

ORDINANCE NO. 965

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF LANCASTER, CALIFORNIA, ADDING CHAPTER 5.54
TO THE LANCASTER MUNICIPAL CODE RELATING TO
HORSE DRAWN VEHICLES

WHEREAS, a city “may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws” (Cal. Const., art. XI § 7); and

WHEREAS, “[t]he legislative body of an incorporated city may, in the exercise of its police power, and for the purpose of regulation ... license any kind of business not prohibited by law transacted and carried on within the limits of its jurisdiction” (Cal. Bus. & Prof. Code § 16000(a)); and

WHEREAS, pursuant to the foregoing authority, the City of Lancaster has determined that it is in the public interest and welfare to add Chapter 5.54 to the Lancaster Municipal Code in order to establish regulations that regulate horse-drawn vehicles within the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 5.54 (“Horse-Drawn Vehicles”) is hereby added to the Lancaster Municipal Code to read as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including Exhibit “A”, is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the _____ day of _____, 2011, and placed upon its second reading and adopted at a regular meeting of the City Council on the _____ day of _____, 2011 by the vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF LANCASTER)

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CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 965, for which the original is on file in my office.

WITNESS MY HAND AND SEAL OF THE CITY OF LANCASTER, on this _____

Day of the _____, _____.

(seal)

EXHIBIT “A”
CHAPTER 5.54
HORSE-DRAWN VEHICLES

Sections:

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5.54.010 Purpose.

The purpose of this chapter is to regulate the commercial operation of horse-drawn vehicles in the city, in order to ensure that horse-drawn vehicles are operated safely and to protect the public health, safety and welfare.

5.54.020 Definitions.

Except as otherwise expressly set forth herein, the following words and terms as used in this chapter shall have the following meanings:

“City” means the City of Lancaster.

“City manager” means the city manager of the city or his or her duly authorized representative.

“DMV” means the California Department of Motor Vehicles.

“Driver” means any person who drives or operates a horse-drawn vehicle on the public streets of the city.

“Driver’s permit” means a permit issued to a driver of a horse-drawn vehicle in the city pursuant to the provisions of this chapter.

“Horse-drawn vehicle” means any hack or carriage that is operated by being drawn by a horse, mule or other animal, for the transportation for hire of passengers.

“Owner’s permit” means a permit issued to an owner of a horse-drawn vehicle business operating in the city pursuant to the provisions of this chapter.

“Public street” means any street, avenue, highway or other public way in the city, and shall include the entire right-of-way thereof.

“Stand” means a public place alongside the curb of a public street, or elsewhere, which has been designated by the city for use as a passenger pick-up and discharge location for horse-drawn vehicles.

5.54.030 Owner’s and driver’s permit required.

A. It is unlawful to operate or cause to be operated a horse-drawn vehicle for hire business within the city without first having obtained an owner’s permit in accordance with the provisions of this chapter.

B. It is unlawful to drive a horse-drawn vehicle for hire within the city without first having obtained driver’s permit in accordance with the provisions of this chapter.

5.54.040 Owner’s permit—application, issuance and denial.

A. An application to operate or cause to be operated a horse-drawn vehicle for hire shall be submitted to the city manager, on a form supplied by the city manager, and shall contain or be accompanied by the following information:

1. The name, age, California driver’s license number (as issued by the DMV), business address, residence and telephone number of the applicant, if a natural person; if a corporation, its name, date and place of incorporation, address of its principal office, federal employer and/or tax identification number, telephone number, and the name of its principal officers together with their respective addresses; if a partnership, association, or other unincorporated entity, the names of the partners or persons comprising the association or company, the place of business and residence of each.

2. A summary of the past experience of applicant in the service proposed.

3. The name, address and past experience of the person to be in charge of the applicant’s business.

4. A statement as to whether a license, permit or certificate issued to applicant, any person listed in the application, or a transportation business in which the applicant or any person listed in the application is or was a partner, director or officer has been revoked, cancelled or suspended by any federal, state or local governmental agency or entity.

5. A statement as to whether applicant has ever been convicted of violating Section 597 of the California Penal Code or any crime involving the abuse of, cruelty towards, or neglect of an animal.

6. Such facts that applicant believes tend to prove or support the granting of a permit.

7. The number of horse-drawn vehicles to be operated or controlled by applicant, and a description of each such horse-drawn vehicle, including its model, serial

number, its seating capacity, the name of its manufacturer, and the location of its proposed depots and/or terminals.

8. The color scheme or insignia to be used to designate applicant's horse-drawn vehicle(s).

9. The location of the proposed horse-drawn vehicle business and satisfactory proof that the premises are in compliance with all applicable laws, regulations, statutes and ordinances.

10. Evidence acceptable to the city manager that applicant is the registered owner of each horse-drawn vehicle and animal to be utilized in applicant's horse-drawn vehicle for hire business.

11. A copy of the insurance policy naming the city as an additional insured, with appropriate limits, as required by and further described in this chapter.

12. Evidence acceptable to the city manager that the applicant has secured at least one place to be designated as a regular stand as described in Section 5.54.090, which shall be subject to approval by the city manager.

13. A statement that each horse-drawn vehicle to be utilized in applicant's horse-drawn vehicle for hire business is equipped with a functioning and effective emergency braking system.

14. One of the following:

a. A receipt from the Los Angeles County Sheriff's Department evidencing that the applicant has (i) submitted fingerprint a card Form FD258 or such other fingerprint card as is accepted by the Department of Justice and the Federal Bureau of Investigation; and (ii) paid any and all fees required to conduct a background check on the applicant; or

b. A receipt evidencing that the applicant has (i) obtained electronic fingerprint scans, also known as Livescan, to the extent such technology is available, for the applicant; and (ii) paid any and all fees required to conduct background checks on the applicant; or

c. A letter authorizing the city to utilize data retrieved pursuant to a background check completed within forty-five days of the applicant's submission of his or her application to the city. Such authorization letter shall state the name and include the signature of the applicant and shall state the name of the jurisdiction or entity that conducted the previous background check. Data retrieved pursuant to a background check conducted by the Los Angeles County Sheriff's Department shall be presumed valid. Data retrieved pursuant to a background check conducted by any other jurisdiction or entity shall be accepted upon approval by the city manager.

15. A statement by the applicant acknowledging that pursuant to Section 21052 of the Vehicle Code the driver of a horse-drawn vehicle is generally subject to the all of the requirements and duties applicable to the driver of a vehicle by Division 10 – "Accidents and Accident Reports" (commencing with Section 20000) and Division 11 – "Rules of the Road" (commencing with Section 21000) of the Vehicle Code.

16. Such other information as the city manager may require.

B. Within thirty days of receipt of an application for an owner's permit and the required fee, the city manager shall issue an owner's permit unless substantial record evidence demonstrates one of the following bases for denial:

1. The application is incomplete or inaccurate; or
2. A horse-drawn vehicle, animal and/or appurtenance described in the application is inadequate or unsafe for the purposes for which it is to be used; or
3. The name, monogram, or insignia to be used imitates or is substantially similar to any name, monogram or insignia used by any other person or entity in such manner as to be misleading or tending to deceive, confuse or defraud the public; or
4. A license, permit or certificate issued to applicant, any person listed in the application, or a transportation business in which the applicant or any person listed in the application is or was a partner, director or officer has been revoked, cancelled or suspended by any federal, state or local governmental agency or entity; or
5. The applicant has operated a horse-drawn vehicle for hire within the city in violation of this code; or
6. The operation of a horse-drawn vehicle for hire as stated in the application will threaten public peace, health, safety and/or welfare; or
7. The applicant has been convicted of violating Section 597 of the California Penal Code or any crime involving the abuse of, cruelty towards, or neglect of an animal.

