest report setting forth the circumstances of the arrest of the minor shall be forwarded to the Bureau. (1991 code § 5-5.5)

9.30.060 Exceptions.

PHMC § 9.30.010 through § 9.30.030 do not apply to Friday and Saturday nights where the minor is attending a bona fide meeting, dance or party at a church, school or youth club, or a theater. On Friday or Saturday nights

1. **Editor's note:** For provisions regarding curfew ordinances, see 49 Ops. Cal. Atty. Gen. 112.

it is unlawful for a minor under 18 years to be upon a public street, park, square, or public place between 12:00 midnight and daylight immediately following, except where the minor is accompanied by a parent, legal guardian, or an adult person having the legal care and custody of the minor. (1991 code § 5-5.6)

Chapter 9.35**FIREARMS**

Sections:

- 9.35.010 Discharging prohibited.
- 9.35.020 Possession by minors prohibited.
- 9.35.030 Exceptions.

9.35.010 Discharging prohibited.

No person may fire or discharge a firearm, gun, rifle, spring gun, air gun, air rifle, BB gun, pellet gun, sling shot, or other gun or device which throws or projects bullets or missiles of any kind by means of elastic force, air, or any explosive substance. (Amended during 2005 recodification; 1991 code § 5-8.1)

9.35.020 Possession by minors prohibited.

No person under 18 years may have in his or her possession or control a firearm, gun, rifle, spring gun, air gun, air rifle, BB gun, pellet gun, sling shot, or other gun or device which throws or projects a dangerous missile, cartridge, shell, ammunition, or device containing an explosive substance. (1991 code § 5-8.2)

9.35.030 Exceptions.

PHMC § 9.35.010 and § 9.35.020 do not apply to:

- A. Police, peace officers or person in the military service in the discharge of his or her duty using reasonable care;
- B. A person using firearms in necessary self-defense of his or her person or property as provided by law;
- C. The possession, discharge, or firing of a firearm at a shooting gallery. (Amended during 2005 recodification; 1991 code § 5-8.3)

Chapter 9.40**SALE AND DISPLAY OF NARCOTIC AND OTHER PARAPHERNALIA**

Sections:

- 9.40.010 Separate room required.
- 9.40.020 Minors.
- 9.40.030 Nuisance.
- 9.40.040 Tobacco papers and machines excluded.

9.40.010 Separate room required.

A person shall not maintain in any place of business to which the public is invited the display for sale, or the offering to sell, of devices, contrivances, instruments, or paraphernalia used, altered or modified for the purpose of smoking, injecting or consuming marijuana, hashish, PCP, or any controlled substance other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips designed and used for the smoking of the foregoing, unless within a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. Each entrance to such a room shall be sign-posted in visible and legible words to the effect that minors, unless accompanied by a parent or legal guardian, are excluded. For the purpose of this chapter an *enclosure* means an area of a room separated in such a manner that no material regulated by this chapter shall be visible from any area of the room open to minors. (Ord. 474 § 1, 1981; 1991 code § 5-10.1)

9.40.020 Minors.

A. Generally. No owner, manager, proprietor or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any device, contrivance, instrument or paraphernalia used, altered or modified for the purpose of smoking, injecting or consuming marijuana, hashish, PCP, or any controlled substance, as defined in the Health and Safety Code of the State of California, other than prescription drugs and devices to ingest or inject prescription drugs, as well as roach clips designed for the smoking of the foregoing, shall allow or permit any person under the age of 18 years to be, remain in, enter or visit such room unless such minor person is accompanied by one of his or her parents, or by his or her legal guardian.

B. Excluded. A person under the age of 18 years shall not be, remain in, enter or visit any room in any place used for the sale, or displaying for sale, devices, contrivances, instruments or paraphernalia used, altered or modified for the purpose of smoking, injecting or consuming marijuana, hashish, PCP, or any controlled substance other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips designed and used for smoking the foregoing, unless such person is accompanied by one of his or her parents or his or her legal guardian. (Ord. 474 § 1, 1981; 1991 code § 5-10.2)

9.40.030 Nuisance.

The distribution or possession for the purpose of sale, exhibition, or display in any place of business from which minors are not excluded as set forth in this chapter, and where devices, contrivances, instruments or paraphernalia used, altered or modified for the purpose of smoking, injecting or consuming marijuana, hashish, PCP, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips designed and used for smoking the foregoing, is declared to be a public nuisance and may be abated pursuant to the provisions of State of California Code of Civil Procedures section 731. This remedy is in addition to any other remedy provided by law, including the penalty provisions of this code. (Ord. 474 § 1, 1981; 1991 code § 5-10.3)

9.40.040 Tobacco papers and machines excluded.

Tobacco/cigarette papers and cigarette rolling machines are not included within the definition of paraphernalia for the purposes of this chapter. (Ord. 474 § 1, 1981; 1991 code § 5-10.4)

Chapter 9.45
TOBACCO PRODUCTS¹

Sections:

Article I. Regulation of Smoking

- 9.45.010 Findings.
- 9.45.020 Purpose.
- 9.45.030 Definitions.
- 9.45.040 *Repealed.*
- 9.45.050 Smoking prohibition.
- 9.45.060 Exceptions.
- 9.45.070 Smoking waste.
- 9.45.080 Duty to control – Signs.
- 9.45.090 Vending machines.
- 9.45.100 Distribution of free samples and coupons.
- 9.45.110 Out-of-package sales.
- 9.45.120 Implementation.
- 9.45.130 Penalties.
- 9.45.140 Nonretaliation.
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Article II. Restricting the Advertising and Promotion of Tobacco Products to Minors

- 9.45.160 Purpose.
- 9.45.170 Definitions.
- 9.45.180 Administration.
- 9.45.190 Restrictions on the advertising of tobacco products – Exceptions.
- 9.45.200 Sale and distribution of tobacco-related promotional items prohibited.
- 9.45.210 Self-service displays prohibited.
- 9.45.220 Violations.
- 9.45.230 Additional remedies – Disclaimers.

Article III. Retail Licenses

- 9.45.240 Retailer license requirement – Generally.
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- 9.45.290 Retailer license – Nontransferable.
- 9.45.300 Retailer license – Suspension.
- 9.45.310 Enforcement.

Article I. Regulation of Smoking

9.45.010 Findings.

The city council of the City of Pleasant Hill hereby finds that:

1. **Editor's note:** Prior ordinances codified herein include portions of Ords. 589, 600 and 681.

- A. The U.S. Environmental Protection Agency has determined that tobacco smoke is the major contributor of particulate indoor air pollution; and
- B. Reliable studies have shown that breathing secondhand smoke is a significant health hazard, in particular for elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and
- C. Health hazards induced by breathing secondhand smoke include heart disease, lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm; and
- D. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and
- E. The smoking of tobacco, or any other weed or plant, is a danger to health; and
- F. The health care costs and lost productivity incurred by smoking-related disease and death represent a heavy and avoidable financial drain on our community; and
- G. The free distribution of cigarettes and other tobacco products encourages people to begin smoking and using tobacco products, and tempts those who had quit smoking to begin smoking again; and
- H. Free distribution of cigarettes and other tobacco products promotes unsightly litter, thereby increasing the costs to the public in cleaning the streets, and also causes pedestrian traffic congestion. (Ord. 814 § 1, 2006)

9.45.020 Purpose.

The compelling purpose and intent of this article includes, but is not limited to, generally promoting the health, safety, and welfare of all people in the community against the health hazards and harmful effects of the use of addictive tobacco products. (Ord. 814 § 1, 2006)

9.45.030 Definitions.

The following words and phrases, whenever used in this article, shall be construed as set forth here, unless it is apparent that they have a different meaning:

Bar means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages (e.g., as allowed by Department of Alcoholic Beverage Control Type 42, 48 or 61 licenses).

