Title 5
BUSINESS TAXES, LICENSES AND REGULATIONS

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DIVISION I.
GENERAL LICENSING PROCEDURES
Chapter 5.04
GENERAL REQUIREMENTS

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5.04.010 **License required.** It is unlawful for any person, persons, firms or corporations to transact, engage in, run, maintain, carryon or conduct, within the City, any business, trade, profession, exhibition, or occupation in his, her or its name, or as agent or agents for any other person, persons, firms or corporations, without first procuring from the City a license or permit therefore. (Ord. 333 §2, 1961)

5.04.020 **Separate licensing.**

A. Separate licenses must be obtained for each branch, establishment, or separate place of business in which the business is carried on.

B. Any person, firm or corporation who conducts, manages or carries on two or more allied businesses, licensed by this Title at the same location and under the same management shall pay the highest license fee provided for in this Title for only one of such businesses, trades, professions, exhibitions or occupations carried on by the same person and under the same management whether in adjoining or adjacent rooms connected by doors or an entrance, or not, shall pay the separate license as set forth in this Title. For the purpose of this Title, "different lines of business" means businesses, trades, professions, exhibitions or occupations that do not plainly demonstrate their need and use in alliance with another business.

C. No person who is an employee or who is the direct representative of a licensee shall be required to pay a license fee for the doing of any part of the work of such license. (Ord. 333 §2-a, 1961)

5.04.030 **Delinquency-Penalty.** All renewal licenses shall be delinquent if not paid on or before the last day of the month next succeeding the expiration of the license. A ten percent (10%) penalty shall be added to delinquent licenses unless otherwise provided. If still unpaid, additional penalties often percent (10%) shall be added on the last day of each succeeding month; provided, that the amount of such penalties shall not exceed fifty percent (50%) of the license tax due. (Ord. 388 §1(part), 1968; Ord. 333 §2-d, 1961)

5.04.040 **Engaging in business without license-Penalty.** Any persons, firms or corporations who engage in any business, trade, profession, exhibition or occupation without first obtaining an appropriate license shall be penalized one hundred percent (100%) of that appropriate license fee. (Ord. 499 §1, 1979; Ord. 333 §2-da, 1961)

5.04.050 **Fees to be prorated.** Those persons, firms or corporations engaged in any business, trade, profession, exhibition, or occupation beginning after October 1, but before December 31 of any calendar year, shall be liable for the payment of three-fourths of their appropriate business license fee. Those persons, firms or corporations' engaged in any business, trade, profession, exhibition, or occupation beginning after January 1st, but before March 31st of any calendar year, shall be liable for the" payment of one-half of their appropriate business license fees.

Those persons, firms, or corporations engaged in any business, trade, profession, exhibition, or occupation beginning after April 1st but before June 30th of any calendar year shall be liable for the payment of one-fourth of their appropriate business

license fee. This section is not applicable to those business licenses which are not issued for the fiscal year. (Ord. 388 §1 (part), 1968: Ord. 333 §2-e, 1961)

5.04.060 **City reserves right of refusal.** The city council shall have the discretion to refuse to permit the issuance of a license to any applicant who in the judgment of the city council will conduct or attempt to conduct such business in an unlawful manner or in an illegal way or in violation of any law or ordinance. (Ord. 333 §4, 1961)

5.04.070 **Transfer of license.** No license issued under this title shall be in any manner transferred or assigned nor shall the license authorize any, person, persons, firms, or corporations other than the therein mentioned or named, to transact any manner of business within the city. (Ord. 333 §4-a, 1961)

5.04.080 **Refund.** No license fee or any part of the license fee paid under the provisions of this title shall be refunded. (Ord. 333 §4-b, 1961)

5.04.090 **Duplicate copy.** In cases where the original license has been lost or destroyed, a charge of one dollar shall be made for a duplicate copy. (Ord. 333 §4-c, 1961)

5.04.100 **Location.** No license shall be issued on any application if the location of the business, trade, profession, exhibition or occupation is not in the proper zone as set forth in the zoning ordinance of the city. (Ord. 333 §4-d, 1961)

5.04.110 **Policing.** It is made the duty of the chief of police and/or the business license control officer, and/or their deputies to cause complaints to be filed against all persons violating any of the provisions of this chapter, and each of them shall have the power to make arrests of such violators; each of them shall have the right to enter, free of charge, at any time during normal business hours, any place of business and require exhibition of the current license by any person engaged or employed therein. (Ord. 578, 1983: Ord. 333 § 4-e, 1961)

5.04.120 **License posted.** Every license shall be posted in a conspicuous place at the same address and in the same place where such business is operated. In the event that such business has no fixed address, then such license shall be exhibited when requested by the chief of police or any of his deputies. (Ord. 333 §4-f, 1961)

5.04.130 **City Council to grant permits.** No licenses shall be issued for any wrecking yard, junk collector, astrologer, auctioneer, billiard hall, poolroom, skating rink, shooting gallery, bowling alley, merry-go-round or other similar games and pastimes, until the city council shall have issued a permit therefore, at a meeting of a committee of the city council which may be appointed for review of circumstances regarding the application for a license. (Ord. 333 §4-g, 1961)

5.04.140 **Revocation of license.** Any license issued pursuant to the provisions of this title may be revoked by the city council for what it may deem good and sufficient reasons in order to preserve the peace, health, safety or general welfare of the city. The findings and conclusions by the city council thereon shall be final and

conclusive, with right of appeal by the licensee to any court of competent jurisdiction. (Ord. 333 §5, 1961)

Chapter 5.08
DEFINITIONS*

Sections:

5.08.010 Advertising vehicle.
5.08.020 Astrologer.
5.08.030 Auctioneer.
5.08.040 Coin-operated machine business.
5.08.050 Contractor; subcontractor.
5.08.060 Employee.
5.08.070 Gross receipts.
5.08.080 Itinerant salesman; itinerant vendor.
5.08.090 On-sale liquor business.
5.08.100 Pamphlet and literature business.
5.08.110 Patio, garage and/or yard sales.
5.08.120 Peddler.
5.08.130 Pool hall business.
5.08.140 Public dance.
5.08.150 Registration.
5.08.160 Regular, established or fixed place of business.
5.08.170 Rooming house business.
5.08.180 Solicitor.
5.08.190 Steam laundry.
5.08.200 Towel service.
5.08.210 Wholesale business by vehicle.

* Editor's Note: For the purposes of this title, the definitions of the words set out in this chapter shall apply.

5.08.010 **Advertising vehicle.** "Advertising vehicle" means the business of operating upon the streets any wheeled vehicle equipped with music or a musical device, loud speaker or other device for attracting attention, or who operates upon the streets any wheeled vehicles for advertising purposes, and to which wheeled vehicle there are attached signs, placards, billboards, or other advertising matter. (Ord. 333 §7-f, 1961)

5.08.020 **Astrologer.** "Astrologer" means a person who practices or who professes to practice the business or art of astrology, palmistry, phrenology, card reading, fortune telling, cartomancy, clairvoyance, crystal gazing, hypnotism, mediumship, prophesy, augury, divination, magic, or necromancy, and who accepts a gift or fee for such practice or charges therefor. (Ord. 333 §7-g, 1961)

5.08.030 **Auctioneer.** "Auctioneer" means any person engaged in the selling at auction any real or personal property whatsoever; provided, however, the provisions of this title shall not apply to any person having an established and permanent place of business in the city, and paying a license fee to the city therefore, who may auction any goods, wares, or merchandise for the purpose of closing out any special line of goods, wares, or merchandise or other personal property that may be in his

possession at the commencement of the auction at the place of business or place where the property is regularly kept without making a regular practice of so doing, or adding to the stock to be auctioned after the commencement of the auction. (Ord. 333 §7-h, 1961)

5.08.040 Coin-operated machine business. "Co-operated machine business" means the letting the use of, or renting location for, or placing with or in business houses within the city, of any and all types of amusement or skill games or machines or vending machines, the operation or use of which is permitted by state law or county ordinance, controlled or operated by the deposit or placing of any coin, plate, disc, slug or key into any slot, crevice or other opening in such machine or machines. The licensee shall furnish an identification tag for each machine or machines. The licensee shall furnish an identification tag for each machine put in use which shall be affixed in plain sight on such machine, and which shall contain the name and address of the licensee. (Ord. 333 §7-i (part), 1961)

5.08.050 Contractor; subcontractor.

A. "Contractor" means any person who engages with the owner or leasee, or other person in possession of any lot or parcel of land, or building, or structure, for the erection, construction, moving or repair of any building or structure in the city, or for the doing of any plumbing, wiring, heating, air conditioning, drainage, irrigation, brick laying, cement work, carpenter work, glazing, painting, sheet metal work, lathing, plastering, roofing, shingling, landscaping, fencing, interior decorating, or any other work in connection with any of the building trades in the city, whether the same be by contract at a fixed price for the whole or per unit of construction, or upon the cost of labor and material basis, or upon a percentage thereof basis, or other compensation other than wages.

B. "Subcontractor" means every contractor who under a general contractor or another subcontractor takes part in the construction, alteration to, or improvement of any building, highway, road, excavation or other structure, project development or improvement, as above set forth. Before a license is issued to a contractor or subcontractor as defined in this title, the applicant shall file with the city clerk satisfactory evidence that such person has a contractor's license and workmen’s compensation insurance coverage required by the laws of the state. (Ord. 333 §7-j, (part), 1961)

5.08.060 Employee. "Employee" means a person who receives his compensation from any employer that carries workman's compensation, makes all necessary payroll deductions from the compensation, including withholding tax and social security deductions, and assumes all necessary payroll deductions from the compensation, including withholding tax and social security deductions, and assumes all other responsibilities as an employer. Any person who is not an employee -shall be deemed self-employed and engaged in business for himself subject to the provisions of the title. Any person, firm or corporation engaged in a work of improvement for one other than himself, themselves or itself, requiring a building permit shall be licensed pursuant to this title. The building inspector, when issuing permits and when making building inspections in the field, will reasonably assure himself that all persons, as defined in this chapter, doing construction work in the city are properly licensed to do so by the city. (Ord. 333 §7-j (part) 1961)

5.08.070 Gross receipts. "Gross receipts" includes the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service, or Employment, of whatever nature it may be, for which charge is made or credit allowed, whether 'or not such act, service, or employment is done as a part of or in connection with the sale of materials, goods, wares and merchandise, or the rendition of personal services. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction there from on account of the cost of the property sold, cost of materials used, labor or service costs, interest paid or payable, or losses, or other expenses whatsoever, and receipts attributable to selling activities or personal service within the city. Excluded shall be cash discounts allowed and taken on sales, Credit allowed on property accepted as part of the purchase price and which property may later be sold, any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser. All fees and taxes set forth in this title may be amended from time to time by resolution. (Ord. 532 §2, 1981: Ord. 333 §7-i (b), 1961)

5.08.080 Itinerant salesman: itinerant vendor. "An itinerant salesmen" or "an itinerant vendor" means any person, firm or corporation that shall engage in, do, or transact any temporary business at wholesale or retail for the sale of goods, wares, and merchandise, and who, for the purpose of carrying on such business shall have, use, or occupy a building, car, vehicle, booth, boat, or room for the exhibition and sale of such merchandise, whether such person, firm or corporation be a principal, agent, or employee. (Ord. 333 7-d, 1961)

5.08.090 On-sale liquor business. "On-sale liquor business" means ,the business of dispensing alcoholic beverages for public consumption in a place of business for the operation of which business an "On Sale" license is required under the laws of the state pertaining to the dispensing of alcoholic beverages. (Ord. 333 §7-k, 1961)

5.08.100 Pamphlet and literature business. "Pamphlet and literature business" means the selling or offering for sale by any person, whether as principal or agent, clerk or employee, either for himself or for any other person, or for any firm or corporation, either at a fixed place of business or on the streets or sidewalks of the city, of pamphlets, literature or books, symbols or signs. (Ord. 333 §7-1, 1961)

5.08.110 Patio, garage and/or yard sales. "Patio, garage and/or yard sales" means a sale held at a private residence by the owner or owners, tenant and/or occupant thereof and since it is recognized that it is necessary to dispose of personal property by means of an on-side sale, this section is designed to define the limits of such sales:

A. Patio, garage and/or yard sales shall be held no more often than once each six months at any residential address and for a period not to exceed five consecutive days.

B. A license shall be required for sales such as described in subsection A of this section and such license shall not be issued more often than once in each six months, shall be valid only for a stated residential address and for no longer than five consecutive days.

C. Licenses required under this title shall be issued by the city treasurer upon the payment of the license fee therefore, as provided in this title, and the licenses shall state the beginning and ending dates of such sale.

D. Estate sales for the disposition of personal property of a deceased occupant of a residence may be issued by the city treasurer to the personal representative of such decedent. The duration of such sales shall be for a reasonable length of time as determined by the city treasurer.

E. Nothing contained in this section is intended, nor shall it prevent or prohibit various types of sales held by recognized charitable or social organizations having their headquarters within the corporate limits of the city.

F. All goods, products and merchandise proposed to be sold at a patio, garage and/or yard sale are subject to inspection by any peace officer of the city in the exercise of his duty as such. (Ord. 442 §1, 1972: Ord. 333 §7-r, 1961)

5.08.120 **Peddler**. "Peddler" includes any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, medicines, drugs, vitamins, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and; provided further, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this title shall be deemed a peddler subject to the provisions of this title. "Peddler" shall include the words "hawker" and "huckster." (Ord. 333 57-c, 1961)

5.08.130 **Pool hall business.** "Pool hall business" means the business of keeping pool tables in a place of business where the public is invited to play games in which pool tables and billiard tables are used and a charge is made the public for the use of such tables. A permit as provided in for in this title shall be obtained for this business before a license is issued. (Ord. 333 57-m, 1961)

5.08.140 **Public dance.** "Public dance" means a gathering of persons in or upon any premises where dancing is participated in, either as the main purpose for such gathering or an incident to some other purpose, and to which premises the public is admitted for a fee. (Ord. 442 §2 (part), 1972; Ord. 333 59 (part), 1961)

5.08.150 **Registration.** Solicitors, peddlers, and itinerant salesmen or itinerant vendors must register with the police department of the city, giving whatever information the chief of police may require. (Ord. 333 §7-e, 1961)

5.08.160 Regular, established or fixed place of business. "Regular, established or fixed place of business" means a permanent store, office or place where business is legally transacted from month to month in such manner as business of that nature is generally conducted, and where the circumstances show an intention to become an established, fixed and continuous part of the regular and legitimate business life of the city and not otherwise and not on the public street or highway or in any lodging room or place where only temporary desk room is used or where any temporary expedient is resorted to for temporary purposes or permanent business in this city. (Ord. 333 57-a, 1961)

5.08.170 Rooming house business. "Rooming house business" means the renting of rooms by the day, week or month, where five or more rooms are under the same proprietorship and hotel maid service is furnished. (Ord. 333 §7-n, 1961)

5.08.180 Solicitor. "Solicitor" includes any person, whether a resident of the city or not, who goes, either as principal or agent, from house to house or place to place, soliciting and taking or attempting to take orders for sale of goods, wares, merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, including subscriptions to magazines, periodicals, or other publications, or the distributing or offer to distribute any coupon, certificate, ticket, card, or other token which is redeemable in goods, discount, wares, merchandise, premium or services, whether he is collecting advance payments on such sales or not, provided, that, much definition shall include any person who, for himself, or for another person, form, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the city .for the sole purpose of exhibiting samples and taking orders for future delivery. (Ord. 333 §7-b, 1961)

5.08.190 Steam laundry. "Conducting, managing or carrying on the business of a steam laundry" includes besides the business of conducting or managing of a steam laundry in the usual, popular and generally accepted meaning thereof, any place where clothes are washed or ironed or laundered for compensation and where power is used to operate machinery in connection with the washing or ironing or laundering of such clothes and also the business of soliciting, collecting and delivering, or receiving laundry for a steam laundry, for compensation, whether on a commission basis or otherwise. (Ord. 333 §7-b, 1961)

5.08.200 Towel service. "Towel service business" means a business of dealing in, selling or washing or ironing or exchanging of towels or linen for compensation either, directly or indirectly. (Ord. 333 §7-p, 1961)

5.08.210 Wholesale business by vehicle. "Wholesale business by vehicle" applies to the delivery of goods, wares or merchandise to retail merchants or manufacturers in the city at wholesale prices for the purpose of resale or for use or consumption on or off the premises. "Business by vehicle" and "wholesale business by vehicle" does not apply to persons, firms and corporations operating such vehicles together with and in conjunction with a fixed place of business within the city for which such business a license fee is paid under other provisions of this title nor shall the provisions of this title be construed as imposing a tax upon vehicles, but as a method of

classification of businesses and distinguishing between those maintaining a fixed place of business in the city in the conduct of which vehicles are used and those maintaining a business in the conduct of which vehicles are used but who do not have a fixed place of business within the city. (Ord. 333 §7-q, 1961)

Chapter 5.12
APPLICATIONS

Sections:

5.12.010 Application forms.
5.12.020 Council discretion.
5.12.030 Form of license.
5.12.040 Requirements in cases of error.

5.12.010 Application forms. All applicants for a license shall give in writing any information concerning the applicant and the business that may be required by the city council, city clerk, city treasurer, or chief of police of the city; and in case the applicant is doing business under a fictitious name or as co-partnership, the application shall show the names of all persons doing business under a fictitious name or as a co-partnership. (Ord. 406 §l (part), 1969: Ord. 333 §3, 1961)

5.12.020 Council discretion. In all cases of doubt as to any applicant being entitled to an exemption from any license fee or from the application of any of the provisions of this title, the burden of establishing the right of such exemption shall be upon the applicant. (Ord. 406 §l(part) , 1969: Ord. 333 §3-a, 1961)

5.12.030 Form of license. Except for those businesses whereby it is provided in this title that the city council shall first direct the issuance of a license to the applicant, the city clerk and/or city treasurer shall issue a license under this title to every person on application therefore and payment of the license fees provided for in this title, in such form as the city clerk and/or city treasurer shall provide, which license shall state the amount of any fee therefore, the period of time covered thereby, the name and address of the licensee, the business licensed, and the location of the place where the business is to be carried on. (Ord. 406 §l (part), 1969: Ord. 333 §3-b, 1961)

5.12.040 Retirements in cases of error. In no case shall any error made by the city clerk and or city treasurer or their respective deputies or assistants in preparing a license or stating the amount of fee therefore, or determining the proper classification under this title, prejudice the collection of the proper license fee by the city; nor shall the issuance of any license authorize the carrying on of any business, trade or occupation in any zone, or location contrary to the provisions of the zoning ordinance. (Ord. 406 §l (part), 1969: Ord. 333 §3-c, 1961)

Chapter 5.16
EXEMPTIONS

Sections:

5.16.010 Disabled veterans.
5.16.020 Charitable organizations.
5.16.030 Growers.
5.16.040 Domestic household help.
5.16.050 Wholesale salesmen and agents.
5.16.060 Issuance of permit without payment of regular fee--Rights reserved to council.

5.16.010 Disabled veterans. Every honorably discharged or honorably released person having served in the Armed Forces of the United States, who is physically unable to obtain a livelihood by manual labor, and who shall be a qualified elector of the state, may distribute, circulate and hawk, peddle and vend any goods, wares or merchandise owned by him without payment of any license fee whatsoever. (Ord. 333 §6-a, 1961)

5.16.020 Charitable organizations. The provisions of this title shall not be deemed or construed to require the payment of a license to conduct, manage or carryon any business, occupation or activity or require the payment of any license from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes within the county. (Ord. 333 §6-b, 1961)

5.16.030 Growers. The license provisions of this title shall not include or apply to farmers, poultry men, vegetable gardeners, or horticulturists who may sell their own products exclusively. This exemption shall not apply to any farmer, poultryman, vegetable gardener, or horticulturist buying any goods or wares or merchandise for resale. (Ord. 333 §6-c, 1961)

5.16.040 Domestic household help. The license provisions of this title shall not include or apply to domestic household help in the employ of an individual householder. (Ord. 333 §6-d, 1961)

5.16.050 Wholesale salesmen and agents. The provisions of this title shall not apply to salesmen or agents for wholesale houses or firms who solicit orders from businesses for resale, or supplies for conducting a business or profession licensed to do business under this title; or to manufacturers or processors for manufacturing or processing purposes, or to bids for public works or supplies. (Ord. 333 56-e, 1961)

5.16.060 Issuance of permit without payment of regular fee--Rights reserved to council. It is further provided that nothing in this title shall be deemed or construed as preventing the city council for good cause shown satisfactory to them, from ordering the issuance of a license to any one applying to the council at a regular meeting of that body, for less than the fee provided in this title, or without the payment of any fee whatsoever. (Ord. 333 56-f, 1961)

Chapter 5.20
LICENSE FEES AND RATES

Sections:

5.20.010 Fiscal year for payment of licenses.
5.20.020 Fee schedules--Regulations generally.
5.20.030 Fee schedules--Amendment by resolution.
5.20.040 Licensees not maintaining place of business within city.
5.20.050 Licenses for businesses not specifically enumerated.
5.20.060 Public utility operating under franchise-Exemption.
5.20.070 Coin-operated machines--Schedule-Requirements.
5.20.080 License rates--Designated.

5.20.010 Fiscal year for payment of licenses. The fiscal year for the payment of licenses shall be from July 1st to June 30th of the succeeding year. When the licenses provided by this title are fixed at so much per year, they shall be for the full year, except that new operations commencing after January 1st may obtain a half-year license. The fee shall be fifty percent of the normal yearly license fee, all fees payable in advance. (Ord. 531 51, 1981: Ord. 333 58-a, 1961)

5.20.020 Fee schedules--Regulations generally. Class I, Class II, Class III, Class IV, Class V, Class VI and Class VII fee schedules are adopted by reference as an integral portion of this section and may from time to time be changed by the governing bodies' action and certified by the city clerk as to current fee schedules for any or all classes. (Ord. 531 S2, 1981: Ord. 333 S8-b, 1961)

5.20.030 Fee schedules--Amendment by resolution. All fees and taxes set forth in this title may be amended from time to time by resolution. (Ord. 531 §3, 1981: Ord. 333 §8-c, 1961)

5.20.040 Licensees not maintaining place of business within city. Except where otherwise specifically provided for in this title, every person, firm or corporation not maintaining a bona fide and fixed place of business within the corporate limits of the city who delivers goods, wares or merchandise of any kind, sort or nature whatsoever and/or provides any service to residents of the city other than a retail establishment already licensed by the city under this title and in so doing operates a vehicle or vehicles in the city, shall be licensed and pay a license fee therefore of forty-eight dollars per year. This section is enacted solely to raise revenue for municipal purposes and is not intended for regulation. All other ordinances and sections of this title shall remain in full force and effect so far as their regulatory provisions are concerned except as to those businesses, occupations and professions licensed to do business by the state or the United States of America, so as to completely occupy the field of regulations. (Ord. 426 §1, .1971: Ord. 333 §8-e, 1961)

5.20.050 Licenses for businesses not specifically enumerated. It is the intent and purpose of this title to license, either for revenue or regulation, or both, as set forth in this title, all business conducted within the city, other than those specifically excepted in this title, and if application for a license is made for any business not specifically referred to in this title, or not included in any of the provisions of this title fixing license fees, the city clerk shall refer any such application to the city council for consideration and classification and the city council shall fix the license fee to be charged therefore. (Ord. 333 §8-f, 1961)

5.20.060 Public utility operating under franchise-Exemption. Any public utility operating in the city which is required to make payments under a franchise agreement with the city, providing they do not engage in retail business other than the sale of the commodity for which they are franchised, is exempt from the license fees imposed by this title. (Ord. 426 §2, 1971: Ord. 333 §8-g, 1961)

5.20.070 Coin-operated machines--Schedule--Requirements. A. Every individual or firm engaged exclusively in the business of renting, leasing or operating coin-operated vending machines dispensing tangible personal property within the city limits shall pay a license tax based upon gross receipts in accordance with the following schedule:

CLASS VIII
Annual Gross Receipts License Fee Annually

Annual Gross Receipts	License Fee Annually
$ 0 -- 2,500	$ 25.00
2,500 5,000	35.00
5,001 10,000	40.00
10,001 15,000	60.00
15,001 20,000	80.00
20,001 and up	100.00

B. Every individual or firm engaged exclusively in the business of renting, leasing or operating coin-operated vending machines dispensing intangible personal property within the city limits shall pay a license tax based upon gross receipts in accordance with the following schedule:

CLASS IX

Annual Gross Receipts	**License Fee Annually**
$ 0 - 2,500	$ 45.00
2,500 5,000	75.00
5,001 10,000	90.00
10,001 15,000	105.00
15,001 20,000	120.00
20,001 25,000	135.00
25,001 30,000	150.00
30,001 35,000	165.00
35,001 40,000	180.00
40,001 45,000	195.00
45,001 50,000	210.00

$1.00 per $1,000.00 dollars for all in excess of $50,000.00.

C. Any such license for the conduct of vending machine business as defined in this title may be revoked for failure of the licensee to report to the city the gross receipts from such machines. The licensee shall furnish to the city an audit of the business of each licensee and the city may require such licensee to submit a copy of state sales and use tax returns filed relative to such machines.

D. 1. The annual gross receipts upon which the rates are based shall be the annual gross receipts for the calendar year immediately preceding the license year for business done within the city, excepting for a new business which had no gross receipts for the immediately preceding year.

2. Such new business shall estimate its gross receipts and pay the license fees as set forth in subsections A and B of this section based upon such estimate. This amount, however, shall be tentative only and such licensee shall within thirty days after the expiration of the period for which such license was issued furnish the 'city clerk on a form to be furnished by the city clerk executed under penalty of perjury showing the actual gross receipts during the period of such license and the license tax for such period shall be finally ascertained and paid within thirty days of, the close of the year for which such license was issued. If not so paid within the thirty-day period there shall be ten percent penalty added thereto.

3. The city clerk shall not issue a license to any person, firm or corporation until the proposed licensee shall have furnished to the city clerk the written statement and have paid the license tax provided in this title to be paid.

4. All information furnished and secured by the city in pursuance of this title shall be kept confidential. E. The license fee imposed by this title is solely to raise revenue for municipal purposes, and is not intended to be for regulatory purposes. (Ord. 532 §l, 1981; Ord. 440 §1, 1972; Ord. 333 § 7- i (a), (c) , (d), (e), 1961)

5.20.080 License rates--Designated. License rates shall be as follows:

Accountants. Refer to Sections 5.20.010 through 5.20.060.

Advertising. For the business-of advertising, including posting, affixing, stenciling or painting advertising bills or signs upon any post, fence, billboard, advertising signboard, building or other structure, as well as the operating or maintaining of any billboard, signboard, advertising structure or sign device; per year, twenty-four dollars.

Advertising Vehicle. Permit from police department required; per day five dollars.

Agents. For every agent, solicitor, canvasser, hawker, or peddler or other person, other than a licensed merchant doing business in the city, not otherwise provided for in this title, selling commodities, or any other articles in this city, by samples or otherwise. See Section 5.08.150.

Air-conditioning Sales and Service. (Other than contractor). Refer to Sections 5.20.010 through 5.20.060.

Ambulance. Permit from- the city council required. Refer to Sections 5.20.010 through 5.20.060.

Animal Show. Permit from the city council required. Per day, fifty dollars.

Apartment Houses. Without maid service; no charge. With maid service; same as hotels.

Appraiser. Refer to Sections 5.20.010 through 5.20.060.

Architect. Refer to Sections 5.20.010 through 5.20.060.

Arena. Boxing, wrestling, etc.; permit from the city council required; per year ten dollars. For each day during which is conducted boxing, wrestling matches, or exhibitions, permit from the city council required, per day fifteen dollars.

Art and Curio Store. Refer to Sections 5.20.01.0 through 5.20.060.

Astrologers. Permit from the city council required, per quarter of year, three hundred dollars.

Attorneys. Refer to Sections 5.20.010 through 5.20.060.

Auction. Special permit from the city council required, per year, six hundred dollars.

Auto Court. Refer to Sections 5.20.010 through 5.20.060.

Auto Radiator Shop. Refer to Sections 5.20.010 through 5.20.060.

Auto Wash Rack. When not connected with service station, agency or garage. Refer to Sections 5.20.010 through 5.20.060.

Automobile Accessories. Refer to Sections 5.20.010 through 5.20.060.

Automobile Paint and/or Upholstery Shop. Refer to Sections 5.20.010 through 5.20.060.

Automobile, Sales of. Refer to Sections 5.20.010 through 5.20.060.

Automobiles, Parking. Refer to Sections 5.20.010 through 5.20.060.

Automobiles, Wrecking and Sale of Parts. Permit from the planning commission and the city Council required. Refer to Sections 5.20.010 through 5.20.060.

Awning and Tent Shop. Refer to Sections 5.20.010 through 5.20.060.

Bakery. Refer to Sections 5.20.010 through 5.20.060.

Bakery Vehicle.

1. For every person, firm, or corporation, having regularly established or fixed place of business, conducting, managing or carrying on the business of selling bread or the products of a bakery at retail from a wagon or other vehicle, or soliciting for same by said means. Refer to Sections 5.20.010 through 5.20.060.

2. For every person, firm or corporation not having a regularly established or fixed place of business, conducting, managing or carrying on the business of selling bread or the products of a bakery at retail from a wagon or other vehicle, or soliciting for same by said means, for each wagon or vehicle, per year, forty-eight dollars.

Bankrupt Stocks. For the business of selling insolvent, bankrupt, fire damaged or other goods, wares or merchandise brought to the city for such sale, and every itinerant or transient merchant having a temporary place of business selling or offering for sale any insolvent, bankrupt, fire damaged or other goods, wares or merchandise, permit from the city council required, per day one hundred dollars.

Barbershop. Refer to Sections 5.20.010 through 5.20.060.

Baths. Refer to Sections 5.20.010 through 5.20.060.

Beauty Parlor. Refer to Sections 5.20.010 through 5.20.060.

Beer Parlor. Where food, goods, wares and/or merchandise including beer and wine, other than beverages having an alcoholic content greater than twenty percent by volume are sold thereat. Refer to Sections 5.20.010 through 5.20.060.

Beverage Wholesale Distributor. Per year, twelve dollars.

Bicycles or Motor-driven Cycles--Sale or Rental. Refer to Sections 5.20.010 through 5.20.060.

Billiards or Pool. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Blacksmith. Refer to Sections 5.20.010 through 5.20.060.

Blueprint Shop. Refer to Sections 5.20.010 through 5.20.060.

Boardinghouse. Less than five boarders, free; over five, same as hotels.

Book Agents. For each agent or canvasser not having a regularly established place of business, or a resident local ,agent, in the city, selling, peddling or advertising any book or set of books, magazines or other literature or canvassing for any newspaper, the sum of one hundred dollars per year. The above rate is not to apply to official publications or professional books or religious or charitable organizations when agent carries proper credentials.

Book and/or Stationery Store. Refer to Sections 5.20.010 through 5.20.060.

Bootblack Stand. Per year, one dollar.

Bottling Works. Refer to Sections 5.20.010 through 5.20.060.

Bowling Alley. Permit from the city council required, ten dollars per year plus two dollars and fifty cents per quarter for each quarter for each alley in excess of the first three alleys.

Box Ball. Permit from the city council required. Same as bowling alley.

Boxing and/or Wrestling. See Arena. Broker, Stock or Bond Broker. Refer to Sections 5.20.010 through 5.20.060.

Building Blocks. Refer to Sections 5.20.010 through 5.20.060.

Building Supplies.

1. For every general building supplies business, which business is conducted and carried on at a fixed place of business within the city and which fixed place of business is subject to ad valorem taxes of this city. Refer to Sections 5.20.010 through 5.20.060.

2. For every general building supplies business for a fixed place of business outside the city, and directly or indirectly, individually or by agent, representative, servant or employee or otherwise conducting, carrying on or engaging in the business of selling building supplies or soliciting or accepting orders for the sale of building supplies in the city, per year, double amount in Sections 5.20.010 through 5.20.060.

Bus Station. Refer to Sections 5.20.010 through 5.20.060.

Cabinet Shop. Refer to Sections 5.20.010 through 5.20.060.

Candy Store and/or Shop. Refer to Sections 5.20.010 through 5.20.060.

Canvasser. Per year one hundred dollars

Carnival. Permit from the city council required; per day, one hundred dollars.

Check Room Service. Per year, twenty-four dollars.

Cigar Store (Retail). Refer to Sections 5.20.010 through 5.20.060.

Circus or Menagerie. Permit from the city council required; per day, fifty dollars.

Civil Engineer. Refer to Sections 5.20.010 through 5.20.060.

Clothing Store (Retail). Refer to Sections 5.20.010 through 5.20.060.

Clubs, Private or Recreational. Private clubs at which recreational sport or other facilities are provided for members and others. Permit from the city council required; per year, one hundred dollars.

Cobbler Shop. Refer to Sections 5.20.010 through 5.20.060

Cocktail Lounge and/or Bar. per year, one hundred dollars.

Coin Operated Machine Business. Per year, one hundred dollars.

Cold Storage Plant. Refer to Sections 5.20.010 through 5.20.060.

Collection Agency. Permit from city council required; per year, one hundred dollars.

Confectionery. Refer to Sections 5.20.010 through 5.20.060.

Contractor, Subcontractor, or Self-employed Person.

1. Contractor, subcontractor, or self-employed person who engages in any of the building trades as enumerated in Section 5.08.060, having a regularly established place of business in the city; per year, fifty dollars
2. Contractor, subcontractor, or a self-employed person who engages in any of the building trades as enumerated in Section 5.08.060, not having a regularly established place of business in the city; per, one hundred dollars.
3. Provided, however, that on or after the first day of July, 1961, every contractor, subcontractor, or self employed person who engages in any of the building trades not having a regularly established place of business in the city, upon making application for the renewal of a license which has not lapsed for a period in excess of thirty days, per year fifty dollars.*

Creamery. Refer to Sections 5.20.010 through 5.20.060.

Credit Bureau. Refer to Sections 5.20.010 through 5.20.060.

Dairy Products. Refer to Sections 5.20.010 through 5.20.060.

Dance, Public. Permit from city council required. Same as Arena.

Dancing School. Refer to sections 5.20.010 through 5.20.060.

Delicatessen. Refer to Sections 5.20.010 through 5.20.060.

Dentist. Refer to Sections 5.20.010 through 5.20.060.

Department Store. Refer to Sections 5.20.010 through 5.20.060.

Detective, Private. For conducting a detective agency or a night watch service in the city. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060

Doctors. For every chiropractor, chiropodist, dentist, masseur, medical doctor, naturopath, oculist, optician, optometrist, osteopathic physician or surgeon, dietician, roentgenologist, X-ray specialist, and every other person conducting the business of ministering to sick and ailing human beings. Refer to Sections 5.20.010 through 5.20.060.

Dog Kennel. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Drug Store . Refer to Sections 5.20.010 through 5.20. 060.

Dress Shop. Refer to Sections 5.20.010 through 5.20.060.

Dry-cleaning and Laundry Business.

1. For a laundry or cleaning business for laundering, washing, cleaning, dry-cleaning, ironing or pressing clothing, bedding or any other fabrics or articles, which business is carried on at a fixed place of business within the city. Refer to Sections 5.20.010 through 5.20.060.

2. The following named businesses shall not be construed as falling within the definition of laundry or cleaning business and shall be licensed in the amounts indicated below (with or without fixed places of business):

* Note: Payable in advance for one year from the first of the month in which application is made and may be renewed on expiration date for succeeding year.

a. Diaper service; per year, twenty-four dollars.
b. Laundry, hand; per year, twenty-four dollars.
c. Laundry, self-help; per year, twenty-four dollars.
d. Linen and/or towel supply; per year, twenty four dollars
e. Overall service; per year twenty-four dollars

Dry-goods Store. Refer to Sections 5.20.010 through 5.20.060.

Eating Places. For every cafeteria, lunch counter, cafe, coffee shop, or restaurant. Refer to Sections 5.20.010 through 5.20.060.

Electric Motor Repair. Refer to Sections 5.20.010 through 5.20.060.

Electrical Store. Refer to Sections 5.20.010 through 5.20.060.

Employment Agency. Refer to Sections 5.20.010 through 5.20.060.

Escrow Office. Refer to Sections 5.20.010 through 5.20.060.

Feed Store: Refer to Sections5.20.010 through 5.20.060.

Fertilizer: Refer to Sections 5.20.010 through 5.20.060.

Fish and Poultry Market: Refer to Sections 5.20.010 through 5.20.060.

Five and Ten Cent Store: Refer to Sections 5.20.010 through 5.20.060

Florist: Refer to Sections 5.20.010 through 5.20.060.

Foundry. Refer to Sections 5.20.010 through 5.20.060.

Fountain and/or Malt Shop. Refer to Sections 5.20.010 through 5.20.060.

Fruit Stand: Refer to Sections 5.20.010 through 5.20.060.

Fruit and Vegetable (Retail). Refer to Sections 5.20.010 through 5.20.060

Fruit and Vegetable (Grown by Seller). Free.

Fruit and Vegetable Wagon. For selling fruit, melons and vegetables on the public streets or from wagons or other vehicles. Each such wagon or vehicle shall have legibly posted conspicuously thereon the city license number thereof. Refer to Sections 5.20.010 through 5.20.060.

Fur Store. Refer to Sections 5.20.010 through 5.20.060.

Fumigation and/or Spraying. Refer to 5.20.010 through 5.20.060.

Furniture Store or Dealer. Refer to 5.20.010 through 5.20.060.

Funeral Director. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Garage and Repair Shop. Refer to Sections 5.20.010 through 5.20.060.

Gas and Fuel Delivery (Retail). Refer to Sections 5.20.010 through 5.20.060.

Golf and Driving Range or Archery Range. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Grocery (Retail). Refer to Sections 5.20.010 through 5.20.060.

Groceries Where Sold From Vehicle.

1. For every person, firm or corporation having a regularly established or fixed place of business, conducting, managing or carrying on the business of selling at retail from a wagon or other vehicle, or soliciting for same by said means; each wagon or vehicle. Refer to Sections 5.20.010 through 5.20.060.

2. For every person, firm or corporation, not having a regularly established or fixed place of business, conducting, managing or carrying on the business of selling groceries at retail from a wagon or other vehicle, or soliciting for same by said means, the sum of one hundred dollars
annually, payable in advance for each wagon or vehicle.

Haberdasher. Refer to sections 5.20.010 through 5.20.060.

Hawker. Per year, one hundred dollars.

Hardware Store. Refer to Sections 5.20.010 through 5.20.060.

Hat Blocking and Cleaning. Refer to Sections 5.20.010 through 5.20.060.

Hospitals. Permit from the city council required. Same as hotels.

Hotels. One to nine rooms, inclusive; per year, twenty-four dollars; ten to twenty-four rooms, inclusive; per year, thirty dollars; twenty-five rooms and over; per year, thirty-six dollars.

Ice, Manufacture and/or Sale. Refer to Sections 5.20.010 through 5.20.060.

Ice Cream. Sale of ice cream in any form at retail from scooter or other vehicle. Permit from city council required. Refer to Sections 5.20.010 through 5.20.060.

Implement Dealer. Refer to Sections 5.20.010 through 5.20.060.

Interior Decorating. (Professional services only) . Refer to Sections 5.20.010 through 5.20.060.

Investments and Loans. (Other than pawnbroker). Fixed place of business. Refer to Sections 5.20.010 through 5.20.060.

Insurance. Refer to Sections 5.20.010 through 5.20.060.

Itinerant Salesman. Per year, one hundred dollars.

Janitor Service. Refer to Sections 5.20.010 through 5.20.060.

Jeweler. Refer to Sections 5.20.010 through 5.20.060.

Job Printing. Refer to Sections 5.20.010 through 5.20.060.

Junk Dealer. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Keys, Locksmiths, Tool Sharpening and Grinding. Refer to Sections 5.20.010 through 5.20.060.

Laboratory. (Chemical or other). Refer to Sections 5.20.010 through 5.20.060.

Laundry. See Dry-cleaning.

Lumber dealers.

1. For conducting or carrying on a lumber business or lumberyard, which business or yard is conducted and carried on at a fixed place of business is subject to ad valorem taxes of the city. Per year, refer to Sections 5.20.010 through 5.20.060.
2. For conducting or carrying on a lumber business or lumberyard from a fixed place of business outside the city and directly or indirectly, individually or by agent, representative servant or employee, or otherwise conducting, carrying on or engaging in the business of selling lumber or soliciting or accepting orders for the sale of lumber in the city; per year, double the amounts outlined in Sections 5.20.010 through 5.20.060.

Liquor Store. Off-sale. Refer to Sections 5.20.010 through 5.20.060.

Machine shop. Refer to Sections 5.20.010 through 5.20.060.

Machinery and Equipment. Refer to Sections 5.20.010 through 5.20.060.

Manufacturing. Refer to Sections 5.20.010 through 5.20.060.

Mattress Works. Refer to Sections 5.20.010 through 5.20.060.

Meat Market. Refer to Sections 5.20,010 through 5.20.060.

Merchandise (General). Refer to Sections 5.20.010 through 5.20.060.

Merry-go-round. Permit from the city council required; per day, twenty dollars.

Messengers or Messenger Service. Refer to Sections 5.20.010 through 5.20.060.

Milk and/or Other Dairy Products (Retail Store). Refer to Sections 5.20.010 through 5.20.060.

Milk and/or Other Dairy Products (By Vehicle). Same as Bakery Vehicle.

Millinery Shop. Refer to Sections 5.20.010 through 5.20.060.

Mortuary. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Music Dealer. Refer to Sections 5.20.010 through 5.20.060.

Newspaper Dealers or Agents. Refer to Sections 5.20.010 through 5.20.060

Newsstand. Refer to Sections 5.20.010 through 5.20.060.

Nursery. Refer to Sections 5.20.010 through 5.20.060.

Office Supplies. Refer to Sections 5.20.010 through 5.20.060.

On-sale Liquor Business. Per year, one hundred dollars.

Paint and Oil Dealer. Refer to Sections 5.20.010 through 5.20.060.

Patio, Garage or Yard Sales. Per sale, five dollars.

Pawnbroker. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Peanut and Popcorn Vendor. Refer to Sections 5.20.010 through 5.20.060.

Peddler. Per year, one hundred dollars.

Peddling, General. Per year, one hundred dollars.

Photographer (Fixed place of business). For every photography business or camera shop. Refer to Sections 5.20.010 through 5.20.060

Photographer. For the business of soliciting any photographing, painting, picture framing, picture, portraits or orders for retouching or changing the same, or orders for printing, or advertising in connection therewith by any persons, firm or corporation not having a fixed place of business in the city, the sum of one hundred dollars per year.

Planning Mill and/or Cabinet Shop. Refer to Sections 5.20.010 through 5.20.060.

Plunge. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Pony Ride. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Poultry Market. Refer to Sections 5.20.010 through 5.20.060.

Public Stenographer. Refer to Sections 5.20.010 through 5.20.060.

Radio Broadcasting Stations. Refer to Sections 5.20.010 through 5.20.060.

Radio, Sale or Service. Refer to Sections 5.20.010 through 5.20.060.

Ready-cut Buildings.

1. For conducting or carrying on the business of selling ready-cut buildings, which business or yard is conducted and carried on at a fixed place of business within the city; per year, same as Contractor.

2. For conducting or carrying on the business of selling ready-cut buildings outside the city and directly or indirectly, individually or by agent, representative, servant or employee or otherwise conducting, carrying on or engaging in the business of selling ready-cut buildings or soliciting or accepting orders for the sale of ready-cut buildings in the city: per year, same as Contractor.

Real Estate Brokers. Refer to Sections 5.20.010 through 5.20.060.

Riding Academy. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060. .

Rodeo. Permit from the city council required; per day, twenty-five dollars.

Rooming houses. Less than five roomers, etc.; free. (Without hotel maid service). More than five roomers, same as hotel.

Sand and Gravel. Refer to Sections 5.20.010 through 5.20.060.

Sanitarium, Rest Home. Permit from the city council required. Same as Hotels.

Secondhand Store. Refer to Sections 5.20.010 through 5.20.060.

Sewing Machine and Service. Refer to Sections 5.20.010 through 5.20.060.

Shoe Repair Shop. Refer to Sections 5.20.010 through 5.20.060.

Shoeshine Stand. Per year, one dollar.

Shoe Store. Refer to Sections 5.20.010 through 5.20.060.

Shooting Gallery and Skeet Shooting. Permit from the city council required. For every shooting gallery, fifty dollars per year. For every skeet shooting or trap shooting range, one hundred dollars per year.

Shows. Permit from the city council required: per day, thirty-five dollars.

Signs, Sales and Service. Same as Contractor.

Sign Painting. Refer to Sections 5.20.010 through 5.20.060.

Skating Rink. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Soft Drink Stand. Refer to Sections 5.20.010 through 5.20.060.

Solicitor. Per year, one hundred dollars.

Spices and Extracts (Retail Store). Refer to Sections 5.20.010 through 5.20.060.

Sporting Goods. Refer to Sections 5.20.010 through 5.20.060.

Swimming Pool. Permit from the city council required. Refer to Sections 5.20.010 through 5.20.060.

Tailor. Refer to Sections 5.20.010 through 5.20.060.

Taxicabs or Automobiles for Hire. (Two vehicles) . Refer to Sections 5.20.010 through 5.20.060. Each additional vehicle, two dollars. Permit from the city council required.

Telegraph and/or Telephone Companies (Intra-state Business). Refer to Sections 5.20.010 through 5.20.060.

Termite and Bug Control. Refer to Sections 5.20.010 through 5.20.060.

Theaters and Shows.

1. Permit from the city council required. For every motion picture or vaudeville theater at an established place of business wholly within a permanent building constructed for theater purposes; per year, refer to Sections 5.20.010 through 5.20.060.

2. For every open-air theater or tent show wherein vaudeville, comic, dramatic or operatic productions or performances are given or motion pictures exhibited, the sum of ten dollars per day. Tile and Pottery Shop. Refer to Sections 5.20.010 through 5.20.060.

Tire Recapping and Repairs. Refer to Sections 5.20.010 through 5.20.060.

Tool Shop and Grinder. Refer to Sections 5.20.010 through 5.20.060.

Transfer and Hauling. Refer to Sections 5.20.010 through 5.20.060.

Tree Surgery. Refer to Sections 5.20.010 through 5.20.060.

Undertaker. Permit from the city council required. 'Refer to Sections 5.20.010 through 5.20.060.

Upholstery Shop. Refer to Sections 5.20.010 through 5.20.060.

Variety Store. Refer to Sections 5.20.010 through 5.20.060.

Vending and Other Coin-operated Machines. See Sections 5.08.040, 5.08.070 and 5.20.070; per year, one hundred dollars.

Veterinary. Refer to Sections 5.20.010 through 5.20.060.

Warehouses. Refer to Sections 5.20.010 through 5.20.060.

Water Bottler and Distributor. Refer to Sections 5.20.010 through 5.20.060.

Water Company. Refer to Sections 5.20.010 through 5.20.060.

Water Softener. Refer to Sections 5.20.010 through 5.20.060.

Welding Shop. Refer to Sections 5.20.010 through 5.20.060.

Wholesale Delivery Vehicles. (Not operated under a bona fide business license under this title). Per year, twelve dollars.

Wholesale Merchant (Fixed Place of Business). Refer to Sections 5.20.010 through 5.20.060.

Wholesale Merchant. Wholesale merchant who has no fixed place of business within the city and who carries merchandise with him for immediate delivery, forty-eight dollars per year.

Wired Music and Phonographs. (Including juke boxes). Per year, one hundred dollars.

Wood and Coal. Refer to Sections 5.20.010 through 5.20.060.

(Ord. 442 §2(part), 1972; Ord. 333 §9(part), 1961)

Chapter 5.24
ENFORCEMENT

Sections:

5.24.010 Penalty.
5.24.020 Conviction-Effect on debt.

5.24.010 **Penalty.** If any person, persons, firms, or corporations, or their agents (hereinafter "individual"), shall transact, engage in, or carry on any business, trade, profession, exhibition or occupation, within the City, without first procuring from the City a license or permit therefor, he, she, it or they, for each violation of this Title, shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such individual shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted. Any individual convicted of a violation of this ordinance shall be: (l) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars ($100.00) for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars ($200.00) for a second violation of the same ordinance and perpetrated by the same individual. The third and any additional violations of the same ordinance and perpetrated by the same individual shall constitute a misdemeanor offense punishable by a fine not exceeding one thousand dollars ($1,000.00) or six (6) months in jail, or both. Notwithstanding the above, the first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve an individual from the responsibility for correcting the violation. Any individual who removes any notice or order posted, as required in the Chapter, is guilty of an infraction. (Ord. 333 § 2-b, 1961; Ord. No. 799, §§ 1, 2, 12-28-99)

5.24.020 **Conviction-Effect on debt.** The conviction and punishment of any person having engaged in business without a license shall not excuse or exempt such person from the payment of any license fee due or unpaid at the time of such conviction, and the same shall remain a debt to the City and nothing contained in this Chapter shall prevent a civil liability for any violation of any provision of this Title. (Ord. 333 §2-c, 1961)

Chapter 5.27
APPLIATION PROCESS

Section(s):
5.27.010 Application Process

5.27.10 Application Process. Applications for licenses, permits, permit modifications, amendments, and other matters pertaining to the Chapter 5 Division II "Specific Business", shall be filed with the City of Beaumont on the appropriate City application form. The following procedures apply to the granting of a license/permit application:

A. *Submittal Information.* All plans, and any other information required by the City shall be submitted with the application form. Applications shall be completed by the owner(s) of properties, their agents, or other persons who have written authority from the property owner(s) to complete and file the application on the owner's behalf. Any person or authorized representative desiring a permit or approval required by this Title, shall file an application with the City on forms provided by the City.

B. *Application is Deemed Completed.* No application shall be processed until it is deemed complete by the City. No application shall be deemed complete until all required information is provided in the required quantity and format.

C. *Concurrent Applications.* Whenever more than one permit or approval is required for a proposed Project or use, all applications shall be filed and processed concurrently. All such related applications will be reviewed in accordance with the procedures set forth for the application requiring the highest level of review.

D. *Application Fees.* Each applicant for a permit authorized by this Chapter shall pay those fees and costs as established by resolution of the City Council.

E. *Imposition of Conditions of Approval.* In granting a license, permit, or other approval, the City or City Council may impose such conditions as deemed necessary to ensure that the public health, safety and general welfare are protected and that the proposed use is not a detriment to the community. All conditions shall be binding upon the applicant, heirs, successors, or assignees.

F. *Permit/License Time Limits.* The grantee of a license, permit or other approval shall have one (1) year from the effective date of the license, permit or other approval to establish a right to use the license, permit or other approval; otherwise, the license, permit or other approval shall lapse and become void. For the purposes of this section, such a right shall be established if either:

1. A building permit has been issued and construction commenced and diligently pursued towards completion of the project; or

2. In the event that no building permit is required, a certificate of occupancy and/or business license has been issued for the use.

G. *Re-submittal of Application.* Whenever an application or portion of an application has been denied or revoked and the denial or revocation becomes final, no new application for the same or similar request may be accepted within one (1) year of the date of the denial, unless the City finds that the conditions surrounding the application have sufficiently changed to warrant a new application. Changed conditions shall mean a substantial change in land use on properties in the vicinity, improved infrastructure in the vicinity, altered traffic patterns, or any such similar change resulting in a changed physical environment."

(Continues on next page)

Chapter 5.28
AUTOMOBILES FOR HIRE

Sections:

5.28.010 Defined.
5.28.020 Permit--Required .
5.28.030 Permit--Application.
5.28.040 Hearing--Notice.
5.28.050 Hearing--Examination of applicant.
5.28.060 Requirements for changing of rates or color scheme.
5.28.070 Transfer of permits.
5.28.080 Denial of application--Grounds.
5.28.090 Insurance--Required.
5.28.100 Insurance--Amount.

5.28.010 Defined. An "automobile for hire" includes every automobile or motor- propelled vehicle by means of which passengers are transported for hire upon any public street in the City and not over a regular or defined route, irrespective of whether the operation extends beyond the boundary limits of the City or not; automobile for hire shall include taxicabs and ambulances. (Ord. 293 §l, 1958)

5.28.020 Permit--Required. It is unlawful to operate or cause to be operated an automobile for hire upon any public street within the City, without first having obtained a permit in accordance with the provisions of this Chapter. Except that no permit shall be required of a vehicle for hire delivering passengers into the City from outside the City, a vehicle operated by the holder of a franchise duly and regularly issued by the City Council, or a vehicle operated by a duly authorized passenger stage corporation as defined in the Public Utilities Code of the State. (Ord. 293 §2, 1958)

5.28.030 Permit--Application: Any person desiring to obtain the permit required by this Chapter, shall pay an application fee of fifty dollars to the City Clerk, and shall make application for the permit to the City Clerk, which application shall set forth the following:

A. The name and address of the applicant, and if the same is a corporation, the names of its principal officers, or if the same is a partnership, the names of the partners, with the address of each;

B. A statement as to whether the permit is desired for a taxicab, ambulance or other classification;

C. A description of every motor vehicle which the applicant proposes to use, giving the trade name, motor and serial numbers, and State license numbers;

D. Body style, and seating capacity;

E. The street number and exact location of the place or places where the applicant proposes to stand each such automobile for hire;

F. The distinctive color scheme, name, monogram, or insignia which shall be used on such automobiles for hire;

G. Proposed schedule of rates and fares to be charged for carrying passengers;

H. If any proposed stand is in a public street, the application shall be accompanied by a written consent thereto of all the occupants of the ground floor of any building in front of which such vehicle is to be located, and for twenty-five feet each way there from, or if there is no such occupant, by the written consent thereto of the owner or lessee of such building or lot.

5.28.040 Hearing—Notice. Upon receipt of an application for a permit, the city clerk shall set a time not less than ten days nor more than thirty days thereafter for the hearing of the applicant before the city council, and shall give notice to the applicant by mail at the time so set, at least five days prior to the date of the hearing. (Ord. 293 §4,1958.)

5.28.050 Hearing-Examination of applicant. At the time set for the hearing of such application and determine whether or not the public interest, convenience and necessity require the issuance of the permit. Upon the favorable finding by the city council, it shall order the city clerk to issue a permit in accordance with the application, subject to the filling and approval of the policies of insurance required under this chapter. (Ord. 293 §5, 1958)

5.28.060 Requirements of changing or rates or color scheme. In the event that any permit holder desires to change his schedule of rates or charges, or color scheme, name, monogram, or insignia used on such automobiles for hire, or to increase or decrease the number of vehicles operated by him, he shall first make application for permission to do so from the city council, which permission shall be granted if, in the discretion of the city council, it deems public interest, necessity and convenience will be sub-served by such change; and , provided further, that the permit holder has complied with all provisions of the chapter. (Ord. 293 §6, 1958)

5.28.070 Transfer of Permits. No permits issued under this chapter shall be transferred whether by contract or operation of law, without the permission of the city council, and any such attempted transfer shall be sufficient cause for revocation of the permit. (Ord. 293 §7, 1958)

5.28.080 Denial of application--Grounds. The following reasons shall be sufficient for denial of the application for a permit:

A. That the application does not contain the information required by this chapter;

B. That the vehicle or vehicles described in the application are inadequate or unsafe for the purposes for which they are used;

C. That the color scheme, name, monogram, or insignia to be used upon such automobile for hire is in conflict with or imitates any color scheme, name, monogram, or insignia used by any other person, firm or corporation, in such a manner, as to be misleading or tend to deceive or defraud the public;

D. That the location of the stand designated in the application, will congest or interfere with travel on any public street;

E. That the applicant has had been previous permit provoked, or has been previously convicted of a felony, or is not of sound moral character;

F. If the city council determines that there is a sufficient number of automobiles for hire of the classification applied for, in the city, to adequately serve the public, or that

the granting of additional permits would unduly congest traffic and interfere with the free use of the streets by the public, or that the public interest, convenience and necessity do not require the issuance of such permit. (Ord. 293 §8, 1958)

5.28.090 Insurance—Required. Before a permit shall be issued, the applicant shall deliver to the city council a policy or policies of insurance providing for the payment of all legal claims for damages to persons or property resulting from the operation of the automobile or automobiles referred to in the application. (Ord. 293 §9, 1958)

5.28.100 Insurance--Amount. The minimum amount for which liability shall be assumed for injury to or death of one person in anyone accident shall be seven hundred thousand dollars, and for injury of or death of more than one person in anyone accident shall be seven hundred thousand dollars, and the minimum amount for which liability shall be assumed for injury to or destruction of property in anyone accident shall be seven hundred thousand dollars. Such insurance policies shall be approved by the city council. (Ord. 707 §3, 1992)

Chapter 5.32
BINGO

Sections:

5.32.010 Short Title.
5.32.020 Authority for Enactment
5.32.030 Definitions
5.32.040 Bingo Games Authorized; Remote Caller Bingo Authorized
5.32.050 California Penal Code Section 326.3 Incorporated
5.32.060 California Penal Code Section 326.4 Incorporated
5.32.070 California Penal Code Section 326.5 Incorporated
5.32.080 License Required
5.32.090 Application for License
5.32.100 Contents of Licenses
5.32.110 License Fee
5.32.120 Duration of License
5.32.130 Investigation by Police
5.32.140 Change in Facts Must Be Reported
5.32.150 Posting of License and Rules
5.32.160 Hours and Days of Operation
5.32.170 Operation and Staffing of Games
5.32.180 Proceeds From Games
5.32.190 Inspection of Premises
5.32.200 License Revocation
5.32.210 Appeal
5.32.220 Audit and Accounting Requirements
5.32.230 Civil Remedies and Criminal Penalties

5.32.010 **Short Title.** This Chapter may be cited as the "City of Beaumont Bingo Ordinance." (Ord. 1008, December 20, 2011)

5.32.020 **Authority for Enactment**. This Chapter is enacted pursuant to Article IV, Section 19 of the California Constitution as implemented by Sections 326.3 and 326.4 and 326.5 of the California Penal Code. (Ord. 1008, December 20, 2011)

5.32.030 **Definitions.** Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and give this Chapter its most reasonable application:

A. "Bingo" has the same meaning set forth in Penal Code Section 326.5(o) as it now exists or may hereafter be amended.

B. "Calendar week" means Monday through Sunday.

C. "City Manager" means the City Manager of the City of Beaumont or his or her designee.

D. "Commission" means the California Gambling Control Commission.

E. "Conduct," "operate," and "staff" all mean persons directly involved in the conduct of a bingo game and include, but are not limited to, calling numbers, distributing cards, and the awarding of prizes.

F. "Licensee organization" means an organization to which the City Manager has issued a license to conduct bingo games under this Chapter.

G. "Premises" means real property within the City on which bingo games are or may be licensed under this Chapter and that are: (i) owned or leased by an organization, or property the use of which is donated to the organization, and (ii) which is used by that organization for an office or for performance of the purposes for which the organization is organized. Premises need not be used or leased exclusively by, or donated exclusively to, a licensee organization.

H. "Remote caller bingo game" has the meaning set forth in Penal Code Section 326.3(u) as it now exists or may hereafter be amended.

I. "Security personnel" means one or more persons exclusively employed to protect persons and property at bingo games. (Ord. 1008, December 20, 2011)

5.32.040 Bingo Games Authorized; Remote Caller Bingo Authorized.

A. Nothing in this Chapter shall prohibit the holding of any bingo games in compliance with the requirements of this Chapter by organizations exempted from payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701(l) and 23701w, and of the Revenue and Taxation Code, or by a mobile home park association of a mobile home park that is situated in the City, senior citizens organizations, and school districts; provided that the organization conducting the game shall have been incorporated or in existence for three years or more, the operation of bingo is not the primary purpose for which the organization was organized, the organization conducting the game is licensed pursuant to subdivision (l) of Section 326.5, the receipts of such games are used solely for charitable purposes, and the organization conducting the game determines the disbursement of the net receipts of the game.

B. Bingo games for charitable purposes are authorized by Section 19, Article IV of the California Constitution, and Penal Code Sections 326.3, 326.4, and 326.5, and in accordance with the provisions of this Chapter. Eligible organizations may apply for a license to conduct bingo games in the City under the provisions of Penal Code Section 326.5, and in the case of remote caller bingo, Sections 326.3 and 326.4, and the provisions of this Chapter.

C. Remote caller bingo games for charitable purposes are authorized by Section 19, Article IV of the California Constitution, and Penal Code Sections 326.3 and 326.4. Remote caller bingo games shall be conducted in accordance with Penal Code Sections 326.3 and 326.4 and this Chapter and not otherwise, and only by organizations exempted from payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701(l) and 23701w, and of the Revenue and Taxation Code, or by a mobile home park association of a mobile home park that is situated in the City, senior citizens organizations, and charitable organization affiliated with school districts; provided that:

1. The organization conducting the game shall have been incorporated or in existence for three years or more,
2. The operation of bingo is not the primary purpose for which the organization was organized,
3. The receipts of such games are used solely for charitable purposes,
4. The organization conducting the game determines the disbursement of the net receipts of the game, and
5. The organization has a City-issued license to conduct bingo games.

(Ord. 1008, December 20, 2011)

5.32.050 **California Penal Code Section 326.3 Incorporated**. The provisions of Penal Code Section 326.3 are incorporated herein by this reference and apply along with provisions of this Chapter to control remote caller bingo games authorized by this Chapter. In the event of any conflict between the provisions of this Chapter and Penal Code Section 326.3, Section 326.3 shall control. (Ord. 1008, December 20, 2011)

5.32.060 **California Penal Code Section 326.4 Incorporated**. The provisions of Penal Code Section 326.4 are incorporated herein by this reference and apply along with provisions of this Chapter to control remote caller bingo games authorized by this Chapter. In the event of any conflict between the provisions of this Chapter and Penal Code Section 326.4, Section 326.4 shall control. (Ord. 1008, December 20, 2011)

5.32.070 **California Penal Code Section 326.5 Incorporated**. Notwithstanding the provisions of Penal Code Section 326.5(a), the provisions of Penal Code Section 326.5 are incorporated herein by this reference and apply along with provisions of this Chapter to control bingo games authorized by this Chapter. In the event of any conflict between the provisions of this Chapter and Penal Code Section 326.5, the more restrictive provision shall control. (Ord. 1008, December 20, 2011)

5.32.080 **License Required**. No person or organization may conduct or allow another to conduct bingo games in the City without first obtaining a license from the City to do so. (Ord. 1008, December 20, 2011)

5.32.090 **Application for License**.

A. Applications for a license to conduct bingo games in the City shall be in writing on a form provided by the City, accompanied by a nonrefundable filing fee, as set out in Section 5.32.110 of this Chapter, and shall contain the following information:

1. Evidence that the applicant is an eligible organization under Section 5.32.040 of this Chapter;
2. The legal name of the applicant organization and the address of record of the agent upon whom legal notice may be served;
3. The mailing address of the applicant organization;
4. The names, and addresses and signature of the presiding officer and at least one other officer of the applicant organization;
5. The mailing and street addresses of the premises on which bingo games will be conducted, together with the occupancy load of the room or rooms in which bingo will be played provided by the fire code in effect in the City when the application is made;

6. The proposed day or days of the week and hours during which the applicant organization proposes to conduct bingo games;

[7. Reserved.]

8. A statement setting forth the character, location and extent of the charitable work of the applicant organization;

9. A statement of the charitable use to which the proceeds of bingo games will be put;

10. A statement that the applicant intends or does not intend to conduct remote caller bingo games;

11. In the event the applicant does not intend to conduct remote caller bingo games, the applicant organization shall submit the names of organization members and security personnel who will operate and staff the bingo games to the Chief of Police for purposes of conducting a background investigation regarding such persons. This requirement may be waived upon presentation, by any person who will operate and staff the bingo games, of a recent background investigation conducted by a law enforcement agency such that it is deemed satisfactory to the Chief of Police. The cost of conducting these investigations shall be imposed upon the applicant organization in an amount not to exceed the actual costs of conducting the background investigation pursuant to Penal Code Section 326.5(l)(2), and in accordance with Section 5.32.110(A) of this Chapter. Results of required background investigations shall be attached to and submitted with the application for a bingo license other than for a remote caller bingo license;

12. If the applicant does intend to conduct remote caller bingo games, the Commission shall regulate remote caller bingo, including, but not limited to, licensure of staff members and the operation of games. The U.S. Department of Justice shall conduct any necessary background investigations and costs of such investigations shall be paid and accounted for in accordance with Business and Professions Code Section 19867, all pursuant to Penal Code Section 326.3(q)(1) and (2);

13. The following documentation shall be attached to an application for a license for remote caller bingo as follows:

    (a) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the bank and corporation tax pursuant to Section 23701(d) of the Revenue and Taxation Code;

    (b) Other evidence as the City Manager determines is necessary to verify that the applicant is a duly organized mobile home park association of a mobile home park situated in the City;

14. If applicable, a statement that the applicant agrees to conduct remote caller bingo games in strict accordance with the provisions of Penal Code Section 326.3 and 326.4 and this Chapter, as they may be amended from time to time, and understands that the City Manager may revoke the bingo game license for a violation of any such provision;

15. Such other information as may be required by the City Manager;
16. A license shall not be issued until the City Manager has verified the facts stated in the application and determined that the applicant is qualified.

B. Any license for remote caller bingo issued pursuant to this Chapter shall be subject to the conditions contained in Penal Code Sections 326.3 and 326.4.

C. All applications for a bingo license shall be signed under penalty of perjury by a person or persons with authority to bind the applicant organization.

(Ord. 1008, December 20, 2011)

5.32.100 **Contents of licenses**. Upon determining that an applicant is qualified to conduct bingo games in the City, the City Manager shall issue a license stating:

A. The name and legal nature of the organization to which the license is issued;
B. The address of the premises on which bingo games may be conducted;
C. The capacity of the room or rooms in which bingo games may be conducted;
D. The date the license expires;
E. The City-issued license number;
F. Any rules for the conduct of bingo games imposed pursuant to state law; and
G. Such other related information as may be necessary or desirable for the enforcement of this Chapter.

(Ord. 1008, December 20, 2011)

5.32.110 License Fee.

A. Except as provided in subdivision (B), each initial application for an organization and any renewal request related to a bingo license shall be accompanied by a fee in an amount determined from time-to-time by resolution of the City Council. An additional fee for law enforcement and public safety costs incurred by the City that are directly related to bingo activities may be imposed and shall be collected monthly by the City; however, the fee shall not exceed the actual costs incurred in providing the service. If the applicant for a license is denied or the renewal thereof is denied, one-half of the fee shall be refunded to the applicant.

B. Each initial application and any renewal request for a remote caller bingo license shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the City Council from time to time.
(Ord. 1008, December 20, 2011)

5.32.120 Duration of License. A license issued pursuant to this Chapter shall be valid for one (1) year, at which time the license shall expire. A new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The City expressly reserves the right to amend or repeal this Chapter at any time by resolution. If this Chapter is repealed, all licenses issued pursuant to this Chapter shall cease to be effective for any purpose on the effective date of the repealing resolution. (Ord. 1008, December 20, 2011)

5.32.130 Investigation by Police. Upon the filing of an application for a license for the conduct of traditional bingo games, other than remote caller bingo, the City Manager shall forward the application to the Chief of Police for study and investigation. The Chief of Police shall investigate all persons listed on the application in accordance with Section 5.32.090(A)(11) of this Chapter. No person may operate or staff a bingo game who has been convicted of embezzlement, theft, fraud or gambling. Based on the study and investigation, the Chief of Police shall recommend to the City Manager either denial or approval of the license application. (Ord. 1008, December 20, 2011)

5.32.140 Change in Facts Must be Reported.

A. A licensee organization shall immediately report to the City Manager any change in the information provided on an application for a license under this Chapter.

B. Prior to conducting remote caller bingo games, a licensee organization shall supplement its license application by providing the City with a statement that the licensee organization agrees to conduct remote caller bingo games in strict accordance with the provisions of Penal Code Sections 326.3 and 326.4 and this Chapter, as they may be amended from time to time, and understands that the City Manager may revoke the bingo game license for a violation of any such provision. (Ord. 1008, December 20, 2011)

5.32.150 **Posting of License and Rules**. At all times during which bingo is played, the licensee organization shall post conspicuously at the public entrance to the room or rooms in which bingo is played: the licensee organization license, any rules and regulations established by the City Manager for the conduct of bingo games under the license, and the licensee organization's rules of bingo operation. The posted rules shall be legible and accessible to all players. (Ord. 1008, December 20, 2011)

5.32.160 **Hours and Days of Operation**.

A. Except as provided in subsection (B) of this section, traditional bingo games shall be conducted between noon and midnight for a maximum of six hours per day and no more than two days per calendar week by any licensee organization or on any one premises whether or not more than one organization is licensed to conduct bingo games on those premises.

B. Remote caller bingo games shall not be conducted by any licensee organization on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter. (Ord. 1008, December 20, 2011)

5.32.170 **Operation and Staffing of Games**.

A. Remote caller bingo and traditional bingo shall be operated and staffed in accordance with state law.

B. All persons who operate or staff bingo games shall wear an identification insignia or badge on the outside of their clothing, no less than two and one-half by three and one-half inches in size, bearing the name of the licensee organization and the name and any title of the staff member. (Ord. 1008, December 20, 2011)

5.32.180 **Proceeds From Games**.

A. Proceeds from bingo games shall be administered in accordance with state law.

B. If the monthly gross receipts from traditional bingo games of an organization exceed five thousand dollars, a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in Penal Code Section 326.5(k)(2).
(Ord. 1008, December 20, 2011)

5.32.190 Inspection of Premises.

A. No person shall interfere with, prevent or refuse to permit a duly authorized representative of the City Manager, the fire department or any peace officer to inspect any place in which bingo games or remote caller bingo games are conducted in the City, whether or not bingo games or remote caller bingo games are being conducted at the time of the inspection.

B. Failure to allow, or interference with, an inspection constitutes a violation and shall be grounds for revocation of a license or denial of a bingo application or license.

(Ord. 1008, December 20, 2011)

5.32.200 License Revocation.

A. Whenever it shall be shown or whenever the City Manager has knowledge that a licensee, or agent thereof, has violated any of the provisions of this Chapter or state law, the City Manager shall immediately suspend the license and give the organization written notice, ("Notice of Suspension") by registered mail to the address of record of the agent upon whom legal notice may be served, of the suspension and a brief statement of the reasons therefor.

B. Upon receipt of the notice of suspension, the organization shall cease from conducting any bingo game or remote caller bingo game, and the failure to do so shall constitute a separate and further violation of this Chapter.

(Ord. 1008, December 20, 2011)

5.32.210 Appeal.

A. In the event of any finding or decision of the City Manager which is adverse to the application of an organization for a license or renewal thereof under this Chapter, or if a license is suspended or revoked, the organization may appeal to the City's Board of Appeals, or the City Council if there is no Board, provided, that such appeal is filed with the City Clerk within fifteen calendar days from the date of the finding or decision of the City Manager. The City Manager shall notify the organization of this right to appeal, and such notice shall accompany each and every adverse finding and decision of the City Manager. The finding or decision and the notice of this right to appeal shall be mailed by registered mail, to the organization at the address that appears on the application for a license or renewal thereof.

B. Failure of the City Manager to receive a timely request for an appeal constitutes a waiver of the right to contest the finding or decision. Unless a timely appeal is filed, a finding or decision of the City Manager becomes final and no longer subject to appeal.

C. Within thirty calendar days of the filing date of an appeal, the Board of Appeals (or City Council) shall conduct a hearing on the appeal. The City shall give the appellant at least five calendar days' mailed notice of the date, time, and location of the hearing at the address(es) specified on the appeal. The failure of any appellant to receive a properly addressed notice of hearing shall not invalidate any action or proceeding by the City pursuant to this Chapter.

D. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. Within ten calendar days after conclusion of the hearing, the Board of Appeals (or City Council) shall render its decision. The decision of the Board (or City Council) shall be a final decision.

E. The failure of any appellant to appear at the hearing without such cause as the Board (or City Council) may deem sufficient to justify a continuance shall constitute a default and the finding or decision of the City Manager shall thereupon be final and no longer subject to appeal.

(Ord. 1008, December 20, 2011)

5.32.220 Audit and Accounting Requirements.

A. Prior to July 31 and prior to January 31 of each year, a licensee organization shall, at its own expense, submit to the City Manager a report of gross revenues, expenses and other information reasonably required by the City Manager to enforce this Chapter. A licensee organization shall annually submit to the City Manager a copy of its federal tax return not later than sixty calendar days after that return is filed with the Internal Revenue Service.

B. A licensee organization shall maintain complete and accurate records of income received from, and prizes and other expenses disbursed in connection with, the operation and staffing of bingo games.

C. The City Manager may at any time demand a complete and detailed accounting of the records required under subsection (B) of this section and any other data or information pertaining to the operation of bingo games maintained by a licensed organization. The City Manager may subject that accounting and such data and information to, an agreed-upon procedures examination, audit, and/or any other accounting review which may extend to, without limitation: (i) proceeds from the operation of bingo games, (ii) an accounting of the number of players and number of games played over a designated period, (iii) an inspection of bingo cards, funds, equipment or any other records or documentation in connection with the operation of games over a designated period. Such detailed accounting or further data or information shall be provided at the expense of the licensee organization if, in the sole discretion of the City Manager, such detailed accounting or further data or information is necessary for the enforcement of this Chapter.

D. In the event a licensee organization fails to render an accounting or provide information pursuant to the provisions of this Section within sixty calendar days of the City Manager's request, the City Manager may suspend that organization's license until the requested accounting or information is provided.

(Ord. 1008, December 20, 2011)

5.32.230 Civil Remedies and Criminal Penalties. In the event of a violation of this Chapter:

A. In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17.200 et seq. or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16.010. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030. Each such violation shall be deemed a separate offense as specified in Section 1.16.040; or

B. The City Attorney may bring an action to enjoin a violation of this Chapter; or

C. A violation of any provision of this Chapter may be prosecuted as a misdemeanor punishable under Section 1.24.110 of this code or pursuant to applicable state law; or

D. If a violation of Penal Code Section 326.3(d) or Section 326.5(b) is filed by a prosecutorial agency, then such violation shall be punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the general fund of the City.

(Ord. 1008, December 20, 2011)

CHAPTER 5.35
REGULATING STATE-ISSUED FRANCISES TO PROVIDE VIDEO SERVICES

Sections:

5.35.010	Purpose
5.35.020	Definitions
5.35.030	State Franchise Required
5.35.040	Administration and Regulations
5.35.050	Construction, Operation, Maintenance and Repair
5.35.060	Franchise Fee
5.35.070	Public, Educational and Governmental ("PEG") Access Channel Capacity and Support
5.35.080	Audits and Records
5.35.090	Customer Service and Protection

5.35.010 Purpose It is the purpose of this Chapter 5.35 to implement within the City of Beaumont the provisions of the "Digital Infrastructure and Video Competition Act of 2006 (California Public Utilities Code, Sections 5800 et)

5.35.020 Definitions For purposes of this Chapter 5.35, the definitions set forth in California Public Utilities Code, Section 5830 are hereby incorporated herein by this reference as though set forth at length.

(Continues to the next page)

5.35.030 State Franchise Required

A. No person may construct, operate, maintain or repair a cable system or video service provider's network within the City without first obtaining a state franchise therefor.

B. Except as otherwise provided by the California Public Utilities Code, a state franchise shall not include, or be a substitute for:

1. Compliance with generally-applicable requirements for the privilege of transacting and carrying on a business within the City, including, but not limited to, compliance with the conditions that the City may establish before facilities may be constructed for, or providing, non-video services;

2. Any permit or authorization, other than a state franchise, required in connection with operations on or in public rights-of-way or public property, including, but not limited to, encroachment permits, street work permits, and street cut permits; and

3. Any permit, agreement or authorization for occupying any other property of the City or any private person to which access is not specifically granted by the state franchise.

C. Except as otherwise provided in the California Public Utilities Code, a state franchise shall not relieve a franchisee of its duty to comply with all laws, including the ordinances, resolutions, rules, regulations and other laws of the City, and every state franchisee shall comply with the same. The City reserves its rights to the lawful exercise of police and other powers the City now has or may later obtain.

D. The City reserves the right to construct, operate, maintain or repair its own cable system or video service provider network.

5.35.040 Administration and Regulations

A. The City may, from time-to-time adopt rules and regulations to implement the provisions of this Chapter 5.35 consistent with the California Public Utilities Code.

B. The failure of the City, upon one or more occasions, to exercise a right or require compliance or performance under this Chapter 5.35 or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing or its exercise by the City is not permitted by the California Public Utilities Code.

C. The City may designate one or more entities, including itself, to control and manage the use of PEG access channels, and any PEG facilities and equipment.

5.35.050 Construction, Operation, Maintenance and Repair

A. A video service provider operating within the City shall, in its use of public rights-of-way and public and private property, be considered a "utility" within the meaning of the Beaumont Municipal Code and any provisions thereof which are applicable to any utility or utilities. Any application to use the public rights-of-way shall include a description, including locations, of the state franchisee's existing or proposed network.

B. No video service provider may construct, operate, maintain or repair a cable system or network in the public rights-of-way without first complying with all statutory requirements, including the California Environmental Quality Act (Public Resources Code Section 21000 et seq.).

5.35.060 Franchise Fee

A. Every state franchisee operating within the City limits shall pay a franchise fee to the City in the amount of5% of that state franchisee's gross revenues derived from the operation its network to provide cable or video services within the City.

B. For purposes of this Chapter 5.35, "gross revenue" shall have the meaning set forth in California Public Utilities Code, 5860.

C. A state franchisee shall remit the franchise fee to the City quarterly, within 45 days after the end of each calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the franchise fee.

D. If a state franchisee fails to pay the franchise fee when due, or underpays the proper amount due, the state franchisee shall pay a late payment charge at an annual interest rate equal to the highest prime lending rate during the period of delinquency, plus 1%.

5.35.070 Public, Educational and Governmental ("PEG") Access Channel Capacity and Support

A. Every state franchisee operating within the City limits shall provide PEG access channel capacity and support as more specifically provided for in California Public Utilities Code, Section 5870 and as the City and the state franchisee may otherwise mutually agree upon.

B. Every state franchisee operating within the City shall pay a PEG support fee to the City in the amount of 1% of that state franchisee's gross revenues derived from the operation of its network to provide cable or video services within the City. The PEG support fee shall be used by the City for PEG purposes consistent with state and federal law. The state franchisee shall remit the PEG support fee to the City quarterly, within 45 days after the end of each calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the PEG support fee. If a state franchisee fails to pay the PEG fee when due, or underpays the proper amount due, the state franchisee shall pay a late payment charge at an annual interest rate equal to the highest prime lending rate during the period of delinquency, plus 1%.

5.35.080 Audits and Records

A. Not more than once annually, the City or its designee may examine and audit the business records of a state franchisee to ensure compliance with the franchise fee payment obligation of Sections 5.35.060 and 5.35.070.

B. A state franchisee shall keep all business records reflecting any gross revenues, even if there is a change in ownership of the state franchisee, for at least four years after such gross revenues are recognized by the state franchisee on its books and records. In the case of subscriber numbers used for calculating the PEG fee, a state franchisee shall keep data on the number of its subscribers in the City, even if there is a change in ownership of the state franchisee, for at least four years after the close of each calendar quarter on which the PEG support fee is to be paid. C. To the extent consistent with the California Public Utilities Code and other applicable law, the City may request, and a state franchisee shall provide, information and books and records to the extent necessary to monitor a state franchisee's compliance with the Chapter 5.35.

5.35.090 Customer Service and Protection

A. A state franchisee shall comply with Sections 53055, 53055.1, 53055.2 and 53088.2 of the California Government Code, the FCC Customer Service and Notice Standards set forth in Sections 76.309, 76.1602, 76.1603 and 76.1619 of Title 47 of the Code of Federal Regulations, Section 637.5 of the California Penal Code, the Privacy Standards of Section 551 of Title 47 of the United States Code, and all other applicable state and federal customer service and consumer protection standards pertaining to the provision of video service, including any such standards hereafter adopted.

B. The City Manager will provide a state franchisee with written notice of any material breaches of applicable customer service or consumer protection standards, and will allow the state franchisee 30 days from receipt of the notice to remedy the specified material breach. Material breaches not remedied within the 30-day time period shall be subject to the following penalties to be imposed by the City:

1. For the first occurrence of a violation, a fine of $500.00 shall be imposed for each day the violation remains in effect, not to exceed $1,500.00 for each violation.

2. For a second violation of the same nature within 12 months, a fine of $1,000.00 shall be imposed for each day the violation remains in effect, not to exceed $3,000.00 for each violation.

3. For a third or further violation of the same nature within 12 months, a fine of $2,500.00 shall be imposed for each day the violation remains in effect, not to exceed $7,500.00 for each violation.

C. A state franchisee may appeal a penalty assessed by the City Manager to the City Council within 60 days of the initial assessment. The Council shall hear all evidence and relevant testimony and may uphold, modify or vacate the penalty. The Council's decision on the imposition of a penalty shall be final.

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TELECOMMUNICATIONS ORDINANCE

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Part 1.
GENERAL PROVISIONS

5.36.100 **Purpose.** The purpose of this Chapter is to promote competition in the telecommunications industry, facilitate the development of telecommunications infrastructure, minimize aesthetic impacts and damage to public property, provide for the payment of reasonable compensation for the commercial use of public property, and establish customer service standards. (Ord. No. 820, § 1,3-19-02)

5.36.105 **Definitions.** All of the following definitions shall be construed liberally for the purpose of maximizing the scope of this Chapter.

"Basic Service" means any service tier which includes the retransmission of local television broadcast signals.

"Cable Operator" means any person or group of persons (A) who provides cable service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

"Cable Programming Service" means any video programming provided over a Cable System regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than: (1) Video programming carried on the Basic Service tier; (2) Video programming offered on a pay-per-channel or pay-per-program basis; or (3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis, so long as the combined service consists of commonly-identified video programming and is not bundled with any regulated tier of service.

"Cable Service" means (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

"Cable System" means a facility within the City, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of 1 or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is considered a Cable System under federal law; or (D) any facilities of any electric utility used solely for operating its electric utility system.

"Gross Revenues" means the revenue derived by a Cable Operator from the operation of the Cable System to provide cable service.-Gross Revenues includes, but is not limited to, revenue from (1) subscriber payments for service, equipment, late fees, franchise fees and other charges; (2) advertising carried on the Cable System or in subscriber bills; and (3) programmers or others relating to transmissions carried on the Cable System, including but not limited to payments to carry programming and home shopping revenues. Gross Revenues includes, but is not limited to, all gross revenue whether or not actually received. Gross Revenues shall include all gross revenue which is not actually received, such as the value of free service provided to Cable Operator's employees and the value of services bartered or exchanged for non-monetary consideration. Gross Revenues includes, but is not limited to, revenues derived from the operation of the Cable System received or attributed to the franchisee, any direct or indirect affiliate of the franchisee or any partner, joint venture or other entity related in any similar way to franchisee. Gross Revenues includes revenues derived from the provision of internet access, cable modems and similar services, unless specifically excluded by federal law. Nothing shall be excluded from Gross Revenues for any reason, including but not limited to the fact that the Cable Operator may itemize particular items on subscriber bills such as franchise fees. This definition shall be deemed to include all gross receipts and revenues to the full extent permitted by federal law.

"Gross Non-Cable Revenues" means the revenue derived from the operation of Telecommunications Facilities other than revenue defined in this section as Gross Revenue. Gross Non-Cable Revenues includes, but is not limited to, revenue from (1) subscriber payments for service, equipment, late fees, franchise fees and other charges; (2) advertising carried on the Telecommunications Facilities or in subscriber bills; and (3) programmers or others relating to transmissions carried on the Telecommunications Facilities, including but not limited to payments to carry programming and home shopping revenues. Gross Non-Cable Revenues includes, but is not limited to, all gross revenue whether or not actually received. Gross Non-Cable Revenues shall include all gross revenue which is not actually received, such as the value of free service provided to Telecommunications Operator's employees and the value of services bartered or exchanged for nonmonetary consideration. Gross Non-Cable Revenues includes, but is not limited to, revenues derived from the operation of the Telecommunications Facilities received or attributed to the franchisee, any direct or indirect affiliate of the franchisee or any partner, joint venturer or other entity related in any similar way to franchisee. Gross Non-Cable Revenues includes revenues derived from the provision of internet access, cable modems and similar services, unless a Cable Operator has paid a cable television franchise fee based on the identical revenues. This definition shall be deemed to include all gross receipts or revenues to the full extent permitted by federal law.

"Other Telecommunications Operator" means any person or group of persons other than a Cable Operator, an Open Video System Operator, a Wireless Telecommunications Operator or a Telephone Company (A) who provides Telecommunications Services over Telecommunications Facilities and directly or through one or more affiliates owns a significant interest in such Telecommunications Facilities, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such Telecommunications Facilities.

"Open Video System" means a system within the City for the provision of video programming operated in compliance with Federal Communications Commission regulations.

"Open Video System Operator" means any person or group of persons who have been certified by the Federal Communications Commission as an Open Video System Operator for an Open Video System located within the City and (A) who provides video programming over the Open Video System and directly or through one or more affiliates owns a significant interest in such Open Video System, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such an Open Video System.

"Telecommunications Operator" means any person or group of persons (A) who provides Telecommunications Services over Telecommunications Facilities and directly or through one or more affiliates owns a significant interest in such Telecommunications Facilities, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such Telecommunications Facilities.

"Telecommunications Services" means the transmission of voice, video, data or other information between two or more points along wires, optical fibers or other transmission media, or using radio waves or other wireless media, including but not limited to cable television services, telephone services, cellular telephone services, personal communications services, internet services, open video system services and other similar services.

"Telecommunications Facilities" means facilities within the City used or related to the provision of Telecommunications Services including, but not limited to, wires, optical fiber, antenna, cabinets, pedestals and equipment.

"Telephone Company" means any telephone or telegraph corporation as defined by Sections 234-236 of the Public Utilities Code (or any successor sections) which has obtained a certificate of public convenience and necessity from the California Public Utilities Commission.

"Wireless Telecommunications Operator" means any person or group of persons who provides wireless telecommunications services including, but not limited to, cellular telephone, personal communications system, spread spectrum or other wireless services, and (A) who provides Telecommunications Services over Telecommunications Facilities and directly or through one or more affiliates owns a significant interest in such Telecommunications Facilities, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such Telecommunications Facilities; (Ord. No. 820, § I, 3-19-02)

5.36.110 **Applicability.** All Telecommunications Operators shall comply with all provisions of this Section (General Provisions) and all other applicable provisions of this Code. In addition, all Cable Operators shall comply with Sections 5.36.200 through 5.36.740 below; all Open Video system Operators shall comply with Sections 5.36.750 through 5.36.785 below; all Telephone Companies shall comply with Section 5.36.800 below; all Wireless Telecommunications Operators shall comply with Section 5.36.850 below; and all other Telecommunications Operators shall comply with Section 5.36.900 below. All Telecommunications Operators which provide services that fall within more than one of the foregoing categories shall comply with each and every applicable section of this Code. (Ord. No. 820, § I, 3-19-02)

5.36.115 **Registration.** All Telecommunications Operators who own or lease any Telecommunications Facilities located in the public right-of-way (excluding Telecommunications Operators who merely purchase bandwidth on facilities owned by others) shall register with the City on forms provided by the Planning Department. These forms shall include, but not be limited to, the following:

1. The name and legal status of the registrant, including any affiliates who are required to register pursuant to this section;
2. The name, address and telephone number of an officer, agent or employee who will serve as the contact point for the registrant;
3. A description of the registrant's existing or proposed Telecommunications Facilities that are owned or will be used within the City, together with a list of any other Telecommunications Operators who will be using those Telecommunications Facilities;
4. A description of the Telecommunications Services that the registrant is or will be offering using Telecommunications Facilities within the City;
5. A copy of the registrant's applicable Certificate of Public Convenience and Necessity, if any, issued by the California Public Utilities Commission.
6. A registration fee in the amount established by the City Council. (Ord. No. 820, § 1, 3-19-02)

5.36.120 **Use of Public Property; Encroachment Permit.** Prior to excavating, installing Telecommunications Facilities upon (including but not limited to placing Telecommunications Facilities within existing conduit), or otherwise using City-owned property for any purpose that requires an encroachment permit under the City's encroachment permit ordinance, a Telecommunications Operator shall obtain an encroachment permit pursuant to this Code and comply with all other applicable requirements of those sections. The encroachment permit application shall also include a description of any surplus conduit that the applicant intends to install and the capacity of the Telecommunications Facilities being installed. If the Telecommunications Operator is proposing to install Telecommunications Facilities without utilizing existing surplus conduit, the Telecommunications Operator shall submit a description of all existing surplus conduit along the proposed route together with an explanation of why that existing surplus conduit is not being utilized. In such a situation, the Telecommunications Operator shall also submit evidence that it has contacted all other Telecommunications Operators who are reasonably likely to be installing Telecommunications Facilities along all or part of the same route and has offered to participate in a joint installation project on reasonable terms. In such a situation where, in addition, the Telecommunications Operator proposes to install overhead Telecommunications Facilities, the Telecommunications Operator shall submit evidence that it has offered to participate on

reasonable terms together with other entities utilizing the utility poles to install the Telecommunications Facilities and other facilities underground. If the Telecommunications Operator proposes to install utility cabinets or other above-ground facilities, the Telecommunications Operator shall include information about noise generated by the facilities and alternatives for reducing the aesthetic impacts of the facilities, including but not limited to size reductions, screening, alternative locations and undergrounding. The Planning Department may deny the encroachment permit for failure to comply with the foregoing or any other lawful reason. The Planning Department may also attach any reasonable conditions to the encroachment permit, including but not limited to requiring some or all Telecommunications Facilities to be placed underground, requiring boring rather than trenching, specifying a future time period when all excavations must take place, specifying the location where facilities may be installed, requiring trenches to remain open for a reasonable period of time to permit installation of facilities by the City or its designees, and requiring the installation of surplus conduits and dedication of such conduits to the City subject to the payment of the direct marginal cost of installing such surplus conduits by the City. (Ord. No. 820, § 1,3-19-02)

5.36.125 Location of Facilities. All Telecommunications Facilities shall be installed within existing underground ducts or conduits whenever excess capacity is available on reasonable terms. Overhead facilities may be installed only if space is available on existing utility poles. Whenever existing Telecommunications Facilities or electric utility facilities are located underground along a particular street or public way, new Telecommunications Facilities must be installed underground along that street or public way. Whenever any new or existing Telecommunications Facilities or electric utility lines are located or relocated underground along a particular street or public way, the Telecommunications Operator shall relocate its Telecommunications Facilities underground concurrently with the other lines at its sole expense to the full extent permitted by law. Whenever new Telecommunications Facilities will exhaust the capacity of a street or otherwise make the installation of future Telecommunications Facilities impractical, the Telecommunications Operator installing the new Telecommunications Facilities shall provide additional ducts, conduits, manholes and other facilities designated by the Planning Department for reasonable nondiscriminatory access by other Telecommunications Operators. (Ord. No. 820, § I, 3-19-02)

5.36.130 Relocation or Removal of Facilities. Within thirty (30) days following written notice from the City, a Telecommunications Operator shall relocate or remove, without expense to the City, any facilities installed, used and/or maintained by such Telecommunications Operator if and when such relocation or removal is reasonably necessary or convenient for the construction, repair, maintenance or installation of any City or other public improvement, or for any lawful change of grade, alignment, or width of any public street, way, alley, or place, including the construction of any subway or viaduct, by or on behalf of the City, irrespective of the funding source, or if the facilities have been abandoned or have not been used for a period of ninety (90) days. (Ord. No. 820, § I, 3-19-02)

5.36.135 **Damage to Facilities.** Unless directly and proximately caused by the willful acts of the City, the City and its officials, employees, agents and volunteers shall not be liable for any damage to or loss of any Telecommunications Facilities as a result of or in connection with any public works or any other acts of the City or its officials, employees, agents or volunteers. (Ord. No. 820, § 1,3-19-02)

5.36.140 **Restoration** of Property. When a Telecommunications Operator or any person acting on its behalf does any work in or affecting any public property, the Cable Operator shall, at its sole expense, promptly remove any unauthorized obstructions there from and restore such property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City. (Ord. No. 820, § 1,3-19-02)

5.36.145 **Indemnification.** A Telecommunications Operator shall indemnify, defend and hold harmless the City and its officers, employees, agents and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising from the operations of, or the use of public property by, the Telecommunications Operator or its officers, employees, agents or contractors, except such loss or damage which was caused by the sole negligence or willful misconduct of the City. (Ord. No. 820, § I, 3-19-02)

5.36.150 **Compliance with Zoning.** All Telecommunications Facilities shall comply with all applicable requirements of this Code, including but not limited to zoning requirements and building code requirements. (Ord. No. 820, § 1,3-19-02)

5.36.155 **Waiver of Provisions.** The City Council may waive any provision of this Code to the extent permitted by law in exchange for exceptional public benefits provided by a Telecommunications Operator. (Ord. No. 820, § I, 3-19-02)

5.36.160 **Franchises.** Any person required to obtain a franchise pursuant to this Code shall, in addition to all other requirements, reimburse the City for all of its costs, including but not limited to all costs of retaining consultants, related to the franchise. (Ord. No. 820, § 1,3-19-02)

5.36.165 **Violations.**

a. Civil Action. The City may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this Chapter.

b. Termination or Modification of Agreements. If any person breaches any franchise agreement or other agreement made pursuant to this Chapter, the City may, following reasonable notice, opportunity to cure and opportunity to be heard, terminate the agreement or reduce the term of the agreement.

c. Cumulative Remedies. The foregoing remedies shall be deemed non-exclusive, cumulative remedies and in addition to any other remedy the City may have at law or in equity. (Ord. No. 820, § 1,3-19-02)

5.36.170 **Severability.** If any provision of this Chapter is determined by any court of competent jurisdiction, or by any federal or state agency having jurisdiction over its subject matter, to be invalid and in conflict with any paramount federal or state law or regulation now or hereafter in effect, or is determined by that court or agency to require modification in order to conform to the requirements of that paramount law or regulation, then that provision will be deemed a separate, distinct, and independent part of this Chapter, and such determination will not affect the validity and enforceability of any other provisions. If that paramount federal or state law or regulation is subsequently repealed or amended so that the provision of this Chapter determined to be invalid or subject to modification is no longer in conflict with that law or regulation, then that provision will again become effective and will thereafter be binding on the City and any affected video or telecommunications service provider; provided, however, that the City must give the affected video or telecommunications service provider thirty (30) days written notice of that change before requiring compliance with that provision, or such longer period of time as may reasonably be required for the video or telecommunications service provider to comply with that provision. (Ord. No. 820, § I, 3-19-02)

PART 2.
CABLE TELEVISION

5.36.200 **Franchising Procedures.**

5.36.205 **Franchise Required.** No person shall establish, construct, operate, or maintain within this City a Cable System unless a franchise has been obtained pursuant to the provisions of this division, and unless such franchise is in full force and effect. (Ord. No. 820, § 1,3-19-02)

5.36.210 **Granting.** The City Council may grant one or more nonexclusive revocable franchises to establish, construct, operate and maintain Cable Systems within the City. A franchise shall be effective only upon execution of a Franchise Agreement between the City and a Cable Operator and compliance with all requirements of this Code. The franchises shall be subject to the provisions of this Code as they may be amended from time to time. (Ord. No. 820, § 1, 3-19-02)

5.36.212 **Multiple Franchises.**

a. The City may grant any number of franchises, subject to applicable state and federal law. The City may limit the number of franchises granted, based upon, but not necessarily limited to, the requirements of applicable law and specific local considerations, such as:

1. The capacity of the public rights-of-way to accommodate multiple cables in addition to the cables, conduits, and pipes of the existing utility systems, such as electrical power, telephone gas, and sewerage.

2. The benefits that may accrue to subscribers as a result of cable system competition, such as lower rates and improved service.

3. The disadvantages that may result from cable system competition, such as the requirement for multiple pedestals on residents, property, and the disruption arising from numerous excavations within the public rights-of-way.

b. The City may require that any new Cable Operator be responsible for its own underground trenching and the associated costs if, in the City's opinion, the rights-of-way in any particular area cannot reasonably accommodate additional cables. (Ord. No. 820, § 1, 3-19-02)

5.36.215 **Term of Franchise.** A franchise shall be granted for ten (10) years or such other period as may be specified in the Franchise Agreement. (Ord. No. 820, § 1, 3-19-02)

5.36.220 **Franchise Applications.** All applicants for a new franchise, a franchise renewal or a franchise transfer shall submit a written application to the City. All applicants shall be expected to offer to subscribers a modern, efficient, cost-effective system that will facilitate quality maintenance, deliver a variety of programming and services, and provide the flexibility needed to adjust to changing technology and new developments in the industry. Applicants are encouraged to formulate their proposals in an innovative fashion, so as to meet the informational requirements of the City and the service needs of subscribers. Proposals shall contain sufficient material to enable the City Council to make fully informed judgments concerning the adequacy of the proposal and the applicant's qualifications to construct, operate and maintain a Cable System in the City. All applicants shall, at a minimum, provide the following information unless waived by the City Manager:

(l) The identity of the franchise applicant, including all affiliates of the applicant.

(2) A description of the cable services that are or will be offered or provided by the franchise applicant over its existing or proposed facilities.

(3) A description of the transmission medium that will be used by the Cable Operator to offer or provide such cable services.

(4) Preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:

(a) The location and route requested for applicant's proposed cable facilities.

(b) The location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.

(c) The location(s), if any, for interconnection with the cable facilities of other cable carriers.

(d) The specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.

(5) If applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its cable facilities on existing utility poles along the proposed route.

(6) If applicant is proposing an underground installation in existing ducts or conduits within the public ways, information in sufficient detail to identify:

(a) the excess capacity currently available in such ducts or conduits before installation of applicant's cable facilities;

(b) the excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's cable facilities.

(7) A preliminary construction schedule and completion dates.

(8) Financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant or other accountant satisfactory to the City demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities. If in the normal course of its business, the applicant does not prepare a separate financial statement for the franchised system, the applicant may submit a combined financial statement for the local region, which statement shall include the franchised system.

(9) Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the cable facilities and services described in the application.

(10) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the cable services.

(11) A detailed description of all Telecommunications Services that the applicant intends to provide and sufficient information to determine whether such services are subject to franchising.

(12) An accurate map showing the location of any existing cables facilities in the City that applicant intends to use or lease.

(13) A description of the services or facilities that the applicant will offer or make available to the City and other public, educational and governmental institutions.

(14) A description of applicant's access and line extension policies.

(15) The area or areas of the City the applicant desires to serve and a schedule for build-out to the entire franchise area.

(16) The number of activated, programmed channels that the applicant intends to provide to together with the programming that the applicant intends to provide.

(17) All fees, deposits or charges required pursuant to Sections 5.36.160, 5.36.225 and the City's Planning and Building Departments.

(18) Such other and further information as may be requested by the City Manager.

If a franchise is granted to a person, firm or corporation posing as a front or as the representative of another person, firm or corporation, and such information is not disclosed in the original application, such franchise shall be deemed void and of no force and effect whatsoever. (Ord. No. 820, § 1,3-19-02)

5.36.225 Application Fee.

a. An application fee for a new, renewal or transfer of franchise shall be required in the amount established from time to time by resolution of the City Council.

b. The purpose of the application fee is to pay the cost of studying, investigating and otherwise processing such application, which shall be in consideration thereof and not returnable or refundable in whole or in part. Application fees are over and above construction inspection and permit fees. Application fees shall include, but not be limited to, all costs incurred in assessing community needs, conducting public meetings, and renewing applications and negotiating franchise agreements, including consultant and attorney fees. (Ord. No. 820, § I, 3-19-02)

5.36.227 Contents of Cable Television Franchise Agreements.

a. The terms and provisions of a franchise agreement for the provision of cable television and related telecommunications services may relate to or include, without limitation, the following subject matters:

1. The nature, scope, geographical area, and duration of the franchise.

2. The applicable franchise fee to be paid to the City, including the amount, the method of computation, and the time for payment.

3. Requirements relating to compliance with and implementation of state and federal laws and regulations pertaining to the operation of the cable television system.

4. Requirements relating to the construction, upgrade, or rebuild of the cable television system, as well as the provision of special services, such as outlets for public buildings, emergency ;comment; capability, and parental control devices.

5. Requirements relating to the maintenance of a performance bond, a security fund, a letter of credit, or similar assurances to secure the performance of the Cable Operator's obligations under the franchise agreement.

6. Requirements relating to comprehensive liability insurance, workers' compensation insurance, and indemnification.

7. Requirements relating to consumer protection and customer service standards.

8. Requirements relating to the Cable Operator's support of local cable usage, including the provision of public, educational, and governmental access channels, the coverage of public meetings and special events, and financial support for public, educational, and governmental access channels.

9. Requirements relating to the Cable Operator's agreement (if any) to provide an institutional network, and channel capacity on that institutional network for educational or governmental use, subject to the City's rules and procedures for the use of such channel capacity and for compatibility with any telecommunications network that has been or may be developed by the City.

10. Requirements relating to construction, operation, and maintenance of the cable television system within the public rights-of-way, including compliance with all applicable building codes and permit requirements of the City, the abandonment, removal, or relocation of facilities, and compliance with FCC technical standards.

11. Requirements relating to recordkeeping, accounting procedures, reporting, periodic audits, and performance reviews, and the inspection of Grantee's books and records.

12. Acts or omissions constituting material breaches of or defaults under the franchise agreement, and the applicable penalties or remedies for such breaches or defaults, including fines, penalties, liquidated damages, suspension, revocation, and termination.

13. Requirements relating to the sale, assignment, or other transfer or change in control of the franchise.

14. The Cable Operator's obligation to maintain continuity of service and to authorize, under certain specified circumstances, the City's operation and management of the cable system.

15. Such additional requirements, conditions, policies, and procedures as may be mutually agreed upon by the parties to the franchise agreement and that will, in the judgment of City staff and the City Council, best serve the public interest and protect the public health, welfare, and safety.

b. This Telecommunications Ordinance shall be incorporated into each franchise agreement by reference, as though set forth in full; provided, however, that if there is any conflict or inconsistency between the provisions of a franchise agreement authorized by the City Council and provisions of this Chapter, the provisions of the franchise agreement will control. (Ord. No. 820, § I, 3-19-02)

5.36.230 New Franchise Procedure. Upon receipt of an application for a new franchise, the City Council may, by resolution, approve or conditionally approve a franchise agreement with the applicant or deny the application. In making any determination hereunder as to any application, the City Council shall give due consideration to: the quality of the service proposed; rates to subscribers; experience, character, background and financial responsibility of the applicant, its management and owners; system design; technical and performance quality of equipment; willingness and ability to meet construction requirements to and abide by franchise limitations and requirements; and other considerations deemed pertinent by the City Council for safeguarding the interests of the City and the public. (Ord. No. 820, § 1, 3-19-02)

5.36.235 Franchise Renewal Procedure.

a. During the six-month period which begins with the thirty-sixth month before the franchise expiration, a proceeding to consider the renewal of a franchise shall be commenced either upon receipt of a written notice from the Cable Operator requesting such a proceeding, or upon the City's own initiative. If the City receives such a notice from the Cable Operator, it shall commence the proceeding within 6 months of receipt. This proceeding shall be for the purpose of, among other thing, identifying the future cable-related community needs and interests, and reviewing the performance of the Cable Operator under the franchise during the then current franchise term. The proceeding shall include, without limitation, a review of the foregoing matters by City staff and at least one noticed public meeting. The proceeding shall not be deemed complete until the review has been completed and the City has given the Cable Operator written notice of Cable System and service features necessary to meet future cable-related community needs and interests, and of information that must be included in a proposal for a renewal, and of a deadline for submission of a renewal proposal.

b. Upon completion of the proceeding described in subsection (a) above, the Cable Operator may submit a proposal for renewal. Any such proposal shall include the matters described in Section 5.36.220 above and subsection (a) above.

c. Upon receipt of a renewal proposal pursuant to subsection (b) above, the City shall provide prompt public notice of the proposal. Within four (4) months after receipt of the proposal, the City shall either (l) renew the franchise or renew the franchise subject to conditions by adoption of a City Council resolution approving a franchise agreement; or (2) issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding concerning the renewal.

d. Any administrative proceeding pursuant to subsection (c)(2) shall consider whether:

(1) the Cable Operator has substantially complied with the material terms of the existing franchise and with applicable law;

(2) the quality of the operator's service, including but not limited to signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;

(3) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

(4) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests. The Cable Operator shall be given at least thirty (30) days advance notice of the administrative proceeding. The Cable Operator shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence and to question witnesses. A transcript shall be made of the proceeding. At the completion of the proceeding, the City shall issue a written decision, with the reasons therefor, granting, conditionally granting or denying the proposal for renewal based upon the record of the proceeding. The City shall transmit a copy of the decision to the Cable Operator. Any denial of a proposal for renewal made in compliance with subsection (b) above shall be based on one or more adverse finding made with respect to the factors described in this subsection. A denial may not be based on any violation of the franchise or any events described in subsection (d)(2) above which occurred after 1984 unless the City provided the Cable Operator with notice and the opportunity to cure, or in any case in which it is documented that the City waived its right to object, or the Cable Operator gave written notice of a failure or inability to cure and the City failed to object within a reasonable time after receipt of such notice.

e. The City and a Cable Operator may agree to waive the provisions of subsections (a) through (d). If the City and a Cable Operator agree to such a waiver, the Cable Operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and the City may, after affording the public adequate notice and opportunity for comment, renew the franchise or renew the franchise subject to conditions by adoption of a City Council resolution approving or conditionally approving a franchise agreement, or deny the franchise renewal. The provisions of subsection (a) through (d) above shall not apply to a decision to grant or deny a renewal pursuant to this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (d) above.

f. The provisions of subsections (a) through (d) above are intended to reflect federal law and may be modified to conform to any changes in federal law. (Ord. No. 820, § I, 3-19-02)

5.36.240 Transfer of Ownership.

(1) A franchise is a privilege to be held in personal trust by the original Cable Operator. A Cable Operator shall not sell, transfer, lease, dispose of or assign this franchise or any rights there under, including any beneficial interest or right to operate there under, by voluntary sale, merger, consolidation, or otherwise, or by operation of law, without the prior approval of the City Council.

(2) If a Cable Operator is a partnership or a corporation, prior approval of the City Council is also required when there is an actual change in control of the Cable Operator. A change in control shall be deemed to include, but not be limited to, the following: (a) in the case of a partnership, the general partner changes, (b) ownership of twenty percent (20%) or more of its voting stock or the voting stock of any parent or affiliate which directly or indirectly through other affiliates owns twenty percent (20%) or more of the Cable Operator's voting stock is to be acquired by a person or group of persons acting in concert. The word "control" as used in this Section is not limited to major stockholders but includes de facto control or significant influence with respect to the operation of the Cable Operator's Cable System. For purposes of this Section, "significant influence" occurs where a person other than the Cable Operator or a person controlling controlled by or under common control with the Cable Operator or exercises working or effective control of decisions affecting the operation of the Cable System.

(3) The consent of the City Council is not required for transfer of the franchise to a wholly-owned subsidiary of the Cable Operator or to any person controlling, controlled by or under common control with the Cable Operator providing any such person agrees in writing to be bound by the existing franchise and provides bonds and insurance acceptable to the City. The City shall continue to regard the Cable Operator and its transferee as a single entity for all purposes.

(4) A Cable Operator's execution of a deed of trust, mortgage or other instrument given merely to secure the payment of any indebtedness of a Cable Operator shall not constitute a transfer under this division and shall not require the consent of the City Council.

(5) Upon foreclosure or other judicial sale of all or a substantial part of the system or upon the termination of a lease covering all or a substantial part of the system, the Cable Operator shall notify the City of the fact. The notification shall be considered as notice that a change in control of the Cable Operator has occurred. In this case the City Councils approval of the new owner of the system must be obtained as herein required.

(6) Prior to any transfer or change in control, a Cable Operator shall submit to the City any form required by federal law together with the matters described in Section 5.36.220 above. The City Council shall approve, conditionally approve or deny the transfer or change in control within one hundred twenty (120) days following receipt of all required material, unless an extension is agreed to by the City and the Cable Operator. Conditions of approval may include, but are not limited to, the following: (a) Resolution of any outstanding franchise violations or performance deficiencies; (b) Payment of any

outstanding franchise fees; (c) Payment of City costs incurred in reviewing the transfer; (c) Filing of any appropriate bonds, insurance endorsements, letters of credit or guarantees; and (d) Written assumption of all obligations of the transferor by the transferee.

(7) Within thirty (30) days after the date of the resolution approving transfer of the franchise, or within such extended period of time as the City Council in its discretion may authorize, the transferee shall file with the clerk of the City Council its written acceptance of the franchise, in a form satisfactory to the City, together with all required bonds and insurance certificates, and its agreement to be bound by and to comply with and to do all thing required of it by the provisions of this division and the franchise award resolution. Such acceptance and agreement shall be acknowledged by the transferee before a notary public and shall be in a form and content satisfactory to and approved by the City Attorney.

(8) The City may cancel a franchise sixty (60) days or later after the appointment of a receiver or trustee to take over and conduct the business of the Cable Operator, whether in receivership, or other action or proceeding, unless the receivership or trusteeship is vacated prior to the expiration of the sixty (60) days, or unless:

(a) within sixty (60) days after his election or appointment, the receiver or trustee complies with this division and remedies all defaults; and

(b) such receiver or trustee, within sixty (60) days, executes an agreement, approved by the court, whereby the receiver or trustee assumes and agrees to be bound by this division and the franchise granted to Cable Operator.

(9) Failure to comply with the requirements of this section is a material breach of this Title, subject to the remedies provided for herein. (Ord. No. 820, § 1, 3-19-02)

5.36.245 Unauthorized Operation of Cable System. If a Cable System is established, constructed, operated or maintained within the City without the franchise required by this division, the City may notify the Cable Operator of the franchise requirement. If the Operator continues an unauthorized operation for thirty days after such notice from the City, the Operator shall forfeit to the City all Gross Revenues from the system for so long as such unauthorized operation continues. The City may also pursue any civil or criminal remedies, including but not limited to obtaining injunctive relief to immediately enjoin the continue unauthorized operation. (Ord. No. 820, § 1,3-19-02)

5.36.250 Annexations. Within thirty (30) days after annexation of areas to the City which are served by a Cable Operator who does not have a franchise from the City, the Cable Operator shall apply for a new franchise. Pending consideration of such a franchise, the Cable Operator shall comply with each and every provision of this Article, including but not limited to the franchise fee requirement. If a newly annexed area is not actively served by a Cable Operator, the Cable Operator(s) serving the area within the City contiguous to the newly annexed area shall provide service to that area subject to the provisions of its franchise agreement. (Ord. No. 820, § 1, 3-19-02)

5.36.255 Joint Exercise of Powers Agreement. Should a joint exercise of powers agreement (Gov, Code, § 6500 et seq.) or similar agreement be entered between the county and a City or cities located therein in accordance with law providing for the joint regulation of Cable Operators and cable service or other cooperative arrangements, involved Cable Operators shall be governed by, and subject to that agreement, pursuant to this Title's provisions, provided that no such joint powers agreement shall impair any right or obligation of the Cable Operator under a franchise agreement. (Ord. No. 820, § 1,3-19-02)

5.36.260 Reservation of Rights. Insofar as it is not preempted by Federal or state regulations, the City reserves all rights it may have or subsequently acquire under state, federal or other law with respect to the regulation of cable services or other communications services by a Cable Operator. The City further reserves the right to amend this Code and apply such amendments to an incumbent Cable Operator in any manner that is consistent with a franchise agreement or applicable law. A franchise granted pursuant to this Article shall not be deemed to authorize or prohibit the provision of Telecommunications Services other than Cable Services. The provision of such other Telecommunication Services shall be governed exclusively by other Articles of this Title. (Ord. No. 820, § 1,3-19-02)

5.36.265 Consumer Protection and Service Standards.

a. General Standards. A Cable Operator must meet or exceed all applicable consumer protection and service standards that are customary in the cable television industry and that are recommended or required by the following:

1. Federal statutes, and the rules, regulations, and orders of the Federal Communications Commission, including the following:

(a) The provisions of Section 76.309(c) of Title 47 of the Code of Federal Regulations, as it now exists or may later be amended.

(b) The provisions of Section 76.630 of Title 47 of the Code of Federal Regulations, as it now exists or may later be amended.

(c) The provisions of Section 551 of Title 47, United States Code, as it now exists or may later be amended.

2. The provisions of California Government Code Sections 53054, et seq., entitled the "Cable Television and Video Provider Customer Service and Information Act."

3. The provisions of California Government Code Section 53088, et seq., entitled the "Video Customer Service Act."

4. The provisions of California Civil Code Section 1722(b)(l)-(6) relating to service or repair transactions between cable television companies and their subscribers.

b. Franchise Agreement. Unless preempted by paramount federal law, the consumer protection and service standards referenced above in paragraph a that are the most stringent, and that afford the greatest degree of protection to consumers, will be specified in the cable television franchise agreement and will apply, without limitation, to all video, voice, and data services that are provided by the Cable Operator to its subscribers within the franchise area. (Ord. No. 820, § 1, 3-19-02)

5.36.300 City Regulation of Franchise.

5.36.305 Administration. The office of the City Manager is designed as having primary responsibility for the administration of the franchise and this article. Whenever a right may be exercised under this article by the City or the City Manager, such right may also be exercised by a designee or employee. (Ord. No. 820, § 1, 3-19-02)

5.36.310 Cable Programming. If provided for in the Franchise Agreement, the cable programming offered by the Cable Operator shall include at a minimum each of the following categories as is appropriate to the franchise area: community, family, children's, news and public affairs, sports, cultural, arts and music, minority or foreign language, and educational for all ages. (Ord. No. 820, § 1,3-19-02)

5.36.315 Basic Service. Basic service shall be available to all subscribers. No subscriber shall be required to purchase any other service as a prerequisite to purchasing basic service. Basic service shall include all public, educational and governmental channels at no extra charge. (Ord. No. 820, § 1, 3-19-02)

5.36.320 Required Channel Capacity. The Cable System shall have the capacity, the number of activated and programmed channels and the data/video return ("two-way" or "upstream") capability specified in the Franchise Agreement. The Cable System shall have a maximum frequency of no less than 750 MHz or such other frequency that is specified in the Franchise Agreement. (Ord. No. 820, § 1, 3-19-02)

5.36.325 Performance Evaluation Sessions. The City and each Cable Operator shall hold scheduled performance evaluation sessions as specified in the Franchise Agreement. (Ord. No. 820, § I, 3-19-02)

5.36.330 Integration of Advancements in Technology. In addition to such upgrades as may be required under a Franchise Agreement, it is the responsibility of a Cable Operator to periodically review upgrading its Cable System to integrate advancements in technology as may be required to meet the needs and interests of the community in light of the costs thereof. It is recognized that Subscribers in the City have an especially strong interest in a System design that will eliminate the need for set-top converters not necessary for advances in technology and/or otherwise permit Subscribers to fully utilize the capabilities of consumer electronic equipment while receiving Cable Service. To assist the City to understand the practical applications of developments in cable technology, the Franchisees shall submit a report to the City every odd-numbered year during the Franchise term. Each report shall describe developments in cable technology that have been incorporated into Cable Systems of comparable size in the United States, and whether, how, and by what date the Franchises plans to incorporate those technological developments into the System. In

addition, the report shall describe the effect of those developments on public, educational, and governmental use of the Cable System, and the effect and compatibility of those technological changes on other consumer electronic equipment. Except as provided in a Franchise Agreement, the City, on receipt of each plan, may promptly schedule hearings to consider whether Cable Operator's timetable for implementing the new technologies is adequate to meet the future cable related needs and interests of the City. Except as provided in a Franchise Agreement, if the City considers the plan to be adequate, the City shall adopt it and the Franchisee shall be bound to implement it as if it were set forth herein. Any increase in charges by a Cable Operator to Subscribers for providing Basic Cable Services in compressed or digitized forms shall comply with standard industry practices at the time such technology is introduced into the System. The introduction of compressed or digitized programming shall be a business decision of the Cable Operator made in good faith after due consideration of the needs and interests of the community, advancements in technology, the availability of programming, and the cost to Subscribers. (Ord. No. 820, § 1,3-19-02)

(Continued on next page)

5.36.335 **Cable Service to Public Buildings Occupied by Public Agencies**. Upon request by the City, a Cable Operator shall install, at no charge, as set forth in the Franchise Agreement, at least one service outlet per public agency at all buildings occupied by public agencies within the Franchise Area, and shall charge only its time and material costs for any additional service outlets to such facilities. The Cable Operator shall provide Basic Cable Service and Cable Programming Service to all outlets in such buildings free of charge. "Public agency" shall mean an agency of the City, the City, State or Federal Governments, and special districts, including school and water districts and any political subdivision of the State of California. (Ord. No. 820, § 1,3-19-02)

5.36.340 **PEG Channels.** The Cable Operator shall make available one or more dedicated channels on its Cable System for purposes of public, educational and governmental access, as set forth in the Franchise Agreement. Such channels shall be available on the lowest tier of basic service. Such channels shall not be used for any advertisements or commercial programming. (Ord. No. 820, § 1,3-19-02)

5.36.345 **PEG Facilities.** The Cable Operator shall provide facilities, services and equipment for use in relation to public, educational and governmental access to the extent provided in the Franchise Agreement. (Ord. No. 820, § 1,3-19-02)

5.36.350 **Public Access Usage Management**. Nothing in this section shall prevent the City from delegating to an independent nonprofit entity such as a commission or nonprofit corporation the authority to manage all or any part of the City's PEG facilities, programming and/or funds. The commission or nonprofit corporation may be established jointly with neighboring jurisdiction at the City's sole option. (Ord. No. 820, § 1,3-19-02)

5.36.355 **Interconnection**. A Cable Operator shall design its System so that it may be two-way interconnected with any or all other cable television systems or similar communication systems in the area, interconnection of systems may be made by direct cable connection, microwave link, satellite or other appropriate methods.

A Cable Operator may interconnect its system with other Cable Systems upon its own initiative, or upon request of the City Council to interconnect. If so requested, a Cable Operator shall begin good faith negotiations concerning interconnection with the other affected system or systems. If so requested, a Cable Operator shall interconnect with any adjacent Cable System which is controlled by the Cable Operator or which is under common control.

All signals to be interconnected will comply with FCC technical standards for all classes of signals and will result in no more than a low level of distortion.

A Cable Operator shall cooperate with any interconnection corporation, regional interconnection authority, state or federal regulatory agency which may be hereafter established for the purpose of regulating, facilitating, financing or otherwise providing for the interconnection of communications systems beyond the boundaries of the City. (Ord. No. 820, § I, 3-19-02)

5.36.360 **Emergency Override**. To provide an emergency alert capability, the Cable Operator shall install and maintain an Emergency Alert System which allows the City to simultaneously override audio signals and broadcast emergency messages on all television channels. In case of public emergency, the City may, as directed by the Administrator of Emergency Services or other authorized official, activate and use such emergency override system for the duration of the emergency. The Cable Operator shall assist and cooperate with the City in periodic testing of the emergency override system. (Ord. No. 820, § I, 3-19-02)

5.36.365 **Tree Trimming.** When trimming trees, a Cable Operator shall comply with all City regulations applicable to utilities. (Ord. No. 820, § I, 3-19-02)

5.36.370 **Removal and Abandonment of Cable System.** In the event that a franchise is terminated or expires without being renewed, or if all or a portion of the Cable System is not used for a period of ninety (90) days, the Cable Operator shall either remove the Cable System or the abandoned portion thereof or shall obtain the permission of the Director of Community Development to abandon the Cable System in place within ninety (90) days. The Cable Operator shall obtain an encroachment permit prior to removing the Cable System. (Ord. No. 820, § I, 3-19-02)

5.36.375 **Acquisition of Cable System.** Notwithstanding the granting of a franchise, the City retains the right to acquire the Cable System at any time by negotiated sale or eminent domain, and retains the right to resell the Cable System to any third party. If the City denies the renewal of the franchise, the City may acquire the Cable System at a price not to exceed fair market value, determined on the basis of the Cable System valued as a going concern but with no value allocated to the franchise itself or any use of the Cable System for purposes other than Cable Television Services. If the City revokes a franchise, the City may acquire the Cable System at a price not to exceed the depreciated book value of the Cable System. (Ord. No. 820, § I, 3-19-02)

5.36.400 **Customer Service.**

5.36.405 **Continuity of Service.** Customers have the right to receive, and the Cable Operator has the obligation to provide, efficient service, high-quality reception, prompt repairs and service interrupted only for good cause and for the shortest possible time. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Cable Operator are honored. In the event that the Cable Operator elects to over build, rebuild, modify, or sell the system, or the City Council gives notice of intent to terminate or fails to renew this franchise, the Cable Operator shall act so as to ensure that all subscribers receive continuous, uninterrupted service. (Ord. No. 820, § I, 3-19-02)

5.36.410 **Non-Discriminatory Services.** The Cable Operator shall not deny service or access or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, sex, age, disability or occupation. Nothing in this section shall be deemed to prohibit senior discounts. (Ord. No. 820, § I, 3-19-02)

5.36.415 **Local Office.** The Cable Operator shall maintain a local business office in a location specified in the Franchise Agreement which shall be open to the public during convenient hours (for working people) on weekdays and on weekends. (Ord. No. 820, § 1,3-19-02)

5.36.420 **Line Extensions.**

(1) The Cable Operator must extend and make cable television service available to every business location (other than home occupations) unless, due to the low density of businesses in a particular area, the City waives this requirement. The Cable Operator must extend and make cable television service available to every dwelling unit within three (3) months in any un-served area reaching the average density of ten (10) occupied residential dwelling units per one-quarter mile, as measured from the nearest active coaxial feeder line. Extension of cable television service to any un-served area satisfying the foregoing requirements will be subject to the following:

(a) Each occupied residential dwelling unit must be located within a distance of no more than one hundred fifty (150) feet from the anticipated location of such extension, provided that an occupied residential dwelling unit located more than this distance from the anticipated location of such extension shall be counted if the owner or occupant agrees to pay the Cable Operator an additional amount not to exceed the actual time and materials cost of the portion of the drop to such residential dwelling unit exceeding one hundred fifty (150) feet; and

(b) The Cable Operator is able to secure all necessary easements or rights-of-way for purposes of locating its Cable System in the area of such extension.

(2) In areas not meeting the requirements for mandatory extension of service, the Cable Operator shall provide, upon the request of a potential subscriber desiring service, an estimate of the reasonable costs required to extend service to said subscriber, including materials, labor, overhead and private easements, if necessary. The Cable Operator shall then extend service within four months upon request of said potential subscriber, who shall be responsible for all reasonable costs associated with the extension. The Cable Operator may require advance payment or assurance of payment satisfactory to the Cable Operator. (Ord. No. 820, § 1,3-19-02)

5.36.425 **New Service Requests.**

1) The Cable Operator shall provide service to all dwelling units and all business locations within the City (subject to the limitations on line extensions in the previous section) pursuant to the following requirements.

2) In any case in which either no new drop is required, or a new aerial drop is required of no more than one hundred fifty feet, or a new underground drop is required of seventy-five feet or less as measured from the nearest active or required feeder line along a reasonably direct route, the Cable Operator shall make cable service available at the standard connection charge within seven (7) days of receipt of any service request. In any case in which a new drop is required which is longer than the foregoing standards, the Cable Operator shall make cable service available at the standard connection charge within fourteen (14) days of receipt of any service request. Notwithstanding the foregoing, if the service request requires a drop in excess of one

hundred fifty feet, the Cable Operator may charge the business or resident requesting service an additional amount which shall not exceed the actual time and materials cost of the drop in excess of one hundred fifty (150) feet.

3) Upon receiving a request for new service the Cable Operator shall make reasonable efforts to promptly acquire all easements or rights of occupancy necessary for extension of service to such resident's home and not already secured by the Cable Operator. The Cable Operator shall not be required to install service until such easements or rights of occupancy have been acquired. (Ord. No. 820, § 1,3-19-02)

5.36.430 System or Individual Outage Complaints.

(1) Upon receipt of a service complaint, the Cable Operator shall respond as follows: (1) to a system outage of one or more channels, within two hours; (2) to an individual outage of one or more channels, within twenty-four hours; and (3) to all other reception problems, by the next working day or as agreed upon by the subscriber and the Cable Operator. The Cable Operator shall have available at all times a sufficient number of technicians capable of responding to the foregoing matters within the foregoing time frames.

(2) The Cable Operator will be deemed to have responded to a service complaint when a field service representative competent to fix the problem arrives at the service location (which may be some portion of the Cable System and not a subscriber's residence) and begins work on the problem. In the case of a response which involves request for service at a subscriber's residence, and the subscriber is not home when the field service representative arrives, response will re deemed to have taken place if the field service representative leaves notification of arrival and instructions for rescheduling on the subscriber's front door.

(3) Where the Cable Operator is unable to respond to a service complaint with in the applicable time period specified in this section, the Cable Operator shall make reasonable efforts, within such time period, to notify the complainant of the reason(s) and the estimated time frame for correction, and shall proceed to correct the service complaint at the earliest possible time. (Ord. No. 820, § I, 3-19-02)

5.36.435 Scheduling Appointments. All appointments for service, installations, or disconnection shall be specified by date. At the subscriber's option, weekday service calls shall be scheduled as morning or afternoon appointments during specified four-hour blocks of time. For service calls responding to system or individual outages, holiday and weekend scheduling shall also be available. If the appointment cannot be kept, the Cable Operator shall make reasonable efforts to promptly notify the subscriber in advance and reschedule the appointment. A Cable Operator may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment.

Subscribers who have experienced a missed appointment due to the fault of a Cable Operator shall receive installation free of charge (if the appointment was for installation). The subscriber shall receive a credit against the Basic Service Charge in the minimum amount of twenty dollars ($20.00) if the missed appointment is for a service call. Alternatively, subscribers may pursue their remedies pursuant to Civil Code section 1722. (Ord. No. 820, § I, 3-19-02)

5.36.440 Notification of Service Interruptions. Where service interruptions of one hour duration or longer are planned, the Cable Operator shall notify subscribers at least twenty-four hours before the anticipated interruption, provided that no notification shall be required for service interruptions occurring between 2:00 a.m. and 6:00 a.m. Notification need not be repeated before each anticipated interruption as long as the initial notification advises of the possibility of repeated interruptions during a specified period not to exceed one month. To the extent feasible, the Cable Operator shall avoid interruptions between 5:00 p.m. and midnight. (Ord. No. 820, § 1,3-19-02)

5.36.445 Notification of Service or Channel Changes. The Cable Operator shall notify subscribers of any changes in programming services or channel positions as soon as possible through announcements on the Cable System and in writing. Notices must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Cable Operator. Cable Operator shall provide a copy of all notifications to the City and shall make every reasonable effort to do so at least seven (7) days in advance of the distribution to subscribers. If the subscriber notice is not timely provided, the proposed change may not occur until and unless the proper notice is provided. (Ord. No. 820, § 1, 3-19-02)

5.36.450 Telephone Communication Service.

(1) The Cable Operator shall render efficient telephone communication service, sufficiently staffed by knowledgeable, courteous personnel.

(2) Customer Service Response. At a minimum, the Cable Operator shall have on duty a sufficient number of customer service representatives available to handle customer calls during all hours that the business office is open. During times not handled by customer service representatives, each system must have a capable answering service for repair requests or service complaints. Answering machines are not acceptable, except for automated response units that are used to process and route calls to on-duty personnel of the Cable Operator.

(3) Telephone System Requirements. The Cable Operator shall at all times provide a telephone system meeting the following requirements:

(a) Each Cable Operator shall have a phone system with a sufficient capacity to promptly respond to telephone calls. Telephone numbers for customer service shall be listed in a local telephone directory. All telephone lines for customer service shall be toll free to subscribers within the franchise area.

(b) Knowledgeable, qualified customer service representatives shall be available to respond to customer telephone inquiries during all hours that the business office is open.

(c) Under normal operating conditions, telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed thirty (30) seconds. Those systems which utilize automated answering and distributing equipment shall limit the number of routine rings to four or fewer.

Systems not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems. Under normal operating conditions, the customer shall receive a busy signal less than three percent (3%) of the total time that

the telephone system is staffed by customer service representatives. These standards shall be met no less than eighty percent (80%) of the time measured quarterly. If the City receives complaints indicating a significant problem in any telephone system, the City may require the Cable Operator to meet the above standards not less than eighty percent (80%) of the time measured over a sixty-day period until such time as the performance is perceived to be satisfactory.

(d) The Cable Operator shall, by means of automatic monitoring equipment, track all customer service telephone calls and prepare monthly summaries of all calls according to the criteria listed in subsection (c). Such report shall be delivered to the City annually and, in addition, as requested.

(e) Notwithstanding subsection (c) above, in cases of major system outages or major service interruption, the Cable Operator may provide a recorded message informing customers of the problem and probable correction time as long as customers are still able to [reach1a customer service representative.

(f) In cases where the Cable Operator's existing telephone system cannot demonstrate compliance with the standards set forth in subsections (c) or (d), the Franchise Agreement may specify comparable criteria for the Cable Operator's telephone system and the time frame for compliance with the standards set forth in this section. (Ord. No. 820, § 1, 3-19-02)

5.36.455 **Complaint Log.** The Cable Operator shall keep a computer log or written record for at least three years of (1) all service calls and complaints which require the dispatch of a service vehicle to respond to the service call or complaint, and (2) all calls regarding outages, regardless of whether a service vehicle was dispatched, together with the disposition of all such calls. This record shall be available for public inspection by the affected subscriber at the local office of the Cable Operator during regular office hours such that each subscriber may examine his or her own records. The log or record shall be available for inspection by the City at any time at the local office of the Cable Operator during regular office hours. Before making a record available for inspection under this section, the Cable Operator may require reasonable advance notice, which shall in no event exceed one working day. (Ord. No. 820, § 1, 3-19-02)

5.36.460 **Subscriber Test Requests**. Upon reasonable request or complaint by subscriber, the Cable Operator shall, at its sole expense, perform such signal level tests as necessary to establish if a signal of requisite quality is being delivered to the subscriber's premises. The test shall be conducted at the subscriber's receiver and at other such locations deemed necessary by the Cable Operator, and a copy of the written test results shall be made available to the subscriber upon request. (Ord. No. 820, § 1, 3-19-02)

5.36.465 **Conditions of Service-Subscriber Information**. The Cable Operator shall send or deliver to all new and reconnected subscribers in writing and to all subscribers at least once a year, in a form easy to read and understand, information concerning the conditions of service, including but not limited to: rates, fees, charges, deposits, refunds of deposits, available levels of service (tiers), payment options, discounts (if any), service call policy, privacy protections and disconnection and reconnection policy. The Cable Operator shall provide a copy of such information to the City prior to its distribution to the Cable Operators subscribers for review and comment. (Ord. No. 820, § 1, 3-19-02)

5.36.470 **Complaints-Subscriber Information**. Upon connection or reconnection to the system and at least once a year, the Cable Operator shall, by appropriate means, such as a card or brochure, printed notice on billing statement, or billing insert, furnish to each subscriber information concerning the procedures for making inquiries or complaints to the Cable Operator or the City, including the name, address and local telephone number of the Cable Operator and the City. The form and content of the complaint notice shall be subject to review and comment by the City. (Ord. No. 820, § 1, 3-19-02)

5.36.475 **Investigation of Complaints.**

(l) When there have been a significant number of complaints made, or where there exists other evidence which, in the judgment of the City, indicates a problem with the reliability or quality of cable service as required under this Title or in the franchise agreement, the City Council shall have the right and authority to require the Cable Operator to evaluate the performance, operation or administration of the Cable System including without limitation matters relating to customer service. The Cable Operator shall fully cooperate with the City in performing such evaluation and shall prepare results and a report, if requested, within thirty (30) days after notice. Such report shall include the following information:

(a) The nature of the complaint or problem which precipitated the evaluation;
(b) What system component, operation or service was evaluated;
(c) The equipment used and procedures employed;
(d) The method, if any, by which such complaint or problem could be or has been resolved; and
(e) Any other information pertinent to the evaluation which may be required.

(2) The City may require that evaluations be supervised, or conducted, at a cost to be paid by the Cable Operator, by an engineer, accountant or other consultant selected by the City and not on the permanent staff of the Cable Operator or the City. The engineer, accountant or other consultant shall sign all records of the evaluation and forward to the City such records with a report interpreting the results of the evaluation and recommending actions to be taken. The City's rights under this section, shall be limited to evaluating specific subjects and characteristics based on complaints, circumstances or other evidence which cause the City to reasonably believe that evaluation is necessary to protect the public against substandard cable service. (Ord. No. 820, § I, 3-19-02)

5.36.480 **Non-Compliance with Standards.** In the event of repeated and verifiable non-compliance with the customer service standards contained in this Chapter, the City may, in addition to pursuing any other civil or criminal remedy, direct the Cable Operator to add sufficient personnel and/or telephone lines and equipment to ensure compliance with such standards. (Ord. No. 820, § I, 3-19-02)

5.36.485 Billing. Late Fees, Disconnection of Service and Notification of Rate Changes.

(1) Bills for services shall be monthly. Nothing in this section shall prohibit voluntary prepayment of services by subscribers, provided that the Cable Operator shall not be required to offer or accept any discount or other reduction in the amount paid by any subscriber for a voluntary prepayment of services. Bill shall include a listing of the Cable Operator's customer service telephone number in a manner that makes such number significantly more prominent than any other telephone numbers listed on the bill. Bills shall not list the City's telephone number in a manner that causes confusion to the public. All telephone numbers shall be listed on the bill in a form approved by the City.

(2) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(3) In case of a billing dispute, the Cable Operator must respond to a written complaint from a subscriber within thirty (30) days.

(4) Before itemizing on subscriber bills any fees, taxes, assessments or other items payable to the City the itemization of which is not expressly authorized by state or federal statute or regulation, the Cable Operator shall submit a sample bill to the City for review and comment. In the event that the billing language proposed by the Cable Operator is misleading or incomplete, the Cable Operator shall modify the same as requested by the City or shall include a reasonable explanation as agreed to by the City and the Cable Operator.

(5) Charges on a bill shall not be deemed delinquent and a subscriber shall not be subject to a late fee, so long as payment is received from the subscriber within ten (10) days after the end of the service period covered by the bill.

(6) A Cable Operator shall only disconnect a subscriber's service for good cause. A Cable Operator shall not disconnect service for non-payment until the Cable Operator has provided the subscriber with notice, provided on or after the due date of the subscriber's bill and separately from that bill or any other standard monthly bill, at least ten (10) days in advance of the disconnection. The notice shall specify the earliest date the disconnection will occur, the total payment required to avoid disconnection and the telephone number and office hours to contact a customer service representative. In no event shall disconnection for nonpayment occur less than fourteen (14) days after the end of any billing period for which charges are delinquent. If service is disconnected by the Cable Operator's personnel at or near the drop to the subscriber, such personnel first attempt to visit the subscriber and give the subscriber an opportunity to continue service by paying all accrued charges. (Ord. No. 820, § I, 3-19-02)

5.36.487 Credits for Outages.

(1) Except for loss of service beyond the reasonable control of the Cable Operator, after notification from a subscriber of an individual or system outage and following the time frames set out in Section 5.36.475 for an opportunity to cure, the Cable Operator shall, upon request, credit the subscriber's account on a pro-rata basis one-thirtieth of the subscriber's monthly rate for each day or portion of a day that the system or individual outage continues. In addition, in cases where, within any seven-day period, there have been more than six individual outages, system outages or service interruptions of fifteen minute or more, the Cable Operator shall, upon request, credit the subscriber's account for one-forth of the subscriber's monthly rate. Should an individual or system outage affect a pay-per-view or other similarly priced per-event service, the subscriber shall, upon request, be credited the charges for such service. Credit shall be given under this section only if the subscriber has notified the Cable Operator of the outage within forty-eight (48) hours of its occurrence and has provided access to the Cable Operator as necessary to correct the problem.

(2) Nothing in this section shall prohibit the Cable Operator from giving other credits. (Ord. No. 820, § I, 3-19-02)

5.36.489 Refund of Deposits. The Cable Operator shall refund all subscriber deposits within thirty days of termination of service. Any outstanding balance, including any equipment not returned by the subscriber, may be deducted from the deposit. The refund shall be mailed to the subscriber at no expense, or shall be handled as otherwise agreed to by the subscriber. (Ord. No. 820, § 1,3-19-02)

5.36.491 Parental Control Lock. The Cable Operator shall provide subscribers, upon request, with a parental blocking device or digital code that permits inhibiting the video portions of premium channels. The Cable Operator may charge a reasonable rate for such a device. (Ord. No. 820, § 1,3-19-02)

5.36.493 Privacy.

(1) The Cable Operator shall not sell or otherwise release to any person, without specific written authorization from each individual subscriber, any list which identifies individual subscriber viewing habits or any list which contains the name, address and or telephone numbers of individual subscribers.

(2) The Cable Operator shall not place in a residence any equipment capable of being used by the Cable Operator for audio eavesdropping or video surveillance. In addition, the Cable Operator shall not activate any two-way communications capability of the system in a subscriber's residence, or use the system to gather information about individual subscriber viewing habits, without the subscriber's informed written or electronic consent. Notwithstanding the above, the Cable Operator shall have the right to use the system to (i) obtain information necessary to render cable service or any other service provided by the Cable Operator to the subscriber, (ii) verify receipt of cable service for billing purposes or (iii) detect unauthorized reception. (Ord. No. 820, § I, 3-19-02)

5.36.495 Landlord Tenant.

(1) Neither the owner of any residential dwelling nor his agent or representative shall ask or demand any payment, service or gratuity in any form as a condition for permitting the installation of Cable service to the dwelling unit occupied by a tenant or resident requesting service.

(2) Neither the owner of any residential dwelling nor his agent or representative shall penalize, charge or surcharge a tenant or resident or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable service from a Cable Operator operating under a valid and existing cable franchise issued by the City.

(3) No person shall resell, without the express written consent of the Cable Operator and without a franchise from the City, where required, any cable service, program or signal transmitted by a Cable Operator operating under a franchise issued by the City. However, the owner of a multiple dwelling unit, under the auspices of a bulk cable service agreement with the Cable Operator, may charge tenants for cable service, so long as such charges do not exceed the charges made by the Cable Operator to the owner, plus a reasonable sum to reimburse the owner for necessary administration and billing.

(4) Nothing in this section shall prohibit a person from requiring that Cable System facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning appearance and value of premises or the convenience and safety of persons or property.

(5) Nothing in this section shall prohibit a person from requiring a Cable Operator to agree to indemnify the owner, or his agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance or removal of Cable System facilities. (Ord. No. 820, § 1,3-19-02)

5.36.497 Unauthorized Connections and Tampering. No person, firm or corporation shall make any authorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised Cable System for the purpose of taking or receiving television signals, radio signals, pictures, programs, or sound. Also no person, without the consent of the owner, shall tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound. (Ord. No. 820, § 1, 3-19-02)

5.36.500 Construction and Technical Standards.

5.36.505 Construction Requirements. All construction (including, but not limited to, the initial construction of the Cable System and any rebuild, expansion, replacement, repair or maintenance of all or any part of the Cable System) shall be performed in compliance with this Article and all other provisions of this Code. At least ninety (90) days prior to initiating any major construction (other than routine maintenance or repair, installation of subscriber drops or minor line extensions), a Cable Operator shall submit a construction plan to the City. The construction plan shall include

a description of the work, equipment specifications, existing and proposed locations of all facilities, traffic control plans, resident and business notification plans and a detailed construction schedule. The City may approve, conditionally approve or deny the construction plan. The City may require the posting of construction bonds. Additional construction requirements may be specified in a Franchise Agreement. (Ord. No. 820, § 1, 3-19-02)

5.36.510 **Standards.** A Cable Operator shall construct, install, operate and maintain its system consistent with all of the following:

a. All ordinances and construction standards of the City.

b. National Electrical Safety Code.

c. National Electrical Code.

d. Rules, regulations and orders of the Federal Communications Commission.

e. Rules, regulations and orders of the California Public Utility Commission.

f. All other applicable federal, state and local laws and regulations.

A Cable Operator shall construct, install and maintain its Cable System in an orderly and professional manner, using due diligence and materials of good and durable quality. All such work shall be performed in close coordination with other public and private utilities following accepted construction procedures and practices and working through existing committees and organizations. All cable and wires shall be installed, where possible, parallel with and in the same manner as electric and telephone lines on the same poles. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

A Cable Operator shall, at its own cost and expense, install and maintain shielding, filtering and grounding at affected installations with the system to eliminate television interference encountered from overload by amateur radio transmissions which are in compliance with FCC regulations. A Cable Operator shall maintain equipment capable of providing standby power to be engaged automatically in the event of a power: failure for twenty-four (24) hours at all headends serving the City, including without limitation all switching facilities, towers, electronics and heating, ventilation and air conditioning systems and equipment located at such headends and such switching facilities. The Cable Operator shall also maintain on its distribution system alternative power sources (battery back-up) so that both the subscriber and the institutional networks (if any) may be maintained at full power for at least two (2) hours beyond the time when normal power sources serving the Cable System have ceased.

If the City reasonably believes that the Cable System is not in technical compliance with the foregoing standards, the City may require the Cable Operator to conduct its own technical testing of the system, and Cable Operator shall disclose the results of such tests to the City upon their completion. Any deficiencies shall be cured by

the Cable Operator promptly and no later than thirty (30) days following completion of testing. The City shall also have the right to observe any system performance tests conducted by the Cable Operator and to obtain copies of the results of such tests.

A Cable Operator shall comply with all of the same standards and codes, including but not limited to the pavement of inspection fees, to construct and maintain its system within private rights-of-way as are required by the City's public streets. (Ord. No. 820, § I, 3-19-02)

5.36.600 Administration and Enforcement.

5.36.605 Franchise Fees. All Cable Operators shall pay a franchise fee to the City in an amount equal to five percent (5%) of the Cable Operator's Gross Revenues. The Cable Operator shall make franchise fee payments on the first day of each quarter year, or at such other times specified in the Franchise Agreement. Franchise fee payments shall be submitted together with documentation of the Cable Operator's Gross Revenues in such form as may be required by the City from time to time. (Ord. No. 820, § I, 3-19-02)

5.36.610 Compensation Relating to Non-Cable Telecommunications Services. Except as prohibited by law, all Cable Operators shall pay compensation to the City for use of public property in an amount equal to five percent (5%) of the Cable Operator's Gross Non-Cable Revenues. Payments shall be submitted to the City on the first day of each quarter of each calendar year together with documentation of the Cable Operator's Gross Non-Cable Revenues in such form as may be required by the City from time to time. (Ord. No. 820, § I, 3-19-02)

5.36.615 Fees on Non-Cable Operator Revenues. In consideration of the use of public property, any person other than a Cable Operator who provides Cable Service or any other Telecommunications Service over a Cable System for which charges are assessed to subscribers but which are not received by a Cable Operator shall pay a fee to the City in an amount equal to five percent (5%) of that person's Gross Revenues and Gross Non-Cable Revenues. The Cable Operator whose Cable System is used by such person shall collect the foregoing fee from such person no later than the tenth day prior to the close of each calendar quarter and shall remit the fee to the City no later than the first day of the following calendar quarter. If the Cable Operator fails to collect or remit all or part of this fee, the Cable Operator shall be directly liable to the City for payment of the uncollected or unremitted fee. (Ord. No. 820, § 1, 3-19-02)

5.36.620 Audit. Consistent with Section 5.36.630, the City shall have the right to inspect and audit all of the Cable Operator's books and records and those of its affiliates relevant to an accurate determination of the total amount of the Cable Operator's Gross Revenues and Gross Non-Cable Revenues. The Cable Operator shall make such records available to the City within fourteen (14) days of the City's request. Such records shall be available for inspection by the City at the Cable Operator's office within the City during normal business hours. Such records shall be retained by the Cable Operator for a period of at least five (5) years. The City will bear the cost of any such audit; provided, however, that if such audit indicates a franchise fee underpayment of three percent (3%) or more of the amount due, the Cable Operator

shall reimburse the City for all reasonable costs relating to the audit. Any additional amount due to the City as a result of the audit shall be paid within thirty (30) days following written notice to the Cable Operator, which notice shall include a copy of the audit report. If the Cable Operator believes the audit report is in error, it may send a written response to the City describing the error in lieu of making the payment. If the City disagrees with the response, it shall notify the Cable Operator in writing, after which the Cable Operator shall pay the additional amount due within thirty (30) days. The City may elect to perform such audit jointly with one or more other government agencies which regulate affiliated systems. (Ord. No. 820, § 1,3-19-02)

5.36.625 **Late Payments**. In the event that the Cable Operator does not make any payments required by this Code on or before the date due, a late payment penalty shall accrue at a rate of one and one-half percent (1-lf2%) per month on the unpaid amount until paid. (Ord. No. 820, § 1,3-19-02)

5.36.630 **Inspection of Records**. The Cable Operator shall maintain at its local office, and shall make available for inspection and auditing at that office within seven days after receipt of a written request by the City, complete and accurate books, records, maps, plans and other materials of the Cable Operator which are reasonably related to the City's review of the Cable Operators compliance with this Code and the Franchise Agreement. To the extent that an affiliate of the Cable Operator aggregates information relating to the Cable System together with information about other Cable Systems, the Cable Operator shall have copies of such records available for inspection and auditing at the local office within seven days after receipt of a written request by the City. The City shall maintain the confidentiality of any of the foregoing records to the extent that they are not public, contain sensitive business information and confidentiality is permitted by law. (Ord. No. 820, § 1,3-19-02)

5.36.635 **Location of Cable Operator's Properties.**

(1) The Cable Operator shall at all times make and keep on file in the office of the Community Development Director current, full and complete plans and records to a scale and form approved by the Community Development Director, showing the exact location of all Cable System equipment installed or in use in streets, alleys and public places in the City.

(2) The Cable Operator shall file with the Community Development Director, on or before the last day of March of each year, a current map or set of maps drawn to a scale designated by the Community Development Director, showing all Cable System equipment installed in streets, alleys and public places of the City during the previous year. (Ord. No. 820, § 1, 3-19-02)

5.36.640 **Insurance**. The Cable Operator shall at all times during the existence of any franchise issued hereunder maintain in full force and effect at its own cost and expense to following policies of insurance:

(1) A general comprehensive liability insurance policy with minimum liability limits of two million dollars ($2,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage;

(2) An automobile liability policy with minimum liability limits of two million dollars ($2,000,000.00) combined single limit per accident for bodily injury and property damage; and

(3) Workers' compensation insurance with minimum policy limits as required by State law.

All of the foregoing policies (except workers' compensation insurance) shall all name the City, its officers, officials, agents, employees and volunteers as insured, and shall be primary to any insurance maintained by the City. The precise terms of these policies, including but not limited to liability limits, deductibles, acceptable insurers and other terms, shall be specified in the franchise agreement. (Ord. No. 820, § 1,3-19-02)

5.36.645 **Indemnification**. The Cable Operator shall indemnify, defend and hold harmless the City and its officers officials, employees, agents and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the Cable Operator's enjoyment of the franchise hereunder, or its failure to comply with any of its obligations contained in the franchise agreement or this Title, or arising out of the construction, installation, maintenance, operation or removal of its Cable System, except such loss or damage which was caused by the sole negligence or willful misconduct of the City. (Ord. No. 820, § I, 3-19-02)

5.36.650 **Letter of Credit**. Within thirty (30) days after the effective date of a Franchise Agreement, the Cable Operator shall deposit with the City an irrevocable Letter of Credit in the amount set forth in the Franchise Agreement in a form and with an institution approved by the City. The Letter of Credit may be drawn upon by the City for the purpose of remedying any noncompliance by the Cable Operator with any provision of this Code or the Franchise Agreement. (Ord. No. 820, § 1,3-19-02)

5.36.655 **Possessory Interest**. The granting of a franchise pursuant to this Title may create an interest subject to property taxation pursuant to California Revenue and Taxation Code section 107 et seq. The Cable Operator shall be solely responsible for payment of any such taxes. (Ord. No. 820, § 1,3-19-02)

5.36.700 **Enforcement of Federal Rate Regulations.**

5.36.705 **Effectiveness**. This Chapter shall be effective only if the City has been certified by the Federal Communications Commission ("FCC") to enforce federal rate regulations. (Ord. No. 820, § I, 3-19-02)

5.36.710 **Rate Increases**. Prior to increasing rates for basic service and/or associated equipment at any time, the Cable Operator shall file its proposed rates with the City Clerk together with the form for determination of rate increases as may be issued by the FCC or the City, and any other information required by the City Manager. If the proposed rates are greater than the benchmark rates permitted by FCC regulations, the Cable Operator shall submit a cost-of-service showing pursuant to FCC regulations. Within seven (7) days of filing its proposed rates, but no later than thirty (30) days prior to the effective date of the proposed rates, the Cable Operator shall notify its subscribers of its proposed rates and that written comments may be submitted to the City Clerk by mailing such notice to all subscribers, either separately or in conjunction with bills or other notices sent to subscribers. (Ord. No. 820, § 1, 3-19-02)

5.36.715 **Auditor's Opinion.** All forms and materials submitted by the Cable Operator pursuant to this chapter shall be submitted together with an unqualified opinion of a certified public accountant ("Auditor's Opinion"). The Auditor's Opinion shall contain, at a minimum, the following items:

(a) A certification that the data submitted by the Cable Operator truly and accurately reflect the actual costs of regulated equipment and services and other costs reported therein as determined by the Auditor in accordance with generally accepted auditing standards, including without limitation, AU section 801 et seq. of the AICPA Professional Standards and any successor sections, and that the financial information contained therein is reported in compliance with FCC rules and regulations implementing the Cable Act of 1992, including without limitation, 47 CPR sections 76.924 and 76.925 and any successor sections;

(b) A detailed explanation of the source data examined, tested and utilized by the Auditor in formulating the Auditor's Opinion;

(c) A list of documents furnished by the Cable Operator to the Auditor and utilized by the Auditor in formulating the Auditor's Opinion;

(d) A detailed explanation of the auditing methodology utilized by the Auditor formulating the Auditor's Opinion; and

(f) A detailed explanation of the assumptions utilized by the auditor in formulating the Auditor's Opinion.

Upon the request of the City Manager, the Auditor shall provide to the City Manager a copy of the audit working papers utilized in formulating the Auditor's Opinion within five (5) days of such request. These working papers shall be kept confidential to the extent required by federal law and FCC regulations.

This section shall not in any way affect the City's authority to review records of the Cable Operator pursuant to Section 5.36.630 above, or any other law, ordinance or agreement. (Ord. No.820, § 1, 3-19-02)

5.36.720 Time for Action.

(a) Quarterly Rate Adjustments. If the Cable Operator submits its proposed rates pursuant to the quarterly rate adjustment system authorized by the FCC, the provision of this subsection shall apply. The proposed rates shall take effect thirty (30) days after submission of all required information to the City, unless the City disapproves the rate or the City Manager issues an order extending the 30-day period as follows. The City Manager may issue a written order extending this 30-day period for the purpose of requesting or considering additional information or comments for: (a) an additional ninety (90) days in cases not involving cost-of-service showing if the City Council and City Manager are unable to make a determination within the 30-day period; or (b) an additional one hundred fifty (150) days in cases involving cost-of-service showings. The proposed rates shall take effect following such extension unless the Cable Operator has not submitted all required information or unless the City disapproves the proposed rate. Prior to expiration of such extended period, the City Manager may issue a brief written order directing the Cable Operator to keep an accurate account of all amounts received by reason of the proposed rate and on whose behalf such amounts were paid. At any time following expiration of such extended period, the City may disapprove the proposed rate and, if the foregoing accounting order was issued, may order the Cable Operator to refund all amounts previously collected as a result of the disapproved rate. To the extent provided by federal law, a Cable Operator utilizing the quarterly rate adjustment system may increase its rates for basic service to reflect increases in franchise fees or FCC regulatory fees without complying with this subsection.

(b) Annual Rate Adjustments. If the Cable Operator submits its proposed rates pursuant to the annual rate adjustment system authorized by the FCC, the provision of this subsection hall apply. The Cable Operator shall submit its proposed rates no later than ninety (90) days prior to the proposed effective date of the rates. Within forty-five (45) days of submission, the City may notify the Cable Operator that its submission is facially incomplete, in which case the review period shall be tolled until such time as the City receives all required information. If prior to a determination by the City there is a material change in the Cable Operator's circumstances which affects the rate filing, the Cable Operator may file an amendment. The proposed rates shall take effect the later of ninety (90) days after submission of all required information to the City or thirty (30) days after receipt of any amendment, unless the City disapproves the rate. If the City takes no action during this period, during the subsequent l2-month period the City may nevertheless issue a written decision disapproving the proposed rates and order a refund and a prospective rate reduction. During this l2-month period, if the Cable Operator makes a written inquiry concerning whether the City intends to issue a rate order, the City shall notify the Cable Operator of its intent within fifteen (15) days of receipt of the inquiry.

(c) Required Channel Additions to Basic Service Tier. If the Cable Operator is required by federal or local law to add channels to the Basic Services Tier and submits a proposed rate adjustment as a result, the proposed rates shall take effect sixty (60) days after receipt of a complete application unless the City rejects the proposed rate as unreasonable.

(d) New Equipment. If the Cable Operator submits a proposed rate for a new type of equipment, the proposed rate shall take effect sixty (60) days after receipt of a complete application unless the City rejects the proposed rate as unreasonable. If the Cable Operator's most recent rate filing was based on the system that enables them to file up to once per quarter, the City may order refunds and prospective rate reductions following the expiration of the sixty-day period, provided that it issues an accounting order prior to the expiration of that period. If the Cable Operator's most recent rate filing was based on the annual rate system, the City may order refunds and prospective rate reductions following the expiration of the sixty-day period in accordance with FCC regulations. (Ord. No. 820, § I, 3-19-02)

5.36.725 **Determination by City Manager**. In cases not involving cost-of-service showings, the City Manager shall consider all written material submitted by the Cable Operator and the public and determine if the proposed rates are within the limits established by the FCC regulations. The Cable Operator shall have the burden of proof to establish that its proposed rates are within the limits established by the FCC regulations. The City Manager may approve or disapprove the proposed rates, allow the proposed rates to take effect by operation of law by taking no action. or refer the matter to the City Council for hearing. The City Manager shall issue a written decision if he or she approves over opposition or disapproves the proposed rates in whole or in part. The City Manager is not required to issue a written decision if he or she approves a proposed rate which has not been opposed by any person or if he or she takes no action, in which event the proposed rate shall take effect upon expiration of the time period prescribed in the Section above. If the City Manager determines that the rates are unreasonable and do not comply with FCC regulations, the City Manager may prescribe reasonable rates as authorized by FCC regulations. If the City Manager determines that the Cable Operator's existing rates exceed the amounts permitted by FCC regulations, the City Manager may order the Cable Operator to refund the amounts overcharged to its subscribers to the extent permitted by the FCC regulations within ninety (90) days of the order. The City Manager shall notify the City Council of any determination made concerning proposed rates. The determination of the City Manager shall be final. Notwithstanding the foregoing, within ten (10) days after the determination by the City Manager or at the next regularly scheduled City Council meeting, whichever is later, any member of the City Council may call up the proposed rates for consideration by the City Council in accordance with the following Section. The proposed rates shall not take effect until the expiration of this period or, if called up by a Councilmember, pending determination by the City Council. (Ord. No. 820, § I, 3-19-02)

5.36.730 **Determination by City Council.** In cases involving a cost-of-service showing and in cases which are called up by a Councilmember in accordance with the foregoing Section, a hearing on the proposed rates shall be scheduled before the City Council upon submission of all required materials. The Cable Operator shall have the burden of proof to establish that its proposed rates are within the limits established by the FCC regulations. The City Council shall issue a written decision if it approves over opposition or disapproves the proposed rates in whole or in part. The City Council is not required to issue a written decision if it approves a proposed rate which has not been opposed by any person or if it takes no action, in which event the proposed rate shall take effect upon expiration of the time period prescribed in Section 5.36.720 above. If the City Council determines that the rates are unreasonable and do not comply

with FCC regulations, the City Council may prescribe reasonable rates as authorized by FCC regulations. If the City Council determines that the Cable Operator's existing rates exceed the amounts permitted by FCC regulations, the City Council may order the Cable Operator to refund the amounts overcharged to its subscribers to the extent permitted by the FCC regulations within ninety (90) days of such order. (Ord. No. 820, § 1,3-19-02)

5.36.735 **Appeals.** The Cable Operator or any interested person may appeal any decision of the City Councilor the City Manager relating to compliance with Federal rate standards to the FCC in accordance with FCC regulations. (Ord. No. 820, § I, 3-19-02)

5.36.740 **Complaints Concerning Premium Service Rates**. Upon receipt of more than one subscriber complaint made within 90 days after the effective date of an increased rate, the City Manager is authorized to file a complaint with the FCC challenging the reasonableness of the Cable Operator's rate for cable programming service, or the reasonableness of the Cable Operator's charges for installation or rental of equipment used for the receipt of cable programming service. However, the City Manager shall not file a complaint with respect to cable programming services after March 31, 1999 unless the City is authorized to do so by federal law or regulation. (Ord. No. 820, § 1,3-19-02)

PART 3.
OPEN VIDEO SYSTEMS

5.36.750 **Prerequisites to Operating an Open Video System**. Prior to operating an Open Video System, an Open Video System Operator shall elect to either obtain a cable television franchise pursuant to Part 2 above or to comply with this Part 3. No person or entity shall operate an Open Video System without first (a) submitting a written notice of its election; (b) complying with Article I above, (c) providing the City with a copy of its Federal Communications Commission certification as an Open Video System; and (d) completing negotiations with the City and otherwise complying with the public, educational and governmental access requirements contained in Section 5.36.755 below. If an Open Video System Operator fails to comply with any federal, state or City requirement, it shall immediately cease operations until such compliance occurs. This Part 3 shall not be deemed to authorize an Open Video System Operator to conduct any operations other than the provision of cable services. If an Open Video System Operator provides other Telecommunications Services, those Services shall comply with all applicable sections of this Code. Constructing or operating an Open Video System shall not be deemed to give any Open Video System Operator a vested right to continue to maintain such a system. In the event that federal law ever permits the City to require an Open Video System Operator to obtain a franchise or license, all Open Video System Operators shall immediately apply for such a franchise or license from the City. (Ord. No. 820, § 1, 3-19-02)

5.36.755 **Public, Educational and Governmental Access**. Prior to operating an Open Video System, an Open Video System Operator shall negotiate with the City concerning public, educational and governmental access channel capacity, services, facilities and equipment. These negotiations may include the local Cable Operator(s) if all parties so agree. If the City and the Open Video System Operator are unable to reach agreement, the Open Video System Operator must satisfy the same public, educational and government access obligations as the local Cable Operator(s) by connecting with the Cable Operator's public, educational and governmental access channel feeds and by sharing the Cable Operator's costs relating to such channels. The City Council may adopt a resolution governing the use of such channels and the implementation of the connection of the Open Video System with the Cable System. (Ord. No. 820, § 1,3-19-02)

(Continued on next page)

5.36.760 Fees. All Open Video System Operators shall pay a fee to the City in an amount equal to five percent (5%) of the Open Video System Operator's Gross Revenues. The Open Video System Operator shall make fee payments quarterly on the first day of each calendar quarter. Fee payments shall be submitted together with documentation of the Open Video System Operator's Gross Revenues in such form as may be required by the City from time to time. (Ord. No. 820, § 1,3-19-02)

5.36.765 Compensation Relating to Non-Cable Telecommunications Services. All Open Video System Operators shall pay compensation to the City for use of public property in an amount equal to five percent (5%) of the Open Video System Operator's Gross Non-Cable Revenues. Payments shall be submitted to the City on the first day of each quarter of each calendar year together with documentation of the Open Video System Operator's Gross Non-Cable Revenues in such form as may be required by the City from time to time. (Ord. No. 820, § 1, 3-19-02)

5.36.770 Fees on Non-Open Video System Operator Revenues. In consideration of the use of public property, any person other than a Open Video System Operator who provides Cable Service or any other Telecommunications Service over an Open Video System for which charges are assessed to subscribers but which are not received by an Open Video System Operator shall pay a fee to the City in an amount equal to five percent (5%) of that person's Gross Revenues and Gross Non-Cable Revenues. The Open Video System Operator whose Open Video System is used by such person shall collect the foregoing fee from such person no later than the tenth day prior to the close of each calendar quarter and shall remit the fee to the City no later than the first day of the following calendar quarter. If the Open Video System Operator fails to collect or remit all or part of this fee, the Cable Operator shall be directly liable to the City for payment of the uncollected or unremitted fee. (Ord. No. 820, § 1, 3-19-02)

5.36.775 Audit. Consistent with Section, the City shall have the right to inspect and audit all of the Open Video System Operator's books and records and those of its affiliates relevant to an accurate determination of the total amount of the Open Video System Operator's Gross Revenues and Gross Non-Cable Revenues. The Open Video System Operator shall make such records available to the City within fourteen (14) days of the City's request. Such records shall be available for inspection by the City at the Open Video System Operator's office within the City during normal business hours. Such records shall be retained by the Open Video System Operator for a period of at least three (3) years. The City will bear the cost of any such audit; provided, however, that if such audit indicates a franchise fee underpayment of three percent (3%) or more of the amount due, the Open Video System Operator shall reimburse the City for all reasonable costs relating to the audit. Any additional amount due to the City as a result of the audit shall be paid within thirty (30) days following written notice to the Open Video System Operator, which notice shall include a copy of the audit report. If the Open Video System Operator believes the audit report is in error, it may send a written response to the City describing the error in lien of making the payment. If the City disagrees with the response, it shall notify the Open Video System Operator in writing, after which the Open Video System Operator shall pay the additional amount due within thirty (30) days. (Ord. No. 820, § 1, 3-19-02)

5.36.780 **Late Payments**. In the event that the Open Video System Operator does not make any payments required by this Code on or before the date due, a late payment penalty shall accrue at a rate of one and one-half percent (1-'12%) per month on the unpaid amount until paid. (Ord. No. 820, § 1, 3-19-02)

PART 4.
TELEPHONE COMPANIES

5.36.800 **Telephone Companies**. All Telephone Companies shall comply with all provisions of Part 1 above. All Telephone Companies shall obtain a franchise from the City pursuant to Part 6 below unless such Companies are exempt from franchising requirements pursuant to state or federal law. A Telephone Company shall not be deemed exempt from the franchise requirement unless and until it provides documentation of such exemption to the satisfaction of the City. (Ord. No. 820, § 1, 3-19-02)

PART 5.
WIRELESS TELECOMMUNICATIONS SYSTEM OPERATORS

5.36.850 **Wireless Telecommunications System Operators.** All Wireless Telecommunications System Operators shall comply with all provisions of Part 1 above. All Wireless Telecommunications System Operators shall obtain a franchise from the City pursuant to Part 6 below unless such Companies are exempt from franchising requirements pursuant to state or federal law. A Wireless Telecommunications System Operator shall not be deemed exempt from the franchise requirement unless and until it provides documentation of such exemption to the satisfaction of the City.

Part 6.
OTHER TELECOMMUNICATIONS SYSTEM OPERATORS

5.36.900 **Other Telecommunications System Operators.** All Telecommunications System Operators shall comply with all provisions of Part 1 above. All Telecommunications System Operators shall obtain a franchise from the City Pursuant to this Part 6 unless such Companies are exempt from franchising requirements pursuant to state or federal law. A Telecommunications System Operator shall not be deemed exempt from the franchising requirement of Part Article 6 unless and until it provides documentation of such exemption to the satisfaction of the City. (Ord. No. 820, § 1, 3-19-02)

Chapter 5.38
FILMING PERMITS

Sections:

5.38.010 Definitions.
5.38.020 Permits and exemptions.
5.38.030 Rules and regulations.
5.38.040 Applications and issuance.
5.38.050 Fee schedule.
5.38.060 Liability provisions.
5.38.070 Violation.

5.38.010 Definitions. For the purposes of this Chapter, the following words shall have the meanings set out in this Chapter.

"Motion picture, television, still photograph" shall mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercials.

"Charitable films" shall mean 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.

"News Media" shall mean the filming or videotaping for the purpose of spontaneous, unplanned television news broadcast by reporters, photographers or cameramen. (Ord. 681c§l, 1990).

5.38.020 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 or television pictures or commercial still photography without first applying for and receiving a permit from the Officer designated by the City.

Exemptions:

1. News Media: The provisions of this Chapter shall not apply to or affect reporters, 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. (Ord. 681 §l, 1990)

5.38.030 Rules and regulations.

A. Change of Date: Upon the request of the applicant, the issuing authority shall have the power, upon a showing of good cause, to change the date for which the permit has been issued provided establish limitations are complied with in respect to time and location.

B. Rules: The designated City Officer is hereby authorized and directed to promulgate rules and regulations, subject to approval by resolution of the Council, governing the form, time and location of any film activity set forth within the City. He shall also provide for the issuance of permits. The rules and regulations shall be based upon the following criteria:

I. The health and safety of all persons;

2. Avoidance of undue disruption of all persons within the affected area;

3. The safety of property within the City; and

4. Traffic congestion at particular locations within the City. (Ord. 681 §l, 1990)

5.38.040 Applications and issuance.

A. Issuing Authority: The issuing authority shall be the City Manager or his designee.

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

1. The name of the owner, the address and telephone number of the place at which the activity is to be conducted;
2. The specific location at such address or place;
3. The inclusive hours and dates such activity will transpire;
4. A general statement of the character or nature of the proposed filming activity;
5. The name, address and telephone number of the person or persons in charge of such filming activity.
6. The exact number of personnel to be involved;
7. Use of any animals or pyrotechnics; and
8. The exact amount/type of vehicles/equipment to be involved.