C. The city manager may require a criminal background investigation of any applicant by the Los Angeles County Sheriff's Department as part of determining whether or not to issue a permit pursuant to this section.

D. The permit issued pursuant to this section shall state on its face such information as shall be determined by the city manager. A duplicate of the permit issued pursuant to this section may be issued by the city manager to replace a permit that has been lost or destroyed upon the filing of a statement that such permit has been lost or destroyed and payment of a duplicate permit fee as established by resolution of the city council.

5.54.050 Driver's permit—application, issuance and denial.

A. An application for a permit to drive a horse-drawn vehicle for hire shall be submitted to the city manager, on a form supplied by the city manager, and shall contain or be accompanied by the following information:

1. The name, age, address, telephone number and California driver's license number (as issued by the DMV) of the applicant.
2. A statement as to whether the applicant has been convicted of a violation of any federal law, the law of any state or of this code, and, if so, a description of the circumstances of such conviction and the sentence of the court. A statement as to whether applicant has ever been convicted of violating Section 597 of the California Penal Code or any crime involving the abuse of, cruelty towards, or neglect of an animal.

3. A letter or certificate from a licensed physician certifying that, in his or her opinion, the applicant is not afflicted with any contagious disease or infirmity that may make the applicant an unsafe and unsatisfactory driver.

4. A copy of the driver's license issued to applicant by the DMV and evidence that such driver's license is not suspended or revoked.

5. A copy of applicant's driving record for the previous twelve months, including a driving record issued by the DMV and any other state in which applicant was licensed to drive within the previous twelve months.

6. Evidence that applicant has completed a horse-drawn vehicle driver proficiency and/or training program, which shall be subject to approval by the city manager.

7. One of the following:

a. A receipt from the Los Angeles County Sheriff's Department evidencing that the applicant has (i) submitted fingerprint a card Form FD258 or such other fingerprint card as is accepted by the Department of Justice and the Federal Bureau of Investigation; and (ii) paid any and all fees required to conduct a background check on the applicant; or

b. A receipt evidencing that the applicant has (i) obtained electronic fingerprint scans, also known as Livescan, to the extent such technology is available, for the applicant; and (ii) paid any and all fees required to conduct background checks on the applicant; or

c. A letter authorizing the city to utilize data retrieved pursuant to a background check completed within forty-five days of the applicant's submission of his or her application to the city. Such authorization letter shall state the name and include the signature of the applicant and shall state the name of the jurisdiction or entity that conducted the previous background check. Data retrieved pursuant to a background check conducted by the Los Angeles County Sheriff's Department shall be presumed valid. Data retrieved pursuant to a background check conducted by any other jurisdiction or entity shall be accepted upon approval by the city manager.

8. A statement by the applicant acknowledging that pursuant to Section 21052 of the Vehicle Code the driver of a horse-drawn vehicle is generally subject to the all of the requirements and duties applicable to the driver of a vehicle by Division 10 – "Accidents and Accident Reports" (commencing with Section 20000) and Division 11 – "Rules of the Road" (commencing with Section 21000) of the Vehicle Code.

9. Such other information as the city manager may require.

B. Within thirty days of receipt of an application for driver's permit and the required fee, the city manager shall issue a driver's permit unless substantial record evidence demonstrates one of the following bases for denial:

1. The application is incomplete or inaccurate; or

2. The applicant is not at least eighteen years of age; or

3. The applicant is afflicted with a disease or infirmity that may make the applicant an unsafe and unsatisfactory driver; or

4. The applicant has been convicted of operating a motor vehicle while under the influence of an intoxicating beverage or drug within one year prior to the date of the application submitted pursuant to this section, or has been convicted of such an offence three or more times within the years prior to the date of the application submitted pursuant to this section; or

5. The applicant does not possess a current and valid driver's license issued by the DMV; or

6. The applicant has not completed a horse-drawn vehicle driver proficiency and/or training program determined by the city manager to be sufficient in order to protect public health, safety and welfare; or

7. The applicant has been convicted of violating Section 597 of the California Penal Code or any crime involving the abuse of, cruelty towards, or neglect of an animal.

C. The city manager may require a criminal background investigation of any applicant by the Los Angeles County Sheriff's Department as part of determining whether or not to issue a permit pursuant to this section.

D. The permit issued pursuant to this section shall state on its face such information as shall be determined by the city manager. A duplicate of the permit issued pursuant to this section may be issued by the city manager to replace a permit that has been lost or destroyed upon the filing of a statement that such permit has been lost or destroyed and payment of a duplicate permit fee as established by resolution of the city council.

5.54.060 Operating regulations.

A. The owner of a horse-drawn vehicle business issued a permit pursuant to this chapter, including each driver and any person operating in the employ of such a business, shall comply with the following regulations and requirements in the conduct of horse-drawn vehicle activities:

1. A licensed veterinarian shall certify, after due and proper inspection, to the good health of each animal with a statement that the animal is able and capable of service as described in this chapter before it is placed into service. A minimum of one such health inspection shall be required for each animal each calendar year. A record of each health inspection shall contain the estimated age and weight of the animal, any significant medical findings and any recommendations for treatment. Proof of a health inspection shall be furnished prior to any animal beginning service, and thereafter prior to the issuance of a new and/or renewal of an owner's permit.

2. No single animal shall pull a vehicle with a gross weight of more than two and a half (2½) times the weight of such animal or a vehicle holding more than six (6) people, excluding one (1) driver and one (1) assistant. Stallions shall not be used in the conduct of a horse-drawn vehicle business. Pregnant mares shall not be worked past the ninth month of pregnancy. Animals younger than five years of age or older than twenty-six years of age shall not be used in the conduct of a horse-drawn vehicle business.

3. Unless written approval is given by a licensed veterinarian, no animal having open sores or wounds, or any disease or ailment, shall be permitted to be in service. Such written approval must be provided upon demand to any peace officer, code enforcement officer employed by the city, business license enforcement officer employed by the city and/or the city manager.

4. Each animal shall have its hooves properly trimmed and shod for street surfaces.

5. Each animal shall be groomed daily and not have fungus, dandruff, or a dirty coat.

6. Harnesses shall be properly fitted, maintained, and oiled so that no irritating materials will come in direct contact with the animal. Bridles and halters shall be used on animals at all times when pulling a vehicle. When tethered, animals shall be secured by the use of a rope attached to the halter. No animal shall be tethered to the bit or bridle.

7. No animal shall be subject to any condition or treatment, whether in service or out of service, that will impair the good health and physical condition of that animal. No animal shall pull a vehicle during weather or other conditions that pose a significant risk to the health, safety and/or welfare of the animal, driver of the vehicle, passengers in the vehicle or the general public. For the purpose of this paragraph, the term "weather or other conditions that pose a significant risk to the health, safety and/or welfare of the animal" shall include, without limitation, the following: (i) an ambient air temperature higher than ninety-five degrees Fahrenheit (95°F); (ii) an ambient air temperature lower than thirty-five degrees Fahrenheit (35°F); or (iii) a heat index value of one hundred twenty degrees (120°) or higher. A blanket that has been specifically designed and constructed for use by the subject animal shall be provided to each idle animal when the ambient air temperature is below fifty degrees Fahrenheit (50°F).

8. Adequate water shall be provided in stables, stalls and all other places where an animal is boarded at all times while any animal is present.

9. Ventilation adequate to ensure the health and comfort of animals shall be provided in stable and stall areas.

10. Bedding in stalls and stables shall be kept at least six inches deep and shall not show wetness under the pressure of any animal's hooves.

11. Adequate and leak-free roofing is required for any stable or stall area in which animals are housed.

12. Each individual animal shall have a stall large enough for the animal to safely turn around, but in no case shall any individual animal be kept in a stall less than one hundred forty-four square feet in area. Ceilings in stalls and stables must be at least twelve feet from the bedding and flooring.

13. The insurance requirements imposed by this chapter shall be satisfied.

14. Each horse-drawn vehicle operated on a public street shall have a sign plainly painted or affixed on each side, in letters not less than four inches high, containing the full name of the owner.

15. There shall be painted or affixed on each side and on the rear of each horse-drawn vehicle operated on a public street a number at least six inches high, such number to be a separate and distinct number from that on any other public vehicle or taxicab in the city. The number shall be assigned to such horse-drawn vehicle, and the owner thereof, by the city manager and shall not be altered or changed without the written consent of the city manager.

16. Each horse-drawn vehicle operated on a public street shall be maintained in a safe mechanical condition, with all safety equipment remaining intact and operative at all times when the horse-drawn vehicle is in service. Each horse-drawn vehicle operated on a public street shall be equipped with a functioning and effective emergency braking system.

17. Each horse-drawn vehicle operated on a public street shall be kept painted and in a clean and sanitary condition, free of litter and debris at all times suitable for public transportation of passengers.

18. Each horse-drawn vehicle operated on a public street shall be equipped with electrically powered lights or lanterns and reflectors, which lights shall be in use when operating during the hours of darkness and when raining. The lights and reflectors shall be mounted so that they are visible from a distance of five hundred feet in any direction. Reflectors shall meet requirements of Section 24614 of the California Vehicle Code. Each horse-drawn vehicle operated on a public street shall have on board at all times a four-pound all-purpose fire extinguisher and a first aid kit.

19. Each horse-drawn vehicle operated on a public street shall be equipped with a properly installed and maintained device to catch feces before it falls to the ground and shall ensure that any feces and/or other waste deposited on any public street is cleaned immediately. In the event an owner and/or driver fails to comply with this paragraph, the city may do so and in such case shall invoice the owner for the cost of clean up and/or removal. The owner's failure to pay such invoice within thirty days shall be grounds to suspend the owner's permit issued pursuant to this chapter.

20. Either the owner of a horse-drawn vehicle business or the driver of a horse-drawn vehicle shall utilize and apply sweat resistant fly spray as necessarily in order to control the number of flies on or around the animal.

21. No horse-drawn vehicle operated on a public street may stop in traffic, or delay any on-street traffic, for the purpose of loading or unloading passengers, or for any other purpose.

22. No owner or driver may charge a greater sum for the use of a horse-drawn vehicle than the rate published, advertised and indicated on a rate card that is posted in the horse-drawn vehicle. Such rate card shall be displayed in such a place as to be conspicuous and to be in clear view of all passengers.

23. No driver may leave a horse-drawn vehicle, or the immediate premises thereof, while the horse-drawn vehicle is parked at a horse-drawn vehicle stand as described in Section 5.54.090 while waiting to be hired.

24. No driver may permit more persons to be carried in a horse-drawn vehicle as passengers than the rated seating capacity of his or her horse-drawn vehicle, which rated seating capacity shall be indicated on the rate card that is posted in the horse-drawn vehicle, and in no case shall a single animal pull a vehicle with a gross weight of more than two and a half

(2½) times the weight of such animal or a vehicle holding more than six (6) people, excluding one (1) driver and one (1) assistant.

25. No driver may refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged, or unable, or forbidden by the provisions of this chapter.

26. No driver may solicit business for any hotel or other business or attempt to divert patronage from one hotel or business to another or use his or her vehicle for any purpose other than the transportation of passengers.

27. No driver may collect fares, make change, take on or discharge passengers, use headphones, or text or talk on a mobile telephone without a hands-free application while his or her horse-drawn vehicle is in motion.

28. No driver may use more than a light touch of the whip upon any animal, and no driver or other person may forcibly strike an animal or make movements or noises intended to frighten or harm an animal.

29. No driver may permit an animal to pull a vehicle at a speed faster than a slow trot, except in an emergency situation.

30. The driver's permit issued pursuant to Section 5.54.050 shall be displayed in such a place as to be conspicuous and to be in clear view of all passengers.

31. The driver of a horse-drawn vehicle being operated on a public street shall have in his or her possession either the original or a copy of the owner's permit issued pursuant to Section 5.54.040 and the animal's health certificate required by Section 5.54.060(A)(1).

B. The city manager may promulgate additional operating requirements in order to implement this chapter; provided, however that such additional operating requirements may not conflict with the provisions of this chapter.

5.54.070 Indemnity and insurance.

A. An owner issued a permit pursuant to this chapter shall hold the city, its officers, agents, servants and employees, harmless against any and all liability, loss, damages or expenses that may accrue to the city by the reason of negligence, default or misconduct of the owner in connection with the rights granted to the owner pursuant to this chapter. Nothing in this chapter shall be considered to make the city, its officers, agents, servants or employees liable for damages because of any negligent act or omission or commission by any owner, its servants, agents, drivers or other employees, during the operation by the owner of a horse-drawn vehicle business or service, either in respect to injury to persons or with respect to damage to property which may be sustained.

B. Any owner desiring a permit pursuant to this chapter shall give and maintain a policy of insurance from a company authorized to do business in the state of California for each vehicle in use as a horse-drawn vehicle. The minimum coverage shall be \$250,000 for bodily injury to any one person, \$1,000,000 for injury to more than one person which is sustained in the same accident, and \$100,000 for property damage resulting from one accident. The indemnity

insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property caused by the negligence of an owner, its employees, drivers, servants or agents.

C. Any owner desiring a permit pursuant to this chapter shall give a separate policy of insurance for each separate horse-drawn vehicle for hire, except where such owner actually owns or holds legal title to more than one horse-drawn carriage, in which event such owner may give one policy of insurance covering all the horse-drawn vehicles actually owned. This latter provision, however, shall not apply to any group of persons separately owning horse-drawn vehicles who may be jointly operating or doing business under a single owner's license.

D. Any owner desiring a permit pursuant to this chapter shall maintain from a licensed insurance company comprehensive general liability insurance in the amount of \$1,000,000 for its undertakings associated with activities pursuant to this chapter.

E. Before any policy of insurance required by this chapter is voided for any cause, nonpayment of premium or otherwise, notice thereof shall be given, in writing, to the city at least ten days before the same shall take effect.

5.54.080 Authority to remove horse-drawn vehicles from public streets.

The city manager shall have the authority to order removed from operation on the public streets of the city any horse-drawn vehicle that is in violation of this chapter and to prohibit operation of such horse-drawn vehicle until all deficiencies have been corrected. An order of the city manager to remove a horse-drawn vehicle from the public streets of the city may be appealed as provided in Section 5.54.140. For the purpose of this section, the Los Angeles County Department of Animal Care and Control shall be deemed an authorized representative of the city manager.

5.54.090 Horse-drawn vehicle stands.

A. It shall be the responsibility of the owner to which a permit has been issued pursuant to this chapter to establish, arrange, lease and enter into an agreement with a private property owner or lease holder for the use, lease, sublease or rental of an area for utilization of a place designated as a regular stand for a horse-drawn vehicle. Each stand shall be subject to approval by the city manager and shall constitute a branch establishment as described in Section 5.04.020(A) of this code.

B. Drivers to whom a permit has been issued pursuant to this chapter shall maintain stands in a sanitary condition at all times.

C. A horse-drawn vehicle stand shall be designated by a sign. Such a sign shall contain, at a minimum, the wording "Horse-Drawn Carriage Stand" and the hours of operation.

