

ORDINANCE NO. 1037

AN ORDINANCE OF THE CITY OF LOS BANOS REPEALING AND REPLACING SECTIONS 3-1.201 THROUGH 3-1.236 OF ARTICLE 2 OF CHAPTER 1 OF TITLE 3 OF THE LOS BANOS MUNICIPAL CODE RELATING TO BUSINESS LICENSE FEES

The City Council of the City of Los Banos does ordain as follows:

Section 1. The City Council of the City of Los Banos does hereby repeal sections 3-1.201 through 3-1.236 of the Los Banos Municipal Code.

Section 2. The City Council of the City of Los Banos does hereby add the following sections to Title 3 of the Los Banos Municipal Code.

Title 3
Chapter 1
Article 2. Schedule of Fees

Section 3-1.201 Regulatory Measure.

The provisions of this article are enacted for municipal regulatory purposes and are not intended to raise revenue.

Section 3-1.202 Fees Generally.

The rate of licenses for businesses, trades, callings, professions and occupations carried on in the city are fixed as follows:

A. All retail, service, and professional businesses as described below shall pay an annual licensing fee as described in section 3-1.204 of this chapter.

1. Retail businesses shall include but not necessarily be limited to such businesses as follows:

a. Amusement or recreation parlors, card rooms or arcades;

b. Appliance stores, drug stores, feed and fuel stores, food and drink establishments, gasoline service stations, building material yards, and other types of general merchandising stores, and any other type of retail establishments unless specifically licensed in a different manner and included in another paragraph of this section;

c. Auto sales new or used, including parts, service and accessories conducted on one or more parcels of property, used in motor vehicle lots, and/or tractor and farm implement sales, services and repairs. In addition to licensing requirements, sales of new or used vehicles at a location that is temporary or from nonresident individuals and/or out-of-town business shall also declare the point of sale and declare to the City and pay applicable tax.

d. Billiard parlors, pool rooms, bowling alleys, ice skating rinks and roller skating rinks;

e. Any type of a club, prize or membership solicitation business which is substantially a sales technique or device and which is not carried on from an established business location in the city and

which may utilize advertising by means of handbills, dodgers, stickers and advertising samples;

f. Pawnbrokers and secondhand dealers;

g. Any public utility not operating under a franchise granted by city;

h. Movie theaters, or any exterior or interior theater and drive-in theaters;

i. Vendors of any type of merchandise not within the provisions of prohibition of this chapter, or any other regulation of the city, who sell or deliver articles to private residences, public places of business, or the general public which are not owned by the vendor, including freight lines, vending trucks, ice cream trucks, ice cream carts and other similar for-hire delivery services that make deliveries of merchandise of any kind within the city limits;

j. Yard, garage and rummage sales except as specifically provided in Section 5.04.130 pertaining to certain yard, garage and rummage sales;

k. Solicitors, Peddlers and Vendors;

l. Delivery of Merchandise within the City, including United Parcel, Federal Express and similar;

m. Non-resident realtors;

n. Adult Entertainment;

o. Massage Establishments and Services

p. News rack, Blinder and/or any device that sells or collects materials or money.

2. Service and professional businesses shall include but not necessarily be limited to such businesses as follows:

a. Arts and crafts, animal hospitals or kennels, laundries, dry cleaners, landscape gardening, mobile services, photography studios, printers and engravers, public stenographers, repair shops, garages solely for the repair of motor vehicles or other types of vehicles, radio, shoe, watch and other types of repair shops, riding academies, health clubs, persons conducting coaching by private lessons of any type, sign painters, upholsterers, and welding shops;

b. Beauty shops, beauty parlors or barber shops;

c. Public and private dances wherein an admission fee is charged or any other type of profit is sought, except those under the auspices and for the benefit solely of a locally non-profit sponsored social, civic, veteran, religious or fraternal organization. The fee chargeable to these types of business operations shall be payable no later than 5:00 p.m. of the preceding day for which the event is scheduled and shall be payable for each twenty-four hour period during which the particular event is carried on;

d. House movers;

e. Mortuaries;

f. Occult and related sciences and practices, astrology, palmistry, phrenology, life reading, fortune-telling, caromancy, clairvoyance, crystal gazing, hypnotism, mediumship, prophecy, augury, divination, magic, and necromancy that do not maintain a recognizable State or professional License and similar types of businesses conducted for a fee, remuneration, gift or profit;

g. Professional business offices, including real estate offices, but specifically excluding those insurance offices where no other type of business or transaction is conducted other than the sale of insurance;

h. Any individual performing any other type of service by the hour, piece or job other than a contractor, irrespective of having a regular place of business in the city limits;

i. Taxicabs, limousines, or other such commercial carriers of persons;

j. All Home Occupations;

k. Private Teaching;

l. Auctions and auctioneers, Liquidation and Estate Sales;

m. Bars & Taverns;

n. Tow Trucks that are not previously regulated by a license at a fixed location within the City for a Wrecking or similar business that is located exterior of the City limits.

