

Title 5

BUSINESS LICENSES AND REGULATIONS*

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- * For statutory provisions authorizing cities to license businesses for revenue and regulation purposes, see Gov. Code §37101; for provisions authorizing cities to license businesses in the exercise of the municipal police power and for purposes of regulation, see Bus. & Prof. Code §§16000—16003.

Chapter 5.04

BUSINESS LICENSES

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5.04.010 Definitions. As used in this chapter:

A. "Business" means professions, trades and occupations and all and every kind of calling whether or not carried on for profit.

B. "City" means the city of Jackson, a municipal corporation of the state, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

C. "Collector" means the city tax collector, finance director or other city officer charged with the administration of this chapter.

D. "Person" means all domestic and foreign corporations, associations, syndicates, joint stock companies, corporations, partnerships of every kind, clubs, businesses, or common law trusts, societies, and individuals transacting and carrying on any business in the city, other than as an employee.

E. "Sale" means the transfer in any manner or by any means whatsoever of title to property for a consideration; the serving, supplying or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. This definition shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.

F. "Sworn statement" means an affidavit sworn to before a person authorized to take oaths, or in California a declaration or certification made under penalty of perjury. (Ord. 365 §1(part), 1975).

5.04.020 Revenue measure. This chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation. (Ord. 365 §1(part), 1975).

5.04.030 Effect on other ordinances. Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the city, and shall remain subject to the regulatory provisions of other ordinances. (Ord. 365 §1(part), 1975).

5.04.040 License and tax payment required.

- A. There are imposed upon the businesses, trades, professions, callings, and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It is unlawful for any person to transact and carry on any business, trade, profession, calling, or occupation in the city without first having procured a license from the city to do so and paying the tax hereinafter prescribed or without complying with any and all applicable provisions of this chapter.
- B. Subsection A shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state. Persons not so required to obtain a license prior to doing business within the city nevertheless shall be liable for payment of the tax imposed by this chapter
- C. As a prerequisite to the issuance of any license herein, the applicant shall submit to the collector a copy of his or her sales tax permit or sellers permit (pursuant to the requirements of Revenue and Tax Code Section 6067) which clearly designates the city as his or her place of business. If requested by the applicant, the collector may provide forms for changing the address of the place of business, and upon the applicant's execution thereof, the collector shall transmit said forms to the State Board of Equalization.
- D. Notwithstanding any provision of this section or chapter, no person shall transact, perform, engage in and carry on in the city any business, trade, profession, calling, use or occupation that cannot be, or is not, conducted or carried out without being in violation of state or federal law, or this code, and no license will be issued for any such business, trade, profession, calling, use, or occupation, including but not limited to a medical marijuana dispensary, medical marijuana delivery or medical marijuana cultivation as defined in section 17.220.020 of this code. In the event of any future amendments to this code, including amendments to allowable medical marijuana uses, the City hereby expressly reserves the right to develop, implement, and conduct local licensing of medical marijuana cultivation under Health and Safety Code section 11362.777(c)." (Ord. 494 §1, 1986; Ord. 365 §1 (part), 1975, Ord. 689, 2015).

5.04.050 Branch establishments.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on, and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided that ware- houses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. (Ord. 365 §1(part) 1975.

5.04.060 Evidence of doing business.

When any person by use of sign, circulars , cards, telephone book, or newspapers, advertises, holds out or represents that he is in business in the city, or when any person holds an action license or permit issued by a governmental agency indicating that he is in business in the city, or when any person seeks to initiate or maintain a home business as described within Section 17.12.020 in any residential zone, any such person fails to deny by a sworn statement given to the collector that he is not conducting a business in the city, after being requested to do so by the collector,thenthesefactsshallbeconsideredprimaefacie evidencethatheisconductinga businessinthecity. (Ord. 439 §2, 1980: Ord. 365 §1(part), 1975) .

5.04.070 Constitutional apportionment.

- A. None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the constitutions of the United States and the state.
- B. In any case where a license tax is believedby a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of suchconstitutional.

clauses, he may apply to the collector for an adjustment of the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, show this method of business and the gross volume or estimated gross volume of business and such other information as the collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The collector shall then conduct an investigation, and, after having first obtained the written approval of the city attorney, shall fix as the license tax for the applicant, an amount that is reasonable and nondiscriminatory; or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the collector shall have the power to base the license tax upon a percentage of gross receipts or any other measure which will assure that the license tax assessed is uniform with that assessed on businesses of a like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter.

C. Should the collector determine the gross receipts measure of license tax to be the proper basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the city, or at the end of each three-month period, a sworn statement of the gross receipts and pay the amount of license tax therefor; provided that no additional license tax during any one calendar year shall be required after the licensee has paid an amount equal to the annual license tax as prescribed in this chapter. (Ord. 365 §1(part), 1975).

5.04.080 Exemptions. A. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the constitution or applicable statutes of the United States or of the state from the payment of such taxes as are herein prescribed. ✓

B. Any person claiming an exemption pursuant to this section shall obtain a permit for charitable or religious solicitation or as a promoter pursuant to the regulations and requirements of Chapters 5.16 and 5.20.

D. The collector, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein. (Ord. 418 §1, 1979; Ord. 365 §1(part), 1975).

5.04.090 Contents of license.

A. Every person required to have a license under the provisions of this chapter shall: make application as hereinafter prescribed for the same to the collector of the city, and upon the payment of the pre-scribed license tax, the collector shall issue to such person a license which shall contain the following information:

1. The name of the person to whom the license is issued;
2. The business licenses;
3. The Place where such business is to be transacted and carried on;
4. The date of the expiration of such license; and
5. Such other information as may be necessary for the enforcement of the provisions of this chapter

For a home business (as described in Section 17.12.020C) every application may contain special conditions regarding the conduct of such business¹ as deemed necessary by the collector to maintain the peaceful and harmonious character of the residential neighborhood. Such conditions may extend to a prohibition of walk-in customers, placement of limits on the size of the clientele, limitation of the hours of operation or an imposition of other reasonable sanctions required to preserve the integrity of the area.

B. Whenever the tax imposed under the provisions of this chapter is measured by the number of vehicles, devices, machines, or other pieces of equipment used by the licensee, the collector shall issue only one license; provided, that he may issue for each tax period for which the license tax has been paid one identification sticker, tag, plate, or symbol for each item included in the measure of the tax. (Ord. 439 §3, 1980; Ord. 365 §1(part), 1975).

5.04.100 Application - First license.

A. Upon a person making application for the first license to be issued hereunder or for a newly established business, such person shall furnish to the collector a sworn statement, upon a form provided by the collector, setting forth the following information:

1. The exact nature or kind of business for which a license is requested;
2. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residence of the owners of the same;
3. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning said business;
4. In the event that the application is made for the

issuance to a corporation or a partnership, the application shall set forth the names and places of residence of the officers and partners thereof;

5. A certification by the applicant that, to the best of the applicant's knowledge, the operation of the business for which the application is sought will not constitute a violation of any state or federal law, or of this code; and

6. Any further information which the collector may require to enable him or her to issue the type of license applied for.

B. The collector shall not issue to any person another license for the same or any other business, until such person has furnished to him or her the sworn statement and paid the license tax as herein required.

B. The collector shall not issue to any person another license for the same or any other business, until such person has furnished to him the sworn statement and paid the license tax as herein required. (Ord. 365 §1(part), 1975).

5.04.110 Renewal license. A. In all cases, the applicant for the renewal of a license shall submit to the collector for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a sworn statement, upon a form to be provided by the collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the collector to enable him to ascertain the amount of the license tax to be paid by said applicant pursuant to the provisions of this chapter.

B. No statements shall be conclusive as to the matters set forth herein nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. (Ord. 365 §1(part), 1975).

5.04.120 Information confidential. It is unlawful for the collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information furnished or secured pursuant to the provisions of this chapter; provided that nothing in this section shall be construed to prevent:

A. The disclosure to, or the examination of records and equipment by, another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder;

B. The disclosure of information to, or the examination of records by, federal or state officials;

C. The disclosure of information to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayers to the city;

D. The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to the items in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; provided further, however, that the city attorney approves each such disclosure and that the collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

E. The disclosure of the names and addresses of persons to whom licenses have been issued, and the general type or nature of their business;

F. The disclosure by way of public meeting or otherwise of such information as may be necessary to the city council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the city for license taxes, or when acting upon any other matter;

G. The disclosure of general statistics regarding taxes collected or business done in the city. (Ord. 365 §1(part), 1975).

5.04.130 Failure to file statement or corrected statement. A. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the collector he fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain.

B. If the collector is not satisfied with the information supplied in statements or applications filed, he may determine the amount of any license tax due by means of any information he may be able to obtain.

C. If such a determination is made, the collector shall give notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Jackson, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within fifteen days after the mailing or serving of such notice, make application in writing to the collector for a hearing on the amount of the license tax. If such application is made, the collector shall cause the matter to be set for hearing within fifteen days before the city council. The collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving notices of assessment. (Ord. 365 §1(part), 1975).

5.04.140 Appeal. Any person aggrieved by any decision of the collector with respect to the issuance or refusal to issue such license may appeal to the council by filing a notice of appeal with the clerk of the council. The council shall thereupon fix a time and place for hearing such appeal. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Jackson, California, postage prepaid, addressed to such person at his

last known address. The council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter. (Ord. 365 §1(part), 1975).

5.04.150 Additional power of collector. In addition to all other power conferred upon him, the collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period of not exceeding thirty days, and in such case to waive any penalty that would otherwise have accrued, except that simple ten percent interest shall be added to any tax determined to be payable. (Ord. 365 §1(part), 1975).

5.04.160 License nontransferable--Changed location and ownership. No license issued pursuant to this chapter shall be transferable; provided that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application therefor and paying a fee of two dollars, have the license amended to authorize the transacting and carrying on of such business under said license at some other location to which the business is or is to be moved; provided, further, that transfer, whether by sale or otherwise, to another person, under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this section. For the purpose of this section, stockholders, bondholders, partnerships, or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity. (Ord. 365 §1(part), 1975).

5.04.170 Duplicate license. A duplicate license may be issued by the collector to replace any license previously issued hereunder which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of filing such statement, paying to the collector a duplicate license fee of two dollars. (Ord. 365 §1(part), 1975).

5.04.180 Posting and keeping licenses. A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on.

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on the business for which it is issued.

C. Whenever identifying stickers, tags, plates, or symbols have been issued for each vehicle, device, machine, or other piece of equipment included in the measure of a license tax, the person to whom such stickers, tags, plates, or symbols have been issued shall keep firmly affixed upon each vehicle, device, machine, or piece of equipment the identifying sticker, tag, plate, or symbol which has been issued therefor at such locations as are designated by the collector. Such sticker, tag, plate, or symbol shall not be removed from any vehicle, device, machine, or piece of equipment kept in use during the period for which the sticker, tax, plate, or symbol is issued.

D. No person shall fail to affix as required herein any identifying sticker, tag, plate, or symbol to the vehicle, device, machine, or piece of equipment for which it has been issued at the location designated by the collector, or shall give away, sell, or transfer such identifying sticker, tag, plate, or symbol to another person, or to permit its use by another person. (Ord. 365 §1(part), 1975).

5.04.190 License tax--How and when payable. A. Unless otherwise specifically provided, all annual license taxes, under the provisions of this chapter, shall be due and payable in advance on the first day of July of each year; provided that license taxes covering new operations, commenced after the first day of July, may be prorated for the balance of the license period.

B. Except as otherwise herein provided, license taxes, other than annual, required hereunder shall be due and payable as follows:

1. Semiannual license taxes, on the first day of January and the first day of July of each year;
2. Quarterly license taxes, on the first day of January, April, July, and October of each year;
3. Monthly license taxes, on the first day of each and every month;
4. Weekly license taxes, on Monday of each week in advance;
5. Daily flat-rate license taxes, each day in advance;
6. Other flat-rate license taxes are payable in advance on the first day of business and thereafter on the first day of any applicable period. (Ord. 365 §1(part), 1975).

5.04.200 Delinquent taxes--Penalties--Installment payment. A. For failure to pay a license tax when due, the collector shall add a penalty of fifteen percent.

B. No license or sticker, tag, plate, or symbol shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued to any person who, at the time of

applying therefor, is indebted to the city for any delinquent license taxes, unless such person, with the consent of the collector, enters into a written agreement with the city, through the collector, to pay such delinquent taxes plus eight percent simple annual interest upon the unpaid balance, in monthly installments or more often, extending over a period of not to exceed one year.

C. In any agreement so entered into, such person shall acknowledge the obligation owed to the city and agree that, in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable, and that his current license shall be revocable by the collector upon thirty days notice. In the event legal action is brought by the city to enforce collection of any amount included in the agreement, such person shall pay any amount included in the agreement, such person shall pay all costs of suit incurred by the city or its assignee, including a reasonable attorney's fee. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided hereinabove, but no penalties shall accrue on account of taxes included in the agreement after the execution of the agreement, and the payment of the first installment and during such time as such person shall not be in breach of the agreement. (Ord. 365 §1(part), 1975).

5.04.210 Refunds of overpayments. No refund of an overpayment of taxes imposed by this chapter shall be allowed in whole or in part unless a claim for refund is filed with the collector within a period of three years from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of overpayment must be filed with the collector on forms furnished by him and in the manner prescribed by him. Upon the filing of such a claim and when he determines that an overpayment has been made, the collector may refund the amount overpaid. (Ord. 365 §1(part), 1975).

5.04.220 Business license charges. A. Business License Charge--Fixed Place of Business. Every person engaged at a fixed place of business in the city in any trade, calling, occupation, vocation or other means of livelihood, as an independent contractor and not as an employee of another, and not specifically licensed by other provisions of this chapter, shall pay an annual license tax, based upon the average number of regular employees employed in such business as set from time to time by resolution of the city council.

All professionals, including but not limited to: accountants, architects, attorneys, bookkeepers, chiropo-

dists, chiropractors, dentists, doctors, engineers, land surveyors, oculists, physicians and surgeons, who are engaged at a fixed place of business in the city shall pay a yearly license charge.

B. License Charge--No Fixed Place of Business. Every person engaged at other than a fixed place of business within the city in any trade, calling, occupation, vocation, profession or other means of livelihood, as an independent contractor and not as an employee of another, and not specifically licensed by other provisions of this chapter, shall pay an annual license charge.

C. License Charge--Flat Amount. Every person commencing, transacting and carrying on any business herein enumerated, similar or closely related, shall pay a license charge based upon a flat rate for the periods as set forth herein:

<u>BUSINESS</u>	<u>PERIOD</u>
Advertising material distribution	Daily
Advertising vehicles	Daily
Advertising - outdoor	Quarterly
Amusement concessions	Daily
Animal shows	Daily
Athletic events and exhibitions, excepting those for charitable purposes	Daily
Carnivals	Daily
Circuses	Daily
Fortune-tellers	Monthly
Pawnbrokers	Quarterly
Photographers - transient	Daily
Flea markets (to be paid by promoters)	Daily
Junk dealers and wreckers	Yearly
Apartment houses	Yearly
Mobile home parks (based on rented spaces)	Yearly
Private patrol	Yearly

D. Coin Machines--Outside Owner. Every person commencing, transacting and carrying on at other than a fixed place of business in the city the business of lending, renting, leasing or otherwise distributing any coin-operated machine while retaining title thereto, shall pay a semiannual license charge for each machine. (Ord. 543 \$1, 1991; Ord. 407 §§1 and 3, 1978; Ord. 365 \$1(part), 1975).

Chapter 5.08BINGO GAMESSections:

- 5.08.010 Bingo defined.
- 5.08.020 Eligible organizations.
- 5.08.030 License--Application--Procedure.
- 5.08.040 License--Application--Contents.
- 5.08.050 License--Application--Investigation.
- 5.08.060 License--Issuance--Contents.
- 5.08.070 License--Revocation conditions.
- 5.08.080 Revocation--Appeal.
- 5.08.090 Revocation--Reapplication.
- 5.08.100 Maximum amount of prizes.
- 5.08.110 Placement of profits and recordkeeping.
- 5.08.120 Financial interest and operation.
- 5.08.130 Location designated.
- 5.08.140 Participation--Open to public.
- 5.08.150 Participation--Excluded persons.
- 5.08.160 Violation--Penalty.

5.08.010 Bingo defined. As used in this chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. (Ord. 383 §8, 1976).

5.08.020 Eligible organizations. Eligible organizations are corporations, community chests or trusts, organized

exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, or those which are exempted from the payment of the bank and corporation tax by Section 2370ld of the Revenue and Taxation Code and a contribution or gift to which would be exempt under Section 170 (c)(2) of the Internal Revenue Code of 1954. Such organizations are eligible to apply to the city for a license to conduct bingo games in the city under the provisions of Section 326.5 of the California Penal Code and the provisions of this chapter. (Ord. 383 §1, 1976).

5.08.030 License--Application--Procedure. Eligible organizations desiring to obtain such license from the city shall meet the following requirements:

A. Each eligible organization shall file an application in writing for a license to conduct bingo games in the office of the city clerk on a form provided by the city clerk. The issuing authority shall be the city council. The license shall be issued for a term of one year from the date of issuance, subject to renewal and annual fee.

B. No license shall be issued to any organization unless such applicant is an eligible organization under Section 5.08.020 and its application conforms to the requirement, terms and conditions of this chapter. (Ord. 383 §2, 1976).

5.08.040 License--Application--Contents. The license application shall contain the following:

A. The name of the applicant organization and a statement that applicant is eligible under Section 5.08.020. Such statement shall be accompanied by and submitted with a Certificate or Determination of Exemption under Section 2370ld of the Revenue and Taxation Code, or a letter of good standing from the Exemption Division of the Franchise Tax Board in Sacramento, showing exemption under Section 2370ld;

B. The name and signature of at least two officers, including the presiding officer of the corporation or community chest, and the trustee of any trust;

C. The address of the specific property within the city, including the street number, which is owned or leased by the applicant and used by such applicant for an office or for performance of the purposes for which the applicant is organized, on which property bingo games will be conducted, together with the occupancy capacity of such place;

D. Proposed days of the week and hours of the day for conduct of bingo games;

E. Statement that applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code and this chapter as they may be amended from time to time, and agrees that the license to

conduct the games may be revoked by the city council upon violation of any of such provisions;

F. Application shall be signed by applicant under penalty of perjury;

G. The annual license fee, fixed by the city council by resolution, shall accompany the application. (Ord. 383 §3, 1976).

5.08.050 License--Application--Investigation. Upon receipt of the completed application and the fee, the city clerk shall refer the same to interested departments of the city including but not limited to the mayor, city attorney, police department and fire department for investigation as to whether or not all the statements in the application are true and whether or not the property of the applicant qualifies and the extent to which it qualifies as property on which bingo games may lawfully be conducted as to fire, occupancy and other applicable restrictions. (Ord. 383 §4, 1976).

5.08.060 License--Issuance--Contents. Upon being satisfied that applicant is fully qualified under law to conduct bingo games in the city, the city council shall issue a license to the applicant containing the following:

A. The name and nature of organization to whom license is issued;

B. The address where bingo games are to be held;

C. The occupancy capacity of the room in which bingo games are to be conducted;

D. The date of expiration of the license;

E. Such other information as may be necessary or desirable for the enforcement of this chapter. (Ord. 383 §5, 1976).

5.08.070 License--Revocation conditions. A. Whenever it appears to the city clerk that the licensee is conducting bingo games in violation of any of the provisions of this chapter, or that the license was obtained by fraudulent representation, the license may be revoked; provided, however, the licensee may appear before the city clerk at the time fixed by the city clerk, for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless written notice shall have first been given at least five days before the hearing thereof, by depositing in the mail a notice directed to the licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the revocation.

B. Any organization whose license is revoked under this section shall not conduct any bingo game in the city.

until such time as the city council, on appeal, determines to overrule the recommendation of the city clerk. (Ord. 383 §6, 1976).

5.08.080 Revocation--Appeal. Any holder of a license which is recommended for revocation shall have the right, within ten days after receiving notice in writing of the recommendation, to file a written appeal to the city council setting forth the specific grounds on which it is based. The city council shall hold a hearing on the appeal within thirty days after its receipt by the city, or at a time thereafter agreed upon and shall cause the appellant to be given at least ten days' written notice of such hearing. At the hearing, the appellant or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of his appeal. The determination of the city council on the appeal shall be final. (Ord. 383 §7(1), 1976).

5.08.090 Revocation--Reapplication. Any organization whose license is finally revoked may not again apply for a license to conduct bingo games for a period of one year from the date of such revocation; provided, however, that if the ground for revocation is cancellation of the exemption granted under Section 2370ld of the Revenue and Taxation Code, such organization may apply for a license again upon proof of reinstatement of the exemption. (Ord. 383 §7(2), 1976).

5.08.100 Maximum amount of prizes. The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred and fifty dollars in cash or kind, or both, for each separate game which is held. (Ord. 383 §9, 1976).

5.08.110 Placement of profits and recordkeeping. All profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. The licensee shall keep a full and accurate record of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of its bingo games. The city, by and through its authorized officers, shall have the right to examine and audit such record at any reasonable time, and the licensee shall fully cooperate with the city by making such record available. (Ord. 383 §10, 1976).

5.08.120 Financial interest and operation. A. No individual, corporation or any other entity except the licensee shall hold a financial interest in the conduct of such bingo games.

B. A bingo game shall be operated and staffed only by members of the licensee organization. Such members shall receive no profit, wage, or salary of any kind. Only the licensee shall operate the game or participate in the promotion, supervision, or any other phase of such game. (Ord. 383 §11, 1976).

5.08.130 Location designated. The licensee shall conduct bingo games only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which it is organized. If the described property ceases to be used as an office and as a place for performance of the organization's purposes, the license shall have no further force or effect. A new license may be obtained, upon eligibility and application under this chapter, when it again owns or leases property used by it for an office or for performance of the purposes for which it was organized. (Ord. 383 §13, 1976).

5.08.140 Participation--Open to public. All bingo games shall be open to the public, not just to members of the licensee organization. Licensee shall not reserve seats or space for any person. Occupancy capacity shall be limited by the determination made by the fire department and building department in accordance with applicable laws and regulations. (Ord. 383 §12, 1976).

5.08.150 Participation--Excluded persons. A. No person under the age of eighteen years of age shall be allowed to participate in any bingo game.

B. No person who is obviously intoxicated shall be allowed to participate in a bingo game.

C. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted. (Ord. 383 §14, 1976).

5.08.160 Violation--Penalty. A. It is a misdemeanor under Section 326.5(b) of the Penal Code for any person to receive a profit, wage, or salary from any bingo game authorized under this chapter, a violation of which is punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the general fund of the city.

B. The city may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code or of this chapter. (Ord. 383 §15, 1976).

Chapter 5.16SOLICITORS AND PEDDLERSSections:

5.16.010 Disturbance of occupant prohibited where no peddlers or solicitors sign posted.

5.16.010 Disturbance of occupant prohibited where no peddlers or solicitors sign posted. No peddler or solicitor shall, nor shall any business employing or contracting with a peddler or solicitor allow any peddler or solicitor to, in any way disturb or contact any occupant of private residential property where a sign has been posted on such property containing the words "NO PEDDLERS OR SOLICITORS ALLOWED" or words of similar import and meaning. Violations of this section shall constitute a misdemeanor, punishable by up to six months imprisonment and a five hundred-dollar fine. Violations shall be subject to any and all civil remedies provided by law, including injunctive or other equitable relief in a court of competent jurisdiction. (Ord. 611 §1, 2000).

Chapter 5.24

CABLE COMMUNICATION FRANCHISES

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I. DEFINITIONS

5.24.010 Definitions and interpretation of language.

For the purposes of this chapter, the following words, terms, phrases, and their derivations, shall have the meanings given in this article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. (Ord. 483 §1(part), 1984).

5.24.015 Additional subscriber service. "Additional subscriber service" means any service not included in basic service or institutional service, including, but not limited to, pay-cable. (Ord. 483 §1(part), 1984).

5.24.020 Agency subscriber. "Agency subscriber" means a subscriber who received a service in a government or public agency, school, or nonprofit corporation. (Ord. 483 §1(part), 1984).

5.24.25 Basic subscriber radio service. "Basic subscriber radio service" means the provisions to all subscribers of such audio services and broadcast channels as permitted by the FCC. (Ord. 483 §1(part), 1984).

5.24.030 Basic subscriber television service. "Basic subscriber television service" means the total of all of the following:

A. The transmission to all subscribers of all broadcast television channel signals authorized by the FCC and provided for in franchise agreement;

B. The provision to all subscribers of nonbroadcast open-channel signals, originating from sources outside the cable communications system;

C. The transmission to all subscribers of all cablecast open-channel signals.

Basic subscriber television service may be offered to subscribers in one or more tiers or combination of programs. (Ord. 483 §1(part), 1984).

5.24.035 Broadcast signal. "Broadcast signal" means a television or radio signal that is transmitted over the air to a wide geographic audience and is received by a cable communications system off-the-air or by microwave link. (Ord. 483 §1(part), 1984).

5.24.040 Cable communications system or system. "Cable communications system" or "system", sometimes referred to as "cable TV system," "CATV system," or "broadband communications network," means a system of antennas, cables, amplifiers, towers, microwave links, cablecasting studios, and any other conductors, converters, equipment or facilities designed and constructed for the primary purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic or electrical signals. (Ord. 483 §1(part), 1984).

5.24.050 Channel. "Channel" means a six-Megahertz (MHz) frequency band, which is capable of carrying either one standard video signal, number of audio, digital or other nonvideo signals, or some combination of such signals. (Ord. 483 §1(part), 1984).

5.24.055 City. "City" means the city of Jackson, California, and all of the territory within its present and future corporate boundaries. (Urban services area). (Ord. 483 §1(part), 1984).

5.24.060 City council. "City council" means the council of the city of Jackson, or such representative person or entity as may be designated initially or at some future date to act on cable communications matters. (Ord. 483 §1(part), 1984).

5.24.065 Closed-circuit or institutional service. "Closed-circuit" or "institutional service" means such video, audio, data and other services provided to institutional users on an individual application, private-channel basis. These may include, but not be limited to, audio or digital signals among institutions, or from institutions to residential subscribers. (Ord. 483 §1(part), 1984).

5.24.070 Commercial subscriber. "Commercial subscriber" means a subscriber who receives a service in a place of business, where the service may be utilized in connection with a business, trade or profession. (Ord. 483 §1(part), 1984).

5.24.075 Converter. "Converter" means an electronic device which converts signal carriers from one form to another. (Ord. 483 §1(part), 1984).

5.24.080 Easements. "Easements" means any public facilities right-of-way, public way or easement which has been dedicated to the city. The rights included in this definition are broad and shall permit the passage of all transmission lines for CATV cables, and the sharing of the trench with all other utility and public or private facilities where practicable. (Ord. 483 §1(part), 1984).

5.24.085 Educational channel. "Educational channel" means any channel where educational institutions are the only designated programmers. (Ord. 483 §1(part), 1984).

5.24.090 FCC. "FCC" means the Federal Communications Commission, or a designated representative. (Ord. 483 §1(part), 1984).

5.24.095 Franchise agreement. "Franchise agreement" means a signed and notarized contract on the part of both grantor and grantee accepting and agreeing to all of the provisions of a franchise granted pursuant to this chapter, and other related material. The franchise agreement may modify terms of this chapter by mutual agreement, with any such modification requiring confirmation by appropriate ordinance amendment. (Ord. 483 §1(part), 1984).

5.24.100 Government channel. "Government channel" means any channel where local government agencies are the only designated programmers. (Ord. 483 §1(part), 1984).

5.24.105 Grantee. "Grantee" means the person or entity to which a franchise henceforth is granted for the construction, operation, maintenance and reconstruction of a cable communications system, and the lawful successors, transferees or assignees of said corporation or entity. (Ord. 483 §1(part), 1984).

5.24.110 Grantor. "Grantor" means the city of Jackson as represented by the city council and/or its authorized executive officer acting within the scope of its jurisdiction. (Ord. 483 §1(part), 1984).

5.24.115 Gross annual revenues. "Gross annual revenues" means the annual gross revenues received by the grantee from all sources of operations of the cable communications system except that any sales, excise or other taxes collected for direct pass-through to local, state or federal government shall not be included. (Ord. 483 §1(part), 1984).

5.24.120 Leased channel or leased access channel. "Leased channel" or "leased access channel" means any channel available for lease and programming by persons and entities other than the grantee, including those portions of the other access channels not in use by their designated programmers. (Ord. 483 §1(part), 1984).

5.24.125 Local origination channel. "Local origination channel" means any channel where the grantee is the only designated programmer, and provides video programs to subscribers. (Ord. 483 §1(part), 1984).

5.24.130 Monitoring. "Monitoring" means observing a one-way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever. (Ord. 483 §1(part), 1984).

5.24.135 Nonbroadcast signals. "Nonbroadcast signals" means a signal that is transmitted by a cable communications system and that is not involved in an over-the-air broadcast transmission path. (Ord. 483 §1(part), 1984).

5.24.140 Open channel. "Open channel" means any channel that can be received by all subscribers, without the necessity for special equipment. (Ord. 483 §1(part), 1984).

5.24.145 Pay-cable or pay-television. "Pay-cable" or "pay-television" means the delivery to subscribers, over the cable communications system, of television signals for a fee or charge to subscribers over and above the charge for basic subscriber service, on a per-program, per-channel, or other subscription basis. (Ord. 483 §1(part), 1984).

5.24.150 Person. "Person" means any corporation, partnership, proprietorship, individual or organization authorized to do business in the state of California, or any natural person. (Ord. 483 §1(part), 1984).

5.24.155 Private channel or closed-circuit channel. "Private channel," or "closed-circuit channel" means any channel which is available only to subscribers who are provided with special converter or terminal equipment to receive signals on that channel. (Ord. 483 §1(part), 1984).

5.24.160 Public access channel, community service channel or community channel. "Public access channel," "community service channel" or "community channel" means any channel where any member of the general public or any noncommercial organization may be a programmer, on a first-come, first serve, nondiscriminatory basis, subject to meet industry standards and materials for programming and context control. (Ord. 483 §1(part), 1984).

5.24.165 Programmer. "Programmer" means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded tapes or other storage media, to subscribers, by means of the cable communications system. (Ord. 483 §1(part), 1984).

5.24.170 Resident. "Resident" means any person residing in the city or its service area as otherwise defined by applicable law. (Ord. 483 §1(part), 1984).

5.24.175 Residential subscriber. "Residential subscriber" means a subscriber who received a service in an individual dwelling unit, where the service is not to be utilized in connection with a business, trade or profession. (Ord. 483 §1(part), 1984).

5.24.180 School. "School" means any educational institution including primary and secondary schools, colleges and universities, both public and private. (Ord. 483 §1(part), 1984).

5.24.190 Subscriber. "Subscriber" means any person, firm, corporation or other entity who or which elects to

subscribe to, for any purpose, a service provided by the grantee by means of or in connection with the cable communications system. (Ord. 483 §1(part), 1984).

5.24.195 Tapping. "Tapping" means observing a two-way communications signal exchange, where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever. (Ord. 483 §1(part), 1984).

II. GENERAL PROVISIONS

5.24.200 Compliance with laws. The grantee shall comply with all federal and state of California laws, as well as all city ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the franchise. (Ord. 483 §1(part), 1984).

5.24.205 Subsequent action by state or federal agencies. Should the state of California, the FCC, or any other agency of the federal government subsequently require the grantee to perform or cease to perform any act which is inconsistent with any provisions of the franchise, the grantee shall so notify the grantor. Upon receipt of such notifications, the grantor shall determine if a material provision of the franchise is affected. Upon such determination, the grantor shall have the right to modify or amend any of the sections of the franchise to such reasonable extent as may be necessary to carry out the full intent and purpose of the franchise. (Ord. 483 §1(part), 1984).

5.24.210 Separability of franchise provisions preempted by other laws. If any section of the franchise is held to be invalid or preempted by federal or state regulations or laws, finding or preemption shall not affect the remaining sections of the franchise except as provided above. (Ord. 483 §1(part), 1984).

5.24.215 Liability--No recourse against the grantor. The grantee shall have no recourse whatsoever against the grantor or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of any provisions or requirement of the franchise or because of the enforcement of the franchise. (Ord. 483 §1(part), 1984).

5.24.220 Enforcement--Obligation to comply. The grantee shall not be relieved of its obligation to comply with any of the provisions of this permit by reason of any failure of the grantor to enforce prompt compliance. (Ord. 483 §1(part), 1984).

III. FRANCHISE APPLICATIONS AND GRANT CONDITIONS

5.24.225 Application--Procedure generally. Applicants for a franchise shall submit to the grantor at least eighteen months prior to franchise expiration, written application utilizing the format provided by the grantor, at the time and place designated by the grantor for accepting applications, and including the designated application fee or deposit. (Ord. 483 §1(part), 1984).

5.24.230 Grants of franchise--Conditions generally.

A. In the event that grantor shall grant to the grantee a nonexclusive, revocable franchise to construct, operate, maintain and reconstruct a cable communications system within the city, said franchise shall constitute both a right and an obligation to provide the services of a cable communications system as required by the provisions of this chapter and the franchise agreement. The franchise shall include those provisions of the grantee's "proposal for franchise" that are finally negotiated and accepted by the grantor and grantee in writing.

B. The franchise shall be granted under the terms and conditions contained herein. In the event of conflict between the terms and conditions of the franchise and the terms and conditions on which the grantor can grant a franchise, the statutory requirements shall control.

C. The franchise shall be subject to the general ordinance provisions now in effect or hereafter made effective. Nothing in the franchise shall be deemed to waive the requirements of the various codes and ordinances of the city regarding permits, fees to be paid, or manner of construction. (Ord. 483 §1(part), 1984).

5.24.235 Use of public streets and ways. For the purpose of operating and maintaining a cable communications system in the city, the grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the public streets and ways within the city such wires, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the cable communications system. Prior to construction or alteration, however, the grantee shall in each case file plans with the appropriate city department and utility companies, and receive written approval before proceeding. (Ord. 483 §1(part), 1984).

5.24.240 Duration of franchise. The term of the franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall be twenty years from the effective date of the franchise unless terminated sooner as hereinafter provided. (Ord. 483 §1(part), 1984).

5.24.245 Franchise nonexclusive. The franchise granted shall be nonexclusive. The grantor specifically reserves the right to grant, at any time, such additional franchises for a cable communications system as it deems appropriate. (Ord. 483 §1(part), 1984).

5.24.250 Franchise nontransferable. A. The franchise shall not be sublet or assigned; nor shall any of the rights be assigned, sold or transferred, either in whole or in part; nor shall title thereto, either legal or equitable, or any rights, interest or property therein, pass to or vest in any person, except the grantee, either by act of the grantee or by operations of law, without the prior consent of the city expressed by resolution, and such consent shall not be unreasonably withheld.

B. If the grantee shall, in violation of this section, transfer the franchise, prior to obtaining city consent, any such transfer shall be deemed void and of no effect.

C. The grantee, upon an approved transfer as heretofore described shall, within thirty days thereafter, file with the city a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer or lease certified and sworn to as correct by the grantee. (Ord. 483 §1(part), 1984).

5.24.255 Proposed change in control--Notification required. The grantee shall promptly notify the grantor of any proposed change in, or transfer of, or acquisition by, any other party of control of the grantee with respect to which the consent of the grantor is required, pursuant to Section 5.24.250 of this chapter, entitled "franchise non-transferable." Such change in control shall make the franchise subject to revocation unless and until the grantor shall have consented thereto. For the purpose of determining whether it will consent to such change, transfer or acquisition of control, the grantor may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the grantor in any such inquiry. The city may condition said transfer pursuant to the terms and conditions of the franchise agreement. (Ord. 483 §1(part), 1984).