C. Use Fees: are required.

D. Reimbursement for Personnel: The production company shall reimburse the City for any personnel provided to the company (i.e., police, fire, traffic) for the purpose of assisting the production. (Ord. 681 §l, 1990)

5.38.050 Fee schedule.

A.	Application and Permit Fee.	$75.00
B.	Use of City personnel and equipment for traffic control, closure of streets, and any other assistance needed. A deposit may be required, based on activity, if actual cost cannot be determined at start of filming. Cost (Ord. 681 §l, 1990)	Actual

5.38.060 Liability provisions.

A. Liability Insurance: Before a permit is "issued, a certificate of insurance will be required in an amount not exceeding $1,000,000 naming the City as a coinsured 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 insured. The certificate shall not be subject to cancellation or modification until after thirty (30) days' written notice to the City. A copy of the certificate will remain on file.

B. Workers' Compensation Insurance: An applicant shall conform to all applicable Federal and State requirements for Workers' Compensation Insurance for all persons operating under a permit.

C. 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 based on the activity) at the time application is submitted. Upon completion of filming and inspection of the site by the City, the bond may be returned to the applicant. (Ord. 681 §l, 1990)

5.38.070 Violation. If an applicant violates any provision of this Ordinance or a permit issued pursuant thereto, the City may cancel the permit. Violation of the terms and conditions of the film permit is considered a misdemeanor. (Ord. 681 §l, 1990)

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Chapter 5.40
FORTUNE TELLING

Sections:

5.40.010 Purpose and Intent
5.40.020 Definitions
5.40.030 Permit Required
5.40.040 Exemptions
5.40.050 Permit application and renewal: fees
5.40.060 Application Contents
5.40.070 Approval by the Chief of Police
5.40.080 Denial of Permit
5.40.090 Revocation
5.40.100 Hours Permitted
5.40.110 Inspection
5.40.120 Records
5.40.130 Hearing and Appeal
5.40.140 Appeal to the City Council
5.40.150 Display of permit and ordinance
5.40.160 Sale or Transfer
5.40.170 Civil Remedies and Criminal Penalties

5.40.010 Purpose and Intent It is the purpose of this Chapter to require the licensing and issuance of a permit as a condition for the practice of fortune telling in the city to reduce the risk of fraud and larceny to clients, and to set forth the standards for governing the issuance of the permits, rules and regulations under which such permits shall remain in force, the issuance of a license therefore, and providing a punishment for operation of a fortune telling establishment without a duly issued and valid permit and license. (Ord. 1026, 10/2012)

5.40.020 Definitions The following words and phrases when used in this Chapter shall have the definitions respectfully ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Fortune Telling" shall consist of foretelling any event or events which may occur in the future or furnishing any information not otherwise obtainable by the ordinary process of knowledge, by means of cards, palmistry, astrology, crystal gazing, numerology, phrenology, clairvoyance, necromancy, mindreading, telepathy, magic or by any supernatural, mystic or occult means; or in locating or divining any treasure, mineral, lost or missing article, or person by such means; or in persuading, inducing or procuring any person to transfer, convey, donate, devise, bequeath, pledge, mortgage or deposit any money or property by such means; or to describe, expound or resolve any matter pertaining to business, finance, romance, bereavement, or good or bad fortune, by means, or pretending, assuming or undertaking to do any of the above mentioned things or to aid or assist any other person in so doing; or to make, sell or give away charms, potions, talismans or magic articles, or anything purporting to be such.

B. "Fortune Teller" shall mean any person who advertises by sign, circular, handbill, newspaper, periodical, magazine or other means whatsoever the practice of fortune telling and/or occult arts, and shall include any person who advertises as a "psychic" or "spiritual reader" or "spiritual counselor" for the purpose of the practice of fortune telling and/or the occult arts;

C. "Fortune Telling Establishment" shall mean the premises, location or place advertised for or purported to be used for the practice of fortune telling and/or occult arts.

(Ord. 1026, 10/2012)

5.40.030 Permit Required

A. No person, association, partnership or corporation shall conduct, operate or advertise for an establishment in which the practice of fortune telling and occult arts is carried on for pay, compensation or gratuity without obtaining and maintaining in effect a permit as required in this Chapter.

1. No Permittee hereunder shall employ any person who practices fortune telling and/or occult arts, or who offers to or solicits to perform fortune telling and occult arts, or who holds himself/herself out to be a fortune teller if said person does not hold a current, unrevoked permit as required by this Chapter.

2. No permit shall be issued to any person who is not eighteen years of age or older.

(Ord. 1026, 10/2012)

5.40.040 Exemptions This Chapter shall not apply to:

A. Any person who conducts or participates in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, or clairvoyant from any bona fide church or set of religious principles that is recognized by all churches of like faith; provided further, that the fees, gratuities, emoluments and profits thereof shall be regularly accounted for and paid solely to or for the benefit of said church or religious association;

B. Any person solely engaged in the exhibition of fortune telling at a theater hall or public place for the purpose of entertainment and amusement only;

C. Nothing in this section shall be construed as exempting any person from the payment of any applicable business license fee which may be required to be paid by the licensing provisions of this Code.

(Ord. 1026, 10/2012)

5.40.050 Permit application and renewal: fees An application for a permit to practice fortune telling and occult arts shall be made to a duly authorized representative of the Chief of Police under penalty of perjury on forms provided by the Chief of Police. The application to practice fortune telling and occult arts shall be accompanied by an investigation filing fee as provided by resolution establishing fees and charges therefor by the city council, plus the fee charged by Department of Justice for fingerprint processing.

Said fees are not refundable in the event such application is denied.

Each permit under this chapter shall expire on June 30th of the current year. An unrevoked permit may be renewed for one year on written application to the Chief of Police, made on or before May 15th of each year, accompanied by the required fees. Said application for renewal shall be made on a form provided by the Chief of Police.

The annual renewal application shall be accompanied by a renewal filing fee. Permits issued April, May or June of the current year shall expire June of the following year.

Fortune telling Permit fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter of this code.

5.40.060 **Application Contents** Any applicant for a permit under this chapter shall submit the following information under penalty of perjury:

A. The full name, present residence and telephone numbers of the applicant;
B. Address of the proposed location for the conduct of the profession, art or business;
C. Any and all maiden, fictitious or other names ever used by the applicant;
D. Prior residence and business addresses used by the applicant during the five year period preceding the date of the application;
E. The Social Security number and a California Driver's License or California Identification Card number or other satisfactory government-issued identification number of the applicant;
F. The applicant's height, weight, hair and eye color, and all distinguishing marks, scars or tattoos;
G. Business, occupation or employment history of the applicant for a period of five years preceding the date of application;
H. The name or names under which the applicant proposes to conduct said activity or practice and the business address of the premises where such practice is to be carried on in connection with a similar or other kind of business;
I. The name or names, both true or fictitious, and addresses of any and all persons, associations, partnerships or corporations holding an interest or involvement in said interest or involvement;
J. A statement of any and all criminal convictions, except minor traffic offenses not designated as a felony, including the nature thereof, where they occurred and the sentence therefore;
K. A list of fortune telling or similar licenses currently or previously held by the applicant and whether any such license had been revoked or suspended and the reason therefore;
L. A list of at least three character references unrelated to the applicant by blood or marriage, and known to the applicant for at least five years. The list shall include true and fictitious names and current addresses and telephone numbers of said character references;
M. Any additional information as needed by the Chief of Police to complete the investigation.

(Ord. 1026, 10/2012)

5.40.070 Approval by the Chief of Police

A. At the time the application is filed, the applicant shall pay the fee charged by Department of Justice for fingerprint processing and the permit fee for processing the application and investigation. The Chief of Police or his/her authorized representative, shall conduct and complete an investigation of the statements made in the application and the background of the applicant. Upon completion of the investigation, the Chief of Police may approve or deny the application. The endorsement "approved" shall constitute a permit for the applicant upon payment of the business tax to the City as required by BMC.

B. In the event of such refusal (denial of permit), a copy of the application with reasons shall be sent to the applicant by means of certified mail. The applicant shall have seven calendar days from receipt of the City's certified letter to appeal the decision. In the event the certified letter is returned to the city unsigned, the appeal period shall be deemed to be fourteen (14) calendar days from postmark. (Ord. 1026, 10/2012)

5.40.080 Denial of Permit Upon the Chief of Police's review of the application, the Chief of Police may refuse to issue a permit to the applicant under this chapter for any of the following reasons:

A. The investigation reveals that the applicant falsified information of the application, concealed a material fact or otherwise committed any fraud in the application.

B. The applicant has been convicted of a felony involving an offense against private property interest, such conviction being entered within the five years preceding the date of application. Such property offenses include, but the not limited to, larceny, false pretense, fraud, grand theft and embezzlement.

C. The applicant has been denied a permit under this chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the Chief of Police that the reasons for such denial no longer exist.

5.40.090 Revocation The Chief of Police shall revoke any permit upon any grounds for which he/she may have refused the issuance thereof or upon conviction or upon a plea of guilty or non contendere for any violation of this chapter or the operation of the establishment does not comport with the peace, health, safety and general welfare of the public.

A. To revoke a permit the Chief of Police or his/her authorized representative, shall serve upon the holder thereof, a written notice that said license shall be revoked effective upon receipt of the notice in person, or five days after the mailing of said notice.

B. A revoked permit shall be immediately surrendered to the Chief of Police or his authorized representative.

(Ord. 1026, 10/2012)

5.40.100 **Hours Permitted** It shall be unlawful to keep open to the public or to conduct the activity and practices defined in this chapter on any day of the week between the hours of twelve midnight and eight a.m. (Ord. 1026, 10/2012)

5.40.110 **Inspection** The City's Police Chief, Fire Chief and Building Official and their authorized representatives, shall have the right to enter the fortune telling establishment from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with applicable building, fire or electrical regulations and the provisions of this chapter. (Ord. 1026, 10/2012)

5.40.120 **Records** Every person, association, partnership or corporation operating a fortune telling establishment under a permit as herein provided shall keep accurate business records. Said records shall be maintained and open for inspection for a period of three years and shall be kept on the premises of the fortune telling establishment. Failure to keep and maintain said records as provided in this section shall be grounds for suspension or revocation. (Ord. 1026, 10/2012)

5.40.130 **Hearing and appeal**

A. Prior to the revocation and suspension of any permit issued pursuant to the provisions of this chapter, a hearing shall be held by the Chief of Police. Written notice of the grounds for the hearing as well as its time and place shall be mailed to the permittee seven days in advance of the hearing. Within twenty-four hours after the conclusion of the hearing the Chief of Police shall mail written notice to the permittee of his decision.

B. The decision of the Chief of Police may be appealed to the City Council in accordance with the provisions of Section 5.40.130.

(Ord. 1026, 10/2012)

5.40.140 **Appeal to the City Council** An appeal may be taken to the city council by any person aggrieved by an order of the Chief of Police concerning the denial, suspension or revocation of a permit. The right of appeal is subject to the conditions and procedures set forth in this section:

A. **Procedures - Time Limitations**. An appeal to the city council shall be made by filing a petition in triplicate with the city clerk not later than fourteen (14) days from the decision of the Chief of Police or the mailing thereof, whichever is later. The petition shall set forth the grounds of appeal and the reasons why such appeal should be granted. Upon receipt of the petition, the city clerk shall immediately forward a copy to the Chief of Police and within ten days following the filing of appeal the petition shall be placed on the agenda of the City Council. If the City Council will not have held a meeting within the aforesaid ten-day period, then the petition shall be received by the City Council at its next regularly scheduled meeting. Upon receipt of the petition, the City Council shall set the matter for hearing and give the appellant notice of a time and place for the hearing. The notice shall be given in person or by mail not later than ten days prior to the hearing. The hearing shall be held not later than thirty days following receipt of the petition by the City Council.

B. **Action by City Council.** In considering and ruling upon the appeal of the petitioner, the City Council shall judge the merits of the appeal based upon those grounds set forth in Sections 5.40.090 and 05.40.130 of this chapter. The City Council may reverse or affirm wholly or partly or may modify any decision, determination, or requirement of the Chief of Police and may make such decisions or determinations or impose such conditions as the facts warrant, and may order that a permit be granted, suspended, or revoked in accordance with their ruling. The decisions of the City Council shall be final. Any hearing may be continued from time to time.

C. Stay or Order. The filing of an appeal to the City Council stays all proceedings in furtherance of the action appealed from until determination of the appeal as provided in this chapter. (Ord. 1026, 10/2012)

5.40.150 **Display of permit and ordinance** Every person to whom or for whom a permit shall have been granted shall display the permit and shall post and continually keep posted a copy of the ordinance adopting this chapter in a conspicuous place so that the same may be readily seen by persons entering the premises where Fortune Telling is performed. (Ord. 1026, 10/2012)

5.40.160 **Sale or transfer** Upon sale or transfer of a Fortune Telling Establishment, the permit and license therefore shall be null and void. (Ord. 1026, 10/2012)

5.40.170 **Civil Remedies and Criminal Penalties.** In the event of a violation of this Chapter:

A. In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17.200 et seq. or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16.010. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030. Each such violation shall be deemed a separate offense as specified in Section 1.16.040; or

B. The City Attorney may bring an action to enjoin a violation of this Chapter; or

C. A violation of any provision of this Chapter may be prosecuted as a misdemeanor punishable under Section 1.24.110 of this code or pursuant to applicable state law; or

(Ord. 1026, 10/2012)

Chapter 5.44
MASSAGE ESTABLISHMENTS

Sections:

5.44.010 Purpose.
5.44.020 Definitions.
5.44.030 Permit required.
5.44.040 Filing and fee provisions.
5.44.050 Application for permit for massage establishment.
5.44.060 Masseur permit
5.44.070 Application form for masseur.
5.44.080 Facilities necessary.
5.44.090 License applicant investigation.
5.44.100 Approval by City Health Officer.
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5.44.010 Purpose. The purpose of this chapter is to require the licensing and issuance of a permit as a condition for the conduct of massage services and massage establishments in the city, and to set forth the standards for governing the issuance of the permits, rules and regulations under which such permits shall remain in force, the issuance of a license therefor, and providing a punishment for operation of a massage establishment or rendering of massage services without a duly issued and valid permit and license. (Ord. 438 51, 1972)

5.44.020 Definitions.

A. For the purpose of this chapter, the following words and phrases are defined as follows:

1. "City health officer" means the health officer of the county or his authorized representative.
2. "Massage" means a method of exerting pressure on or friction against, stroking or kneading the body by manual or mechanical means.
3. "Massage establishment" means any establishment wherein massage is given, engaged in or carried on or permitted to be given, engaged in or carried on and any business of giving baths of any kind, nature or sort whatsoever where the body is rubbed or there is any manipulation of the body or similar procedures given.

4. "Masseur" means any person who engages in the practice of massage as defined in this section. Masseur shall also include masseuse, as the use of the masculine gender shall include in all case the feminine gender as well.

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

B. The definitions set out in subsection A of this section shall not include hospitals, nursing homes, sanitaria, persons holding an unrevoked certificate to practice the healing arts under the laws of the state, or persons working under the direction of any such persons in any such establishment. (Ord. 438 52, 1972)

5.44.030 Permit required. It is unlawful for any person to engage in, conduct or carry on in or upon any premises in the city, the operation of a massage establishment as defined in this chapter without first having obtained a permit from the police department issued pursuant to the provisions of this chapter. (Ord. 438 53, 1972)

5.44.040 Filing and fee provisions. Every applicant for a permit to maintain, operate or conduct a massage establishment shall file an application with the chief of police upon a form provided by the chief of police, which application shall be accompanied by the payment of a fee as .provided by resolution establishing fees and charges therefor by the city council. 9Ord. 438 §4, 1972)

5.44.050 Application for permit for massage establishment. The application for a permit to operate a massage establishment shall set forth the exact nature of massage to be administered, the proposed place of business and facilities therefor, the name and address of each applicant, and in addition to the foregoing, the applicant for a permit shall furnish the following information:

A. The social security number of the applicant,
B. The two previous business and residence addresses immediately prior to the present or proposed business address of the applicant,
C. Written proof that the applicant is over the age of eighteen years,
D. Written statements of at least three bona fide residents of the city that the applicant is of good moral character,
E. The applicant's height, weight, color of eyes and hair, and sex,
F. Two portrait photographs at least two inches by two inches,
G. Business occupation or employment of the applicant for the three years immediately preceding the date of the application,
H. The massage or similar business license history of the applicant; whether such person in previously operating in this city or another city or state under license has had such license revoked or suspended, the reason therefor, and the business activity or occupation of applicant subsequent to such action or suspension or revocation,
I. All criminal convictions and the reasons therefor;
J. A certificate from a medical doctor stating that the applicant has within thirty days immediately prior thereto been examined and found to be free of any contagious or communicable disease,

K. The applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage technicians is taught, the term "state approved school" means and includes any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage which has been certified by the State of California Department of Education, Bureau of School Approvals. The chief of police shall have the right to confirm the fact that the applicant has actually attended classes in a state approved school;

L. Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

M. Nothing contained in this chapter shall be construed to deny to the chief of police the right to take the fingerprints and additional photographs of the applicant nor shall anything contained in this chapter be construed to deny the right of the chief of police to confirm the physical description of the applicant;

N. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation. The names and residence addresses of each of the officers, directors and each stock holder owning more than ten percent of the capital stock of the corporation. If the applicant is a partnership or association, the application shall set forth the name or residence addresses of each of the partners and/or associates including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply. A corporation, partnership or association shall be deemed to have complied with the provisions of subsection K of this section if the managing director or partner or managing employee of the business has the required diploma or certificate of graduation. (Ord. 438 §5, 1972)

5.44.060 Masseur permit. Any person who engages in the practice of massage as defined in this chapter shall file an application with the chief of police upon a form provided by the chief of police and shall pay an investigation fee as provided in the resolution establishing fees and charges located in the office of the city clerk. (Ord. 438 56, 1972)

5.44.070 Application form for masseur. The application for a masseur permit shall contain the following:

A. Name and residence address;

B. Social security number and driver's license number, least two inches by two Applicant's height, weight, color of eyes and hair, and date of birth; Two portrait photographs at if any;

C. and sex

D. inches;

E. written evidence that the applicant is over the age of eighteen years (copy of birth certificate);

F. Business, occupation or employment of the applicant for the three years immediately preceding the date of the application;

G. Whether such person has ever been convicted of any crime except misdemeanor traffic violations. If any person mentioned in this section has been so convicted, a statement must be made giving the place and court in which the conviction was had, the specific charge under which the conviction was had, the specific charge under which the conviction was obtained, and then sentence imposed as a result of such conviction;

H. The chief of police shall have the right to take fingerprints and a photograph of the applicant with the right of the chief of police to confirm the information submitted;

I. The applicant must have a diploma or certificate of graduation from a state approved school wherein the method, profession and work of massage is taught. The term "state approved school" means and includes any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage which has been certified by the State of California, Department-of Education, Bureau of School Approvals. The chief of police shall have a right to confirm the fact that the applicant has actually attended classes in a state approved school.

J. Every application for a permit shall be verified by the applicant under penalty of perjury. (Ord. 438 §7, 1972)

5.44.080 Facilities necessary. No permit to conduct a massage establishment shall be issued unless an inspection conducted pursuant to Section 5.44.090 reveals that the establishment complies with each of the following minimum requirements:

A. Construction of rooms used for toilets, tubs, saunas, steam baths and showers shall be performed in accordance with the provisions of the Uniform Building Code of the city;

B. Lighting shall be provided which is not less than the minimum required by the Uniform Building Code of the city. In addition, at least one artificial light of not less than forty watts shall be provided in each enclosed room or booth where massage services are being performed on a patron;

C. ventilation shall be provided which is not less than the minimum required by the Uniform Building Code of the city;

D. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided;

E. Hot and cold running water shall be provided at all times;

F. Closed cabinets shall be provided which cabinets shall be utilized for the storage of clean linen;

G. In any establishment in which massage services are rendered only to members of the same sex at anyone time, such persons of the same sex may be placed in a single separate room or the operators of the massage establishment may elect to place, such persons of the same' sex in separate enclosed rooms or booths having adequate ventilation to an area outside the room or booth while massage services are being performed;

H. Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, as well as a minimum of one toilet and one wash basin shall be provided by every massage establishment; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate massage room or rooms/ separate dressing and separate toilet facilities shall be provided for male and female patrons.

I. All walls, ceilings, floors, pools, showers, bath tubs, steam rooms, and all other physical facilities of the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned after each use;

J. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted;

K. A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be permanently installed dispensers. (Ord. 438 §8, 1972)

5.44.090 **License applicant investigation.** The chief of police, upon receiving an application for a massage establishment permit, shall refer the application to the city building inspector, the city fire department and the city planning department, which department shall inspect the premises proposed to be devoted as a massage establishment and shall make separate written recommendations to the chief of police concerning compliance with the respective requirements within fourteen days after receipt of the aforementioned approval. (Ord. 438 §9 1972)

5.44.100 **Approval by city health officer.** The chief of police shall also submit a copy of the application to the city health officer, who shall thereupon conduct an investigation into the personal health and health history of the applicant, and shall require proof that the applicant is free from all communicable diseases. The applicant shall also furnish an acceptable report of a chest X-ray showing freedom from tuberculosis. The health officer may also, in his discretion, order a physical examination of any person engaged in the massage practice. Before any license or permit shall issue under this chapter, the health officer shall first sign his approval to the application therefor and return the form to the chief of police. Should the health officer fail to approve the license or permit application, he shall, with the return application form, set forth fully in writing his reason therefor based on the following grounds:

A. That the applicant has communicable or venereal disease; or

B. That the applicant's personal health history would make him poor risk in the massage practice; or

C. That the premises fail to meet the sanitation standards required by this chapter; or

D. That the applicant is currently in violation of any or some health regulation contained in the ordinance codified in this chapter or other ordinances of the city. (Ord. 438 10, 1972)

5.44.110 Time within which to grant or deny permit.

A. Within thirty days after the filing of an application for a permit, the city clerk shall review the application together with the reports and the recommendations of the police chief, fire chief, city planning commission and health officer and shall grant the permit or shall notify the applicant that he proposes to deny the application. Notice thereof shall be in writing and sent by mail postage prepaid to the applicant's mailing address as set forth in the application. In the event of denial, the applicant may appeal to the city council in accordance with the provisions of this chapter.

B. For the purpose of permitting the applicant to correct minor defects, on request of the applicant and his assurance that the matters objected to will be corrected, the city clerk may extend the time within which he is otherwise required to act on the permit application for a period not to exceed thirty days. (Ord. 438 § ll, 1972)

5.44.120 Application fee. At the time of filing an application for a permit or renewal thereof, the applicant shall pay a fee in accordance with the following:

A. For each initial permit, the sum of one hundred dollars plus twenty-five dollars for each person other than an individual applicant to be employed by the massage establishment;

B. For each renewal permit, the sum of fifty dollars plus twenty-five dollars for each person other than an individual applicant to be employed by the massage establishment;

C. Nothing contained in this chapter shall constitute a waiver of the requirements of Division I of this title requiring the issuance and possession of a business license;

D. Subject to revocation or suspension, the permit shall expire on that date set forth as the expiration date on the permittee's business license issued pursuant to Division I of this title. The permit may be renewed annually upon application accompanied by the renewal fee. Applications for renewal shall be subject to all of the provisions of this chapter.

E. All permits issued under this chapter are nontransferable; however, a change of location of a massage establishment may be permitted provided all ordinances and regulations of the city are complied with and provided a change of location fee of fifty dollars is paid to the city. (Ord. 438 §12, 1972)

5.44.130 Issuance of permit. The chief of police shall issue a massage establishment and/or masseur permit if all of the provisions of this chapter have been met, unless he finds:

A. That the operations as proposed by the applicant, if permitted, would not comply with all applicable ordinances and laws including but not limited to the city's building, health, zoning and fire ordinances or regulations adopted by the city health officer;

B. That the applicant and/or any other person who will be directly engaged in the management, operation or employ as a masseur in the operation of the applicant's establishment or otherwise, has been convicted of:

1. An offense involving conduct which requires registration pursuant to Section 290 of the Penal Code of the state,
2. An offense involving the use of force and violence upon the person of another that constitutes a felony,
3. An offense involving sexual misconduct with children,
4. An offense as defined under Sections 311 through 311. 7, 647 (a), 647 (b), 647a, 647b, 314, 315, 316, or 318 of the Penal Code of the state;

C. If it reasonably appears that the location of the business after review of the reports required in Section 5.44.090 is not a suitable place in which to conduct or maintain such business or calling, or the applicant requesting such permit does not want the issuance thereof. (Ord. 438 §13, 1972)

5.44.140 **Masseur permit required.** No operator of a massage establishment as defined in this chapter shall employ any masseur on the premises unless and until such person has been granted a masseur permit by the chief of police as provided in this chapter. The operator of such establishment must maintain a register of all persons so employed and their permit number, which register shall be available for inspection at all times during regular business hours. (Ord. 438 §14, 1972)

(Continued on next page)

5.44.150 Revocation or suspension of permit. Any permit issued for a massage establishment or any masseur permit may be revoked or suspended by the chief of police after a hearing conducted pursuant to the next succeeding section on any of the following grounds:

A. Violation of any of the provisions of this chapter;

B. Failure or refusal to permit any duly authorized officer of the city to inspect the premises or the operations therein;

C. Immoral conduct or activities at the permittee's place of business;

D. Operation, management or maintenance of permittee's place of business without regard for public health or the health of patrons or customers or without due regard to proper sanitation or hygiene;

E. Conviction of any crime requiring registration under Section 290 of the Penal Code of the state;

F. Violation of Sections 311 through 311.7, 647(a), 647 (b), 647a, 647b, 650 1/2, 314, 315, 316 or 318 of the Penal Code of the state. (Ord. 438 §15, 1972)

5.44.160 Hearing and appeal.

A. Prior to the revocation and suspension of any permit issued pursuant to the provisions of this chapter, a hearing shall be held by the chief of police. Written notice of the grounds for the hearing as well as its time and place shall be mailed to the permittee seven days in advance of the hearing. Within twenty-four hours after the conclusion of the hearing the chief of police shall mail written notice to the permittee of his decision.

B. The decision of the chief of police may be appealed to the city council in accordance with the provisions of Section 5.44.170. (Ord. 438 §16, 1972)

5.44.170 Appeal to the city council. An appeal may be taken to the city council by any person aggrieved by an order of the chief of police concerning the denial, suspension or revocation of a permit. The right of appeal is subject to the conditions and procedures set forth in this section:

A. **Procedures--Time Limitations**. An appeal to the city council shall be made by filing a petition in triplicate with the city clerk not later than ten days from the decision of the chief of police or the mailing thereof, whichever is later. The petition shall set forth the grounds of appeal and the reasons why such appeal should be granted. Upon receipt of the petition,· the city clerk shall immediately forward a copy to the chief of police and within ten days following the filing of appeal the petition shall be placed on the agenda of the city council. If the city council will not have held a meeting within the aforesaid ten-day period, then the petition shall be received by the city council at its next regularly scheduled meeting. Upon receipt of the petition, the city council shall set the matter for hearing and give the appellant notice of a time and place for the hearing. The notice shall be given in person or by mail not later than ten days prior to the hearing. The hearing shall be held not later than thirty days following receipt of the petition by the city council.

B. **Action by City Council.** In considering and ruling upon the appeal of the petitioner, the city council shall judge the merits of the appeal based upon those grounds set forth in Sections 5.44.130 and 5.44.150 of this chapter. The city council may reverse or affirm wholly or partly or may modify any decision, determination, or requirement of the chief of police and may make such decisions or determinations or impose such conditions as the facts warrant, and may order that a permit be granted, suspended, or revoked in accordance with their ruling. The decisions of the city council shall be final. Any hearing may be continued from time to time.

C. **Stay or Order**. The filing of an appeal to the city council stays all proceedings in furtherance of the action appealed from until determination of the appeal as provided in this chapter. (Ord. 438 §17, 1972)

5.44.180 **Display of permit and ordinance.** Every person to whom or for whom a permit shall have been granted shall display the permit and shall post and continually keep posted a copy of the ordinance adopting this chapter in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage, bath or treatment is given. (Ord. 438 §18, 1972)

5.44.190 **Sale or transfer.** Upon sale or transfer of a massage establishment, the permit and license therefor shall be null and void. (Ord. 438 §19, 1972)

5.44.200 **Name and place of business.**

A. No person granted a permit issued pursuant to this chapter shall operate under any name or conduct his business under any designation not specified in his permit.

B. Permittees shall notify the police department of any changes in name or address of home or business. In case of any change of location or extension of the place of the business, inspection thereof shall be made as required in this chapter before use of the same for the purpose of the business and an amended permit within thirty days shall be issued, if indicated, in order to show clearly the address or place of such new location or extension. No fee shall be charged either for such inspection or for such amended permit. (Ord. 438 §20, 1972)

5.44.210 **Daily register**. Every person who engages in or conducts a massage establishment as defined in this chapter shall keep a daily register, approved in form by the police department, of all patrons, the hour of patron's arrival, the room or cubicle assigned to the patron, if any, and masseur who massaged the patron. The daily register shall at all times during business hours be subject to inspection by the health officer and by the police department and shall be kept on file for one year. (Ord. 438 §2l, 1972)

5.44.220 **Inspections.** The police department and the health officer shall from time to time make an inspection of each massage establishment in the city for the purpose of determining compliance with the provisions of this chapter. (Ord. 438 §22, 1972)

5.44.230 **Unlawful conduct**. It is unlawful for any person to massage any other person, or give or administer any bath or baths, or to give or administer any of the other things mentioned in this chapter which would violate the provisions of Section 5.44.150. Any violation of this provision shall be deemed grounds for the revocation of the permit granted under this chapter. (Ord. 438 §23, 1972)

5.44.240 **Employees.** It shall be the responsibility of the holder of the permit for the massage establishment or the employer of any such persons purporting to act as masseurs, to insure that each person employed as ~ masseur shall first have obtained a valid permit pursuant to this chapter. It is unlawful for the owner, proprietor, manager or other person in charge of any massage establishment to employ any person who is not at least eighteen years of age. (Ord. 438 §24, 1972)

5.44.250 **Applicability to existing business.** The provisions of this Chapter shall be applicable to persons now engaged in the business regulated in this chapter. Existing businesses of the kind referred to in this chapter shall conform with all provisions of this chapter. (Ord. 438 §25, 1972)

5.44.260 **Time limit for filing application for permit.** Persons now engaged in the business referred to in this chapter and in Section 5.44.250, as an operator of a massage establishment shall file for the permit required by Section 5.44.030 within thirty days of the effective date of the ordinance codified in this chapter; failure to do so shall make continued operation of the place of business a violation of Section 5.44.280. (Ord. 438 §26, 1972)

5.44.270 **Rules and regulations.** The chief of police may make and enforce reasonable rules and regulations in connection with enforcement functions not in conflict with, but to carry out, the intent of this chapter. (Ord. 438 §27, 1972)

5.44.280 **Violation--Penalty.**

A. Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee, or operator, or whether acting as a participant or worker in any way, who gives massages or conducts a massage establishment or room who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit and paying for a license to do so from the city or violates any provision of this chapter shall be guilty of a misdemeanor.

B. Any owner, operator, manager, or permittee in charge or in control of a massage establishment who knowingly employs a person performing as a masseur as defined in this chapter who is not in possession of a valid permit or who allows such an employee to perform, operate, or practice within such a place of business is guilty of a misdemeanor, and upon conviction such person shall be punished by the imposition of a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment. Revocation of a license or permit shall not be a defense against prosecution. (Ord. 438 §28, 1972)

Chapter 5.48
WRECKING YARDS AND JUNKYARDS

Sections:

5.48.010 Permit--Required.
5.48.020 Permit--App1ication.
5.48.030 Permit--Conditions for revocation.
5.48.040 Enclosure within building or fence required.
5.48.050 Hearing--Notice--Proceedings.
5.48.060 Refusal to issue permit under certain conditions.
5.48.070 Violation--Penalty.