B. All contractors, subcontractors, including such other types of businesses as described below, shall pay an annual licensing fee as described in section 3-1.204 of this chapter:

1. All firms engaged in the erection, operation of and maintaining of any outdoor advertising or display signs, whether self contained or on any building or structure regardless of size;

2. The operation of a retail or wholesale business in conjunction with the conducting of any type of contracting business in the city limits;

3. Advertising by means of display advertisement towed by a vehicle with or without the use of sound equipment;

4. Carnivals, circuses, tent shows, rodeos, outdoor shows, exhibitions, street fairs or any other Special Event. This section, however, shall not apply to statutory exempt or non-profit school street fairs, church street fairs, farmer conducted rural street fairs, or municipal street fairs, where the fair is conducted as a public advertising enterprise of the community, or for the benefit of farming, horticulture, social or other betterment of the community.

C. Rental income property owners or managers renting four to ten residential units shall pay an annual licensing fee as described in section 3-1.204 of this chapter.

D. General income property owners or managers shall pay an annual licensing fee as described in section 3-1.204 of this chapter. General income properties shall include the following:

1. Apartment houses consisting of ten or more units, hotels, motels, boardinghouses, and any other type of housing facilities;
 2. Mobile home parks;
 3. Commercial property owners or managers of rental units for commercial use.
- E. All other types of businesses, including all manufacturing businesses, including those described herein, shall pay an annual licensing fee as described in section 3-1.204. These shall also include junk and wrecking yards, manufacturing, packing and shipping and wholesale merchants.

Section 3-1.203 Businesses not Enumerated in this Chapter

For every person engaged in a gainful business, trade, calling, profession, occupation or pursuit not specifically enumerated or categorized in this chapter, and for which the city has a legal right to require a business license, a licensing fee shall be required which shall be set and determined in accordance with section 3-1.204 of this chapter.

Section 3-1.204 Licensing Fee.

A. Whenever the words "licensing fee" appear in this chapter, they shall be construed as a dollar amount to be paid on an annual basis by a business. The dollar amount of the licensing fee shall be set by resolution of the City Council and may be increased or decreased as the case may be in accordance with the Bay Area Consumer Price Index published and then in effect after July 1st of each year hereafter.

B. The dollar amount for both the "licensing fee" may also be amended from time to time by a resolution of the City Council.

Section 3-1.205 Duty to obtain licenses and pay fees: Violations: Penalties.

It shall be unlawful for any person, club, or association to commence, carry on, engage in, or continue in any business, trade, occupation, or employment in the City upon which a license fee is imposed by the terms and provisions of this chapter, and for which a license fee is required to be procured by the terms and provisions of this chapter, without first paying such license fee and procuring such license as provided in this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code and/or is applicable to Section 3-1.113.

Section 3-1.206 Waiver of fees for charitable organizations.

The Community development director or designee shall have the authority to waive license fees for service clubs and religious, educational, or charitable organizations operating as temporary vendors.

Section 3-1.207 Exclusions.

Except as may be otherwise specifically provided in this Code, the provisions of this chapter shall not be deemed or construed to apply to any of the following persons or firms;

A. Any public utility which pays to the City a tax under a franchise or similar agreement, or any publicly-owned public utility;

B. Banks, including national bank associations, to the extent that a City may not levy a license tax upon them under the provisions set forth in Article XIII, Section 16, of the Constitution of the State;

C. Insurance companies and associations to the extent that a City may not levy a license tax upon them under the provisions set forth in Article XIII, Section 16, of the Constitution of the State; and

D. Any person or firm, which the City is not authorized to license under any law or constitution of the United States or the State;

E. Owner-Builders that have applied and obtained less than two (2) single-family dwellings in any calendar year and who shall have lived in the completed dwelling for at least ninety (90) days.

Section 3-1.208 Compliance with other laws, rules, and regulations prerequisite to issuance of licenses.

No license shall be issued under the provisions of this chapter until the applicant has complied with all of the provisions of the Building Code, the Fire Prevention Code, applicable Municipal Code provisions, including Zoning provisions, and, when applicable, the rules and regulations of State and/or Federal provisions and the Police Department and Health Department.

Section 3. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen (15) days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance; and within fifteen (15) days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Smith on the 3rd day of August 2005.

Passed on the 17th day of August 2005, by the following vote:

**AYES: Council Members Balatti, Jones, Smith, Mayor Amabile
NOES: None
ABSTAIN: None
ABSENT: Council Member McAdam**

APPROVED:

Michael S. Amabile, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk