

Title 5 - BUSINESS LICENSES AND REGULATIONS

Chapters:

Chapter 5.04 - BUSINESS LICENSES GENERALLY

Sections:

5.04.010 - Definitions.

For the purpose of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section.

"Business" means any business, commercial enterprise, trade, calling, vocation, profession, or any means of livelihood, whether or not carried on for gain or profit, including the offering of real property for rental by the owner of such property.

"Calendar year" means the period from January 1 of one year to December 31 of the same year.

"City" means the City of Grass Valley, California.

"Collector" means the director of finance or other city officer or employee charged with the administration of this chapter.

"Employee" means all persons engaged in the operation or conduct of any business, whether as owner, any member of the owner's family, partner, agent, manager, or solicitor, and also any and all other persons employed or working in the business eighteen hours or more per week.

"Fixed place of business" means premises occupied in the city for the particular purpose of conducting a business thereat and regularly kept open for that purpose.

"Gross receipts" means the total of amounts actually received or receivable from all sales; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of, or in connection with, the sale of materials, goods, wares or merchandise; and gains realized from trading in stocks or bonds, interest income, carrying charges, rents, royalties, fees, commissions, dividends, or other emoluments, however designed. Included in "gross receipts," are all receipts, cash, credits, and property of any kind or nature, without any deduction from them on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded from them:

1. Any tax required by law to be included in or added to the purchase price and collected from the customer or purchaser;
2. Cash discounts allowed and taken on sales;
3. Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded in either cash or by credit;
4. Amounts collected for others where the business is acting as an agent of trustee, to the extent that such amounts are paid to those for whom collected; provided, that the business furnish the collector with the names and addresses of the others and the amounts paid to them;
5. Receipts or refundable deposits, except that refundable deposits forfeited and taken into the income of the business shall not be excluded;
6. As to alcohol, alcoholic beverages, bars, restaurants, liquor stores and like businesses dispensing and/or selling alcoholic beverages, only that portion of the gross receipts related to the sale of alcohol shall be

exempt;

7. Amounts received or receivable by persons having a fixed place of business within the city for acts or services performed outside the city, but only to the extent a business tax has been paid to the city or cities in which the acts or services were performed.

"Person" means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common law trusts, societies and individuals transacting and carrying on any business in the city.

"Quarter" means the period of three calendar months, the quarters beginning with the first day of January, April, July and October of each year; the word "quarter" includes fractions thereof.

"Sworn statement" means an affidavit sworn to before a person authorized to take oaths or a declaration or certification made under penalty of perjury.

(Ord. 470 § 2 (part), 1991: prior code § 12-1)

5.04.020 - Administration.

- A. This chapter shall be administered by the collector or his designee acting as the collector.
- B. The collector may make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary or desirable to supplement or clarify such provisions or aid in their enforcement.

When, by reason of the provisions of the Constitution of the United States or the Constitution of California, the business tax imposed by this chapter cannot be enforced without there being an apportionment according to the amount of business done in the city, or in the State of California, as the case may be, the collector may make such rules and regulations for the apportionment of the tax as are necessary or desirable to overcome the constitutional objections.

- C. The determination of the type or class of business or businesses a taxpayer is engaged in, or about to engage in, shall be an administrative function of the collector.

In cases where a taxpayer believes he is placed in the wrong business or class of business or businesses, he may apply in writing to the collector for a change in classification setting forth in full the reason for requesting such change. The collector shall conduct an investigation and shall thereupon render a decision in writing as to the proper classification or classifications.

If the taxpayer is aggrieved by the collector's decision, he shall have the right of appeal to the city council.

- D. In addition to all other powers conferred upon him, the collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding thirty days and, in such case, to waive any penalty that would otherwise have accrued. Interest, however, shall be added to any tax determined to be payable.
- E. The collector shall have such other powers as are set out in this chapter or as may be prescribed by the city council.

(Ord. 470 § 2 (part), 1991: prior code § 12-2)

5.04.030 - Purpose.

The ordinance codified in this chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation.

(Ord. 470 § 2 (part), 1991: prior code § 12-3)

5.04.040 - Substitute for other revenue ordinances.

Except as provided in this chapter, any person required to pay a license tax for transacting and carrying on any business under this chapter shall be relieved from the payment of any license tax for the privilege of doing such business which may be required under any other ordinance of the city, but shall remain subject to the regulatory provisions of such other ordinance. This section shall not apply to inspection fees.

(Ord. 470 § 2 (part), 1991: prior code § 12-4)

5.04.050 - Past actions/obligations previously accrued.

Neither the adoption of the ordinance codified in this chapter nor its superseding of any portion of any other ordinance of the city, shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license or any penal provision applicable to any such violation, or be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

(Ord. 470 § 2 (part), 1991: prior code § 12-5)

5.04.060 - Evidence of doing business.

When a person shall sell or offer to sell any foods, wares, merchandise, service, or other thing of value in the city; or when he shall, by use of signs, circulars, cards, telephone book, newspaper, radio or television, advertise, hold out or represent that he is commencing, engaging in, conducting, operating, managing, carrying on, or soliciting any business in the city; or when any person holds an active license or permit issued by a governmental agency indicating he is in business in the city and such person fails to deny by a sworn statement that he is conducting a business in the city, after having been requested to do so by the collector; then these facts shall be considered prima facie evidence that he is conducting or engaging in business in the city.