D. No driver may park or stand at any bus stop designated for use by the city or state of California.

5.54.100 Hours of operation.

No horse-drawn vehicle may be operated on a public street between the hours of 12:00 midnight and 8:30 a.m. on any day.

5.54.110 Fees for permit.

The city council shall establish by resolution, and from time to time may amend, the fees for the administration of this chapter. The fees and permits required by this chapter shall be in lieu of any fee or business license required by Chapter 5.04 of this code.

5.54.120 Revocation of owner's or driver's permit.

The city manager shall revoke a permit issued pursuant to this chapter, in addition to any other basis provided by this code, upon determination that any of the following conditions exist:

A. The holder of a permit issued pursuant to this chapter has failed to perform in accordance with this chapter and has violated one or more of the provisions of this chapter on two or more separate occasions. For purposes of the preceding sentence, the term "on two or more separate occasions" shall mean on two or more separate days; or

B. The holder of a permit issued pursuant to this chapter made a material false, misleading, or fraudulent statement or omission of fact to the city, or engaged in fraud, in the application for such permit; or

C. The holder of a permit issued pursuant to this chapter has violated any federal, state or local law, regulation or ordinance while engaged in activity pursuant to a permit issued under this chapter, including, without limitation, Chapter 6.04 of this code.

5.54.130 Transfer, amendment, duration and renewal of permits.

A. No permit issued under this chapter shall be transferable to any other person or entity.

B. A permit issued under this chapter may be amended to reflect a change in mailing address, telephone number, website address and/or similar information upon filing a statement of such fact and payment of a fee as established by resolution of the city council. The unexpired permit previously issued shall be returned to the finance director prior to the issuance of the amended permit. A permit may not be amended to reflect a change in the person(s) transacting the business, the name of the business, the physical address of the business or a change in the type of business transacted; under such circumstances a new permit must be obtained.

C. Permits issued under this chapter shall be valid for one year from the date of issuance and may be renewed on a year-to-year basis provided that the permit holder continues to meet the requirements of this chapter. Applications for the next ensuing permit shall be filed with the city manager before the expiration of the existing permit.

D. Renewal applications shall require such information as may be required by the city manager to update the information contained in the original permit application. The applicant shall accompany the application for renewal with the appropriate filing fee.

5.54.140 Appeal.

If any person is aggrieved by a decision of the city manager regarding the issuance, denial or revocation of a permit pursuant to this chapter, such person may appeal the decision by submitting a notice of appeal in accordance with the uniform appeal procedure set forth in Chapter 2.44 of this code.

5.54.150 Violation and penalty.

A. Violations of this chapter shall constitute a misdemeanor and shall be punishable in the manner provided in Section 1.12.020(A) of this code.

B. Any violation of this chapter shall be and the same is declared to be unlawful and a public nuisance. The city attorney or the district attorney may, in addition to or in lieu of prosecution in a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps, and shall apply to such other courts or court as may have jurisdiction to grant such relief as will abate or remove such public nuisance and restrain and enjoin any person from violating the provisions of this chapter.

C. For failure to pay a permit fee when due, the finance director shall add a penalty of twenty percent (20%) of the permit fee on the first date of the month following the due date and ten percent (10%) each month thereafter while the fee remains unpaid, provided that the amount of the penalty shall not exceed fifty percent (50%) of the amount of the permit fee due.

D. If an owner or driver required to obtain a permit pursuant to this Chapter 5.54 fails to obtain such permit, the permit fee due shall be that amount due and payable from the first date the person or entity engaged in activity that requires a permit pursuant to this Chapter 5.54, together with the penalty described in subsection C of this section.

E. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

5.54.160 Severability.

If any part or provision of this chapter is found to be invalid or unenforceable by a court of law, such invalidity shall not affect any other part or provision herein, and all remaining provisions of this chapter will be valid and enforceable to the fullest extent permitted by law.