IV. DEPOSITS, INSURANCE, PAYMENTS

5.24.260 Faithful performance bond. Upon the start of any construction or system replacement program, the grantee shall furnish proof of the posting of a faithful performance bond running to the grantor, with good and sufficient surety approved by the grantor, for one hundred percent of the labor and materials, conditioned that the grantee shall well and truly observe, fulfill and perform each term and condition of said construction program. Such bond shall be maintained

by the grantee throughout the duration of this work. Written evidence of payment of required premiums shall be filed and maintained with the grantor. (Ord. 483 §1(part), 1984).

5.24.265 Liability insurance and indemnification. A.

The grantee shall maintain, throughout the term of the franchise, liability insurance expressly insuring both the grantee and the grantor with regard to all damages including "damages and defense costs," in the minimum amounts of:

One million dollars for bodily injury or death to any person;

Three million dollars for bodily injury or death resulting from any one accident;

Five hundred thousand dollars for property damage resulting from any one accident;

Five hundred thousand dollars for all other types of liability.

B. Upon the effective date of the franchise, the grantee shall furnish a certificate of insurance to the grantor that a satisfactory insurance policy has been obtained. Said insurance certificate shall be approved by the grantor, and written evidence of payment of required premiums, shall be filed and maintained with the grantor. (Ord. 483 §1(part), 1984).

5.24.270 Security fund. A.

Within thirty days after the effective date of the franchise, the grantee shall deposit into an interest bearing account established by the city, and maintain on deposit through the term of the franchise, a sum of four thousand dollars as a maintenance and operating surety for the franchise, and compliance with all orders, permits and directions of any agency of the grantor having jurisdiction over its acts or defaults under the ordinance codified in this chapter, and the payment by the grantee of any claims, liens and taxes due the grantor, which arise by reason of the operation or maintenance of the system.

B. Within thirty days after notice to it that any amount has been withdrawn by the city from the security fund described herein, the grantee shall deposit a sum of money sufficient to restore such security fund to the original amount.

C. If the grantee fails, after ten days' notice to pay to the city any taxes or fees due; or fails to repay to the city, within such ten days, any damages, costs or expenses which the city shall be compelled to pay by reason of any act or default of the company in connection with the franchise; or fails, after thirty days' notice of such failure by the city, to comply with any provision of the franchise which the city reasonably determined can be remedied by an expenditure of the security, the city may immediately withdraw the amount thereof, with any penalties, from the security fund. Upon such withdrawal, the grantor shall notify the grantee of the amount and date thereof.

D. The security fund deposited pursuant to this section shall become the property of the grantor in the event that the franchise is cancelled by reason of the default of the grantee or revocation for cause. The grantee, however, shall be entitled to all interest earned, and the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the franchise, or upon termination of the franchise at an earlier date, provided that there is then no outstanding default on the part of the grantee.

E. The rights reserved to the grantor with respect to the security fund are in addition to all other rights of the grantor. (Ord. 483 §1(part), 1984).

5.24.275 Franchise fees. For the use of the street and for the purposes of providing revenue with which to defray the costs of regulation arising out of issuance of franchises under this chapter and promoting, assisting and financing community use programming and other cable services of a public character, each franchisee shall pay franchise fees in the amount prescribed in Section 5.24.280. (Ord. 483 §1(part), 1984).

5.24.280 Amount and payment of franchise fees. During the term of each franchise, each franchisee shall pay to the grantor an amount equal to three percent per year of the franchisee's annual gross revenues, or an amount up to five percent as may be determined by council resolution.

Said fees shall be paid semi-annually not later than August 1st, and February 1st for the preceding six-month period. Not later than the date of each payment, each franchisee shall file with the city, a written financial statement signed under penalty of perjury by an officer of the franchisee which identifies the sources and amount of gross revenues received by a franchisee during the period for which payment is made. (Ord. 483 §1(part), 1984).

V. DESIGN AND CONSTRUCTION

5.24.285 System design concept. The cable communications system shall be constructed in accordance with the provisions of the franchise agreement. (Ord. 483 §1(part), 1984).

5.24.290 Initial geographical coverage. The grantee shall design and construct the cable communications system or expansion thereof in such a manner as to have the eventual capability to service by every single-family dwelling unit, multiple-family dwelling unit, agency and business establishment within the area of the franchise. Service shall be provided to subscribers in accordance with the initial route

of cables serving institutional subscribers shall be approved by grantor, and confirmed in the franchise agreement. (Ord. 483 §1(part), 1984).

5.24.295 Cablecasting facilities. The grantee shall provide cablecasting facilities in accordance with the provisions of the franchise proposal and agreement. (Ord. 483 §1(part), 1984).

5.24.300 Interconnection capability. A. The grantee shall provide the interconnection capability specified in the franchise proposal and agreement. The grantor may, if feasible in the future, require the grantee to participate in interconnecting the cable communications system to other cable systems in other metropolitan areas. Such interconnection may be required only when both the grantor and the franchising authority for the other cable system(s) agree that such interconnections is desirable.

B. When such interconnection is required, the design and cost shall be approved by grantor pursuant to a proposal submitted by grantee. (Ord. 483 §1(part), 1984).

5.24.305 System specifications and requirements. The system shall adhere to the following minimum specifications and requirements at the time of installation or rebuild:

A. The main and subscriber truck system shall provide a four hundred MHZ forward system. Initial sweep testing and proof of performance shall insure the entire four hundred MHZ system meets required FCC specifications.

B. The following capabilities should be able to be provided in the initial main amplifier housing with only the addition of internal modules and the necessary cables. Any future additions to be negotiated between the grantor and the grantee.

1. Five channel return system for the initial four hundred MHZ forward CATV system;

2. System status monitoring;

3. Four hundred MHZ activated B cable system with five channel return system. (Ord. 487 §1, 1984: Ord. 483 §1(part), 1984).

5.24.310 Basic service and construction schedule.

A. The grantee shall begin to offer basic subscriber television, and radio service in accordance with the schedule contained in the franchise proposal and agreement, or sooner.

B. Service need not be provided where power and telephone utilities are not available.

C. When necessary in order to begin basic service, the grantee shall provide a detailed construction plan, indicating progress schedule, area construction maps, test plan, and projected dates for offering service.

D. Failure to begin such necessary construction within one hundred fifty days or a reasonable time after award of the franchise may be grounds for franchise revocation, at the option of the grantor. (Ord. 483 §1(part), 1984).

5.24.315 Delay in construction--Penalties. For any necessary construction the grantor may, at its sole option, apply any or all of the following penalties in connection with delays in system construction:

A. Reduction in the duration of the franchise on a month-for-month basis for each month of delay exceeding six months;

B. Forfeiture of performance bonds for delays exceeding one year;

C. Termination of the franchise for delays exceeding eighteen months;

D. Inclement weather and acts of God. (Ord. 483 §1 (part), 1984).

5.24.320 Construction codes applicable. The grantee shall adhere to all building and zoning codes currently or hereafter in force. The grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person. (Ord. 483 §1(part), 1984).

5.24.325 Construction components and techniques. Construction components and techniques shall be in accordance with the franchise proposal and agreement. (Ord. 483 §1(part), 1984).

5.24.330 Erection of poles prohibited. To prevent the further proliferation of poles, the grantee shall not erect any pole on or along any street or public way in an existing aerial utility system. If additional poles in an existing aerial route are required, grantee shall negotiate joint pole agreements for the installation of the needed poles. Any such addition shall require the advance approval of the grantor. The grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions. (Ord. 483 §1(part), 1984).

5.24.335 Undergrounding of cable. The undergrounding of cables is encouraged. In the event of new construction, cables shall be installed underground at grantee's cost where existing utilities are already underground, or otherwise at developer's expense for new development wherever required by city. Previously installed aerial cable shall be undergrounded in concert with other utilities, when such other utilities may convert from aerial to underground construction. (Ord. 483 §1(part), 1984).

5.24.340 Repair of streets and public ways. Any and all streets and public ways which are disturbed or damaged during the construction, operation, maintenance or reconstruction of the cable communications system shall be promptly repaired by the grantee, at its expense, and to the satisfaction of the grantor. The work hereby required

shall be done in strict compliance with the rules, regulations and ordinances of the grantor as now or hereafter provided. (Ord. 483 §1(part), 1984).

5.24.345 Emergency requirements. The grantee shall construct and maintain an emergency audio override capability. (Ord. 487 §2, 1984: Ord. 483 §1(part), 1984).

5.24.350 Technical and performance standards. System technical and performance standards shall be in accordance with the Federal Communications Commission requirements. (Ord. 483 §1(part), 1984).

5.24.355 Provision of service--Time restriction. After service has been established by activating trunk cables for any area, the grantee shall provide service to any requesting subscriber within that area within sixty days from the date of request, Part 76, Subpart K of FCC Rules and Regulations. (Ord. 483 §1(part), 1984).

5.24.360 Test requirements and compliance procedure. The grantee shall follow the test plan, methods and schedules for testing the cable communications system on an ongoing basis as required by the FCC, and records of the same shall be maintained for inspection. (Ord. 483 §1(part), 1984).

VI. SERVICE

5.24.365 Services to be provided. The cable communications system shall provide, as a minimum, the services listed in the franchise agreement. Such basic subscriber service shall not be reduced without prior approval of grantor. (Ord. 483 §1(part), 1984).

5.24.370 Basic subscriber radio service (BSRS). The basic subscriber FM service shall include the provisions of all designated audio services, including broadcast FM. This service shall be made available to all subscribers at the established monthly subscription rates. (Ord. 483 §1(part), 1984).

5.24.375 Basic subscriber television service (BSTS). The basic subscriber television service shall include all FCC-required services. This service shall be provided to all subscribers at the established monthly subscription rates. Tiers of additional service may be provided at different rates, to offer residents a broader choice. (Ord. 483 §1(part), 1984).

5.24.380 Additional subscriber services. Additional subscriber services not included in the BSTS and BSRS services specified above may be provided, either within the basic subscription rates, or on a premium basis. (Ord. 483 §1 (part), 1984).

5.24.385 Institutional service (IS). One or more channel spaces shall be reserved for institutional service to provide transmission and/or reception services to institutional users, as designated in the proposal and franchise agreement. (Ord. 483 §1(part), 1984).

5.24.390 Closed-circuit community services channel. The grantee shall make at least one channel available to community and public access at no charge, subject to the terms described in the franchise proposal and franchise agreement. The grantee shall participate with government and community organizations to plan and organize programming for said channel. (Ord. 483 §1(part), 1984).

5.24.395 Educational channel. The grantee shall reserve two or more channels for the use of the local educational institutions at no charge. The grantee shall make every effort to provide advice and technical expertise to aid in the utilization of the channel(s). (Ord. 483 §1(part), 1984).

5.24.400 Government access channel. The grantee shall reserve one or more channels for the use of the grantor at no charge to the grantor. The grantee shall make every effort to provide advice and technical expertise to aid in the effective utilization of the channel(s), for the advancement of educational opportunities in the city. (Ord. 483 §1(part), 1984).

VII. OPERATION AND MAINTENANCE

5.24.405 Administration and enforcement authority. The grantor, at its sole option, may provide for the day-to-day administration and enforcement of the provisions of the franchise. (Ord. 483 §1(part), 1984).

5.24.410 Areas of regulation. The grantor shall have responsibility for regulation in the following areas:

A. Administering and enforcing the provisions of the cable communications system franchise(s);

B. Coordination of the operation of government and educational channels;

C. Establishing general procedures and standards for institutional operations and services, use of dedicated channels, and sharing of public facilities;

D. Analyzing the possibility of integrating cable communications with other city, state or regional telecommunications networks;

E. Formulating and recommending long-range cable policy for the city;

F. Collecting the designated franchise fee. (Ord. 483 §1(part), 1984).

5.24.415 Open books and records. The grantee shall maintain an office, or payment station within the franchise territory and manage all of its operations in accordance with a policy of totally open books and records. The grantor, upon reasonable notice, shall have the right to inspect, at any time during normal business hours, all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results, and other like material of the grantee which relate to the operation of the franchise. Access to the aforementioned records shall not be denied by the grantee on the basis that said records contain "proprietary" information. (Ord. 483 §1(part), 1984).

5.24.420 Communications with regulatory agencies. Upon request by city, copies of all petitions, applications, communications and reports submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to the franchise, shall also be submitted simultaneously to the grantor. Copies of responses from the regulatory agencies to the grantee shall likewise be furnished. (Ord. 483 §1 (part), 1984).

5.24.425 Report requirements. City retains the option and right to request and receive any of the following; subject to retaining and protecting the confidentiality and privacy thereof:

A. Annual report, which shall include:

1. A fully audited and certified financial report for the previous calendar year, including gross revenues from all sources, gross subscriber revenues from each category of service, net income, and end-of-year balance sheet;
2. A summary of the previous year's activities, including but not limited to subscriber totals and new services;
3. A summary of complaints received and handled; and
4. Projected plans for the future.

B. Monitoring and compliance reports, which shall include reports of the FCC performance tests for the home subscriber network required in Part 76, Section 76.601 of FCC Rules and Regulations.

C. Additions reports, which shall be furnished to the grantor, at the times and in the form prescribed, such additional data with respect to grantee's operation, affairs, transactions or property as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the grantor in connection with this franchise. (Ord. 483 §1(part), 1984).

5.24.430 Maintenance services--Office required--Complaints. A. The grantee shall maintain an office in or near the franchise territory which shall be open during all usual business hours, have a publicly listed toll-free telephone, and be so operated to receive subscriber complaints and requests for repairs or adjustments on a twenty-four hour basis. A written log shall be maintained listing all complaints and their disposition.

B. The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice, and shall occur during periods of minimum use of the system.

C. The grantee shall maintain a repair force of technicians capable of responding to subscriber complaints or request for service within twenty-four hours after receipt of the complaint or request.

D. The grantor shall ensure that all subscribers, programmers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the grantee has not settled the complaint to the satisfaction of the person initiating the complaint. The grantee shall establish procedures for handling and settling complaints. (Ord. 483 §1(part), 1984).

5.24.435 Safety of installations. A. The grantee shall, at all times, employ the standard of care attendant to the risks involved, and shall install and maintain in use industry-accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public or to employees of the grantee, pursuant to PUC-G.0.95 and G.0.128 or other similar state or federal standards.

B. The grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the National Electric Safety Code, and in such manner that they will not interfere with any installations of the grantor or any public utility.

C. All lines, equipment and connections in, over, under, and upon the streets and public ways and private property in the city, wherever situated or located, shall at all times be kept and maintained in a safe suitable condition, and in good order and repair. (Ord. 483 §1(part), 1984).

5.24.440 Sale of subscriber list prohibited. The grantee shall not sell, or otherwise make available, lists of the names and addresses of its subscribers, or any list which identifies, by name, subscriber viewing habits, to any person, agency or entity, or any purpose whatsoever, without the specific authorization of the grantor, expressed by resolution. (Ord. 483 §1(part), 1984).

5.24.445 Privacy. The grantee and the grantor shall maintain constant vigilance with regard to possible abuse of the right of privacy of any subscriber, programmer or general citizen resulting from any device or signal, excepting however, legitimate law enforcement function. (Ord. 483 §1(part), 1984).

VIII. RATES

5.24.450 Charges permitted and regulated. The grantee may make such charges for services provided to subscribers as are permitted by the franchise agreement or by subsequent approval of the grantor. The grantee shall receive no remuneration whatsoever from its subscribers for or in connection with any service provided to subscribers without approval of the grantor. New services are encouraged, and reasonable charges for such new services shall not be unreasonable, limited or denied by grantor. (Ord. 483 §1(part), 1984).

5.24.455 Schedule of rates. The initial schedule of rates to be utilized by the grantee shall be those in the grantee's franchise, and shall be firm for a period of at least one year after commencement of service within the city. The schedule of rates shall include installation and monthly charges for providing all basic services in conformity with state or federal regulations. No additional charge shall be made for the provision of any converter without prior approval of the grantor. All rates shall be published, and be uniform to all persons and organizations of like classes, under similar circumstances and conditions.

Nothing in this provision shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting subscribers, nor the granting of reduced rates to nonprofit institutions, or for special medical or aging categories nor shall this provision be interpreted to prohibit the establishment of a graduated scale of charges and rate schedules which vary with volume of usage, to which any subscriber or programmer included within a particular classification shall be entitled. (Ord. 483 §1(part), 1984).

5.24.460 Change in rates--Procedure. Basic service rates and charges may be increased, upon approval of the city council in accordance with the provisions of this section.

A. Upon any application by the grantee for a rate increase, grantor may require that it be accompanied, and supported by the following information:

1. Copies of audited financial reports and income statements for at least the preceding three fiscal years. If the grantee is a subsidiary of another firm, similar financial data shall be furnished for the parent corporation;
2. An itemization of capital assets, (a profit and loss statement) both tangible and intangible, including purchase dates and costs, the accounting basis for depreciation and the depreciation schedule. If intangible assets such as goodwill are being amortized, the amortization period shall be stated;
3. A detailed breakdown of operating, marketing and general and administrative costs by category for each of the three preceding years;
4. The number of subscribers for basic service and pay-TV services for each of the three preceding years;
5. A statement as to any allocation of funds to parent company overhead or operating costs, and the basis for such allocation.

B. Upon receipt of a rate increase request, accompanied by all of the required information of subsection A above, it shall be the obligation of the city council to act upon this request within a period of ninety days from the date upon which all supporting material has been made available in adequate form. Prior to taking action on the request, at least one noticed public hearing shall be held upon the rate request.

The council may approve, partially approve or disapprove any increase of rates for additional services on the basis of its findings related to the application and supporting data received.

C. In the event a rate increase is granted as requested, the grantee shall refrain from applying for further increases for a period of twelve months from the date of the prior filing. If the rate request is denied, or a lesser increase than requested is approved, the grantee shall refrain from applying for further increases for a period of nine months from the date of the prior filing. (Ord. 483 §1(part), 1984).

5.24.465 Advance charges and deposits. The grantee may require subscribers to pay for each month of service in advance each month, or for special equipment or additional services in accordance with its customer service contract approved by the grantor. Nothing in this provision shall be construed to prohibit charges for initial installation and reconnection. (Ord. 483 §1(part), 1984).

5.24.470 Installation and reconnection charges. Except as otherwise provided in the franchise agreement, the grantee may make a charge to subscribers for the installation of service outlets and for the reconnection of service outlets. The rates for such connection or reconnection shall be authorized by the grantor as provided in the franchise proposal and agreement. The grantee may waive all or a portion of such charges for connection or reconnection, as provided in Section 5.24.450. (Ord. 483 §1(part), 1984).

5.24.475 Disconnection. There shall be no charge for disconnection of service. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the grantee may disconnect the subscriber's service outlet. Such disconnection policies and procedures shall be stated in the approved cable contract customer form. (Ord. 483 §1(part), 1984).

5.24.480 Refunds to subscribers and programmers. A. If the grantee fails to provide any service requested by a subscriber or programmer, the grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by said subscriber or programmer.

B. If any subscriber terminates any monthly service during the first twelve months of said service because of the failure of the grantee to render the service in accordance with the standards set forth in this permit, the grantee shall make an appropriate refund to such subscriber, in accordance with the policies stated in the approved customer contract. (Ord. 483 §1(part), 1984).

IX. TERMINATION AND RENEWAL

5.24.485 Continuity of service mandatory. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to overbuild, rebuild, modify or sell the system, or the grantor revokes or fails to renew the franchise, the grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances during the lifetime of the franchise. In the event of a change of grantee, the current grantee shall cooperate with the grantor to operate the system for a temporary period, in maintaining continuity of service to all subscribers. (Ord. 483 §1(part), 1984).

5.24.490 Expiration. A. Upon expiration of the initial term of the franchise, the grantor shall have the right, at its election to:

1. Renew or extend the franchise;
2. Invite additional franchise applications or proposals;
3. Terminate the franchise without further action.

B. The grantee shall make it a condition of each contract entered into by it that the grantor shall have the right to exercise these options. (Ord. 483 §1(part), 1984).

5.24.495 Renewal or extension. The franchise may be renewed or extended by the grantor, upon application of the grantee. Nothing in the provision shall be construed to require such renewal or extension. (Ord. 483 §1(part), 1984).

5.24.500 Revocation conditions. A. In addition to any rights set out elsewhere in this document, the grantor reserves the right to revoke the franchise, and all rights and privileges pertaining thereto, in the event that:

1. The grantee violates any material provision of the franchise;
2. The grantee's construction schedule is unreasonably delayed by grantee for over eighteen months;
3. The grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt; or
4. The grantee is found to have practiced any fraud or deceit upon the grantor.

B. Upon failure of the grantee to comply with the terms of the franchise, the city council may by resolution declare a forfeiture, whereupon all rights of the holders of the franchise shall immediately be divested without a further act upon the part of the grantor, and the grantee shall forthwith remove its structures or property from the streets and restore the streets to such condition as the grantor may require, or grantor may take possession thereof. The grantor may perform the service and collect the cost thereof from the grantee or its customers. Additional costs thereof shall be a lien upon all plant and property of the grantee. (Ord. 483 §1(part), 1984).

5.24.505 Receivership. The grantor shall have the right to revoke the franchise one hundred twenty days after the appointment of a receiver, or trustee, to conduct the business of the grantee, where receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty days, or unless:

A. Within one hundred twenty days after his selection or appointment, such receiver or trustee shall have fully complied with all of the provisions of the franchise and remedied all defaults thereunder;

B. Such receiver or trustee, within said one hundred twenty days, shall have executed an agreement, approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the franchise;

C. City may take over possession and operate the system until a new suitable franchise award can be made. (Ord. 483 §1(part), 1984).

X. RIGHTS RESERVED TO GRANTOR

5.24.510 Performance evaluation sessions. A. The city may hold scheduled performance evaluations sessions within thirty days of the third, sixth, ninth, and twelfth anniversary dates of the company's award of the franchise or as may be required by federal and state law. All such evaluation sessions shall be open to the public.

B. Special evaluation sessions may be held at any time during the term of the franchise at the request of the city or the company.

C. Company performance to be evaluated at any schedule or special evaluation session shall include, but not be limited to, service rate structures; franchise fee; penalties; free or discounted services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to the ordinance codified in this chapter; judicial and FCC rulings; line extension policies; and company or city rules.

D. During a review and evaluation by city, company shall fully cooperate with city and shall provide such information and documents as city may need to reasonably perform the review. (Ord. 483 §1(part), 1984).

5.24.515 Immaterial breaches. Notwithstanding any other provision herein, the grantor reserves the right to establish and implement by resolution of the city council, a schedule of penalties and/or fines for any immaterial breaches of the franchise or franchise agreement by grantee. Any grantor shall have the right to enforce any such penalties or fines against grantee, subject to prior written notice thereof, and the terms of the franchise proposal and agreement. (Ord. 483 §1(part), 1984).

5.24.520 Requirement of local purchasing. Grantor reserves the right to establish and encourage a policy of employing local residents within its operations, and of utilizing city-based firms for purchases and construction sub-contracts to the maximum possible extent, at such time as the city deems reasonable. (Ord. 483 §1(part), 1984).

5.24.525 Right of intervention. The grantor shall have the right of intervention in any suit or proceeding to which the grantee is party, and the grantee shall not oppose such intervention by the grantor. (Ord. 483 §1(part), 1984).

5.24.530 Right of inspection of construction. The grantor shall have the right to inspect all construction or installation work performed subject to the provisions of the franchise and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise chapter and other pertinent provisions of law. (Ord. 483 §1(part), 1984).

5.24.535 Right to require removal of property. At the expiration of the term for which the franchise is granted, or upon its revocations or expiration, as provided for herein, the grantor shall have the right to require the grantee to remove, at its own expense, all portions of the cable communications system from all streets and public ways within the city. (Ord. 483 §1(part), 1984).

Chapter 5.28

ROCK FESTIVALS*

Sections:

- 5.28.010 Purpose.
- 5.28.020 Permit--Required.
- 5.28.030 Permit--Application--Approval--Denial.
- 5.28.040 Approval--Procedure.

* For statutory provisions authorizing cities to license for revenue and regulation every lawful business carried on in the city including exhibitions and shows, see Gov. Code §37101. .

Sections: (Continued)

- 5.28.050 Approval--Conditional.
- 5.28.060 Sanitation facility requirements.
- 5.28.070 Public food service facilities.
- 5.28.080 Fire protection.
- 5.28.090 Police protection and traffic control.
- 5.28.100 Parking facilities.
- 5.28.110 Permit--Enforcement.
- 5.28.120 Buildings, structures or improvements.
- 5.28.130 Permit--Fee--Designated.
- 5.28.140 Bond requirements.
- 5.28.150 Permit--Fee--Waived when.
- 5.28.160 Permit--Refusal when.
- 5.28.170 Permit--Issuance--Age restrictions--Revocation.
- 5.28.180 Location restrictions.
- 5.28.190 Permit--Transfer.
- 5.28.200 Permit--Application--Data.
- 5.28.210 Nuisances designated.
- 5.28.220 Violation--Penalty.

5.28.010 Purpose. The city council finds and declares that it is necessary for the protection of the health and welfare of the general public and the inhabitants of the city, that rules and regulations be established for the purpose of regulating music festivals, games, shows, exhibitions, activities, amusements, entertainments and gatherings within the city; that to insure the public health and safety, proper sanitary, police, health, and safety measures be provided to regulate music festivals, games, shows, exhibitions, activities, amusements, gatherings and assemblies within the city. (Ord. 298 §1, 1970).

5.28.020 Permit--Required. It is unlawful for any person, persons, corporations, organizations, landowner, tenant or lessee to allow, permit, encourage, organize, promote, conduct or advertise any entertainment, game, show, exhibition, activity, amusement, gathering, or assembly of persons wherein the primary purpose will be the presentation of outdoor live or recorded musical entertainment which the person, persons, corporation, organization, landowner, tenant, or lessee believes or has reason to believe will attract seven hundred fifty or more persons unless a valid city permit is first obtained for the conducting and operating of the outdoor public amusement, game, show, exhibition, activity, assembly, entertainment or gathering. A permit shall be required for each outdoor public entertainment, festival, game, show, exhibition, activity, amusement, assembly or gathering where live or recorded music is presented. (Ord. 298 §2, 1970).

5.28.030 Permit--Application--Approval--Denial. Written application for permit to conduct and operate outdoor public amusement, game, show, exhibition, activity, festival, entertainment or assembly, where music, live or recorded, is presented, shall be made to the city council; this application shall be submitted thirty days or more prior to the date upon which the public festival, game, show, exhibition, activity, amusement, entertainment, or assembly is to be or may be held. Application for the permits herein provided shall be approved or denied within forty-five days after the application has been filed. Failure by the city council to act within this period constitutes approval of the application. If the application for the permit is not approved and the permit is denied, the denial shall be in writing setting forth the reasons for the denial. (Ord. 298 §3, 1970).

5.28.040 Approval--Procedure. Whenever approval by a city or county government department, office or other agency is a condition for the issuance of a permit pursuant to application made therefor as set forth herein, request to such department, office or other agency for such approval shall be made simultaneously with the filing of the application for the permit with the city council, and approval or denial by the government department, officer or agency, shall be made within thirty days after request for permission has been filed with the government department, office or agency. Failure to act within the period by the government department, office or agency constitutes its approval. (Ord. 298 §4, 1970).

5.28.050 Approval--Conditional. When a physical facility is required or subject to approval hereunder, conditional approval may be granted upon the basis of specific plans and specifications proposed and submitted by the applicant for permit. Any and all facilities required under the terms of any permit issued shall be in existence and in place at the location for which permit is granted, five days or more before the date when the event is scheduled to take place and shall be subject to inspection and approval of the agencies, departments or offices whose approval is required. Inspection of any and all facilities referred to herein shall be approved or disapproved on or before the five day period preceding the event. Failure by the department or agency to act as herein required constitutes an approval. If the facilities fail to meet the standards set forth in the plans and specifications therefor which have been conditionally approved, such conditional approval shall be withdrawn and any and all permits granted subject to such approval shall be cancelled and withdrawn. (Ord. 298 §5, 1970).

5.28.060 Sanitation facility requirements. No permits for a music festival, game, show, exhibition, activity, gathering, assembly, rock festival, amusement or entertainment shall be granted unless the application is approved by the Amador County health department and no permit shall be granted unless the following minimum facilities are supplied:

A. Every location for which a permit is required under this chapter shall provide adequate drinking facilities approved by the Amador County health department and supplying drinking water of a quality which shall meet the standards of the department of public health of the state of California for human consumption.

B. Every location for which a permit is required under the terms of this chapter shall be provided with toilets, urinals and handwashing facilities in the number and constructed as required by the Amador County health department; these facilities shall be conveniently located for the use of persons at the permit location.

C. Separate toilet facilities shall be provided for each sex and shall be so marked. Toilets shall be of the type approved by the Amador County health officer. (Ord. 298 §6, 1970).

5.28.070 Public food service facilities. If any public food service is to be provided on the premises, the applicant shall submit with his application for permit, the type of facilities to be provided for such service. Such facilities shall meet the specifications required by the public health department of the county of Amador and the state of California for the type of facility proposed to be used. (Ord. 298 §7, 1970).

5.28.080 Fire protection. No permit shall be granted hereunder unless applicant provides fire protection as shall be required by the city fire commissioner for the location set forth in the permit. No permit shall be granted hereunder unless applicant furnishes, within ten days after filing his application, approval in writing of the furnishing of such fire protection services and equipment as may be required by the city fire commissioner to protect the persons attending the entertainment for which the permit is granted. (Ord. 298 §8, 1970).

5.28.090 Police protection and traffic control. No permit shall be granted hereunder unless the applicant files written approval of the chief of police indicating that police protection and traffic control have been contracted for or otherwise provided by the applicant to the extent and in the manner required by the sheriff. Provided, however, that not less than one traffic control person shall be required for each three hundred persons expected, or reasonably expected, to be in attendance during the time the event for which the

permit is granted is scheduled to be held. There shall be one crowd control person for each one hundred persons expected, or reasonably expected, to be in attendance at such event during the time the event is scheduled. Qualifications for such traffic control and crowd control persons shall be determined and approved by the chief of police. Proof that adequate traffic control and crowd control, protection and policing has been contracted for shall be provided the sheriff of the county of Amador within ten days after filing application for permit. (Ord. 298 §9, 1970).

5.28.100 Parking facilities. Application for permit under this chapter shall be accompanied by a scale drawing showing parking facilities at or adjacent to the location for which the permit is required. The location of these facilities shall be shown in relation to the area for which the permit is requested and the distance therefrom. The parking area shall be sufficient in size to provide parking at the rate of one vehicle for each four persons anticipated to be in attendance at the premises for which the permit is sought. The drawing of the parking facilities shall show the methods of ingress and egress from the parking area and the methods of ingress and egress shall be sufficient to provide reasonably easy access and prompt disbursement of traffic. The drawing shall be accompanied by written authorization from the owner or the agent of the owner permitting parking on the area shown for parking facilities. (Ord. 298 §10, 1970).

5.28.110 Permit--Enforcement. The application for permit shall include a provision authorizing law enforcement and other public officers, including fire control and health officers, to enter upon the premises for which the permit is sought for the purpose of inspection and enforcement of the terms and conditions of the permit and the granting of such permit shall be conditioned upon the permitting of this access for such purposes by these persons. (Ord. 298 §11, 1970).

5.28.120 Buildings, structures or improvements. The applicant shall set forth in each application for permit, the buildings, structures or improvements that will be used by the applicant for the purposes set forth in the permit. No existing building, structure or improvement on the premises shall be used until it has been inspected and approved by the department of plans and inspections of the county of Amador, and written approval shall be provided for the city council within ten days after the application for permit is filed, by the department of plans and inspections. In the event applicant desires to construct a building, structure or improvement on the premises, the design thereof shall be submitted to the

department of plans and inspections may grant conditional approval on the basis of plans, specifications and designs submitted. Any such proposed structure shall be constructed and placed in position, at location, five days or more before the date the event is scheduled to take place; shall be inspected by the department of plans and inspections of Amador County, and such structure shall be approved or disapproved on or before the fifth day prior to the date the event for which the permit is sought is scheduled. Failure of the department of plans and inspections to inspect the structure within the time set forth herein constitutes an approval thereof. If, on inspection, the facilities fail to meet the standards set forth in the plans and specifications submitted therefor and which have been conditionally approved, such conditional approval shall be withdrawn and cancelled and all permits granted subject to such approval shall be cancelled and withdrawn; if a permit has not been issued, it shall not be granted. (Ord. 298 §12, 1970).

5.28.130 Permit--Fee--Designated. Any application for permit hereunder shall be accompanied by a permit fee of one thousand dollars. (Ord. 298 §13, 1970).

5.28.140 Bond requirements. No permit shall be issued hereunder until the applicant has deposited with the city clerk a surety bond, issued by a duly licensed surety company doing business in the state of California, conditioned to indemnify the city for damage to any of its property and any expense necessarily incurred by reason of the conducting of the event for which a permit is issued hereunder and to indemnify any person, firm or corporation for damage cause by vehicles, operators, employees or participants in such music festival, gathering, event, game, show, activity, exhibition, or assembly. The principal amount of bond required hereby shall be ten thousand dollars. Any permit issued pursuant to the provisions of this chapter limits the use of any premises licensed hereunder to such hours as are prescribed by the city council, in not to exceed two consecutive days; this permit expires not later than two a.m. on the second day. (Ord. 298 §14, 1970).

5.28.150 Permit--Fee--Waived when. Notwithstanding any of the provisions of this chapter if any gathering, festival, assembly, game, show, exhibition, event or activity, as herein referred to, is to be conducted by a bonafide charitable organization for the purpose of raising funds for charitable uses and from which no part of the gross receipts herefrom shall inure to the private benefit of any individual, corporation, partnership or association, excepting so far as these gross receipts may be expended for the purpose of necessary materials and supplies for such enterprise, the city council may waive the permit fee for which provision is made in

this chapter and, in lieu thereof, may impose such requirements as it deems necessary and proper to insure the proper inspection and policing of the enterprise. And further, notwithstanding the provisions of this chapter, if such festival, game, show, exhibition, activity, amusement, event, or other enterprise is to be conducted by a bonafide charitable organization for the purpose of raising funds for charitable use, the city council may waive the permit fee provided for herein and, in lieu thereof, impose such requirements, if any, as it deems necessary and proper to insure the proper inspection and policing of the premises. And, further, also excepted from the provisions of this chapter are local traditional events, as of April 20, 1970. (Ord. 298 §15, 1970).

5.28.160 Permit--Refusal when. No permit shall be issued for the operation of any festival, game, exhibition, show, event, activity, gathering, or assembly, to any person, firm or corporation when, in the judgment of the city council, the conducting thereof will be inconsistent with the best public interests. (Ord. 298 §16, 1970).

5.28.170 Permit--Issuance--Age restrictions--Revocation. No permit shall be issued to any person under the age of twenty-one years. Every permit issued hereunder shall reserve for the city council the right to revoke such permit without notice or formal hearing and such rights to revoke is a consideration for the issuance of such permit. Revocation without notice or formal hearing shall be only upon a finding by the city council that the provisions of this chapter, or the requirements set forth in the conditions under which the permit is granted, or any law has been violated by a permittee and the action of the city council in revoking such permit shall be final. (Ord. 298 §17, 1970).

5.28.180 Location restrictions. No activity for which a permit is sought under the provisions of this chapter shall be operated or conducted or carried out at any location which is closer than one thousand three hundred twenty feet from any school-house, church or residence; provided, however, that the provisions of this section shall not apply if the owner of each residence or the governing body of each school and/or church within the one thousand three hundred twenty feet shall waive the requirements of this section in writing. (Ord. 298 §18, 1970).

5.28.190 Permit--Transfer. Any permit issued hereunder shall be posted in a conspicuous place on the premises for which it is issued and shall not be transferrable or assignable without the consent of the city council and no rebate or refund of the money, or any portion thereof, paid for such permit hereunder shall be made. (Ord. 298 §19, 1970).

5.28.200 Permit--Application--Data. The application for permit to be issued hereunder shall be made in writing and shall be accompanied by a deposit of the fee required hereby. It shall be signed by the person to whom such permit shall be issued or his manager or agent. The full name and address of the applicant shall be given and if the applicant is a partnership the names of all the partners and their respective addresses shall be set forth in full, together with the location of the principal office or place of business of such partnership. If the application is by a corporation the names and addresses of the president, vice-president and secretary shall be given together with the address and location of the principal office or place of business of such corporation. The application shall state the location of the premises to be occupied and for which the permit is sought and shall state the applicant will abide by all the rules and regulations of this chapter and the city rules and regulations and ordinances applicable to the event being staged at the location, and all laws in effect for the protection, health, morals and safety of the persons in attendance at the event, the persons employed at such event, the participants thereof and the general public. Application for permit shall be filed with the city clerk. (Ord. 298 §20, 1970).

5.28.210 Nuisances designated. Any use, occupation, building or structure maintained contrary to the provisions of this chapter constitutes a public nuisance. (Ord. 298 §21, 1970).

5.28.220 Violation--Penalty. The penalty for violations of this chapter shall be as prescribed in Section 1.20.010. (Ord. 334 §2(part), 1973: Ord. 298 §23, 1970).

Chapter 5.32TAXICABSSections:

- 5.32.010 Definition.
- 5.32.020 Operator's license--Required.
- 5.32.030 Operator's license--Application.
- 5.32.040 Operator's license--Grounds for denying issuance.
- 5.32.050 Operator's license--Fee.
- 5.32.060 Operator's license--Nontransferability.
- 5.32.070 Operator's license--Revocation or refusal to renew--Initial determination.

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- 5.32.080 Operator's license--Revocation or refusal to renew--Notice.
- 5.32.090 Operator's license--Revocation or refusal to renew--Hearing.
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- 5.32.110 Driver's permit--Required.
- 5.32.120 Driver's permit--Application--Qualifications.
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- 5.32.150 Driver's permit--Suspension--Initial determination.
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- 5.32.200 Driver's permit--Revocation or refusal to renew--Initial determination.
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- 5.32.220 Driver's permit--Revocation or refusal to renew--Hearing.
- 5.32.230 Driver's permit--Revocation or refusal to renew--Determination.
- 5.32.240 Operation--Vehicles.
- 5.32.250 Operation--Illegal or improper activity.
- 5.32.260 Operation--Insurance.
- 5.32.270 Operation--Rates.
- 5.32.280 Taxicab stands.

5.32.010 Definition. "Taxicab" as used in this chapter means and includes any vehicle used to carry passenger for hire but not operating on a fixed route. (Ord. 474 §1 Art. 1(A), 1982).

5.32.020 Operator's license--Required. It is unlawful to engage in the business of operating a taxicab in the city without first securing a license therefor. (Ord. 474 §1 Art. 1(B), 1982).

5.32.030 Operator's license--Application. Application for operator's business license shall be made in writing to the chief of police, and shall state thereon:

A. The name and address of the applicant, and if a corporation, the names of the principal officers, or if a partnership, association or fictitious company, the names of the partners or persons comprising the association or company with the address of each;

B. The intended place for the conduct of the financial affairs and service of the taxicabs in the business;

C. The street number and exact location of the place or places where the applicant proposes to stand each taxicab;

D. A description of each taxicab which the applicant proposes to use giving:

1. Trade name,
2. Make and style,
3. Year,
4. Motor and serial number,
5. Seating capacity,
6. Distinctive color scheme, name, monogram, insignia which shall be used on each taxicab,
7. Such other information required by the chief of police which is reasonably related to the operation of a taxicab business;

E. Filing of Rate Structure. The rates to be charged for use of taxicabs shall be filed with the police chief at the time of application for operator's license. (Ord. 594 §1(part), 1997; Ord. 474 §1 Art. 1(C), 1982).

5.32.040 Operator's license--Grounds for denying issuance. The chief of police and city administrator shall deny an application for an operator's license when:

A. The application is not in the form and does not contain the information required.

B. The taxicab or taxicabs described are inadequate or unsafe for the purpose for which they are to be used.

C. The color scheme, name or monogram or insignia identifying such taxicab or taxicabs conflicts with or imitates any color scheme, name, monogram or insignia used by any person in such manner as to be misleading or tend to deceive or defraud the public.

D. The location of the stand is such as to congest or interfere with travel on any public street, or that the proposed stand is within three hundred feet of any other stand theretofore fixed on the same street.

E. The applicant presently is under suspension or has, at some prior time, had an operator's business license revoked for cause.

F. The applicant has been convicted of a felony or misdemeanor on charges of fraud, embezzlement, or such other offense constituting a dishonest business practice; nor shall such license be issued to or be held by any corporation if any officer thereof would be ineligible for a license under the foregoing conditions of this section.

G. The city council, after notice to the applicant, and a hearing, if such hearing is requested by applicant, by resolution determines that there are a sufficient number of taxicabs in this city to fully serve the public, and

that the public interest, convenience, and necessity do not require issuance of an operator's business license to the applicant. (Ord. 474 §1 Art. 1(D), 1982).

5.32.050 Operator's license--Fee. A. The annual flat fee, payable in advance, for an operator's business license shall be sixty dollars plus twenty-five dollars for each taxicab operated, providing that said fees are subject to change as may hereafter be established by council resolution. Whenever the number of taxicabs so operated shall be increased during the license year, the licensee shall notify the chief of police and administrator of such change and shall pay the additional fee. The license year shall begin July 1st of each year.

B. The chief of police shall issue suitable tags or stickers for the number of taxicabs covered by each license. Such tag or sticker shall be displayed in a prominent place on each taxicab while it is in use, and may be transferred to any taxicab put into service to replace one permanently withdrawn from service.

C. The licensee shall notify the chief of police of the motor number and state license number of each cab operated and of the corresponding city tag or sticker number. (Ord. 474 §1 Art. 1(E), 1982).

5.32.060 Operator's license--Nontransferability. No operator's business license issued under the terms of this chapter shall be transferable, either by contract or operation of law, without the permission of the chief of police having first been obtained, and any attempted transfer shall be null and void, and further shall be sufficient cause for revocation thereof. (Ord. 474 §1 Art. 2(F), 1982).

5.32.070 Operator's license--Revocation or refusal to renew--Initial determination. The chief of police, in his sole discretion, shall make the initial determination as to whether revocation or nonrenewal of an operator's business license is appropriate. (Ord. 474 §1 Art. 2(G)(1), 1982).

5.32.080 Operator's license--Revocation or refusal to renew--Notice. The licensee shall be given a written statement of the initial determination of the chief of police to revoke or not to renew the operator's business license, including supporting facts and reasons therefor, and the licensee thereafter shall have ten days to either respond orally or in writing to the chief of police before such determination, if not earlier withdrawn or modified, becomes effective. (Ord. 474 §1 Art. 2(G)(2), 1982).

5.32.090 Operator's license--Revocation or refusal to renew--Hearing. A. Within thirty days after notice has been given to the licensee by personal delivery or within thirty-three days after notice has been given to the licensee by certified mail, as applicable, the licensee may make a written request for a hearing. After at least five days' notice to the licensee of the date and time of the hearing, a hearing shall be held at which the licensee may present evidence and dispute the validity of any charge made by the city.

B. Failure of the licensee to make a written request for a hearing within the prescribed time limit shall mean that the initial determination made by the chief of police remains in full force and effect and shall be final. (Ord. 474 §1 Art. 2(G)(3), 1982).

5.32.100 Operator's license--Revocation or refusal to renew--Determination. Revocation or nonrenewal of an operator's business license by the chief of police or the city council must be supported by substantial evidence which establishes one or more of the following grounds:

A. The licensee knowingly gave a false answer or knowingly omitted an answer material to his application for an operator's business license.

B. The taxicab or taxicabs operated by the licensee are inadequate or unsafe for the purposes for which they are to be used.

C. The licensee wilfully permitted a driver who is not qualified; as defined in this chapter, to drive a taxicab.

D. The licensee knowingly made false representations for the purpose of securing patronage.

E. Since the date of issuance of his operator's business license, the licensee has been convicted of a misdemeanor or felony on charges of fraud, embezzlement, or other such dishonest business practice.

F. The licensee has failed to pay the fees required under this chapter. (Ord. 474 §1 Art. 2(G)(4), 1982).

5.32.110 Driver's permit--Required. It is unlawful for any driver to drive a taxicab in the city unless such driver is validly licensed by the state and as required by this chapter. (Ord. 474 §1 Art. 3(A), 1982).

5.32.120 Driver's permit--Application--Qualifications. Application for a driver's permit shall be made in writing to the chief of police, upon verification by the applicant, and shall set forth the following:

A. The name, address, description of applicant, and proof that the applicant is at least twenty-one years of age;

B. The name of the applicant's employer or proposed employer in the taxicab business;

C. A photograph of the applicant taken within sixty days immediately prior to the date of filing such application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

D. A statement of any physical or mental infirmity, disease, or condition which may affect or impair the applicant's ability to drive a taxicab;

E. A statement of any felony conviction which by its nature would expose taxi customers to an increased risk of harm including but not limited to, assault, theft, fraud or a sex offense;

F. A statement of any misdemeanor conviction involving an incident arising from or related to his operation of a taxicab;

G. A statement of any misdemeanor conviction for driving a vehicle under the influence of alcohol or narcotics;

H. Driver's Drug and Alcohol Testing. No person shall be issued a driver's permit until they have presented certification to the police chief that they have tested negative for alcohol (breath alcohol concentration of less than 0.02 percent) and each of the controlled substances specified in Part 40 (commencing with Section 40.1) of the Title 49 of the Code of Federal Regulations. The date of testing shall be within ten days of the date of issuance of a driver's permit. Test results are confidential and shall not be released without the consent of the applicant, except as authorized or required by law. Cost for such testing is the obligation of the applicant or employee of the applicant;

I. Testing Procedures. Applicant shall show a valid California driver's license at the time and place of testing. Testing procedures shall be substantially as set forth in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal regulations. The city may at random require a permitted driver to be retested. If such a test is required by city, city shall pay the cost for such testing;

J. Other Information Required. Such other information required by the chief of police which is reasonably related to the safe, efficient, or honest operation of a taxicab by the driver. (Ord. 594 §1(part), 1997; Ord. 474 §1 Art. 3(C), 1982).

5.32.130 Driver's permit--Application--Grounds for denial--Lack of qualifications. The chief of police shall deny an application for a driver's license when:

A. The application is not in the form and does not contain the information required by this chapter.

B. The applicant has a physical or mental infirmity, disease, or condition which, in the sole discretion of the chief of police materially affects the applicant's ability to drive a taxicab.

C. Within three years immediately prior to application for a driver's permit, the applicant has been convicted of a felony which by its nature would expose taxi customers to an increased risk of harm or financial loss, including, but not limited to, assault, theft, fraud or a sex offense.

D. Within three years immediately prior to application for a driver's permit, the applicant has been convicted of two or more misdemeanors, involving driving a vehicle while under the influence of alcohol or narcotics.

E. Within three years immediately prior to application for a driver's permit, the applicant has been convicted of a misdemeanor directly related to his operation of a taxicab which subjected a taxi customer or bystander to physical violence by the applicant by assault, or the like, or which subjected a taxi customer or prospective taxi customer to fraudulent misrepresentations by the taxi driver or the like.

F. The applicant has knowingly given false answer or knowingly omitted an answer material to his application for a driver's permit.

G. The applicant presently is under suspension or has, at some prior time, had his driver's permit revoked for reason. (Ord. 474 §1 Art. 3(D), 1982).

5.32.140 Driver's permit--Fee. The annual flat fee for a driver's permit valid for a period of one year, beginning July 1st of each year and ending June 30th of each following year, shall be five dollars, plus actual costs of processing fingerprints and making a check of the driver's criminal record. (Ord. 474 §1 Art. 3(B), 1982).

5.32.150 Driver's permit--Suspension--Initial determination. The chief of police, in his sole discretion, shall make the initial determination as to whether suspension of a driver's permit is appropriate. (Ord. 474 §1 Art. 3(E)(1), 1982).

5.32.160 Driver's permit--Suspension--Notice. The permittee shall be given a written statement of the initial determination of the chief of police to suspend the driver's permit, including supporting facts and reasons therefor, and the permittee thereafter shall have ten days to either respond orally or in writing to the chief of police before such determination, if not withdrawn, becomes effective. (Ord. 474 §1 Art. 3(E)(2), 1982).

5.32.170 Driver's permit--Suspension--Hearing.
 A. Within thirty days after notice has been given to the permittee by personal delivery or within thirty-three days after notice has been given to the permittee by certified mail, as applicable, the permittee may make written request for a hearing. After at least five days' notice to the permittee of the date and time of the hearing, a hearing shall be held at which the permittee may present evidence and dispute the validity of any charge made by the city.
 B. Failure of the permittee to make written request for a hearing within the prescribed time limit shall mean that the initial determination made by the chief of police shall remain in full force and effect and shall be final. (Ord. 474 §1 Art. 3(E)(3), 1982).

5.32.180 Driver's permit--Suspension--Determination. Suspension of a driver's permit by the chief of police or the city council must be supported by a preponderance of the evidence and the burden or proof shall be on the city to establish one or more of the following grounds:

A. The permittee repeatedly has used profane or obscene language while operating a taxicab in the city.

B. The permittee repeatedly has shouted or called to prospective customer on the city streets.

C. The permittee has been convicted of two or more moving violations within a period of six months.

D. The permittee has committed acts or omissions sufficient to establish grounds for revocation of his driver's permit as provided in this chapter. (Ord. 474 §1 Art. 3(E)(4), 1982).

5.32.190 Driver's permit--Length of suspension. No suspension for any one of the provisions set forth in Section 5.32.180 shall be longer than six months. For the following specific offenses, the length of suspension shall be as follows:

A. A permittee who repeatedly has used profane or obscene language while operating a taxicab in the city or who repeatedly has shouted or called to prospective customers on the city streets shall be suspended for up to five calendar days.

B. Any permittee twice convicted of moving traffic violations within a period of six months shall have his driver's permit suspended for fourteen calendar days.

C. Any permittee convicted three times of moving traffic violations within a period of six months shall have his driver's permit suspended for thirty calendar days.

D. Any permittee who has committed acts or omissions sufficient to establish grounds for revocation of his driver's permit may, in the alternative, have his driver's permit suspended for up to six months. (Ord. 474 §1 Art. 3(E)(5), 1982).

5.32.200 Driver's permit--Revocation or refusal to renew--Initial determination. The chief of police, in his sole discretion, shall make the initial determination as to whether revocation or nonrenewal of a driver's permit is appropriate. (Ord. 474 §1 Art. 3(F)(1), 1982).

5.32.210 Driver's permit--Revocation or refusal to renew--Notice. The permittee shall be given a written statement of the initial determination of the chief of police to revoke or not to renew the driver's permit, including supporting facts and reasons therefor, and the permittee thereafter shall have ten days to either respond orally or in writing to the chief of police before such determination, if not withdrawn or modified, becomes effective. (Ord. 474 §1 Art. 3(F)(2), 1982).

5.32.220 Driver's permit--Revocation or refusal to renew--Hearing. A. Within thirty days after notice has been given to the permittee by personal delivery or within thirty-three days after notice has been given to the permittee

by certified mail, the permittee may make written request for a hearing. After at least five days' notice to the permittee of the date and time of the hearing, a hearing shall be held at which the permittee may present evidence and dispute the validity of any charge made by the city.

B. Failure of the permittee to make written request for a hearing within the prescribed time limit shall mean that the initial determination made by the chief of police shall remain in full force and effect and shall be final. (Ord. 474 §1 Art. 3(F)(3), 1982).

5.32.230 Driver's permit--Revocation or refusal to renew--Determination. Revocation or nonrenewal of a driver's permit by the chief of police or the city council must be supported by a preponderance of the evidence and the burden of proof shall be on the city to establish one or more of the following grounds:

A. The permittee knowingly gave a false answer or knowingly omitted an answer material to his application for a driver's permit.

B. Since the date of issuance of his driver's permit, the permittee has been convicted of a felony which by its nature would expose taxi customers to an increased risk of harm including, but not limited to, assault, theft, fraud, or a sex offense.

C. Since the date of issuance of his driver's permit, the permittee has had his state driver's license suspended or revoked.

D. Since the date of issuance of his driver's permit, the permittee has been convicted of driving a taxicab while under the influence of alcohol or narcotics.

E. Since the date of issuance of his driver's permit, the permittee has been convicted of a misdemeanor directly related to his operation of a taxicab which subjected a taxi customer or bystander to physical violence by the permittee's assault, or the like, or which subjected a taxi customer or prospective taxi customer to fraudulent misrepresentation by the permittee, or the like.

F. Since the date of issuance of his driver's permit, the permittee has shown a physical or mental infirmity, disease, or condition which materially affects his ability to drive a taxicab safely and efficiently.

G. The permittee has operated a taxicab for business purposes during a time when his driver's permit has been suspended. (Ord. 474 §1 Art. 3(F)(4), 1982).

5.32.240 Operation--Vehicles. The chief of police or his authorized agent may inspect any taxicab so often as he deems necessary to enforce the provisions of this section. No taxicab shall be operated unless:

- A. It bears a state license duly issued;
- B. It is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirrors, adequate windshield wipers and is in good running condition as determined by a city police officer;
- C. It bears a distinguishing color scheme, or design as set forth in the licensee's application, except when the chief of police has granted temporary use of automobiles not so marked;
- D. Each taxicab, while operated, shall have on each side, in letters not less than two inches high, the name of the licensee operating it; and if more than one taxicab is operated by a licensee, each taxicab shall be designated by a different number, which number, shall also so appear on the side of such taxicab;
- E. Information is displayed in the taxicab so as to be noticeable and readable by passengers, which information shall include the operator's business license number, name of licensee, date of issuance, the state license plate number and engine number of the taxicab, and further, the driver's license shall be clearly displayed. (Ord. 474 §1 Art. 2(A), 1982).

5.32.250 Operation--Illegal or improper activity.
The licensee shall be responsible for hiring qualified drivers, as provided in this chapter, assuring that drivers who are hired remain qualified. (Ord. 474 §1 Art. 2(B), 1982).

5.32.260 Operation--Insurance. A. No taxicab shall be operated unless it provides insurance which meets the requirements of California Vehicle Code Sections 16500 and 16502, as amended from time to time, and which makes the city an "additional insured," requires ten days' notice prior to cancellation, and which meets the satisfaction of the city attorney. If at any time in the judgement of the city attorney, the licensee's insurance is not sufficient for any cause, new or different insurance shall be obtained by the licensee. In addition, the licensee shall give proof of adequate worker's compensation insurance coverage for all employees entitled thereto.

B. As an alternative, in whole or in part, to the requirements of subsection A of this section, and in accordance with the financial responsibility laws of this state, any person may satisfy the city's insurance requirements as qualifying under state law as a self-insurer and by obtaining a certificate of self-insurance issued by the State Department of Motor Vehicles. Such self-insurance may be in amounts which satisfy the above city requirements in whole or in part. In addition, any person who is self-insuring shall execute a hold harmless agreement, including agreement to defend against all claims

and actions arising from the operation of vehicles authorized in this chapter, to the benefit of the city and its elected and appointed officers and employees. (Ord. 474 §1 Art. 2(C), 1982).

5.32.270 Operation--Rates. No taxicab shall be operated unless it is equipped with a meter in good condition to record the amount to be charged on each trip, which amount shall be shown in figures visible to the passenger. It is unlawful for a passenger to fail or refuse to pay the lawful fare at the termination of a trip. No extra charge shall be made for baggage or parcels the size of which permits them to be carried in the cab. (Ord. 474 §1 Art. 2(D), 1982).

5.32.280 Taxicab stands. Taxicab stand locations shall be kept on a list available to the public in the police department. Each taxicab stand shall be appropriately marked by signs. It shall be unlawful to park any vehicle, other than a licensed taxicab, in a taxicab stand. A licensed taxicab may be parked in any taxicab stand while such taxicab is in the charge of its driver on duty awaiting a fare. (Ord. 474 §1 Art. 2(E), 1982).

474 §1 Art. 2(E), 1982).

Chapter 5.36

CARDROOMS

Sections:

- 5.36.010 License--Required.
- 5.36.020 License--Applications.
- 5.36.030 License fees and deposits.
- 5.36.040 Investigations and reports.
- 5.36.050 Granting or denial of application.
- 5.36.060 Transfer--Expiration of license.
- 5.36.070 Revocation of license.
- 5.36.080 Rules and regulations.
- 5.36.090 Enforcement.

5.36.010 License--Required. It is unlawful for any person to commence or conduct within the city any business or enterprise for the playing of cards or card games and for the use of which a fee or commission is directly or indirectly charged, accepted or received from players or participants in any such playing of games, until such person shall have first obtained a license to do so in compliance with this chapter. (Ord. 478 §1(1), 1983).

5.36.020 License--Applications. Any person desiring to commence or continue by renewal any business or enterprise for any such card games shall file with the city chief of police a written application. Each such application shall contain clearly and truthfully under oath or affirmation the following information on the form provided by the city:

- A. The date of the application;
- B. The true name of the applicant;
- C. The status of the applicant as being an individual, firm, association, copartnership, joint venture, or corporation;
- D. If the applicant is an individual, the residence and business address of such applicant;
- E. If the applicant is other than an individual, the name, residence, and business address of each of the copartners or members of the firm, copartnership or joint venture and the name, residence and business addresses of each of the principal officers and directors of the association or corporation applicant;
- F. The proposed location of the business for which the license is sought;
- G. The type and nature of the game proposed to be played;
- H. The number of tables or other units to be placed, employed or used; subject to a minimum of two and a maximum of six, unless a use permit is sought and obtained under the provisions of Chapter 17.36;
- I. A description of any other business conducted or proposed to be conducted at the same location;
- J. A statement that the applicant understands that the application shall be considered by the council only after a full investigation and report, including a criminal records investigation, have been made by the city chief of police;
- K. A statement that the applicant understands and agrees that any business or activity conducted or operated under any license issued under such application shall be operated in full conformity with all the laws of the state and the laws and regulations of the city applicable thereto, enforced by frequent inspections or investigations by the city police department, and that any violation of any such laws or regulations in such place of business or in connection therewith brought to the attention of the chief of police shall render any license therefor subject to immediate suspension and revocation;
- L. A statement that the applicant has read the provisions of this chapter and particularly the provisions of this section and understands the same; and
- M. A full and complete financial statement of the applicant, whether he is an individual, corporation, partnership, or other entity; provided, the financial statement

required by this subsection shall be a confidential qualified document and shall not be open to public inspection but shall be available only to the city director and his staff. (Ord. 478 §1(2), 1983).

5.36.030 License fees and deposits. The license fees set forth in this chapter are for both regulation and revenue purposes and are levied pursuant to the authority of applicable state laws. Each such application for any license shall be accompanied by fees and deposits, payable to the city as follows:

A. An application fee of two hundred dollars which shall be retained by the city as a deposit for the payment of the costs of investigation, including a criminal records investigation by the chief of police. In the event that the costs of the investigation are more than said deposit, then the applicant shall be required to pay the same regardless of whether or not a license is finally issued. Similarly, in the event that the costs of the investigation are less than the required deposit, then the clerk shall refund the difference to the applicant.

B. Quarterly license fees payable in advance for the quarters beginning on January 1st, April 1st, July 1st, and October 1st of each calendar year in the following amounts:

First two tables	Fifty dollars per table per quarter
Additional tables to maximum of four	Twenty-five dollars per table per quarter.

The quarterly license fees shall become the absolute property of the city and shall not be refunded in the event of any cessation of business for any reason. All such fees including the initial application fee may be changed at any time by city council resolution. (Ord. 478 §1(3), 1983).

5.36.040 Investigations and reports. A. Investigations Required. Whenever an application has been filed with the city chief of police for a license pursuant to the provisions of this chapter, the chief of police and city director and his staff shall immediately and diligently make an investigation as follows:

1. A full and complete investigation, including a criminal records investigation, of the applicant (including its officers and members, if any, whose name and addresses are shown upon the application);
2. A full and complete investigation of the building and location where the applicant proposes to conduct such business or activity; and
3. A full and complete investigation as to the type of tables or units to be used at, or in connection with,

the proposed business and the type of games proposed to be played, which investigation shall also include the proposed locations of the tables or other units in, within, or about the proposed place of business.

B. Reports Required. The city director and chief of police shall make such investigations with reasonable promptness and shall report to the council with reference thereto in due time, and shall make investigations with reasonable promptness as to all matters within his jurisdiction concerning the public health, welfare, and safety as may be concerned with such application.

C. Reports Prerequisite to Council Considerations. The council shall not consider any application for a license until such time as the city director has filed his reports with the council.

D. Time of Filing Reports. All such reports shall be filed with the council within a period of thirty days after the applications have been referred to the city director and his staff. (Ord. 478 §1(4), 1983).

5.36.050 Granting or denial of application. A. Council Consideration. The city council shall consider an application for a license under these provisions only after all fees have been paid and the chief of police and city director have completed a full investigation and report on the applicant.

B. Decision of Council. The council may, in its discretion, either approve the application and grant the license on any terms or conditions as it deems prudent, or deny the application and refuse to grant the license. Any such decision shall be final and conclusive, and the applicant shall agree to abide by the same.

C. Ground for Denial of Application. The city council shall not authorize the issuance of any license under the provisions of this chapter in any of the following cases:

1. If the proposed business is to be operated in violation of any state or city law or regulation;
2. If the game for which a license is applied for is unlawful;
3. If the building premises will not conform to the city zoning regulations requiring minimum C-2 zoning classification;
4. If the applicant or any of his agents or employees have any misdemeanor or felony convictions related to drugs, acts of moral turpitude or violence. (Ord. 478 §1(5), 1983).

5.36.060 Transfer--Expiration of license. A. Transfer. Any transfer or assignment of any license or expansion of an existing facility shall be considered for all purposes as a new application for a cardroom, and all the provisions of the chapter shall apply.

B. Every license issued pursuant to these provisions shall be held continuously by and in the possession of the approved individual licensee at all times while he is on the premises and during all games.

C. Expiration. Every license issued pursuant to these provisions shall stay in effect until the license is either surrendered, suspended or revoked. (Ord. 478 §1(6), 1983).

5.36.070 Revocation of license. A. Grounds. Any license issued pursuant to the provisions of this chapter shall be revoked if it is found, in the time and manner hereinafter described:

1. That a licensee or any agent or employee thereof has violated or permitted or caused any violation of any provision of this chapter or state or local laws; or

2. That a licensee, or any agent or employee thereof, has permitted or caused any violation of any condition of approval imposed upon the issuance of such license; or

3. That any licensee has made any fraudulent statement as to a material fact on an application form or as to any other information presented as part of the application process.

B. Action of City Director. Whenever the city director has information that a violation constituting a ground for revocation has occurred he shall authorize an investigation and report on the same. If he determines that a cause for revocation of license occurred he shall set the matter for consideration by the city council at its next most convenient meeting. He shall give notice of the time and the place of the hearing before the city council to the licensee not less than five days in advance of the date set by him for such hearing.

C. Hearings. At the time set for such hearing, the city council shall hear the evidence presented by the chief of police and the city director, purporting to show grounds exist for revocation; thereafter, the city council shall permit the licensee and any other interested person to present such evidence as may be relevant to dispute the existence of such facts.

D. Decision of City Council. If based upon the evidence presented the city council finds that facts are presented which constitute grounds for revocation it shall revoke the license. If it finds that such facts are not present it shall dismiss the proceedings. The decision of the city council shall be final and conclusive. (Ord. 478 §1(7), 1983).

5.36.080 Rules and regulations. A. Established. The following rules and regulations are established by the city council and shall govern all card games for which licenses

ORDINANCE NO.544

AN ORDINANCE OF THE JACKSON CITY COUNCIL
AMENDING PORTIONS OF CHAPTER 5.36 OF THE JACKSON MUNICIPAL CODE
AND ORDINANCE NO. 478
(CARDROOMS)

Section 1: Section 5.36.080. Rule No. 8, and Ordinance No. 478, Rule No 8., is amended to read in its entirety as follows:

"Rule No. 8. It shall be unlawful for a card club holding a permit under the provisions of this chapter to employ any person without such person having been registered and issued a cardroom work permit by the chief of police.

- a. Each and every prospective cardroom employee shall present himself / herself at the office of the chief of police during normal business hours, at least ten days prior to the beginning or commencement of any such employment to apply for a cardroom work permit.
 1. Each prospective employee will complete an application, be fingerprinted, photographed, provide any other information that the chief of police may require, and certify the contents of the application under penalty of perjury.
- b. The chief of police shall establish procedures to implement and administer the provisions of this section.
- c. The chief of police is hereby authorized to obtain criminal history information for each employee seeking registration.
- d. A fee, as set forth by resolution of the City Council, will be charged to cover the cost of background investigation, registration, and an annual fee for the cardroom work permit. This fee shall be payable to the City of Jackson at the time of application for the permit. In the event a permit is denied, the fee, minus actual costs incurred in investigating the application, will be refunded to the applicant.
- e. Within ten days after receipt of the registration information and fees, the chief of police shall either grant or deny a cardroom work permit to the applicant. If, in the opinion of the chief of police, the applicant is not a fit and proper person to engage in such work, he shall deny the applicant a cardroom work permit.
- f. Any aggrieved person wishing to appeal the decision of the chief of police in denying a cardroom work permit may seek a hearing under the same rules set out in Section 5.36.070 of this Chapter.
- g. A registered cardroom employee will be provided a cardroom work permit identification card that shall be worn in sight, whenever that person is on-duty in a cardroom. Only one such work permit shall be required each year even though the holder of such work permit may change their place of employment to any cardroom within the city.

RESOLUTION NO. 91-43

A RESOLUTION OF THE JACKSON CITY COUNCIL

SETTING CARDROOM WORK PERMIT CHARGES

WHEREAS, the Jackson Municipal Code, Section 5.36.080 establishes that the charges for cardroom work permits may from time to time be set by resolution of the City Council of the City of Jackson:

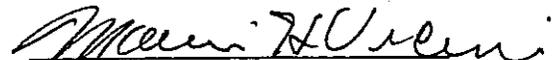
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Jackson, that the charges for Cardroom Work Permits, exclusive of any fees or charges from any other agency, are hereby set as follows, and will become effective November 1, 1991.

INITIAL WORK PERMIT FEE	\$50.00
ANNUAL WORK PERMIT RENEWAL FEE	25.00

The foregoing resolution was duly passed and adopted by the City Council of the City of Jackson at a regular meeting held on the 28th day of October, 1991, by the following vote:

AYES: Councilmembers Vicini, Aiken, Selman, Vaira and Scheiber
NOES: None
ABSENT: None

CITY OF JACKSON


MARVIN H. VICINI, MAYOR

ATTEST:

JOHN A. HUBERTY, CITY CLERK

By 
Carla D. Soracco, Deputy City Clerk

are issued under the provisions of this chapter, and shall be conditions of each license issued:

Rule No. 1. No licensee shall use, operate or permit the use or operation of more tables than those for which such licensee holds then current and valid licenses to operate in the city and for which the prescribed license fee has been paid to the city.

Rule No. 2. (i) No licensee shall permit any person to play in any game licensed by the provisions of this chapter at any time while such person appears to be or is drunk or under the influence of a drug and no person under or who appears to be drunk or under the influence of a drug shall play in any such game.

(ii) No licensee shall permit any person to enter the premises while such person appears to be, or, in the opinion of the licensee or duly authorized agents or employees, is drunk or under the influence of a drug.

Rule No. 3. No licensee shall operate or use any table or unit or manage, conduct or carry on any business or activity licensed by this chapter after the time that such license issued by the city has been or is revoked pursuant to this chapter.

Rule No. 4. Each and all of the games conducted or operated in the city pursuant to the provisions of this chapter shall be conducted and operated in full conformity with and subject to all of the provisions of applicable laws.

Rule No. 5. No licensee shall permit or allow any person under the age of twenty-one years to play any game licensed hereunder at any time in a cardroom covered by or referred to in any such license.

Rule No. 6. A card club shall be open for inspection during all hours to the city director, chief of police or his duly authorized representative, without a search warrant.

Rule No. 7. It has been noted and substantially determined by the city council that said card clubs shall have a minimum of two and a maximum of six tables including its subordinate and accessory uses thereto, and shall be located in a C-2 zone.

Rule No. 8. It is unlawful for a card club holding a permit under the provisions of this chapter to employ any person without such person having been registered and issued a cardroom work permit by the chief of police.

(a) Each and every prospective cardroom employee shall present himself/herself at the office of the chief of police during normal business hours, at least ten days prior to the beginning or commencement of any such employment to apply for a cardroom work permit.

1. Each prospective employee will complete an application, be fingerprinted, photographed, provide any other information that the chief of police may require, and

certify the contents of the application under penalty of perjury.

(b) The chief of police shall establish procedures to implement and administer the provisions of this section.

(c) The chief of police is hereby authorized to obtain criminal history information for each employee seeking registration.

(d) A fee, as set forth by resolution of the city council, will be charged to cover the cost of background investigation, registration, and an annual fee for the cardroom work permit. This fee shall be payable to the city of Jackson at the time of application for the permit. In the event a permit is denied, the fee, minus actual costs incurred in investigating the application, will be refunded to the applicant.

(e) Within ten days after receipt of the registration information and fees, the chief of police shall either grant or deny a cardroom work permit to the applicant. If, in the opinion of the chief of police, the applicant is not a fit and proper person to engage in such work, he shall deny the applicant a cardroom work permit.

(f) Any aggrieved person wishing to appeal the decision of the chief of police in denying a cardroom work permit may seek a hearing under the same rules set out in Section 5.36.070 of this chapter.

(g) A registered cardroom employee will be provided a cardroom work permit identification card that shall be worn in sight, whenever that person is on duty in a cardroom. Only one such work permit shall be required each year even though the holder of such work permit may change their place of employment to any cardroom within the city.

(h) The information received by the chief of police pursuant to the provisions of this section shall be treated as confidential and shall be accessible only to the chief of police, the city director, their authorized representatives and the license holder for the card club.

Rule No. 9. The provisions of this section shall not apply to cardrooms of fraternal organizations not open to the general public and whose membership is restricted to those persons regularly and formally elected to membership therein and paying regular dues to such organization.

(Ord. 544 §§1, 2, 1991: Ord. 478 §1(8), 1983).

5.36.090 Enforcement. Failure to comply with any provisions of this chapter shall constitute a misdemeanor, punishable by fine or imprisonment pursuant to Section 1.20-.010, in addition to any other penalties or punitive remedies existing under state and local law. Each day of noncompliance shall constitute a separate and complete offense. (Ord. 478 §1(9), 1983).

Chapter 5.40MECHANICAL OR ELECTRONIC AMUSEMENT DEVICESSections:

- 5.40.010 Definitions.
- 5.40.020 License--Mechanical or electronic amusement devices.
- 5.40.030 License application fee.
- 5.40.040 License term--Nontransferable.
- 5.40.050 License--Posting.
- 5.40.060 Existing establishments.
- 5.40.070 Minors--When allowed.
- 5.40.080 View from street.
- 5.40.090 Proximity to schools.
- 5.40.100 Free games.
- 5.40.110 Illegal machines.
- 5.40.120 Prohibited in liquor store.
- 5.40.130 Denial, revocation or suspension.
- 5.40.140 Violation--Penalty.

5.40.010 Definitions. For the purpose of this chapter the words set out in this section shall have the following meanings:

A. "Amusement center" means any building or portion thereof open to the public which has five or more mechanical or electronic amusement devices as defined in subsection (B) of this section located on the premises. (Ord. 528 §1 (part), 1990).