5.48.010 Permit--Required. It is unlawful for any person, firm or corporation, to conduct the business of wrecking automobiles or other equipment or the business of dealing in junk, without first obtaining a permit from the city council. (Ord. 220 §1, 1944)

5.48.020 Permit--Application. The application for a permit to operate such business shall be made in writing to the city council in such form as the city council shall direct or require, and which application among other things shall contain an agreement on the part of the applicant that he will conform with and abide by all regulations and requirements for the conducting of the business that the city council may impose or promulgate for the conducting and operation of that type of business, including the erection and maintenance of a solid fence not less than six feet high around the premises on which such business is conducted sufficient to keep the wrecked automobiles and junk from the view of the public and neighbors, and upon the violation of the agreement that the permit may be revoked. (Ord. 220 §2, 1944)

5.48.030 Permit--Conditions for revocation. The city council may impose in any permit issued conditions for the manner of conducting the business, and promote regulations and requirements from time to time, which, if violated by any permittee, shall be sufficient ground for revocation of such permit. (Ord. 220 §3, 1944)

5.48.040 Enclosure within building or fence required. It is unlawful for any person, firm or corporation to conduct an auto wrecking business or junk business in the city, except enclosed in a building, unless the premises are surrounded by a solid fence not less than six feet high sufficient to keep the wrecked automobiles and junk of the business from view of the public and neighbors. (Ord. 220 §4, 1944)

5.48.050 Hearing--Notice--Proceedings. It the event that the holder of the permit conducting either of the businesses conducts or carries on such business in an unlawful manner, such permit shall be revoked after hearing before the city council. Notice of hearing shall be served on the permittee by registered mail at the address shown in the permit, which notice shall set forth the date and place where such hearing shall be held before the council, and upon such hearing if the council finds that the holder of such permit has violated any law or regulation, such permit shall be revoked. (Ord. 220 §5, 1944)

5.48.060 Refusal to issue permit under certain conditions. The council may refuse to issue a permit to any applicant if it finds that the issuance of such permit will be detrimental to the public interest, health or safety or welfare. (Ord. 220 § 6, 1944)

5.48.070 Violation-Penalty. The violation of any provision of this Chapter is a misdemeanor punishable by fine not exceeding two hundred fifty dollars ($250.00), or imprisonment not to exceed three (3)months or both for each day such violation occurs. (Ord. 220, § 7, 1944)

Chapter 5.52
Private Patrol Operators

Section:

5.52.010 Definitions
5.52.020 Mandatory Registration
5.52.030 Permitted Uniforms, Badges and Vehicle Markings
5.52.040 Violations; Enforcement
5.52.050 Business License Required

5.52.010 Definitions

A. "Private Patrol Operator", or operator of a private patrol service, is a person who agrees to furnish, or furnishes a watchman, guard, patrolperson or other person to protect persons or property, or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind; or performs the service of a watchman, guard, patrolman, or other person, for any of these purposes.

B. "Security Guard" or Security Officer" is an employee of a private patrol operator, or an employee of a lawful business who performs the functions as described in Subdivision A above, on or about the premises owned or controlled by the customer of the private patrol operator or by the guard's employer or in the company of persons being protected.

C. "Street Patrolperson" is a security guard or security officer employed by a private patrol operator who performs the functions described in subdivision A above, by street patrol service utilizing foot patrol, motor patrol, or other means of transportation in public areas, streets or public thoroughfares in order to serve multiple customers.

5.52.020 Mandatory Registration Every private patrol operator or operator of private patrol service within the City shall register with the City Police Department. Such registration shall include full information as to the identity of the private patrol operator and the identity of each security guard, security officer and/or street patrolpersons employed by such operator. The City reserves the right to refuse registration to any person of bad moral character. In addition to such registration, private patrol operators and their employees shall file a copy of their state identification card(s) with the Police Department.

5.52.030 Permitted Uniforms, Badges and Vehicle Markings

A. Uniform. Private patrol operators and employees thereof shall restrict the colors and markings of their uniforms to be distinctly different from those of City Police and Fire Personnel, Riverside County Sheriff Department and Fire Personnel, and California Highway Patrol personnel. Thus, for example, dark blue, black, or tan and green are not permitted colors and markings. The use of the word "Police" on any uniform item, by any private patrol operator is prohibited.

B. Badges and Patches. Badges or cap pieces and shoulder patches worn or displayed by private patrol operator and their employees shall not resemble that of Police or Fire personnel in any manner including, without limitation, shields, whether oval or eagle, and stars. Shoulder patches, cap pieces, and badges shall include the word "Private" in distinctive white lettering on a contrasting background. The use of the word "Police" on any badge or patch is prohibited.

C. Vehicles. All automobiles operated by private patrol operators and their employees shall not resemble that of a City Police vehicle as specified in the California Vehicle Code. Color schemes shall not include black or white variations. Private vehicles shall clearly display the word "Private" in not less than 4 – inch tall capital letters on all sides of each vehicle. Nor shall such vehicles be equipped with any after-market lighting device other than rear flashing amber lights; strobe lights and wig-wags are not permitted although spotlights may be used. The use of the word "Police" on any vehicle is prohibited.

5.52.040 Violations; Enforcement

A. Infraction. Any person engaging in business as a private patrol operator who is not licensed by the State of California is guilty of an infraction and is punishable by a fine of $1,000.00. no portion of the fine may be suspended by Court unless as a condition of that suspension the defendant is required to submit proof of a current valid license for the profession of private patrol operator which was the basis for his or her conviction.

B. Administrative Action. In the event any provision of this chapter is violated, the Chief of Police may file a complaint with the Director of Consumer Affairs of the State of California for the purpose of seeking a suspension or revocation of the private patrol operator's license.

5.52.050 Business License Required In addition to the license required by the State of California, every private patrol operator shall annually obtain a business license from the City.

Chapter 5.60
ADULT-ORIENTED BUSINESSES

Sections:

5.60.010 Legislative Purpose.
5.60.020 Definitions.
5.60.030 Adult Business Regulatory Permit Required.
5.60.040 Application and Permit.
5.60.050 Facilities and Employers.
5.60.060 Miscellaneous Provisions.

5.60.010 Legislative Purpose. It is the purpose of this Chapter to regulate Adult Oriented Businesses in order to promote the health, safety, morals and general welfare of the citizens of the City. The provisions of this Chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including Adult Materials. Similarly, it is not the intent nor the effect of this Chapter to restrict or deny access by adults to Adult Materials protected by the First Amendment, or to deny access by the distributors and exhibitors of Adult-Oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material. (Ord. No. 783, § 2, 12-8-98)

5.60.020 Definitions. For the purpose of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this Section:

"Adult-Oriented Businesses" means anyone of the following:

(1) Adult arcade. The term "adult arcade" as used in this Chapter, is an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, videocassette, slides or other photographic reproductions thirty percent (30%) or more, being shown at any given time, of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical area.

(2) Adult bookstore. The term "adult bookstore" as used in this Chapter, is an establishment that has thirty percent (30%) or more of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, records, or other forms visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

(3) Adult cabaret. The term "adult cabaret" as used in this Chapter, means a nightclub, restaurant, or similar business establishment which: (i) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (ii) which regularly features persons who appear semi-nude; and/or (iii) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty percent (30%) or more, being shown at any given time, of the number of which are

distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(4) Adult hotel/motel. The term "adult hotel/motel" as used in this Chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (i) provides patrons with closed circuit television transmissions, film, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty percent (30%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, and (ii) rents, leases, or lets any room for less than a six-hour period; or rents, leases, or lets any single room more than twice in a 24-hour period.

(5) Adult motion picture theater. The term" adult motion picture theater" as used in this Chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes slides, or similar photographic reproductions are shown, and thirty percent (30%) or more, being shown at any given time, of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(6) Adult theater. The term "adult theater" as used in this Chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(7) Modeling studio. The term "modeling studio" as used in this Chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities".

"Adult-Oriented Business Operator." "Adult-Oriented Business Operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an Adult-Oriented Business or the conduct or activities occurring on the premises thereof.

"Adult material." The term "adult material" as used in this Chapter means books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, records, or other forms of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

"Applicant." A person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an Adult-Oriented Business.

"Bar." For the purposes of this Chapter, a bar is defined as any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve alcoholic beverages on the premises.

"Distinguished or characterized by an emphasis upon." As used in this Chapter, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified anatomical areas, the films so described are those whose dominant or predominant character are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal. App. 3-151 (1981).

"Figure model." "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

"Health Officer." The Health Officer of the City of Beaumont or his or her duly authorized representative.

"Nudity or state of nudity." "Nudity or state of nudity" means the showing of the human male or human female genitals, public area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the male genitals in a discernible turgid state.

"Operate an Adult-Oriented Business." As used in this Chapter "operate an Adult-Oriented Business" means the supervising, managing, inspecting, directing, organizing, controlling, or in any way being responsible for or in charge of the conduct of activities within an Adult-Oriented business.

"Permittee." "Permittee" means the person to whom an Adult-Oriented Business Permit is issued.

"Person." Any individual, officer, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability partnership, limited liability corporation or combination of the above in whatever form or character.

"Police Chief." The Police Chief of the City of Beaumont, or the authorized representative thereof. "Regularly features." The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of two (2) or more occasions within a 3D-day period; three (3) or more occasions within a 60-day period; or four (4) or more occasions within a 180-day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

"Semi-nude." Means a state of dress in which clothing covers no more than the genitals, public region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

"Specified anatomical areas." As used herein, "specified anatomical areas" shall mean and include any of the following:

(I) Less than completely and opaquely covered human (i) genitals or public region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola;

(2) Human male genitals in a discernable turgid state, even if completely and opaquely covered;

(3) Any device, costume, or covering that simulates any of the body parts included in subdivisions (I) or (2) above.

"Specified sexual activities." As used herein, "specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

(I) The fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breast;

(2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated;

(4) Excretory functions as part of or in connection with any of the other activities described in subdivision (I) through (3) of this subsection. (Ord. No. 783, § 2, 12-8-98)

5.60.030 Adult Oriented Business Permits Required.

(a) It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, in or upon the premises of the City of Beaumont, the operation of an Adult-Oriented Business unless the person rust obtains and continues to maintain in full force and effect a permit from the City of Beaumont as herein required. (Adult-Oriented Business Regulatory Permit)

(b) It shall be unlawful for any persons to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business unless the person rust obtains and continues in full force and effect a permit from the City of Beaumont as herein required. (Adult-Oriented Business Performer Permit) (Ord. No. 783, § 2, 12-8-98)

5.60.040 Application and Permits.

(a) Adult-Oriented Business Regulatory Permit Required.

(l) Every person who proposes to maintain, operate or conduct an Adult-Oriented Business in the City of Beaumont shall file an application with the Police Chief upon a form provided by the City of Beaumont and shall pay a non-refundable filing fee, as established by resolution adopted by the City Council from time to time.

(b) Applications for Adult-Oriented Business Regulatory Permit.

(l) Adult-Oriented Business Regulatory Permits are not transferrable, except in accordance with Section 5.60.040(e). Therefore, all applications shall include the following information:

(A) If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen (l8) years of age.

(B) If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

(C) If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent (l0%) or greater interest in the business shall sign the application.

(3) If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of fictitious name.

(4) A description of the type of Adult-Oriented Business for which the Permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of the owners and lessors of the Adult-Oriented Business site.

(5) The address to which notice of action on the application is to be mailed.

(6) The names of all employees, independent contractors, and other persons who will perform at the Adult-Oriented Business, who are required by Section 5.60.040(f) to obtain an Adult-Oriented Business Performer License (for ongoing reporting requirements see Section.

(7) A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(8) A certificate and straight line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Adult-Oriented Business, and; (i) the property line of any other Adult-Oriented Business within five hundred (500) feet of any public entrance of the Adult-Oriented Business for which a permit is requested; and (ii) the property lines of any church, school, park, residential zone or use within five hundred (500) feet of the primary entrance of the Adult-Oriented Business.

Oriented Business for which the Permit was sought, subject to strict compliance with the development and performance standards and requirements of Section 17.85.050(a).

(d) Permit Denial Adult-Oriented Business Regulatory Permit. The Police Chief shall deny the application for any of the following reasons:

(1) The building, structure, equipment, or location used by the business for which an Adult Oriented Business Regulatory Permit is required do not comply with the requirements and standards of the health, zoning, fire, and safety laws of the City and the State of California, or with the location or development and performance standards and requirements of these regulations.

(2) The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading, or fraudulent statement of material fact in the application for an Adult-Oriented Business Regulatory Permit.

(3) An applicant is under eighteen (18) years of age.

(4) The required application fee has not been paid.

(5) The Adult-Oriented Business does not comply with the zoning ordinance, location standards, Section 17.85.030.

Each Adult-Oriented Business Regulatory Permit shall expire (1) year from the date of issuance, and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the Annual Permit Fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the Permit. When made less than thirty (30) days before the expiration date, the expiration will not be stayed. Applications for renewal shall be acted upon as provided herein for action upon application.

(e) Transfer of Adult-Oriented Business Regulatory Permits.

(1) A Permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business Regulatory Permit at any place other than the address of the Adult-Oriented Business stated in the application for the Permit.

(2) A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business Regulatory Permit to another person unless the transferee obtains an amendment to the Permit from the Police Chief stating that the transferee is now the Permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief in accordance with Sections 5.60.040(a) and 5.60.040(b), accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Police Chief determines in accordance with Section 5.60.040(c) that the transferees would be entitled to the issuance of an original Permit.

(3) No Permit may be transferred when the Police Chief has notified the Permittee that the Permit has been or may be suspended or revoked.

(4) Any attempt to transfer a Permit either directly or indirectly in violation of this Section is hereby declared void, and the Permit shall be deemed revoked.

(f) Adult-Oriented Business Performer Permit Required.

(I) No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business, without a valid Adult-Oriented Business Performer Permit issued by the City. All persons who have been issued an Adult-Oriented Business Regulatory Permit shall promptly supplement the information provided as part of the application for the Permit required by Section 5.60.040(a), with the names of all performers required to obtain an Adult-Oriented Business Performer Permit, within thirty (30) days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business Regulatory Permit.

(2) The Police Chief shall grant, deny and renew Adult-Oriented Business Performer Permits.

(3) The application for a Permit shall be made on a form provided by the Police Chief. An original and two (2) copies of the completed and sworn Permit application shall be filed with the Police Chief.

(4) The completed application shall contain the following information and be accompanied by the following documents:

(A) The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
(B) Age, date and place of birth;
(C) Height, weight, hair and eye color;
(D) Present address and telephone number;
(E) Whether the applicant has ever been convicted of:
(i) Any of the offenses set forth in Sections 315, 316, 266a, 266b, 266c, 266e, 266h, 266i, 647 (a), 647 (b), and 647 (D) of the California Penal Code as those Sections now exist or may hereafter be amended or renumbered.

(ii) The equivalent of the aforesaid offenses outside the State of California.

(F) Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing, or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution.

(G) State driver's license or identification number;

(H) Satisfactory written proof that the applicant is at least eighteen (18) years of age;

(I) The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant.

(J) If the application is made for the purpose of renewing a License, the applicant shall attach a copy of the License to the be renewed.

(5) The completed application shall be accompanied by a non-refundable application fee. The amount of the fee shall be set by resolution of the City Council.

(6) Upon receipt of an application and payment of the application fees, the Police Chief shall immediately stamp the application as received and promptly investigate the application.

(7) If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten (10) days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the Police Chief to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

(g) Investigation and Action on Application for an Adult-Oriented Business Regulatory Permit

(1) Within thirty (30) days after receipt of the properly completed application, the Police Chief shall grant or deny the application and notify the applicant as follows:

(A) The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

(B) If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

(C) If the application is granted, the Police Chief shall attach to the application an Adult-Oriented Business Performer Permit.

(D) The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage, prepaid, addressed to the applicant at the residence address stated in the application.

(2) The Police Chief shall grant the application and issue the Permit unless the application is denied for one or more of the reasons set forth in subsection (4) of this Section.

(3) If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within five (5) days after it is stamped as received (except as provided in Section 5.60.040(f)(7) the applicant may begin performing in the capacity for which the License was sought.

(4) The Police Chief shall deny the application for any of the following reasons:

(A) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a Permit or in any report or document required to be filed with the application;

(B) The applicant is under eighteen (18);

(C) The Adult-Oriented Business Performer Permit is to be used for performing in a business prohibited by State or City law.

(D) The applicant has been registered in any state as a prostitute.

(E) The applicant has been convicted of any of the offenses enumerated in Section 5.60.040(t)(4)(e) or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A Permit may be issued to any person convicted of the described crimes if the conviction occurred more than five (5) years prior to the date of the application.

(5) Each Adult-Oriented Business Performed Permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the application fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the Permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for applications for Permits.

(h) Suspension or Revocation of Adult-Oriented Business Performer Permit. An Adult Oriented Business Permit or Adult-Oriented Business Performer Permit may be suspended or revoked in accordance with the procedures and standards of this Section:

(1) On determining that grounds for Permit revocations exist, the Police Chief shall furnish written notice of the proposed suspension or revocation to the Permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent Code Sections, and a brief statement of the factual matters on support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the Permittee, or shall be delivered to the Permittee personally, at least ten (10) days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Police Chief, but at a minimum shall include the following;

(2) All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this Section may be continued for a reasonable time for the convenience appealed in accordance with Section;

(3) A Permittee may be subject to suspension or revocation of his Permit, or be subject to other appropriate disciplinary action, for any of the following causes arising

from the acts or omissions of the Permittee, or an employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business:

(A) The Permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the City. This offense shall result in automatic suspension or revocation of permit.

(B) The Permittee, employee, agent, partner, officer, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business, or in the case of an Adult-Oriented Business Performed, the Permittee has engaged in one of the activities described below while on the premises of an Adult-Oriented Business:

(i) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.

(ii) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.

(iii) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

(iv) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Section 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code.

(v) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Section 311 through 313.4.

(vi) Any conduct prohibited by this Chapter.

(C) Failure to abide by any disciplinary action previously imposed by an appropriate City official.

(4) After holding the hearing in accordance with the provisions of this Section, if the Police Chief finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the Police Chief shall impose one of the following:

(A) A warning;

(B) Suspension of the Permit for a specified period not to exceed six months;

(C) Revocation of the Permit;

(D) Second warning within 12 month period shall result in a suspension of the Permit; second suspension within a 12 month period shall result in revocation of the Permit.

(i) Appeal of Denial. Suspension or Revocation.

After denial of an application for an Adult-Oriented Business Regulatory Permit or an Adult-Oriented Business Performed Permit, or after denial of renewal of a Permit, or suspension or revocation of a Permit, the applicant or person to whom the Permit was granted may seek review of such administrative action by the City Council in accordance with the provisions of Title 17, Chapter 17.70, Section 17.70.005 of the Beaumont Municipal Code. If the denial, suspension or revocation is affirmed on review, the applicant Permittee may seek prompt judicial review of such administrative action pursuant to California Code of Civil Procedure Section 1094.5. The City shall make all reasonable efforts to expedite judicial review, if sought by the Permittee. (Ord. No; 783, § 2, 12-8-98)

(Continued on next page)

5.60.050 Facilities and Employees.

(a) Adult-Oriented Business Development and Performance Standards.

(1) Maximum occupancy load, fire exit, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City.

(2) No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building area of such establishment. This provision shall apply to any display, decoration, sign, show window or other openings. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

(3) All off-street parking area and premise entries of the Adult-Oriented Business shall be illuminated from dusk to two hours past closing time of operation with a lighting system which provides an average maintained horizontal illumination of one (I) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking area and/or walkways serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagrams of the premises.

(4) The premises within which the Adult-Oriented Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

(5) Except for those businesses also regulated by the California Department of Alcoholic Beverage Control, an Adult-Oriented Business shall be open for business only between the hours or 8:00 a.m. and midnight on any particular day.

(6) The building entrance to an Adult-Oriented Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the City Manager or designee. No person under the age of eighteen (18) years shall be permitted within the premises at any time. Violations of this requirement shall enforced by Section 5.60.040(h)(4).

(7) All indoor areas of the Adult-Oriented Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.

(8) Any Adult-Oriented Business which is also an "adult arcade," shall comply with the following provisions:

(A) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Each managers station shall be manned at all times. Rest rooms may not contain video reproduction equipment. The view required in this subsection must be direct line of sight from the manager's station.

(B) The view area specified in subsection (E) shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(C) No viewing room may be occupied by more than one person at anyone time.

(D) The walls or partitions between rooms or booths shall be maintained in good repair at all times, with no holes between any two such rooms such as would allow viewing from one booth into another or such as to allow physical contact of any kind between the occupants of any two such booth or rooms.

(E) Customers, patrons, or visitors shall not be allowed to stand idly by in the vicinity of any such video booths, or to remain in the common area of such business, other than the rest rooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

(F) The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, usine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions may justify suspension or revocation of the owner and operator's license to conduct the Adult-Oriented Business. Inspection shall be completed by the City Manager or his designee.

(9) All areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained at any point at ground level:

Area	Foot-candles
Bookstores and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)
Arcades	10

Motels/Hotels	20 (in public areas)
Modeling studios	20

(10) The Adult-Oriented Business shall provide and maintain separate rest room facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance and cleaning of the rest room facilities. The rest rooms shall be free from any Adult Material. Rest rooms shall not contain televisions monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult-Oriented Business which deals exclusively with sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore or Adult Video Store, and which does not provide rest room facilities to its patrons or the general public.

(11) The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities, except for businesses regulated by the Alcoholic Beverage Control Commission:

(A) No person shall perform live entertainment for patrons of an Adult-Oriented Business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer.

(B) The Adult-Oriented Business shall provide separate gender dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use. "Entertainer" shall mean any person who is an employee or independent contractor of the Adult-Oriented Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult-Oriented Business.

(C) The Adult-Oriented Business shall provide an building entrance/exit for entertainers which is separate from the public entrance/exit used by patrons.

(D) The Adult-Oriented Business shall provide access which is completely separated from the patrons for entertainers between the stage and dressing rooms. If such separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing rooms and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

(E) No entertainers, either before, during or after performances, shall have physical contact with any patrons and no patrons shall have physical contact with any entertainers either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult-Oriented Business.

(F) Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection. In addition, the stage shall be separated from all areas occupied by patrons by a plastic or safety glass partition with a minimum height of six (6) feet, to effectively preclude physical contact between the performer(s) and patrons.

(G) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

(H) No owner or other person with managerial control over an Adult-Oriented Business (as that term is defined herein) shall permit any person on the premises of the Adult-Oriented Business to engage in a live showing of the human male or female genitals, public area or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered. Employees other than performers, as well as performers when not engaged in a performance subject to the limitations provided for herein, shall at all times be fully clothed.

(12) Adult-Oriented Businesses shall employ security guards to maintain the public peace and safety, based upon the following standards:

(A) Adult-Oriented Businesses featuring entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five (35) persons, an additional security guard shall be on duty for each additional thirty-five (35) persons or portion thereof.

(B) Security guards for other Adult-Oriented Business may be required if it is determined by the Police Chief that their presence is necessary in order to prevent any of the conduct listed in Section from occurring on the premises.

(C) Security guard(s) shall be charged with preventing violations of law and enforcing compliance with the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identified as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard. The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business Regulatory Permit approvals, and failure to comply with every such requirement shall

be grounds for revocation of a Permit issued pursuant to these regulations.

(b) Register and Permit Number Employees.

(1) Every Permittee of an Adult-Oriented Business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities must maintain a register of all persons so performing on the premises and their Permit numbers. Such register shall be available for inspection during regular business hours by any police officer or health officer of the City.

(Continued on next page)

(c) Display of Permit and Identification Cards.

(I) The Permit issued pursuant to the provisions of this Chapter for such Adult-Oriented Business shall be displayed at all times, during business hours, in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

(2) The Police Chief shall provide each Adult-Oriented Business Performer required to have a Permit pursuant to this Chapter, with an identification card containing the name, address, photograph and Permit number of such performer.

(3) An Adult-Oriented Business Performer shall have such card on public display and available for inspection at all times during which such person is on the premises of the Adult-Oriented Businesses.

(d) Employment of and Services Rendered under the Age of Eighteen (18) Years Prohibited.

(l) It shall be unlawful for any Permittee, operator, or other person in charge of any Adult-Oriented Business to employ, or provide any service for which it requires such permit, to any person who is not at least eighteen (18) years of age.

(2) It shall be unlawful for any Permittee, operator or other person in charge of any Adult-Oriented Business to permit to enter, or remain within the Adult-Oriented Business, any person who is not at least eighteen (18) years of age.

(3) Violations of this requirement shall enforced by section 5.60.040(h). (Ord. No. 783, § 2, 12-8-98)

5.60.060 Miscellaneous Provisions.

(a) Inspection. An applicant or Permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Department, or other City Departments or Agencies to inspect the premises of an Adult-Oriented Business for the purpose of insuring compliance with the law and the development and performance standards applicable to Adult-Oriented Businesses, at any time it is occupied or opened for business. A person who operates an Adult-Oriented Business or his/her agent or employee is in violation of the provisions of this Section if he/she refuses to permit such lawful inspections of the premises at any time it is occupied or open for business.

(b) Regulations Nonexclusive. The provisions of this Chapter regulating Adult-Oriented Businesses are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council of the City.

(c) Employment of Persons Without Permits Unlawful. It shall be unlawful for any owner, operator, manager, or Permittee in charge of or in control of an Adult-Oriented Business which provides live entertainment depicting specified anatomic areas or involving specified sexual activities to allow any person who is not in possession of a valid, unrevoked Adult Oriented Business Performer Permit to perform such entertainment.

(d) Time Limit for Filing Application for Permit. All persons who possess an outstanding business license heretofore issued for the operation of an Adult-Oriented Business and all persons required by this Chapter to obtain an Adult-Oriented Business Performer Permit, must apply for and obtain such a permit within ninety (90) days of the effective date of this Chapter. Failure to do so and continued performance depicting specified anatomical areas or specified sexual activities in an Adult-Oriented Business after such time without a permit shall constitute a violation of this Chapter.

(e) Temporary Permit; Judicial Review. In the event an application to establish and operate an adult-oriented business is denied, the applicant shall be entitled to obtain from the Police Chief, upon written request therefor, a temporary permit for a period of ninety (90) days following the date of denial. Such permit shall be conditionally issued for the sole purpose of permitting the temporary establishment of the applicant's proposed business, while the applicant seeks prompt judicial review of the denial. In the event the applicant fails or refuses to seek judicial review within the 90-day period, the temporary permit shall thereupon expire without further notice and the applicant shall cease all operations thereunder. In the event the applicant promptly seeks judicial review, the temporary permit shall be automatically extended in increments of ninety (90) days until judicial review is final. In the event the denial is upheld, the temporary permit shall expire without further notice and the applicant shall cease all operations thereunder. The issuance of a temporary permit shall not constitute or be deemed a compensable vested right. (Ord. No. 783, § 2, 12-8-98)

Chapter 5.61
GRAFFITI IMPLEMENT SALES LICENSE

Sections:
5.61.010 License Required.

5.61.010 License Required. Beginning on July 1, 2007, it shall be unlawful for any person to sell, offer for sale, display for sale, or otherwise make available for sale within the City of Beaumont, any graffiti implement, as that device is defined in Chapter 9.34 of the Beaumont Municipal Code, unless that person then holds a valid annual Graffiti Implement Sales License issued pursuant to Chapter 9.34. (Ord. No. 910, § I, 2-20-07)

Chapter 5.62
PROHIBITION OF MEDICAL MARIJUANA DISPENSARIES, COOPERATIVES, COLLECTIVES AND THE CULTIVATION OF MARIJUANA

Sections:

5.62.010 Purpose
5.62.020 Definition
5.62.030 Medical Marijuana Dispensaries, Cooperatives and Collectives Prohibited
5.62.040 Violation and Enforcement

5.62.010 Purpose. It is the purpose and intent of this Chapter to prohibit the opening, establishment and operation of Medical Marijuana Dispensaries, Cooperatives and Collectives, and to prohibit the cultivation of marijuana within the City of Beaumont. (Ord. 1043, 3.4.14)

5.62.020 Definitions.

A. "Medical Marijuana Dispensary" "Medical Marijuana Cooperative" or "Collective" or "Medical Cannabis Dispensary" means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to, one or more of the following: a qualified patient, a person with an identification card, or a primary caregiver, in accordance with California Health and Safety Code section 11362.5 et seq., as amended.

A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 and 11362.775 et seq..

B. "Cultivation" means to farm, till, work or develop marijuana, whether within a structure completely or partially enclosed, or outdoors. (Ord. 1043, 3.4.14)

5.62.030 Medical Marijuana Dispensaries, Cooperatives, Collectives and Cultivation Prohibited.

A. Medical Marijuana Dispensary, Cooperative or Collective is not a permitted use and is prohibited in all zones throughout the City. No permit or any other license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of a Medical Marijuana Dispensary, Cooperative or Collective within the City.

B. The cultivation of marijuana by any person, including primary caregivers and qualified patients, collectives, cooperatives or dispensaries is prohibited in all zones throughout the City. No permit or any other license or entitlement for use, nor any business license shall be approved or issued for the cultivation of marijuana within the City.

C. The cultivation of marijuana and the establishment, maintenance or operation of a Medical Marijuana Dispensary, Cooperative or Collective within the City is declared to be a public nuisance and may be abated by the City either pursuant to Chapter 8.32 of the Beaumont Municipal Code or any other available legal remedies including, but not limited to, declaratory relief and civil injunctions. (Ord. 1043, 3.4.14)

5.62.040 Violation and Enforcement. The establishment, maintenance or operation of a Medical Marijuana Dispensary, Cooperative or Collective or the cultivation of marijuana in violation of or in non-compliance with any of the requirements of this Chapter or applicable provisions of the Beaumont Municipal Code shall be subject to any enforcement remedies available under the law and/or the Beaumont Municipal Code including, but not limited to, Chapter 1.17 and Chapter 8.32. In addition, the City may enforce the violation of this Chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction or by any other means authorized under the law. (Ord. 1043, 3.4.14)

Chapter 5.64
COMMERCIAL PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS

Sections:

5.64.010 Definitions.
5.64.020 Applicability of Chapter.
5.64.030 Peddling and Soliciting on Certain Premises Prohibited.
5.64.040 Peddler, Solicitor and Itinerant Merchant Permit Required.
5.64.050 Permit Procedures.
5.64.060 Issuance of Permit.
5.64.070 Denial of Permit.
5.64.080 Revocation of Permit.
5.64.090 Police Chiefs Power to Order Cessation of Business.
5.64.100 Appeal of Permit Denial, Revocation or Suspension.
5.64.110 Peddler, Solicitor or Itinerant Merchant Permittee Responsibility.
5.64.120 Peddling or Soliciting From Fixed Location Prohibited.
5.64.130 Conditions of Peddler, Solicitor or Itinerant Merchant Permit.
5.64.140 Hours of Operation.
5.64.150 ID Display Requirements.
5.64.160 Garbage Disposal.
5.64.170 Noise Requirements.
5.64.180 Parking and Stopping Restrictions-Motor Vehicle-Based and Mobile Unit Peddlers, Solicitors and Itinerant Merchants.
5.64.190 Interstate Commerce.
5.64.200 Violations—Penalties.
5.64.210 Seizure of Goods.
5.64.220 Procedure for Release of Perishable Goods.

5.64.010 **Definitions.** Words and phrases not specifically defined in this section shall be construed according to the context and approved usage of the language.

"Itinerant merchant" means any person who engages in a temporary business of selling and delivering goods, wares, or merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building structure, motor vehicle, tent, public rooms in hotels, lodging houses, apartments, shops, or any street alley, or other place within the City, for the exhibition and sale of such goods, wares, or merchandise, either privately or at public auction; provided that any person so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, or auctioneer.

"Mobile unit" means any vehicle, truck, trailer, cart, pushcart, wagon, bicycle, dray, conveyance or structure on wheels, not firmly fixed to a permanent foundation, which is not required to have a license to operate issued by the California Department of Motor Vehicles.

"Motor vehicle" means any automobile, truck, trailer or other conveyance requiring a license issued by the California Department of Motor Vehicles.

"Peddler," for purposes of this Chapter, means any person traveling by foot, motor vehicle, mobile unit or any other type of conveyance from place to place conveying or transporting goods, wares, merchandise, foods, farm products, or provisions, or personal property of any nature whatsoever, and hawking or offering and exposing the same for sale, soliciting or taking or attempting to take orders for the same or for services to be furnished or performed in the future, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer or solicit or taking or attempting to take orders for the same for sale from a motor vehicle or mobile unit.

"Peddling" means the act of being a peddler.

"Permittee" means the holder of a peddler or itinerant merchant permit.

"Person" means any natural person, corporation, association, co-partnership, or any other organization however organized.

"Solicitor," for purposes of this Chapter, means any person who, for commercial purposes or causes, travels either by foot, motor vehicle, mobile unit or any other type of conveyance, from place to place taking or attempting to take orders for the sale of goods, wares, merchandise, foods, farm products, or provisions, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, or whose activities may, in any way, result in such sale or the furnishing of such services, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sale or not. (Ord. No. 992, § 2,5-3-11)

5.64.020 Applicability of Chapter.

A. Exemptions.

1. There shall be exempted from the prohibitions of this Chapter the activities of solicitors and peddlers selling and soliciting sales of newspapers from sidewalks abutting on public streets, except that no such solicitor or peddler shall offer newspapers for sale to passing motorists unless from a location adjacent to a clear, twenty-foot zone of curbside where private motor vehicles may legally stop for the loading and unloading of passengers. Notwithstanding any of the foregoing, a peddler or solicitor may not sell or

solicit sales of newspapers in a place or manner which would unreasonably interfere with or obstruct the flow of pedestrian or motor vehicle traffic.

2. Peddlers, solicitors and itinerant merchants shall be exempt from the provisions of this Chapter when participating in an event subject and pursuant to a special events permit, street closure permit, or any other permit specifically authorizing such activity, issued by the City.

3. Garage or yard sales on private property shall be exempt from the provisions of this Chapter, except that the provisions of Section 5.08.11 0 shall apply to any such activities.