Business means an entity formed for profit-making purposes that has an employee, as defined in this section.

Dining area means an area available to or customarily used by the general public for consuming food or drink.

Distribute means to give, sell, deliver, dispense, issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense, or issue.

Employee means a person who is employed by, retained by an independent contractor for, or volunteers his or services for an employer.

Employer means a person or entity, including a nonprofit entity, which employs the services of one or more persons or supervises volunteers.

Enclosed means:

1. A covered or partially covered space having more than 50% of its perimeter area walled in or otherwise closed to the outside (such as, for example, a covered porch with more than two walls); or
2. An uncovered space of 3,000 square feet or more having more than 75% of its perimeter area walled in or otherwise closed to the outside (such as, for example, a courtyard).

General public includes but is not limited to shoppers, customers, patrons, patients, students, clients and other similar invitees of a business or nonprofit entity.

Landlord includes the owner and manager of a multi-unit residence.

Multi-unit residence means a building or portion of a building that contains four or more dwelling units. It does not include a condominium. A *multi-unit residence common area* means an indoor or outdoor common area of a multi-unit residence accessible to and usable by more than one residence, including but not limited to a hall, lobby, laundry room, outdoor eating area, play area or swimming pool.

Nonprofit entity means an entity that (1) meets the requirements of California Corporations Code section 5003 or (2) a corporation, association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

Outdoor area means an area that is not enclosed, as defined in this section.

Place of employment means an enclosed area under the control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation. *Place of employment* includes, but is not limited to: indoor work areas, construction sites, vehicles used for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health care facilities, warehouses, and private residences that are used as child care or health care facilities subject to licensing requirements (during the hours and in the areas of operation).

Service area means an area used to receive or wait for a service, enter a public place or conduct a transaction, including ATMs, bank teller windows, public telephones, ticket lines, bus stops and taxicab stands.

Smoking means possessing a lighted pipe, lighted cigar, or lighted cigarette, or the lighting of a pipe, cigar or cigarette. (The pipe, cigar or cigarette may be of tobacco or any other weed or plant.)

Vending machine means any electronic or mechanical device which dispenses or releases a tobacco product and/or tobacco accessories. (Ord. 845 § 1, 2010; Ord. 814 § 1, 2006)

9.45.040 City facilities.

Repealed by Ord. 845. (Ord. 814 § 1, 2006)

9.45.050 Smoking prohibition.

Smoking is prohibited in the following places within the city, except as provided in PHMC § 9.45.060:

A. City property.

1. City facilities. Smoking is prohibited in each city building, vehicle, enclosed area used by employees, or outdoor area within 20 feet of a public entrance or exit, service entrance, or operable window of a city building. This prohibition applies to property owned, leased or operated by the city.
2. Outdoor public events. Smoking is prohibited at outdoor public events on city property (such as the summer concerts, farmers' market and Art Jazz and Wine Festival), except within a designated smoking area

in a location approved by the city manager. The prohibition includes any city street or sidewalk which is part of the event area. An event sponsor shall post signs to alert attendees to the prohibition and to the designated smoking area, and shall provide ash containers in the smoking area.

B. Places of employment.

1. General. Smoking is prohibited at places of employment, as defined in PHMC § 9.45.030.
2. Enclosed area adjacent to a place of employment. Smoking is prohibited in an enclosed area adjacent to a place of employment if it has a common or shared air space, ventilation, air conditioning or heating system. The fact that smoke enters one enclosed area from another is conclusive proof that the areas share a common or shared air space, ventilation, air conditioning or heating system.
3. Outdoor area within 20 feet. Smoking is prohibited in an outdoor area within 20 feet of a public entrance or exit, service entrance or operable window of a place of employment, except while actively passing on the way to another destination and so long as smoke does not enter the area where smoking is prohibited.
4. Residence used as child care or health care facility. Regarding a private residence used as a child care or health care facility, smoking is prohibited:
 - a. Inside the residence at any time (whether or not clients are actually present); and
 - b. Outside the residence within 20 feet of the building or play area for one hour before and during any time clients are present.

C. Service areas. Smoking is prohibited in a service area and within 20 feet of a service area.

D. Multi-unit residences.

1. Prohibition. Smoking is prohibited in the following areas of multi-unit residences:
 - a. Common areas, whether enclosed or not;
 - b. Within 20 feet of a door, operable window or ventilation system, except while actively passing on the way to another destination;
 - c. Prior to designation of non-smoking units, whether under subsection D.2. of this section or otherwise, on any private deck, balcony or patio at the request of a non-smoking tenant who resides within 20 feet of the smoker's deck, balcony or patio; and
 - d. After the designation of non-smoking units, whether under subsection D.2. of this section or otherwise, on a private deck that is within 20 feet of a designated non-smoking unit.
2. Obligations of landlord. The landlord of a multi-unit residence shall:
 - a. Designate 50% of the units existing as of January, 2010, as permanent non-smoking units. The designated non-smoking units shall be contiguous (both horizontally and vertically) unless physically infeasible to do so due to the layout of a particular housing complex. In any event, the landlord shall make good faith efforts to maximize the number of designated non-smoking units that are contiguous (both horizontally and vertically) to other non-smoking units. The landlord shall begin this designation process in January, 2011, and complete it within five years;
 - b. Designate 100% of the units constructed after the effective date of the ordinance codified in this section as non-smoking units;
 - c. Before entering a new or renewal lease, disclose to the lessee in writing (i) the location of smoking-allowed units; (ii) the existence of any adjacent unit where the tenant smokes; and (iii) if the prior tenant smoked in the unit;
 - d. Not charge a relocation fee to a tenant who requests moving to another available, equivalent or smaller unit to avoid secondhand smoke, except for the customary security deposit and any charges for damages caused by the tenant to the prior unit. If a tenant is relocated pursuant to this section, he/she shall pay (i) the same rent as the rent on the leased unit as long as the new unit is equivalent, or (ii) the market rent for a new unit that is not equivalent to the leased unit, without otherwise altering the terms and conditions of the existing lease;
 - e. Upon request of the city, provide written documents showing the non-smoking unit designations under subsections D.2.a and D.2.b of this section, and the written disclosures made under subsection D.2.c of this section.

3. No landlord liability. A landlord shall not be liable to any person for a tenant's breach of smoking regulations if the landlord has fully complied with subsection D.2.c of this section. (Ord. 850 § 1, 2010; Ord. 847 § 1, 2010; Ord. 845 § 3, 2010; Ord. 814 § 1, 2006)

9.45.060 Exceptions.

Smoking is permitted in the following places, notwithstanding the prohibitions of PHMC § 9.45.050.

- A. Restaurants and bars. Smoking is permitted in up to 25% of the outdoor area of a restaurant or bar if:
 - 1. The smoking section is designated with signs;
 - 2. The entire smoking section is in the same area and is located the furthest distance from the restaurant or bar entrance or operable windows, so as to minimize the chance of smoke entering the restaurant or bar; and
 - 3. Smoke from the outdoor area does not enter an adjacent worksite or residence.

- B. Guest rooms. Up to 25% of hotel and motel guest rooms, if the hotel or motel permanently designates the other, particular guest rooms as non-smoking rooms. In the nonsmoking rooms, ashtrays and matches must be permanently removed, and "no smoking" signage posted in the rooms.

- C. Theatrical productions. By performers during theatrical productions if smoking is an integral part of the story in the theatrical production.