B. "Mechanical or electronic amusement devices" means any machine, apparatus, contrivance, appliance or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, plate, disk or key or any other article or device, or by paying therefor either in advance of or after use, and as a result of the action or operation of such machine, apparatus, contrivance, appliance, or device, dependent upon skill and not dependent upon hazard or chance, a score or result of such play, action or operation is in any way recorded, exhibited or made known, including, but not limited to, tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game

machine, baseball game machine, football game machine, electronic video game or any other similar machine or device.

C. "Person" means any corporation, association, partnership or any natural person.

D. "School" is as defined in Section 17.04.500. (Ord. 528 §1 (part), 1990).

5.40.020 License--Mechanical or electronic amusement devices. It is unlawful for any person to install, operate or maintain any mechanical or electronic amusement device intended for use by the public in any business establishment without first having obtained a license for each device. (Ord. 528 §1 (part), 1990).

5.40.030 License application fee. Any application for any mechanical or electronic amusement device license shall be accompanied by a nonrefundable fee established by resolution of the city council. The application fee shall be used to defray the costs of investigation and report, and is not in lieu of any other fees or taxes required under this code. (Ord. 528 §1 (part), 1990).

5.40.040 License term--Nontransferable. Mechanical or electronic amusement device licenses required by this chapter shall be issued for one year, or portion thereof, commencing July 1, of each year, coinciding with the payment of the business license for the premises, and shall not be transferable. (Ord. 528 §1 (part), 1990).

5.40.050 License--Posting. Any license issued pursuant to this chapter shall be affixed in a conspicuous place on the mechanical or electronic amusement device licensed hereunder. Such license shall show the license number and the date of expiration of the same, in addition to whatever additional information is deemed necessary. (Ord. 528 §1 (part), 1990).

5.40.060 Existing establishments. Any business establishment containing mechanical or electronic amusement devices or which establishments would have qualified as amusement centers as of January 1, 1990, shall have until sixty days from the effective date of the ordinance codified in this chapter to conform to the provisions hereof. The person owning or operating said business establishment shall have the burden of establishing the precise number of devices located on the premises as of January 1, 1990. (Ord. 528 §1 (part), 1990).

5.40.070 Minors--When allowed. During the academic year for public schools within the city corporate limits, no person under eighteen years of age shall play or use any mechanical or electronic amusement device in any business

establishment between the hours of seven a.m. and three p.m., except during school holidays or vacations or on Saturday and Sunday, nor at any time between the hours of ten p.m. and seven a.m. of the day preceding a school day, unless accompanied by a parent or legal guardian. Any person owning, operating or employed in any business establishment where a mechanical or electronic amusement device is kept or used shall refuse to allow any person under eighteen years of age unaccompanied by a parent or legal guardian to play or use such devices between the above stated hours. A sign specifying the above hours and age restrictions shall be conspicuously posted at the location of the devices in the business establishment. (Ord. 528 §1 (part), 1990).

5.40.080 View from street. Every business establishment where a mechanical or electronic amusement device is kept or used shall be located and designed and lighted so that a complete view of the interior portion thereof devoted to such devices is available at all times from an adjacent street or exterior walkway area. Provided, that no structural alteration of any public place where a mechanical or electronic amusement device is kept or used in existence and operation on the effective date of the ordinance codified in this chapter shall be required. (Ord. 528 §1 (part), 1990).

5.40.090 Proximity to schools. No person shall place, allow, keep, maintain, permit or locate any mechanical or electronic amusement device within three hundred feet of the nearest boundary of the grounds of any school in the city. (Ord. 528 §1 (part), 1990).

5.40.100 Free games. No person shall keep or use in any public place any mechanical or electronic amusement device equipped with any device which records free games won and is equipped to allow cancellation of free games won without the actual playing of said free games by the player. (Ord. 528 §1 (part), 1990).

5.40.110 Illegal machines. No person shall keep or use in any public place any game or device commonly known as a "claw," "scoop," or "grab" machine or any automatic pay-off machine the operation, use, or play of which is controlled by placing therein any coin, plate, disk, plug, key, or other device, by the payment of fee. (Ord. 528 §1 (part), 1990).

5.40.120 Prohibited in liquor store. Notwithstanding any provisions of this chapter to the contrary, it is unlawful for any person to install, operate or maintain any mechanical or electronic amusement device in any public place wherein the principal business being conducted is the sale of alcoholic beverages for off-sale consumption. (Ord. 528 §1 (part), 1990).

5.40.130 Denial, revocation or suspension. Any application for a license may be denied and any license issued pursuant to this chapter may be revoked or suspended upon the recommendation of the chief of police to the city manager, for violation of any provisions of this chapter, or for any other reason specifically provided in this chapter. An applicant or permittee may appeal the decision of the police chief concerning the denial revocation or suspension of a license to the city manager pursuant to the provisions of this code. (Ord. 528 §1(part), 1990).

5.40.140 Violation--Penalty. Any person violating any of the provisions of this chapter is guilty of a misdemeanor; and, upon conviction thereof shall be punished by a fine, by imprisonment in the county jail, or by both such fine and imprisonment. (Ord. 528 §1(part), 1990).

Chapter 5.44PAWNBROKERS AND SECONDHAND DEALERSSections:

- 5.44.010 Definitions.
- 5.44.020 Application.
- 5.44.030 Location of business.
- 5.44.040 Fingerprinting and investigation of applicant and employees.
- 5.44.050 Record of pawned, etc., articles to be kept in bound book.
- 5.44.060 Numbering and tagging of articles.
- 5.44.070 Disposition of pawned articles; holding period.
- 5.44.080 Investigation by police, etc.; articles not to be concealed.
- 5.44.090 Dealing with intoxicated persons and minors.
- 5.44.100 Checking of baggage prohibited.
- 5.44.110 Redemption of property sold without authorization.
- 5.44.120 Provisions for forfeiture of license.
- 5.44.130 Violation and penalty.

5.44.010 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Pawnbroker. As used in this title, "pawnbroker" means and includes any person engaged in the business of receiving goods in pledge as security for a loan.

"Secondhand dealer" shall have the meaning ascribed to it by Business and Professions Code Section 21626.

"Tangible personal property" shall have the meaning ascribed to it by Business and Professions Code Section 21627. (Ord. 586 §1(part), 1996).

5.44.020 Application. Prior to the granting of any license to engage in any business defined in Business and Professions Code Section 21626, the applicant shall file with the chief of police a written, completed and signed application setting forth all of the information required by the state of California and such other information as the chief of police may reasonably require to enforce this chapter.

Every application for a license shall be accompanied by a nonrefundable application fee in the sum of seventy-five dollars.

This application fee shall be in addition to any other business license fee or permit fee imposed by the Jackson Municipal Code.

Renewal of a license is required yearly and must be accompanied by a nonrefundable application fee of twenty-five dollars. A renewal application fee is in addition to any other business license fee imposed by the Jackson Municipal Code. (Ord. 586 §1(part), 1996).

5.44.030 Location of business. It is unlawful for a person to conduct or operate a business such as that mentioned in this chapter except in the location specified in the permit. A business for which a permit must be obtained and maintained pursuant to this title may only be established and conducted at a location for which such use is authorized under the comprehensive zoning ordinance of the city.

Nothing in this title is intended to allow an applicant to operate a business for which a permit is required under this title in a location, building or structure that does not comply with the requirements of the zoning ordinance, building code, or other local, state or federal regulations or laws. (Ord. 586 §1(part), 1996).

5.44.040 Fingerprinting and investigation of applicant and employees. In addition to the information required by Section 5.44.020, the applicant and any proposed employees at the time of filing his/her application shall be fingerprinted by and his/her record filed in the police department. Upon the receipt of the application, the chief of police shall cause an investigation to be made of the criminal record, if any, and business practices of the applicant and any proposed employees. In the event the applicant or any proposed employee fails such background investigation a license shall be denied by the chief of police, subject to appeal as set forth in Section 5.44.120.

The duties and responsibilities imposed by this title upon the chief of police may be assigned or delegated by the chief to such employees or representatives of the police department as the chief deems necessary and appropriate. (Ord. 586 §1(part), 1996).

5.44.050 Record of pawned, etc., articles to be kept in bound book. Every secondhand dealer shall keep or cause to be kept at the place of business a well-bound book containing the secondhand dealer's copy of all completed forms upon which daily reports of transactions involving tangible personal property have been made pursuant to Business and Professions Code Section 21628 and Financial Code Section 21208. (Ord. 586 §1(part), 1996).

5.44.060 Numbering and tagging of articles. The reporting forms required to be bound by Section 5.44.050 shall be numbered, and a tag corresponding to the number must be firmly attached to all tangible personal property taken into possession. (Ord. 586 §1(part), 1996).

5.44.070 Disposition of pawned articles; holding period. All tangible personal property shall, during the thirty-day holding period required by the Business and Professions Code Section 21636, be maintained intact in a particular location in the place of business designated for that purpose.

A federal licensed firearms dealer engaged as a pawnbroker or secondhand dealer is exempt from holding a firearm for the period of time stated in this section whenever the firearm is received for shipment to another person, as defined in Public Law 90-618; provided, that an accurate description of the firearm, the name and address of the person delivering the firearm to the pawnbroker or secondhand dealer, and the name and address of the person to whom the firearm is to be shipped is furnished to the police department five days prior to initiating shipment of the firearm. (Ord. 586 §1(part), 1996).

5.44.080 Investigation by police, etc.; articles not to be concealed. All pawned articles and the records pertaining thereto shall, upon demand, be exhibited to any sheriff, police officer, constable or other peace officer, and shall not in any manner be concealed. (Ord. 586 §1(part), 1996).

5.44.090 Dealing with intoxicated persons and minors. No secondhand dealer or any agent or employee thereof shall receive in pawn, purchase, exchange, or otherwise take into possession any tangible personal property from any person who shall appear to be or who is known to be intoxicated, or from any minor under the age of eighteen years.

Subject to the provisions of Penal Code Section 501(a) and Financial Code Section 21207, this prohibition shall not apply to a minor where the minor dealing with the secondhand dealer presents the written consent of his parent or guardian, duly signed, authorizing the particular transaction with the secondhand dealer. Such written consent shall be retained by the secondhand dealer dealing with such minor and shall be exhibited upon demand to any peace officer making inquiry. (Ord. 586 §1(part), 1996).

5.44.100 Checking of baggage prohibited. No person doing business as a pawnbroker or secondhand dealer shall engage in, permit or allow any other person to engage in or permit the checking of baggage in the immediate premises occupied as the place of business of such pawnbroker or secondhand dealer. The term "immediate premises," as used in this section, shall mean and include all rooms, hallways, closets, stairways or basements having the same street number or common entrance and exit with the licensed premises. (Ord. 586 §1(part), 1996).

5.44.110 Redemption of property sold without authorization. Whenever it shall appear by the oath of the person claiming to be the owner that certain of his property has been sold by another without any authority to any person conducting any business provided for in this chapter, it shall be the duty of the chief of police to make an investigation concerning the ownership of the property and to determine that no collusion exists between the claimant and the persons who pawned or sold the article in dispute.

In the event the police department finds that the person who makes the claim to the property described in the complaint is the lawful owner of such property and entitled to its possession, they shall notify the person of this finding and it shall be the duty of such person to return to the owner, without charge or expense of any kind, and property received from a person not authorized to sell the property. Failure to return such property as ordered will be sufficient grounds upon which to cancel the license and revoke the permit to do business.

Before any license shall be canceled for the failure to return property claimed by a third person, written charges shall be preferred against the holder of the license and the matter shall be heard and determined by the city council, at which hearing all parties interested may appear and present testimony in support of their respective contentions. (Ord. 586 §1(part), 1996).

5.44.120 Provisions for forfeiture of license. The license of any pawnbroker or secondhand dealer shall be subject to forfeiture as provided in Business and Professions Code Section 21642. Such revocation shall become

effective upon service of written notification by the chief of police that the license for such pawnbroker or second-hand dealer has been forfeited.

Any person aggrieved by such revocation may appeal the matter. Any such appeal shall be before a qualified neutral hearing officer appointed by the city manager under rules of procedure established by the hearing officer. The decision of the hearing officer on any such appeal shall be final. (Ord. 586 §1(part), 1996).

5.44.130 Violation and penalty. Any person who violates any provision of this chapter is guilty of an infraction. (Ord. 586 §1(part), 1996).

Chapter 5.50FILMING RULES AND REGULATIONSSections:

- 5.50.010 Definitions.
- 5.50.020 Permits and exemptions.
- 5.50.030 Rules and regulations.
- 5.50.040 Applicants and issuance.
- 5.50.050 Liability provisions.
- 5.50.060 Violation.
- 5.50.070 Revocation.

5.50.010 Definitions. As used in this chapter, the following terms are defined:

"Charitable films" means commercials, motion pictures, television, video tapes, or still photography produced by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.

"Motion picture, television, still photography" means and includes all activity attendant to staging or shooting commercial motion pictures, television shows or programs, videos, and commercials.

"News media" means the filming or video taping for the purpose of television news broadcast by reporters, photographers or camera personnel. (Ord. 591 §1(part), 1996).

5.50.020 Permits and exemptions. A. Permit Required. No person shall use any public or private property, facility or residence for the purpose of taking commercial motion pictures, television pictures or commercial

still photography without first applying for and receiving a permit from the officer designated by the city.

B. Exemptions.

1. News Media. This provisions of the chapter shall not apply to or affect reporter photographers or cameramen in the employ of a newspaper, news service, or similar entity engaged in on the spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest;

2. The filming or video taping of motion pictures solely for private/family use;

3. Charitable Films. Projects which qualify under Section 501(c)(3) of the Internal Revenue Code;

4. If the crew does not exceed five persons and there is no extensive use of props, equipment, cast or other participants. The following guidelines apply to this exemption:

a. Pedestrian and vehicular traffic can not be altered. The company must work with the conditions that exist. Intermittent traffic control is not permitted under this exemption.

b. If the company is covering a parade, demonstration or other special event, the exemption merely allows them to operate on the same basis as a citizen with a camera. The company must obtain all permission that may be required.

c. Camera tripods may be used if they do not interfere with pedestrian traffic and do not block doors, passage ways, etc.

d. This exemption does not allow the use of a cast in the normal sense of the word in the industry. Host(s) moderator(s) or performer(s) may interact with people. An additional person may be used and not be considered part of the five person crew. The key element is that it must not interfere with normal street activities.

e. No special parking provisions can be included with this exception.

f. Stunt work is not allowed under this exemption.

g. Special effects are not allowed under this exemption.

h. City of Jackson property, other than sidewalks and streets, can be used only with permission of the controlling authority. Park directors, for example, must agree to the activity.

i. Private property requires approval by the owner. (Ord. 591 §1(part), 1996).

5.50.030 Rules and regulations. A. Change of Date. Upon request of the applicant, the issuing authority shall have the power, upon showing good cause, to change the date

for which the permit has been issued, provided established limitations are complied with in respect to time and location.

B. Rules. The designated city officer is authorized and directed to promulgate rules and regulations, subject to approval by resolution of the council, governing the form, time, and location of any filming activity set forth within the city. He/she shall also provide for the issuance of permits.

The rules and regulations shall be based upon the following criteria:

1. The health and safety of all persons;
2. Avoidance of undue disruption of all persons within the affected areas;
3. The safety of property within the city; and
4. Traffic congestion at particular locations within the city.

C. Notification to Affected Property Owners. All business and property owners will be notified in writing, in person, or by public notice of any activity that would impact their property, business or person (i.e. road closures-public notice, private property activity: written permission from the property owner). (Ord. 591 §1(part), 1996).

5.50.040 Applicants and issuance. A. Issuing Authority. The issuing authority shall be the city designee.

B. Applications. The following information shall be included in the application:

1. The applicant's name, address and telephone number of place of business;
2. A general statement of the character or nature of the proposed filming activity;
3. The inclusive hours and dates such activity will transpire;
4. The specific location of each activity scheduled;
5. The type of activity scheduled for that day and time;
6. The exact number of personnel to be involved;
7. Use of any animal or pyrotechnics; and
8. The exact amount and type of vehicles and equipment to be involved.

C. Reimbursement for Personnel. The production company shall reimburse the city for any personnel provided to the company (i.e., police, fire, traffic control, medical personnel) for the purpose of assisting the production. Any cost shall be negotiated, and approved of, prior to shoot date. A fee for issuance of the permit shall be set by resolution consistent with that set by the board of supervisors. (Ord. 591 §1(part), 1996).

5.50.050 Liability provisions. A. Liability Insurance. Before a permit is issued, a certificate of insurance will be required in an amount no less than one million dollars naming the city of Jackson as co-insured for protection against claims of third persons for personal injuries, wrongful deaths, and property damage. The city officers and employees shall be named as additional insureds. The certificate shall not be subject to cancellation or modification until after thirty days written notice to the city. A copy of the certificate will remain on file.

B. Worker's Compensation Insurance. An applicant shall conform to all applicable federal and state requirements for worker's compensation insurance for all persons operating under a permit.

C. Hold Harmless Agreement. An applicant shall execute a hold harmless agreement as provided by the city and incorporated within the permit issued under this chapter.

D. Faithful Performance Bond. To ensure cleanup and restoration of the site, an applicant may be required to post a refundable faithful performance bond (amount to be determined) at the time application is submitted. Upon completion of filming and a satisfactory inspection of the site by city designee, the bond may be returned to the applicant. (Ord. 591 §1(part), 1996).

5.50.060 Violation. If the applicant violates any provision of this chapter or a permit issued pursuant thereto, the city may cancel the permit. Violation of the terms and conditions of the film permit is considered an infraction. (Ord. 591 §1(part), 1996).

5.50.070 Revocation. In instances where the general public's health and safety is endangered, the city may revoke any permit immediately. All other revocations will be preceded by fourteen days written notice. (Ord. 591 §1(part), 1996).

Chapter 5.60

MOBILE HOME RENT PROTECTION¹

Sections:

- 5.60.010 Findings and declaration of intent.
- 5.60.020 Definitions.
- 5.60.040 Base rent and rent increase.
- 5.60.045 Exemptions.
- 5.60.050 Mobile home rent limitations.
- 5.60.055 Permitted rent increases.
- 5.60.060 Applications for rent adjustment by park owner or homeowner.
- 5.60.065 Hearing procedures.
- 5.60.068 Basis for rent adjustment.
- 5.60.090 Refusal of homeowner to pay illegal rent.
- 5.60.100 Remedies.
- 5.60.110 Repealer.
- 5.60.120 Preemption.

5.60.010 Findings and declaration of intent.

A. There is presently within the city an extreme shortage of developed spaces for the placement of mobile homes and because of this shortage, the vacancy rate for such spaces is nearly zero, if not nonexistent, among most parks. With the widespread shortage of available spaces, rental increases within the last several years have been rapidly rising within a select number of parks.

B. After studying the city's mobile home rental situation thoroughly and then considering what type of mobile home rent control ordinance is needed in the city, this city council finds and declares it necessary, in the public interest, to facilitate and encourage fair bargaining between mobile home owners and park owners in order to achieve a mutually satisfactory agreement regarding space rental rates in mobile home parks.

C. The intent of the city council in enacting the ordinance codified in this chapter is to curb excessive and unreasonable rent increases on mobile home owners, to prevent an exploitation of the current widespread shortage of mobile home spaces within the city, to counteract the ill effects of rapidly rising and exorbitant rents exploiting the housing shortage, to permit mobile home park owners to receive a just and fair return, and to establish a process for resolution of rental disputes between park owners and homeowners. (Ord. 662, 2009; Ord. 598, 1997)

5.60.020 Definitions. For the purpose of this chapter, the following words and phrases shall be defined as follows:

¹ Prior ordinance history: Ord. 563.

"Capital improvements" means the installation of new improvements and facilities and/or replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance and/or repairs.

"Homeowner" shall have the meaning set forth in California Civil Code section 798.9, as it may be amended in the future.

"Increase increment" means any rental increase approved either automatically, through negotiation between park owners and home owners, or by the arbitrator.

"Mobile home" shall have the meaning set forth in California Civil Code section 798.3, as it may be amended in the future.

"Mobile home park" shall have the meaning set forth in California Civil Code section 798.4, as it may be amended in the future.

"New Construction" shall have the meaning set forth in California Civil Code section 798.7, as it may be amended in the future.

"Park owner" shall have the same meaning as the term "Management" as defined by California Civil Code section 798.2, as it may be amended in the future.

"Rehabilitation work" means any renovation or repair work completed on or in a mobile home park which was performed in order to comply with the direct order of a public agency, or to repair damage resulting from fire, earthquake or other casualty.

"Rent" means the maximum monthly consideration which may be charged for the use or occupancy of a mobile home space, excluding separate fees, assessments, or charges permitted to be imposed pursuant to California Civil Code section 798.49 and utilities separately billed in accordance with California Civil Code section 798.41.

"Rental Agreement" shall have the meaning set forth in California Civil Code section 798.8, as it may be amended in the future

"Rent increase" means any approved increase in rent, including, but not limited to, lease offers and lease renewal offers.

"Resident" shall have the meaning set forth in California Civil Code section 798.11, as it may be amended in the future.

D. "Tenancy" shall have the meaning set forth in California Civil Code section 798.12, as it may be amended in the future. (Ord. 662, 2009; Ord. 598, 1997)

5.60.040 Base rent and rent increase.

A. Except as hereinafter provided, an owner shall not demand, accept or retain rent for a mobile home space exceeding the rent authorized by this chapter. Any rent increase approved for any mobilehome park pursuant to this chapter for any or all levels in the mobile home park shall be effective on the date of approval.

B. Base rents shall be those in effect as of August 25, 1997. (Ord. 662, 2009; Ord. 598, 1997)

5.60.045 Exemptions. The following exemptions from this chapter shall apply:

A. New construction shall be exempt from application of this chapter in accordance with California Civil Code section 798.45.

B. Except in any of the circumstances set forth in California Civil Code section 798.21(f), this chapter shall not apply to a mobilehome space within a mobilehome park which is not the principal residence of the homeowner, as long as the homeowner has not rented the mobilehome to another party. A mobilehome shall be deemed to be the principal residence of the homeowner, unless a review of state or county records demonstrates that the homeowner is receiving a homeowner's exemption for another property or mobilehome in this state, or unless a review of public records reasonably demonstrates that the principal residence of the homeowner is out of state.

C. Agreements in excess of 12 months involving the actual and personal residence of the homeowner are exempt from this chapter in accordance with California Civil Code section 798.17. The terms of such a rental agreement prevail over conflicting provisions of this chapter only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, the last rental rate charged for the space under the rental agreement is the base rent for that space for purposes of this chapter. (Ord. 662, 2009; Ord. 598, 1997)

5.60.050 Mobile home rent limitations.

A. Except as herein provided, a park owner shall not demand, accept or retain rent exceeding the rent established under the provisions of this chapter.

D. Except as otherwise provided in this chapter, rent may be increased no more than once a year. Any proposed rent increase within a twelve-month period which exceeds the maximum permitted under Section 5.60.055 shall be subject to the negotiation process under the provisions of Section 5.60.060 of this chapter. When agreement cannot be reached between park owners and homeowners by negotiations, any proposed increase exceeding the maximum permitted shall be subject to formal review hearing under the provisions of Section 5.60.060 and 5.60.065.

E. No rent which is in excess of an amount approved may be collected by the park owner until such time as the increase is approved under the provisions of Section 5.60.055 or 5.60.060 of this chapter.

F. A sale or lease or change in occupancy shall not cause or initiate an increase in the rent of any mobile home space. (Ord. 662, 2009; Ord. 598, 1997)

5.60.055 Permitted rent increases. The permitted annual rent increase rent shall be calculated by the City, which shall notify each park owner of the amount of the permitted annual

rent increase once a year. For purposes of this chapter, CPI shall mean the San - Francisco/Oakland/San Jose - All Urban Consumers Index. The permitted annual rent increase shall be calculated as follows:

A. The rent shall be increased at a rate equal to one hundred percent of the CPI up to five percent and seventy-five percent of the CPI in excess of five percent calculated as follows:

1. The change in rent shall be calculated by dividing the ending CPI index by the beginning CPI index.

2. If the resulting quotient is equal to or less than 1.05, then it shall be multiplied by the rent. The resulting product shall be the new rent.

3. If the resulting quotient is greater than 1.05, then the difference between the resulting product and 1.05 shall be multiplied by seventy-five percent. The resulting product shall be multiplied by the rent and that product shall be added to the sum derived from subdivision 2 of this subsection.

4. The beginning CPI index shall be the index for the month used as the ending index for the last CPI adjustment.

5. The ending CPI index shall be the index for the month twelve months after the beginning index.

B. It is the intention of this Section to allow for automatic increases in rent based on changes in the cost of living as measured by the CPI. The limitations on such increases are intended to minimize the immediate impact drastic changes in the CPI might have on residents. The limitations are not intended to prevent ultimate adjustments to allow park owners to receive a fair return on their investment in their property, as further addressed in Section 5.60.060 of this chapter. (Ord. 662, 2009; Ord. 598, 1997)

5.60.060 Application for rent adjustment by park owner or homeowner.

A. In addition to the permitted annual rent increases under Section 5.60.055, a park owner or homeowner may file with the city clerk an application for a rent adjustment. The application shall be submitted in writing and shall state the amount of the adjustment for each space affected and the reasons for the adjustment. Only one rent adjustment may be approved for any mobilehome park in any year, whether initiated by application of the park owner or homeowner.

1. An application shall be accompanied by the payment of a fee as may be established (not to exceed the cost of processing the application) from time to time by resolution duly adopted by the city council.

2. An application filed by a park owner shall be accompanied by a statement that the homeowner for each space affected has been served either personally or by mail with a notice describing the application and the change in rent or services.

3. An application filed by a homeowner shall be accompanied by: (i) a statement stating that the park owner has been either personally or by mail served with the

application and (ii) a statement designating not more than three persons to act as representatives for the spaces affected and containing the signatures, names and addresses of homeowners representing no less than fifty-one percent of the spaces affected by the application and supporting the application.

4. A statement shall accompany the application and shall notify the receiving party that he/she has fourteen days to file an objection and if one is not filed within the time allowed, then the application will be automatically granted.

B. An objection to the application may be filed with the city clerk within fourteen days after the notice of application has been served. The objection shall identify the portions of the application objected to and shall state the grounds of the objection.

5. A copy of an objection filed by a park owner shall be mailed to each of the designated homeowner representatives.

6. A copy of an objection filed by a homeowner shall be mailed to the park owner. The homeowner's objection shall designate not more than three persons to act as representatives for the objecting homeowners. The objection must be accompanied by a statement containing the signatures, names and addresses of homeowners representing no less than fifty-one percent of the spaces affected by the park owner's application and verifying that they object to the application.

C. If no objection is filed to an application within the time allowed, or if less than fifty-one percent of the homeowners support an objection to an application, the application will be automatically granted.

D. If an objection is filed within the time provided, then the park owner and the homeowner representatives shall meet and confer to negotiate in good faith an agreement regarding the application. Either party may request a mediator of their choice to assist in the negotiations, but this is not required. If an agreement is reached within twenty-one days, then the homeowner representatives shall notify all homeowners affected by the agreement. The homeowners shall have seven days to approve or disapprove the agreement. If homeowners representing no less than fifty-one percent of the spaces affected fail to disapprove of the agreement, then the agreement shall be binding on the park owner and all homeowners affected. The city clerk shall be notified that an agreement has been reached. The statements made in negotiations and any agreement reached but not approved shall be admissible in any subsequent hearings regarding the application.

E. If the park owner and the homeowner representatives fail to reach an agreement within the time provided, or if a majority of the homeowners disapprove of an agreement reached, then the applicant shall within seven days of such determination notify the city manager that an agreement has not been reached. The city shall have on retainer as an independent consultant hearing officer(s) to provide arbitration services. Upon notification to the city manager that an agreement has not been reached, the city manager shall notify its hearing officer of the need for arbitration services. The consultant shall, through its usual means, assign a hearing officer to arbitrate the matter. Assignment of the hearing officer shall be completed no later than twenty-one days after filing of the notice that an agreement has not been reached. (Ord. 662, 2009; Ord. 598, 1997)

5.60.065 Hearing procedures.

A. After the city manager has been notified that an agreement has not been reached and its consultant has assigned a hearing officer in accordance with Section 5.60.060(E), the hearing officer shall set a hearing on the application complying with the requirements of this section no less than ten days and no more than twenty-one days after his appointment. The hearing officer shall notify the park owners and homeowner representatives, in writing, of the time, place and date set for the hearing. No hearing or any part thereof may be continued beyond thirty days after the initial hearing date, without the applicant's written consent.

B. All review hearings conducted by the hearing officer shall be conducted in accordance with the Ralph M. Brown Act at Section 54950 et seq. of the California Government Code.

C. All interested parties to a hearing may have assistance from an attorney or such other person as may be designated by the parties in presenting evidence or in setting forth by argument their position. All witnesses shall be sworn in and all testimony shall be under penalty of perjury.

D. In the event that either the park owner or the homeowner(s) should fail to appear at the hearing at the specified time and place after receipt of written notice thereof, the hearing officer may hear and review such evidence as may be presented and make such decisions as if all parties had been present.

E. After the hearing, the hearing officer may:

1. Permit the requested adjustment to become effective, in whole or in part;
- or
2. Deny the requested adjustment; or
 3. Permit or deny, in whole or in part, requested reductions of, or charges for, facilities or services.

F. The hearing officer's decision shall be based on the applicable criteria set forth in Section 5.60.068 below. The hearing officer's decision shall contain express findings and shall be made in writing no later than ten days after the conclusion of the hearing. The hearing officer's decision shall be based on the preponderance of the evidence submitted at the hearing. All parties to the hearing shall be advised by mail of the hearing officer's decision and findings.

G. Any decision of the hearing officer shall be final unless, within ten days after mailing of the decision and findings, the owner or any affected homeowner appeals the decision to a court of competent jurisdiction.

H. The hearing officer's actual charges shall be paid by the city and charged back to the original applicant. (Ord. 662, 2009; Ord. 598, 1997)

5.60.068 Basis for rent adjustment.

A. Substantive Grounds for Rent Adjustment Applied for by Park Owner. A park owner's application for a rent adjustment shall be approved when it is determined necessary in order to provide a just and reasonable return on a park owner's investment. Such a determination is appropriate when the adjustment is necessary to maintain the park owner's Net Operating Income at the same level as the base year in accordance with the following:

1. Net Operating Income (NOI).
 - a. Net operating income equals gross income minus operating expenses.
 - b. Gross income equals the following:
 - i. Gross rents, computed as gross rental income at one hundred percent occupancy; plus
 - ii. Interest from security and cleaning deposits (except to the extent that such interest is payable to the homeowners/residents); plus
 - iii. Income from services, garage and parking fees; plus
 - iv. All other income or consideration received or receivable for or in connection with the use or occupancy of rental spaces and housing services; minus
 - v. Uncollected rents due to vacancy and bad debts to the extent the same are beyond the landlord's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable unless established otherwise.
 - c. Operating Expenses--Inclusions.
 - i. Operating expenses shall include the following: license fees, real property taxes, utility costs, insurance, maintenance, and management expenses (contracted or owner performed), including necessary and reasonable advertising, accounting, other managerial expenses, normal repair and maintenance expenses, allowable legal expenses, and the amortized cost of capital improvements. Unless established otherwise, management expenses are presumed to be six percent of gross income.
 - ii. Owner-performed labor shall be counted at reasonable rates as established by city council regulation.
 - iii. Building improvements, major repairs, replacement and maintenance subject to the condition that said expenses shall be amortized in accordance with city council regulations, except to the extent such costs are compensated by insurance proceeds.
 - d. Excluded from Operating Expenses.
 - i. Operating expenses shall not include: avoidable and unnecessary expense increases since the base year, mortgage interest and principal payments,

fees, penalties and interest awarded for violation of this or any other law, or legal fees except as provided in this subsection and depreciation of the property.

ii. Allowable legal expense shall include attorney's fees and costs only to the extent permitted by law incurred in connection with successful good faith attempts to recover rents owing and successful good faith unlawful detainer actions not in violation of applicable law, to the extent the same are not recovered from homeowners/residents. Attorney's fees and costs incurred in proceedings before the hearing officer, or in connection with civil actions against the hearing officer, are not allowed as operating expenses, unless required by law.

e. Base year for the purpose of this Section 5.60.068 shall be 1995.

f. Presumption of Fair Base Year Net Operating Income. Except as provided in paragraph g of this subdivision, it shall be presumed that the net operating income produced by the property during the base year provided a fair return (fair net operating income). Landlords shall be entitled to earn a just and reasonable return and to maintain and increase their base year net operating income in accordance with paragraph h of this subdivision.

g. Rebutting the Presumption. It may be determined that the base year net operating income yielded other than a fair return, in which case, the base year net operating income may be adjusted accordingly. In order to make such a determination, the hearing officer must make at least one of the following findings:

h. The landlord's operating and maintenance expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating such expenses so that the base year operating expenses reflect average expenses for the property over a reasonable period of time. In considering whether the base year net operating income yielded more or less than a fair net operating income, the hearing officer shall consider the following factors:

(A) The landlord made substantial capital improvements during the base year, which were not reflected in the base year rent levels;

(B) Substantial repairs were made due to damage caused by uninsured disaster or vandalism;

(C) Maintenance and repair were below accepted standards so as to cause significant deterioration of housing services;

(D) Other expenses were unreasonably high or low notwithstanding prudent business practice.

ii. The rent on the base date was disproportionately high or low due to the fact that it was not established in an arms-length transaction or other peculiar circumstances.

i. Fair Net Operating Income. Approval by the hearing officer of a rent increase in the amount of sixty percent of the total percentage increase in the CPI over the base year shall be presumed to create a fair Net Operating Income unless this presumption is

rebutted by a preponderance of the evidence presented at the hearing on the park owner's application for a rent increase. (For example, if the CPI has increased by ten percent since the base year, the landlord shall be entitled to a net operating income which is six percent above the base year level.) A rent increase granted pursuant to this section shall not exceed the increase requested in the application. For the purposes of this Section 5.60.068, the current CPI shall be the CPI last reported as of the date of the application.

B. Substantive Grounds for Rent Adjustment Applied for by Homeowner. A homeowner's application for an adjustment of the rent shall be approved when it is determined that a reduction in rent will not cause the park owner to be unable to receive a just and reasonable return on its investment. Such a determination is appropriate when the adjustment may be made without reducing the park owner's Net Operating Income from the base year level. This may occur in the event that the park owner's operating expenses have been reduced, due to a decrease in costs or a reduction of services provided within the mobilehome park. However, in no case shall an adjustment of the rent be approved such that the rent is lower than the base rent plus the current permissive rent increase pursuant to Section 5.60.055. Therefore, in most circumstances, a home owner's application for adjustment to reduce rent may be approved only where a park owner's application for a rent increase above the base rent and permissive rent increase was approved in a prior year. (Ord. 662, 2009; Ord. 598, 1997)

5.60.090 Refusal of homeowner to pay illegal rent. A homeowner may refuse to pay any rent in excess of the rent approved under this chapter. The fact that such unpaid rent is in excess of the rent approved shall be a defense in any action brought to recover possession of a mobile home space for nonpayment or collection of rent. (Ord. 662, 2009; Or. 598, 1997)

5.60.100 Remedies. Any person who demands, accepts or retains any payment of rent in violation of the provisions of this chapter, shall be liable in civil action to the person from whom such payment is demanded, accepted or retained, for damages up to an amount equal to three times the payment(s) demanded, accepted or retained, together with reasonable attorney's fees and costs, as determined by the court. (Ord. 662, 2009; Or. 598, 1997)

5.60.110 Repealer. The ordinance codified in this chapter shall be in effect until July 12, 2020. (Ord. 662, 2009; Or. 598, 1997)

5.60.120 Preemption. This chapter shall be subject to the Mobilehome Residency Law and all state laws pertaining to rent control, and any inconsistency shall be resolved against this chapter. (Ord. 662, 2009; Or. 598, 1997)