B. Compliance by Existing Licensees. The provisions of this Chapter shall apply to any and all currently-permitted and/or licensed commercial peddlers, solicitors, and itinerant merchants by the City, who shall apply for, and obtain a permit in accordance with the provisions of this Chapter within ninety (90) days of its effective date. (Ord. No. 992, § 2,5-3-11)

5.64.030 Peddling and Soliciting on Certain Premises Prohibited. No peddler or solicitor nor any person pretending to be a peddler or solicitor, whether otherwise regulated by this Chapter or not, shall ring the bell or knock at any building whereon there is printed or affixed or otherwise displayed to public view any sign containing any or all of the following prohibitions: "No Peddlers," "No Solicitors," or "No Agents," or which otherwise purports to prohibit peddling or soliciting on such premises; provided that this prohibition shall not apply when a peddler or solicitor has an appointment with the occupants of such building. (Ord. No. 992, § 2,5-3-11)

5.64.040 Peddler, Solicitor and Itinerant Merchant Permit Required. It shall be unlawful for a person to engage in the business or activities of peddler, solicitor or itinerant merchant within the City except pursuant to and in strict compliance with a valid permit issued by the chief of police or his designee as provided in this Chapter. It shall be unlawful for any peddler, solicitor or itinerant merchant permittee to allow or tolerate any person who does not also have a peddler, solicitor or itinerant merchant permit to work for or under the direction of, or on behalf of, or as an agent of the permittee. The requirements for a permit under this Chapter shall be in addition to requirements of Title 5 of this Code relating to business licenses. (Ord. No. 992, § 2,5-3-11)

5.64.050 Permit Procedures.

A. Permit-Application. Every application for a peddler, solicitor or itinerant merchant permit under this Chapter shall be made on a form provided by the chief of police or his designee, and shall contain the following information:

1. Name, mailing address, home address, and telephone number of applicant.

2. Presentation of a California driver's license, if any, or other photographic identification issued by a state or United States federal agency establishing the applicant's age as eighteen (18) or older.

3. Two (2) recent portrait photographs that clearly and accurately depict the applicant's current facial features.

4. The name under which the peddler, solicitor or itinerant merchant business or activity will be conducted, the address and telephone number of such business, and the name of the business owner.

5. A description of the goods, wares, merchandise, products, or any other thing or representation of value on consignment which will be the subject of the applicant's peddling or itinerant merchant business or activity.

6. A description of the logo, color scheme, insignia, and any other distinguishing characteristics of any motor vehicle or mobile unit to be used in the applicant's business or activities, including the license plate state and number for any motor vehicle.

7. The permit history of the applicant for the three-year period immediately preceding the date of the filing of the application, including whether the applicant has operated under any other business name or has ever had any similar license or permit revoked or suspended or has been convicted of a violation of this Chapter, and if so, the circumstances of such suspension, revocation or conviction.

8. The applicant's consent to a fingerprint check by the chief of police or his designee.

9. A statement as to whether or not applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, within the immediately preceding ten (10) years, and the nature of each such offense and the punishment or penalty assessed therefor.

10. A health permit, if required by the County of Riverside, issued by the County Health Department.

11. Evidence of motor vehicle insurance.

12. A permit fee in an amount established by the City Council.

B. Permit-Term. Any peddler, solicitor or itinerant merchant permit issued pursuant to this Chapter shall be valid for a period of one (I) year from the date of issuance. (Ord. No. 992, § 2,5-3-11)

5.64.060 **Issuance of Permit.** The chief of police or his designee shall grant the peddler, solicitor or itinerant merchant permit within ten (10) days after receiving the completed application if he or she finds that all of the following requirements have been met:

A. The required fees have been paid.

B. The application conforms in all respects to the provisions of this Chapter.

C. The applicant has not made a material misrepresentation of fact in the application.

D. The applicant has not had a similar permit or license denied or revoked by the City within one (I) year prior to the date of the application.

E. The applicant has not been convicted, during the three-year period immediately preceding the issuance of the permit, of any offenses involving moral turpitude or dishonesty, including but not limited to:

1. Burglary [Cal. Penal Code § 459].
2. Robbery [Cal. Penal Code § 211].
3. Theft [Cal. Penal Code § 484].
4. Fraud or misrepresentation [Cal. Penal Code §§ 531, 532].
5. Receiving, possession or sale of stolen goods [Cal. Penal Code § 496].
6. Any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code in conjunction with, or while conducting, a peddler, solicitor or itinerant merchant business or activity.

F. The applicant has obtained any other applicable City or county permits, including any City or county health permit required for the preparation and sale of food products.

G. The applicant has obtained a valid City business license and paid the appropriate business license fee. (Ord. No. 992, § 2,5-3-11)

5.64.070 **Denial of Permit.** If the chief of police or his designee finds that all the requirements of Section 5.64.060 have not been met, he or she shall deny the application for the peddler, solicitor or itinerant merchant permit. Written notification of denial of the permit application, setting forth the grounds for denial, shall be served on the applicant by personal delivery or by first class and certified or registered mail, return receipt requested, addressed to the applicant at his or her mailing address as set forth in the permit application. Notice of denial of the application shall be deemed to have been served on the date it is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her mailing address as set forth in the permit application, regardless whether the certified mail receipt is returned to the City signed or unsigned. (Ord. No. 992, § 2,5-3-11)

5.64.080 **Revocation of Permit.** Any peddler, solicitor or itinerant merchant permit may be revoked by the chief of police for good cause shown including but not limited to any of the following reasons:

A. Falsification of any information supplied by the permittee upon which issuance of the permit was based.
B. Failure of the permittee or any employees or agents of the permittee to comply with the regulations set forth in this Chapter.
C. The permittee's conviction at any time of any offense involving moral turpitude or dishonesty, including but not limited to any of the following:
   I. Burglary [Cal. Penal Code § 459].
   2. Robbery [Cal. Penal Code § 211].
   3. Theft [Cal. Penal Code § 484].
   4. Fraud or misrepresentation [Cal. Penal Code §§ 531,532].
   5. Receiving, possession or sale of stolen goods [Cal. Penal Code § 496].
   6. Any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code in conjunction with, or while conducting, a peddler, solicitor or itinerant merchant business or activity.
D. Written notification of revocation of the permit, setting forth the grounds for the revocation, shall be served on the permittee by personal delivery or by first class and certified or registered mail, return receipt requested, addressed to the permittee at his or her mailing address as set forth in the permit application. Notice of revocation of the permit shall be deemed to have been served on the date it is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her mailing address as set forth in the permit application, regardless whether the certified mail receipt is returned to the City signed or unsigned. (Ord. No. 992, § 2,5-3-11)

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5.64.090 Police Chiefs Power to Order Cessation of Business. Notwithstanding anything in this Chapter to the contrary, the chief of police shall have the authority to order the immediate cessation of peddling, soliciting or itinerant merchant activities upon revocation of a permit under this section if he or she deems it reasonably necessary for the preservation of the public health, safety or welfare. Prior to an action to require the immediate cessation of any such business, or within twenty-four (24) hours following such action, the chief of police shall issue a written notice to the permittee setting forth in detail the basis for such action. (Ord. No. 992, § 2,5-3-11)

5.64.100 Appeal of Permit Denial, Revocation or Suspension.

A. Any applicant for a peddler, solicitor or itinerant merchant permit, or a permittee, shall have the right to appeal from a decision by the chief of police to deny a permit application or to revoke a permit, by filing with the city clerk a written notice of appeal, specifying the grounds for such appeal, within fifteen (15) days after the decision has been served on the applicant or permittee. Such appeal shall be heard by the City Manager or by an administrative hearing officer designated by or at the request of the City Manager, upon not less than fifteen (15) days' written notice to the appellant. The City Manager or the designated administrative hearing officer shall consider all relevant evidence at the hearing, continue the hearing for good cause, and require such legal briefing as may be required to address any issues raised by the appeal. Within a reasonable time, but not more than thirty (30) days following the conclusion of the hearing, the City Manager or the designated administrative hearing officer shall issue a written decision affirming, denying or modifying the decision from which the appeal was taken, supported by factual findings and determinations referenced by supporting evidence. The decision of the City Manager or designated administrative hearing officer shall be final. The written decision shall be served on the appellant as provided in Code of Civil Procedure Section I094.6(b), with a copy submitted to the city clerk. The written decision shall include a notice to the appellant that the decision is subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure Section 1094.6. Except as provided in Section 5.64.090, if a timely appeal is filed, any revocation shall be stayed pending the decision of the City Manager. Otherwise, the revocation shall become effective immediately upon expiration of the period for filing an appeal.

B. No person whose permit is finally denied or revoked shall be eligible to apply for a new permit for a period of one (I) year following such final action. (Ord. No. 992, § 2,5-3-11)

5.64.110 Peddler, Solicitor or Itinerant Merchant Permittee Responsibility. The act or omission of any peddler, solicitor or itinerant merchant permittee's partner, owner, associate, director, manager, officer, agent or employee shall be deemed for all purposes under this Chapter to be the act or omission of the peddler, solicitor or itinerant merchant permittee regulated by this Chapter. (Ord. No. 992, § 2,5-3-11)

5.64.120 Peddling or Soliciting From Fixed Location Prohibited. It shall be unlawful for any person to operate a peddler, solicitor or itinerant merchant business from a fixed location in or on any public street, sidewalk, parking lot, right-of-way, city plaza, or other public property unless permitted in accordance with this Chapter. (Ord. No. 992, § 2,5-3-11)

5.64.130 Conditions of Peddler, Solicitor or Itinerant Merchant Permit.

A. Each peddler, solicitor or itinerant merchant permit issued by the chief of police or his designee shall be subject to the terms and conditions set forth in this Chapter, and any additional conditions deemed reasonably necessary by the chief of police for the protection of the public health, safety or welfare.

B. The provisions of this Chapter shall constitute operating regulations conditioning each and every permit hereunder. It shall be unlawful for any person to engage in a peddler, solicitor or itinerant merchant business or activity in violation of these provisions.

C. Notwithstanding anything in this Chapter to the contrary, no peddler, solicitor or itinerant merchant shall operate or conduct his or her business or activity in a place or manner which would unreasonably interfere with or obstruct the flow of pedestrian or motor vehicle traffic in or on any street, alley or sidewalk, or which would unreasonably obstruct vehicular sight distances. (Ord. No. 992, § 2,5-3-11)

5.64.140 Hours of Operation. No person shall engage in a peddler, solicitor or itinerant merchant business or activity upon any private place, or any street, sidewalk, right-of-way, or other public place in the City between the hours of nine p.m. (9:00 p.m.) or one-half (1/2) hour after sunset, whichever comes first, and eight a.m. (8:00 a.m.) of the following day. (Ord. No. 992, § 2,5-3-11)

5.64.150 ID Display Requirements.

A. Each person who is engaged in a peddler, solicitor or itinerant merchant business or activity shall, at all times while so engaged, wear in plain sight on his or her person an identification (ID) card, provided by the chief of police or his designee, containing such information, including a suitable photograph, as the chief of police or his designee may require. The ID card shall be worn on the person's outermost garment, with the picture facing outward.

B. Each person who is engaged in a peddler, solicitor or itinerant merchant business or activity shall, at all times while so engaged, have affixed in a conspicuous place on each motor vehicle or mobile unit being used in such business or activity, an identifying placard or other identifying emblem, to be provided by the chief of police or his designee. (Ord. No. 992, § 2,5-3-11)

5.64.160 Garbage Disposal. No peddler, solicitor or itinerant merchant shall discard or deposit, or cause or allow to be discarded or deposited by any customer or person solicited, any garbage, sewage or any other waste materials or products onto any public or private property or into any public or private storm drain system. All motor vehicles and mobile units being used in a peddler, solicitor or itinerant merchant business or activity shall be equipped with trash receptacles large enough to contain all refuse generated by the operation of such motor vehicle or mobile unit. (Ord. No. 992, § 2,5-3-11)

5.64.170 Noise Requirements. Any person engaged in a peddler, solicitor or itinerant merchant business shall comply with all applicable noise regulations. (Ord. No. 992, § 2,5-3-11)

5.64.180 Parking and Stopping Restrictions-Motor Vehicle-Based and Mobile Unit Peddlers, Solicitors and Itinerant Merchants.

A. It shall be unlawful for any motor vehicle-based or mobile unit peddler, solicitor or itinerant merchant to:

1. Permit any motor vehicle or mobile unit from which his or her business is being conducted to remain standing or stopped, for purposes of conducting said business, at any place on a public street, sidewalk, parking lot, right-of-way, or other public place, or within five hundred (500) feet thereof, for a total period of time exceeding fifteen (15) minutes within any two-hour period.

2. Make any stop, for the purpose of making or soliciting any sale upon any public street, sidewalk, right-of-way, or other public place, within five hundred (500) feet, measured along the traveled way of any public street or streets, of any school property.

B. It shall be unlawful for any motor vehicle-based or mobile unit peddler, solicitor or itinerant merchant to conduct his or her business or activity from any motor vehicle or mobile unit upon any public street except from or at the side of such motor vehicle which is nearest to the curb of such street.

C. No motor vehicle-based or mobile unit peddler, solicitor or itinerant merchant shall stop to conduct his or her business or activity from a motor vehicle or mobile unit within two hundred (200) feet of another motor vehicle-based or mobile unit peddler, solicitor or itinerant merchant who has already stopped to conduct business. (Ord. No. 992, § 2,5-3-11)

5.64.190 Interstate Commerce. None of the fees provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a fee is believed by a peddler, solicitor or itinerant merchant to place an undue burden on interstate commerce, he or she may apply to the City Manager, before or up to six (6) months following payment of the fee, for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. The applicant shall, by affidavit and supporting evidence, show his or her method of business and the gross volume or estimated gross volume of business, and other information as required by the City Manager to determine the extent of the burden on interstate commerce. The decision of the City Manager may be appealed to the City Council. (Ord. No. 992, § 2,5-3-11)

5.64.200 Violation—Penalty. In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of $1,000.00, or six (6) months in jail, or both. (Ord. No. 992, § 2,5-3-11)

5.64.210 **Seizure of Goods.** Upon the citation or arrest of any person for violation of Section 5.64.040 of this Chapter, the City may seize and impound all perishable and nonperishable goods in the possession of the unlicensed peddler, solicitor or itinerant merchant. "Goods" means any consumable items, foods, beverages, merchandise or wares, being offered for sale. "Perishable" means any item or items that spoil, perish or decay rapidly; or are likely to spoil, perish or decay rapidly if not refrigerated, including but not limited to food, beverages and flowers. (Ord. No. 992, § 2,5-3-11)

5.64.220 **Procedure for Release of Perishable Goods.**

A. Following citation or arrest pursuant to Section 5.64.040 of this Chapter, the unlicensed peddler, solicitor or itinerant merchant shall sign a declaration, which shall declare, under penalty of perjury, the name and contact information of the rightful owner of the seized goods.

B. The City shall make a reasonable attempt to contact the rightful owner of any seized perishable goods, if other than the peddler, solicitor or itinerant merchant arrested or cited, in order to provide that owner with an opportunity to retrieve the goods within twenty-four (24) hours. The rightful owner, as set forth in the declaration described in subsection A. of this section, must present valid identification to the City before the City will release any seized goods.

C. If the unlicensed peddler, solicitor or itinerant merchant claims to be the rightful owner of the seized perishable goods, such peddler, solicitor or itinerant merchant must present valid identification to the City, and must sign the declaration described in subsection A. of this section declaring himself or herself to be the rightful owner. In such case, the City shall provide such peddler, solicitor or itinerant merchant the opportunity to either:

1. Contact, with one (1) phone call (which one (1) phone call shall be in addition to any other phone calls permitted by law to an arrestee), another individual to pick up the seized perishable goods within twenty-four (24) hours; or

2. Sign a release allowing the City to immediately dispose of or donate any seized perishable goods if the goods cannot be picked up within twenty-four (24) hours.

D. Prior to releasing, disposing or donating any perishable goods seized pursuant to Section 5.64.210 of this Chapter, the City shall inspect, and take photographs and any necessary samples of such goods to maintain as evidence.

E. Any perishable goods not retrieved within twenty-four (24) hours shall be immediately donated or discarded by the City, with no liability to the City for such action.

F. Nothing contained in this Chapter shall limit the authority of the City to cite the owner of the seized goods for violations of this Code.

G. The police chief may adopt reasonable rules and regulations, not inconsistent with this Chapter, in order to implement this section. (Ord. No. 992, § 2,5-3-11)

Chapter 5.68
TOBACCO RETAILERS

Sections:

5.68.010 Preamble.
5.68.020 Purpose and Intent.
5.68.030 Definitions.
5.68.040 Tobacco License Prerequisite; Application Process.
5.68.050 License Issuance; Standards.
5.68.060 Licenses Nontransferable.
5.68.070 Fees for License.
5.68.080 Other Requirements and Prohibitions
5.68.090 License Violation.
5.68.100 Revocation of License.
5.68.110 Enforcement.

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5.68.010 **Preamble.** Prior to the adoption of this Chapter, the City Council reviewed the following Statistics:

a. Minors obtain cigarettes and other tobacco products at alarming rates. Each year, an estimated nine hundred twenty-four million (924,000,000) packs of cigarettes are consumed by minors twelve (12) to seventeen (17) years of age, yielding the tobacco industry four hundred eighty million dollars ($480,000,000.00) in profits from underage smokers nationwide. In Riverside County, ten thousand (10,000) teens light up for the first time and purchase five (5) million packs of cigarettes a year.

b. In a 2004 California youth-buying survey, twelve percent (12%) of retailers surveyed unlawfully sold tobacco product to minors.

c. The rate of tobacco sales to minors in Riverside County is one of the highest in the State at forty-four percent (44%).

d. Eight-eight percent (88%) of adults who have ever smoked tried their first cigarette by the age of eighteen (18), and the average age at which smokers try their first cigarette is fourteen and one-half (14112).

e. A requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults. It will, however, allow the County to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws.

f. Sixty-five percent (65%) of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements. (Ord. No. 906, § I, 12-19-06)

5.68.020 **Purpose and Intent.** Riverside County has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults. It is the intent of this chapter to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those that prohibit or discourage the sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided therefor. (Ord. No. 906, § 2, 12-19-06)

5.68.030 **Definitions.** For the purposes of this Chapter, the following words and terms shall have the following meanings:

"Arm's Length Transaction" shall mean: a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this Chapter is presumed not to be an Arm's Length Transaction.

"Department" shall mean: County Health Officer or his or her designee.

"Person" shall mean: any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"Proprietor" shall mean: a Person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a Person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a Person can or does have, or can or does share, ultimate control over the day-to-day operations of a business.

"Self-Service Display" shall mean: the open display of Tobacco Products or Tobacco Paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A Vending Machine is a form of Self-Service Display.

"Smoking" shall mean: possessing a lighted Tobacco Product, Tobacco Paraphernalia, or any other weed or plant (including a lighted pipe, lighted cigar, or lighted cigarette of any kind), the lighting of a Tobacco Product, Tobacco Paraphernalia, or any other weed or plant (including a pipe, cigar, or cigarette of any kind).

"Tobacco Paraphernalia" shall mean: cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of Tobacco Products.

"Tobacco Product" shall mean: (I) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bid is, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body but does not include any product specifically approved by the Federal Food and Drug Administration for use in treating nicotine or tobacco product dependence.

"Tobacco Retailer" shall mean: any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia; "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange. (Ord. No. 906, § 3, 12- I9-06)

5.68.040 Tobacco License Prerequisite; Application Process.

a. It shall be unlawful for any Person to act as a Tobacco Retailer without first obtaining and maintaining a valid Tobacco Retailer's license pursuant to this Chapter for each location at which that activity is to occur. Tobacco Retailing without a valid Tobacco Retailer's license shall constitute a public nuisance.

b. A Tobacco Retailer or Proprietor without a valid Tobacco Retailer license, including, for example, a revoked license:

1. Shall keep all Tobacco Products and Tobacco Paraphernalia from public view. The public display of Tobacco Products or Tobacco Paraphernalia in violation of this provision shall constitute an "offer for sale" for the purposes of subsection f. of this section.

2. Shall not display any advertisement relating to Tobacco Products or Tobacco Paraphernalia that promotes the sale or distribution of such products from the Tobacco Retailer's location or that would lead a reasonable consumer to believe that such products can be obtained at the Tobacco Retailer's location.

c. Nothing in this Chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer's license any status or right other than the right to act as a Tobacco Retailer at the location in the County identified on the face of the license. For example, nothing in this Chapter shall be construed to render inapplicable, supercede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by California Labor Code section 6404.5.

d. Application for a Tobacco Retailer's license shall be submitted in the name of each Proprietor proposing to conduct retail tobacco sales and shall be signed by each Proprietor or an authorized agent thereof. It is the responsibility of each Proprietor to be informed of the laws affecting the issuance of a Tobacco Retailer's license. A license

that is issued in error or on the basis of false or misleading information supplied by a Proprietor shall be revoked pursuant to Section 5.68.100 of this Chapter.

e. In addition to any other penalty under this Chapter a Person found to have engaged in Tobacco Retailing without a valid Tobacco Retailers license shall be ineligible to apply for or be issued a Tobacco Retailing license according to the following:

I. After a first violation for a Person within any sixty-month period, no new license may issue for the Person as a Proprietor until thirty (30) days have passed from the date of last violation.

2. After a second violation for a Person within any sixty-month period, no new license may issue for the Person as a Proprietor until ninety (90) days have passed from the date of last violation.

3. After three (3) or more violations for a Person within any sixty-month period, no new license may issue for the Person as a Proprietor until five (5) years have passed from the date of last violation.

4. Each day that a Person engages in Tobacco Retailing without a valid Tobacco Retailers license shall constitute a separate violation.

f. Tobacco Products and Tobacco Paraphernalia offered for sale or exchange in violation of this Chapter are subject to seizure and forfeiture. Forfeited Tobacco Products and Tobacco Paraphernalia shall be destroyed.

g. All applications shall be submitted on a form supplied by the Department and shall contain the following information:

1. The name, address, and telephone number of each Proprietor.

2. The business name, address, and telephone number of the single fixed location for which a Tobacco Retailer's license is sought.

3. The name and mailing address authorized by each Proprietor to receive all license related communications and notices (the "Authorized Address"). If an Authorized Address is not supplied, each Proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph 2 above.

4. Proof that the location for which a Tobacco Retailer's license is sought has been issued
a valid state tobacco retailer's license by the California Board of Equalization.

5. Whether or not any Proprietor is a Person who has been determined to have violated this Chapter or has been a Proprietor at a location that has been determined to have violated this Chapter and, if so, the dates and locations of all such violations.

6. Such other information as the Department deems necessary for the administration or enforcement of this Chapter. (Ord. No. 906, § 4, 12-19-06)

5.68.050 License Issuance; Standards.

a. No license may issue to authorize Tobacco Retailing at other than a fixed location. For example, Tobacco Retailing by Persons on foot and Tobacco Retailing from vehicles are prohibited.

b. Upon the receipt of an application for a Tobacco Retailer's license and the license fee, the Department shall issue a license unless substantial record evidence demonstrates that one (1) of the following bases for denial exists:

1. The application is incomplete or inaccurate.

2. The application seeks authorization for Tobacco Retailing at a location for which a prohibition on issuing licenses is in effect pursuant to Section 5.68.100.b. of this Chapter. However, this subparagraph shall not constitute a basis for denial of a license if the applicant provides the County with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an Arm's Length Transaction.

3. The application seeks authorization for Tobacco Retailing for a Proprietor for which a prohibition on issuing licenses is in effect pursuant to Section 5.68.IOO.b. of this Chapter.

4. The application seeks authorization for Tobacco Retailing that is prohibited pursuant to Section 5.68.050.a. of this Chapter, that is unlawful pursuant to any other County ordinance, or that is unlawful pursuant to any other local, state, or federal law. (Ord. No. 906, § 5, 12-19-06)

5.68.060 Licenses Nontransferable.

a. A Tobacco Retailer's license is nontransferable. **If** the information required in the license application pursuant to 5.68.040 g.1, 2, or 3 changes, a new Tobacco Retailer's license is required before the business may continue to act as a Tobacco Retailer. For example, if a Proprietor to whom a license has been issued changes business location, that Proprietor must apply for a new license prior to acting as a Tobacco Retailer at the new location. Or, if the business is sold, the new owner must apply for a license for that location before acting as a Tobacco Retailer.

b. Notwithstanding any other provision of this Chapter, violations accumulated against a location or business shall continue to be counted against the location or business unless the location or business has been transferred to a new Proprietor and the new Proprietor provides the County with documentation demonstrating by clear and convincing evidence that the new Proprietor has acquired or is acquiring the location or business in an Arm's Length Transaction. (Ord. No. 906, § 6, 12-19-06)

5.68.070 Fees for License.

a. A Tobacco Retailer license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of a Tobacco Retailer license is one (I) year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer's license no later than thirty (30) days prior to expiration of the term. (Ord. No. 906, § 7, 12-19-06)

5.68.080 Other Requirements and Prohibitions.

a. Display of license. Each license shall be prominently displayed in a publicly and readily visible location at the licensed location.

b. Positive identification required. No person shall engage in tobacco retailing without first examining the identification of the purchaser, if the purchaser reasonably appears under the age of twenty-seven (27) years old, and confirming that the proposed sale is to a purchaser who is at least the minimum age **in** state law for being sold the Tobacco Product or Tobacco Paraphernalia.

c. Minimum age for persons selling tobacco. No person shall engage in tobacco Retailing if the Person is younger than the minimum age in state law for being sold or for possessing any Tobacco Product

d. Self-service displays prohibited. No person shall display tobacco products or Tobacco Paraphernalia by means of a Self-Service Display or to engage in Tobacco Retailing by means of a Self-Service Display. A Tobacco Retailer who chooses to display Tobacco Products or Tobacco Paraphernalia in a locked cabinet, case or similar structure must post a clear and conspicuous sign on or within five (5) feet of the display stating that the cabinet, case or structure is locked at all times. (Ord. No. 906, § 8, 12-19-06)

5.68.090 License Violation.

a. Violation of tobacco-related laws. It shall be a violation of a Tobacco Retailer's license for a licensee, including his or her agent or employee, to violate any of the following laws:

1. Any local, state, or federal tobacco-related law.
2. Local, state, or federal sign laws.
3. Local, state, or federal laws restricting the age of purchase for any product.

b. License compliance monitoring.

1. Compliance with this Chapter shall be monitored by the Department. Any peace officer may enforce the penal provisions of this Chapter.
2. The Department shall check the compliance of each Tobacco Retailer at least three (3) times per twelve-month period. The Department may check the compliance of Tobacco Retailers previously found to be in compliance a fewer number of times so that the Department may check the compliance of Tobacco Retailers previously found in violation a greater number of times.
3. Compliance checks shall determine, at a minimum, if the Tobacco Retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.

4. The County shall not enforce any tobacco-related minimum-age law against a Person who otherwise might be in violation of such law because of the Person's age (hereinafter "Youth Decoy") if the potential violation occurs when:

i. the Youth Decoy is participating **in** a compliance check supervised by a peace officer or a code enforcement official; or

ii. the Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the county Department of Health and Human Services or funded in part, either directly or indirectly through subcontracting, by the California Department of Health Services.

c. No contest plea. A plea of "no contest" or its equivalent by a Tobacco Retailer for a violation of any law designated in subsection (a) above shall operate as an admission that this chapter has been violated for the purposes of license revocation. (Ord. No. 906, § 9, 12-19-06)

5.68.100 Revocation of License.

a. Revocation of license for violation.

1. In addition to any other penalty authorized by law, a Tobacco Retailer's license shall be revoked if the County Hearing Officer finds, after notice to the licensee and opportunity to be heard, that the licensee, including his or her agents or employees, has violated any of the requirements, conditions, or prohibitions of this Chapter (hereinafter "License Violation").

2. No attorney may take part in the defense of a license revocation proceeding unless the attorney's participation meets any exception for attorneys appearing in small claims court under California Code of Civil Procedure section 116.530. This prohibition shall not apply if the County elects to be represented by an attorney in the proceeding and notice of the election is included in the notice given pursuant to subsection I. above.

3. For a first or second alleged License Violation within any sixty-month period, the County Counsel may engage in settlement negotiations and may enter into a settlement agreement with a Tobacco Retailer alleged to have violated this Chapter without approval from the Board of Supervisors. Settlements shall not be confidential and shall contain the following minimum terms:

i. After an alleged first License Violation at a location within any sixty-month period:

a. An agreement to stop acting as a Tobacco Retailer for at least one (I) day;

b. A settlement payment to the County of at least one thousand dollars ($1,000.00); and

c. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

ii. After an alleged second License Violation at a location within any sixty-month period:

a. an agreement to stop acting as a Tobacco Retailer for at least ten (10) days;

b. a settlement payment to the County of at least five thousand dollars ($5,000.00); and

c. an admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

b. New license after revocation for violation.

1. After a first License Violation at a location within any sixty-month period, no new license may issue for the location until ten (l0) days have passed from the date of the last revocation or violation, whichever is later.

2. After a second License Violation at a location within any sixty-month period, no new license may issue for the location until thirty (30) days have passed from the date of the last revocation or violation, whichever is later.

3. After of a third License Violation at a location within any sixty-month period, no new license may issue for the location until ninety (90) days have passed from the date of the last revocation or violation, whichever is later.

4. After four (4) or more License Violations at a location within any sixty-month period, no new license may issue for the location until five (5) years have passed from the date of the last revocation or violation, whichever is later.

c. Expiration of license. A Tobacco Retailer's license that is not timely renewed pursuant to Section 5.68.070(a) shall expire at the end of its term. To reinstate a license that has expired due to the failure to timely pay the renewal fee, the proprietor must:

1. Submit the renewal fee plus a reinstatement fee of ten percent (l0%) of the renewal fee.

2. Submit a signed affidavit affirming that the Proprietor has not sold any Tobacco Product or Tobacco Paraphernalia during any period that the license was expired.

d. Revocation of license issued in error. A Tobacco Retailer's license shall be revoked if the Department finds, after notice and opportunity to be heard, that one (l) or more of the bases for denial of a license under Section 5.68.050(b) existed at the time application was made or at any time before the license issued. The revocation shall be without prejudice to the filing of a new application for a license. (Ord. No. 906, § 10, 12-19-06)

5.68.110 **Enforcement.** The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

a. Whenever evidence of a violation of this Chapter is obtained in part through the participation of a Person under the age of eighteen (18) years old, such a Person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this ordinance and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

b. Violations of this chapter are subject to a civil action brought by the District Attorney or County Counsel, punishable by:

1. A fine not less than two hundred fifty dollars ($250.00) and not exceeding one thousand dollars ($1,000.00) for a first violation in any sixty-month period; or
2. A fine not less than one thousand five hundred dollars ($1,500.00) and not exceeding two thousand five hundred dollars ($2,500.00) for a second violation in any sixty-month period; or
3. A fine not less than three thousand dollars ($3,000.00) and not exceeding ten thousand dollars ($10,000.00) for a third or subsequent violation in any sixty-month period.

c. Violations of this Chapter may, in the discretion of the District Attorney or County Counsel, be prosecuted as infractions or misdemeanors.

d. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation.

e. Violations of this Chapter are hereby declared to be public nuisances.

f. In addition to other remedies provided by this Chapter or by other law, any violation of this Chapter may be remedied by a civil action brought by the County Counsel, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief. (Ord. No. 906, § 11, 12-19-06)

CHAPTER 5.70
MOBILE MARIJUANA DISPENSARIES

Sections:

5.70.010 Definitions.
5.70.020 Mobile Marijuana Dispensaries Prohibited.
5.70.030 Marijuana Delivery Prohibited.
5.70.040 Excluded Operations.
5.70.050 Public Nuisance Declared.
5.70.060 Violations.

5.70.010 Definitions. The following words and phrases shall, for the purposes of this chapter, have the meanings respectively ascribed to them by this section, as follows:

"Mobile Marijuana Dispensary" means any clinic, cooperative, club, business or group which transports or delivers, or arranges the transportation or delivery, of medical marijuana to a Person.

"Person" means any person, firm, corporation, association, club, society, or other organization. The term Person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

"Operation" means any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of a Mobile Marijuana Dispensary.

(Ord. 1037, 7.2.13)

5.70.020 Mobile Marijuana Dispensaries Prohibited. Mobile Marijuana Dispensaries are prohibited in the City of Beaumont. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of any Mobile Marijuana Dispensary within the City. (Ord. 1037, 7.2.13)

5.70.030 Marijuana Delivery Prohibited.

(a) No Person shall deliver marijuana to any location within the City from a Mobile Marijuana Dispensary, regardless of where the Mobile Marijuana Dispensary is located, or engage in any Operation for this purpose.

(b) No Person shall deliver any marijuana-infused product such as tinctures, baked goods or other consumable products, to any location within the City from a Mobile Marijuana Dispensary, regardless of where the Mobile Marijuana Dispensary is located, or engage in any Operation for this purpose.

(Ord. 1037, 7.2.13)

5.70.040 **Public Nuisance Declared.** Operation of any Mobile Marijuana Dispensary within the City in violation of the provisions of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies. (Ord. 1037, 7.2.13)

5.70.050 **Violations**. Violations of this Chapter may be enforced in accordance with the provisions of Chapter 1.17 of this Code. Notwithstanding any other provision of the Code, a violation of this Chapter is not subject to criminal penalties. (Ord. 1037, 7.2.13)