- D. Multi-unit residences.
 - 1. The landlord of a multi-unit residence may designate a portion of an outdoor common area for smoking. The designated smoking area shall include not more than 25% of the outdoor common area, not be within 20 feet of a swimming pool or play area, not overlap with any area where smoking is otherwise prohibited by local, state, or federal law, be located at least 20 feet in all directions from non-smoking areas, have a clearly-marked perimeter and have clearly-marked signs.
 - 2. Although the city encourages all multi-unit residence owners and managers to comply with PHMC § 9.45.050.D, that subsection will not be enforced as to permanent or transitional housing facilities for people with special needs or disabilities. (Ord. 845 § 4, 2010; Ord. 814 § 1, 2006)

9.45.070 Smoking waste.

No person shall dispose of smoking waste within an area in which smoking is prohibited. (Ord. 814 § 1, 2006)

9.45.080 Duty to control – Signs.

- A. Duty to control. No person, employer, business or nonprofit entity shall knowingly permit the following in areas under his or her control:
 - 1. Smoking of tobacco products in an area in which smoking is prohibited by law;
 - 2. The placement or presence of ash receptacles (i.e., ash trays or ash cans) in an area in which smoking is prohibited, including an outdoor place within 20 feet of an entrance, exit or operable window.

- B. Greater control. Notwithstanding any other provision of this chapter, a property owner, landlord, employer, business or nonprofit entity may prohibit smoking in any area in which smoking would otherwise be permitted.

- C. Signs. Each person, employer, business or nonprofit entity who controls any property shall conspicuously post either:
 - 1. A "No Smoking" or "Smoke Free" sign, with letters at least one-inch high; or
 - 2. 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.

The absence of a required sign is a separate violation. The presence or absence of a sign shall not be a defense to the violation of another provision of this chapter. (Ord. 814 § 1, 2006)

9.45.090 Vending machines.

Cigarette vending machines may not be installed, utilized or operated on or within any premises in the city. (Ord. 814 § 1, 2006)

9.45.100 Distribution of free samples and coupons.

No person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes, or agent or employee thereof, shall in the course of such business distribute, or direct, authorize, or permit any agent or employee to distribute any of the following on or in a public street, sidewalk, park, playground or building: (A) any cigarette or other tobacco or smoking product, including any smokeless tobacco product; or (B) coupons, certificates, or other written material which may be redeemed for tobacco products without charge. (Ord. 814 § 1, 2006)

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9.45.110 Out-of-package sales.

No person shall sell or offer for sale cigarettes or smokeless tobacco not in the original packaging provided by the manufacturer. (Ord. 814 § 1, 2006)

9.45.120 Implementation.

Administration of this article shall be by the city manager or his or her designee. (Ord. 814 § 1, 2006)

9.45.130 Penalties.

A. The city may enforce this article by any means authorized in PHMC Chapter 1.25, including an administrative citation under PHMC Chapter 1.35.

B. Exposing other people to secondhand smoke constitutes a public nuisance and may be abated. (PHMC § 1.25.030.) (Ord. 814 § 1, 2006)

9.45.140 Nonretaliation.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this article. (Ord. 814 § 1, 2006)

9.45.150 Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 814 § 1, 2006)

Article II. Restricting the Advertising and Promotion of Tobacco Products to Minors**9.45.160 Purpose.**

The purpose of this article is to promote the welfare of minors by discouraging the commercial exploitation of potential underage tobacco users and by discouraging actions that promote the unlawful sale of tobacco products to minors as well as the unlawful purchase or possession of tobacco products by minors. (Ord. 737 § 2, 1999; 1991 code § 9-3.1)

9.45.170 Definitions.

As used in this article:

Advertising display sign means a sign, billboard, signboard, poster, placard, freestanding sign, pennant, banner, graphic display, mural, or similar device that is used to advertise or promote a product. It includes a sign which is temporary or permanent, placed on or affixed to the ground, sidewalk, a pole or post, fence, or a building, or displayed in the window or door of a commercial establishment.

Chief of police means the city chief of police or his or her designee.

Mobile billboard means an advertising display sign which is placed on or affixed to a vehicle if the vehicle is parked within a public right-of-way or on private property and is used primarily to advertise a product. (See Prohibited signs, PHMC § 18.60.060.)

Offering for sale means that tobacco products are actually sold and/or displayed in the retail establishment.

Promotion means a display of any logo, brand name, character, graphic, artwork, colors, scenes, or designs that are a recognized image of a particular product brand that calls the public's attention to the product brand.

Publicly visible location means an outdoor location that is visible from any street, sidewalk, or other public thoroughfare, or a location inside a commercial establishment that is in or adjacent to a window or doorway and is visible from any street, sidewalk, or other public thoroughfare. To be considered *publicly visible*, an inside location must be within one foot of a window or doorway.

Tobacco product means a substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, and smokeless tobacco. (Ord. 737 § 2, 1999; 1991 code § 9-3.2)

9.45.180 Administration.

This article shall be administered by the chief of police. The chief may develop guidelines to ensure implementation of this article. (Ord. 737 § 2, 1999; 1991 code § 9-3.3)

9.45.190 Restrictions on the advertising of tobacco products – Exceptions.

A. Restriction. No person shall place or maintain, or cause or allow to be placed or maintained, any advertising or promotion of tobacco products on an advertising display sign in a publicly visible location within 1,600 feet of the perimeter of: a public or private elementary, middle or secondary school; or a public playground or play-

ground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds or basketball courts).

B. Exceptions. Subsection A of this section does not apply to advertising or promotion for tobacco products which are:

1. Located inside a commercial establishment, unless the advertising display sign or promotion is attached to, affixed to, leaning against, or otherwise in contact with any window or door in such a manner that it is visible from a street, sidewalk or other public thoroughfare;
2. On vehicles, other than mobile billboards;
3. On any sign located inside or immediately outside a commercial establishment if the sign provides notice that the establishment sells tobacco products, so long as the sign does not promote any brand of tobacco product; or
4. On tobacco product packaging. (Ord. 737 § 2, 1999; 1991 code § 9-3.5)

9.45.200 Sale and distribution of tobacco-related promotional items prohibited.

A. No manufacturer, distributor, or retailer of tobacco products may market, license, distribute, sell, or cause to be marketed, licensed, distributed or sold any item (other than tobacco products) or service to a minor which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of tobacco product.

B. No person in the business of selling or otherwise distributing tobacco products for commercial purposes shall, in the course of such business, distribute, or direct, authorize or permit any agent or employee to distribute any of the following on a public street or sidewalk, in a public park or playground, or on any other public ground or in a public building: (1) a cigarette or other tobacco product; or (2) a coupon, certificate, or other written material which may be redeemed for tobacco products without charge. (Ord. 737 § 2, 1999; 1991 code § 9-3.6)

9.45.210 Self-service displays prohibited.

It is unlawful for a person to sell, permit to be sold, offer for sale, or display for sale any packaged tobacco product by means of a self-service display, rack, counter top or shelf that allows a self-service customer access to a packaged tobacco product. All packaged tobacco products shall be offered for sale exclusively by means of seller assistance. Packaged tobacco products shall be located exclusively in a locked case, located behind counters out of reach from customers, or in a similar location that is inaccessible to customers, requiring seller assistance for the customer to obtain access to the packaged tobacco products. (Ord. 737 § 2, 1999; 1991 code § 9-3.7)

9.45.220 Violations.

A. Chief of police review. A private citizen or a city officer or employee may submit a written complaint to the chief of police concerning any advertising or promotion prohibited by this article. The chief will review and, if determined to be appropriate, act upon the complaint in a timely manner. The chief may serve written notice requiring correction of any violation of this article upon the person responsible for the business or for the advertising display sign or promotion or self-service display prohibited by this article. Any notice issued shall specify a date by which the violation must be corrected. The notice shall be served by (1) personal service or by (2) certified and first class mail.

B. Correction. The person responsible shall correct the violation within the time specified in the notice.

C. Each display and each day a separate offense. Each separate display of tobacco advertising or promotion prohibited by this article is considered a separate violation. Each day a violation continues is considered a separate violation.

D. Each business location a separate entity. For purposes of determining liability, each individual franchise or business entity is deemed a separate entity. (Ord. 737 § 2, 1999; 1991 code § 9-3.8)

9.45.230 Additional remedies – Disclaimers.

A. Intent as to additional legal restrictions and remedies. Nothing in this chapter is intended to alter the obligations or restrictions that apply to any person under any other law governing signs, billboards, tobacco advertising or any other matter covered by this chapter. The remedies set forth in this article are not exclusive. If any action prohibited by this chapter is also unlawful under any other law, the penalties and remedies under other laws may be pursued in addition to those provided in this chapter.

B. Disclaimers. By prohibiting the advertising or promotion of tobacco products in outdoor or publicly visible locations, prohibiting the distribution of tobacco-related promotional items and self-service displays of tobacco products, the city is only promoting the general welfare. It is not assuming, nor is it imposing upon its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 737 § 2, 1999; 1991 code § 9-3.9)

Article III. Retail Licenses

9.45.240 Retailer license requirement – Generally.

A. License required. It is unlawful for a person or retailer who, within the last 12 months, has been determined to be in violation of a provision of this chapter, or applicable state or federal law governing the sale and distribution of tobacco, to sell or offer for sale any tobacco products within the city without first obtaining and maintaining a tobacco retailer’s license from the city.

It is unlawful for a person or retailer who is required to have a tobacco retailer’s license to sell or offer for sale any tobacco products if the license has been suspended under PHMC § 9.45.300.

A tobacco retailer’s license shall be obtained from the chief of police.

B. Term of license – Obligation to maintain. A license is valid for three years, and a person or retailer subject to this license requirement must maintain the license during the three-year period. If there are no further violations of any laws regulating the sale or distribution of tobacco in that three-year period, a tobacco retailer’s license will no longer be required. (Ord. 737 § 2, 1999; 1991 code § 9-3.10)

9.45.250 Retailer license – Application procedure.

An application for a tobacco retailer’s license shall be submitted in the name of the person or retailer who, following a finding of violation as specified in PHMC § 9.45.240, proposes to conduct retail tobacco sales on the business premises. The application shall be signed by the person or retailer or its authorized agent. The application shall be submitted on a form provided by the city and shall contain the following information:

A. The name, address, and telephone number of the applicant;

B. The business name, address, and telephone number where tobacco is to be sold; and

C. Such other information as the chief of police determines is reasonably necessary for implementation of this chapter. (Ord. 737 § 2, 1999; 1991 code § 9-3.11)

9.45.260 Retailer license – Issuance.

Upon receipt of a completed application for a tobacco retailer's license, including payment of the license fee, the chief of police will issue a license. A license may not be issued if there are continuing, uncorrected violations. (Ord. 737 § 2, 1999; 1991 code § 9-3.12)

9.45.270 Retailer license – Fee.

The fee for a tobacco retailer's license shall reflect the actual cost of processing the license, including inspection of the tobacco retailer's business premises and implementation of the licensing program, as established by resolution of the city council. The fee shall not exceed \$500.00 annually. (Ord. 737 § 2, 1999; 1991 code § 9-3.13)

9.45.280 Retailer license – Display.

The license must be prominently displayed at the location where tobacco retail sales are conducted. (Ord. 737 § 2, 1999; 1991 code § 9-3.14)

9.45.290 Retailer license – Nontransferable.

The tobacco retailer's license is nontransferable. If there is a change in location, a new tobacco retail license will be issued for the new address upon receipt of an application for change of location. The new license will retain the same expiration date as the previous one. (Ord. 737 § 2, 1999; 1991 code § 9-3.15)

9.45.300 Retailer license – Suspension.

A. Suspension of license. In order to discourage violations of law, a tobacco retailer's license may be suspended if the chief of police finds that the licensee or his or her employee has violated any law regulating the sale or distribution of tobacco. (See PHMC § 9.45.240.A.) The chief may suspend the license only after giving the licensee notice and a reasonable opportunity to be heard on the matter. The chief shall put his or her findings in writing.

B. Time period of suspension.

1. The first time that the chief finds a violation occurred, the license to sell tobacco products may be suspended for up to 60 days.
2. After the second time that the chief finds a violation occurred within a 12-month period, the license to sell tobacco products may be suspended for up to 120 days.
3. After the third and each subsequent time that the chief finds a violation occurred within a 12-month period, the license to sell tobacco products may be suspended for up to one year.

C. Appeal of suspension. A decision of the chief to suspend a tobacco retailer's license may be appealed to the city manager or his or her designee. (Ord. 737 § 2, 1999; 1991 code § 9-3.16)

9.45.310 Enforcement.

The city may enforce this article by any means authorized in PHMC Chapter 1.25, including an administrative citation under PHMC Chapter 1.35. (Amended during 2005 recodification; Ord. 737 § 2, 1999; 1991 code § 9-3.17)

Chapter 9.50

ALCOHOLIC BEVERAGES

Sections:

9.50.010 Prohibited in public place.

9.50.020 Alcoholic beverages prohibited – Private juvenile parties.

9.50.010 Prohibited in public place.

It is unlawful for any person to consume, drink, exhibit, or possess an open container of any alcoholic or intoxicating beverage on any public place, including but not limited to any public street, sidewalk or alley and public parking lot in the city, except for those properties under the jurisdiction of other public entities within the city. (Ord. 575 § 1, 1985; 1991 code § 5-11.1)

9.50.020 Alcoholic beverages prohibited – Private juvenile parties.

It is unlawful for any person to suffer, permit, allow or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where five or more persons under the age of 21 are present and alcoholic beverages are in the possession of, or are being consumed by, anyone under the age of 21 years. (Ord. 666 § 1, 1992; 1991 code § 5-11.3)

Chapter 9.55**AUTOMATIC COMMUNICATION DEVICES**

Sections:

- 9.55.010 Definitions.
- 9.55.020 Prohibited acts.
- 9.55.030 Consent withdrawn.

9.55.010 Definitions.

As used in this chapter:

Telephone number means and includes any additional numbers assigned by a public utility company engaged in the business of providing communications services and facilities to be used by means of a rotary or other system to connect with the subscriber to the primary number(s) when the number(s) are in use. (Ord. 276 § 1, 1971; 1991 code § 5-18.1)

9.55.020 Prohibited acts.

No person shall use or operate, cause to be used or operated, arrange, adjust, program or otherwise provide or install any device or combination of devices that will, upon activation, either mechanically, electrically, automatically, or by any other means initiate the intrastate calling, dialing or connection to any telephone number, line or instrument assigned to the city without the city's prior written consent. (Ord. 276 § 1, 1971; 1991 code § 5-18.2)

9.55.030 Consent withdrawn.

The city may withdraw its consent by written notice to the person to whom the consent was given and such person shall have the device(s) disconnected within seven days of receipt of the written notice of withdrawal. (Ord. 276 § 1, 1971; 1991 code § 5-18.3)

Chapter 9.60

DISTRIBUTION OF ADVERTISING CIRCULARS

Sections:

9.60.010 Findings.

9.60.020 Throwing advertising circulars on private property prohibited.

9.60.010 Findings.

The city council finds and determines that the practice of throwing and scattering advertising handbills, circulars, posters and other such printed matter, weighted with stones or other material, upon property in the city without consent of the property owner or occupant poses a danger to the public safety and welfare, and creates unsightly and unwanted litter. The city council declares that these acts constitute a public nuisance. (Ord. 636 § 1, 1990; 1991 code § 5-20.1)

9.60.020 Throwing advertising circulars on private property prohibited.

No person may throw or scatter advertising or commercial handbills, circulars, posters or other such printed matter, weighted with stones or other material, upon any private property in the city without first obtaining the permission of the owner or lawful occupant thereof. (Ord. 636 § 1, 1990; 1991 code § 5-20.2)