(Ord. 470 § 2 (part), 1991: prior code § 12-6)

5.04.070 - License required.

There are imposed upon the businesses specified in this chapter, license taxes in the amounts prescribed in this chapter, and it is unlawful for any person to transact and carry on any business in the city without first having procured a license from the city to do so or without complying with any and all applicable provisions of this chapter.

(Ord. 470 § 2 (part), 1991: prior code § 12-7)

5.04.080 - Written application required.

Before any license is issued to any person, such person shall make written application therefor, signed by the applicant, to the collector of the city; such application must state the nature or kind of business for which the license is required, the place where such business will be carried on or conducted, social security or federal identification number, a State Board of Equalization number and the names of the owners of the business. In cases where such business is not to be conducted or carried on at a permanent place of business in the city, then such application shall state the residence of the owners of such business. Businesses exempt or excluded per Section 5.04.190 of this chapter require a written application.

(Ord. 470 § 2 (part), 1991: prior code § 12-8)

5.04.090 - Application—Contents of license.

Every person required to have a license under the provisions of this chapter shall make application for the license to the collector of the city, as provided in this chapter, and upon the payment of the prescribed tax, the collector shall issue to such person a license which shall contain:

- A. The name of the person to whom the license is issued;
- B. The business licensed;
- C. The place where such business is to be transacted and carried on;
- D. The date of the expiration of such license;
- E. Such other information as may be necessary for the enforcement of the provisions of this chapter. The license issued for the purpose of posting in places of business shall contain no reference to the amount of license tax paid.

(Ord. 470 § 2 (part), 1991: prior code § 12-9)

5.04.100 - License a debt.

The amount of any license imposed by this chapter shall be deemed a debt to the city and any person carrying on any business defined in this chapter without having a license from the city to do so, shall be liable to an action in the name of the city in any court of competent jurisdiction, for the amount of the license by this chapter imposed on such business, together with all penalties then due on the amount in any such action.

(Ord. 470 § 2 (part), 1991: prior code § 12-10)

5.04.110 - Duration—Dates payable.

All licenses, unless otherwise expressly stated in this chapter, shall be construed to be annual licenses, and shall be payable on the first day of January of each year and all such licenses shall expire on December 31 of each year. If a license remains unpaid thirty days after the payable date it shall be considered delinquent. Licenses for any quarter within the calendar year shall be payable in advance as issued and shall expire at the close of the quarter for which the license may be issued; no greater or less amount shall be charged or received than is provided in this chapter and no license shall be issued for any period of time other than in this chapter provided.

(Ord. 470 § 2 (part), 1991: prior code § 12-11)

5.04.120 - Nontransferable—Amendable.

No license issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application for the license and paying a transfer fee, have the license amended to authorize the transacting and carrying on of such business under the license at some other location to which the business is or is about to be moved; provided, further, that transfer, whether by sale or otherwise, to another person under such circumstances, that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this section. For the purpose of this section, stockholders, bondholders, partnerships or other persons holding an interest in a corporation or other entity defined in this chapter to be a person, are regarded as having the real or ultimate ownership of such corporation or other entity. Nothing in this section may be construed to conflict with or supersede the requirements of Section 5.04.170.

(Ord. 470 § 2 (part), 1991: prior code § 12-12)

5.04.130 - Unexpired licenses previously issued.

Where a license for revenue purposes has been issued to any business by the city and the tax paid for it under the provisions of any ordinance enacted before the ordinance codified in this chapter, and the term of such license has not expired, then the license tax prescribed for the business by this chapter shall not be payable until the expiration of the term of such unexpired license.

(Ord. 470 § 2 (part), 1991: prior code § 12-13)

5.04.140 - Duplicate or amended license.

A duplicate or amended license may be issued by the collector to replace any license previously issued under the provisions of this chapter which has been lost or destroyed or has a need to be amended, upon the licensee's filing an affidavit attesting to such fact, and at the time of filing such affidavit paying to the collector a fee for processing a duplicate or amended license.

(Ord. 470 § 2 (part), 1991: prior code § 12-14)

5.04.150 - Duty of licensee.

Every person having a license under the provisions of this chapter shall keep such license posted or exhibited while in force, in some conspicuous part of the place of business. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license at a place where it can be readily inspected.

The payment of a license tax and the issuance of a license to any person by the city shall not entitle the licensee to carry on any business unless he has complied with all the requirements of this code and all other applicable laws, nor to engage in, or to carry on, any business in any building or in any premises designated in such license in the event such building or premises are situated in an area or locality in which the conduct of such business is in violation of this code or any other law.

(Ord. 470 § 2 (part), 1991: prior code § 12-15)

5.04.160 - Taxes, fees, penalties, fines, interest.

The rate and amount of business license taxes, fees, penalties, fines and interest related to this chapter, shall be established by resolution of the city council.

(Ord. 470 § 2 (part), 1991: prior code § 12-16)

5.04.170 - Branch establishments.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on within the city, and each license shall authorize the licensee to transact and carry on only the business licensed by it at the location and in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

(Ord. 470 § 2 (part), 1991: prior code § 12-17)

5.04.180 - Two or more businesses at same location.

In the event that any person is conducting two or more types of businesses at the same location and under the same management, but which use a single set or integrated set of books and records, may at his option, pay only one license tax which shall be the tax that applies to the business requiring the highest license tax payment.

(Ord. 470 § 2 (part), 1991: prior code § 12-18)

5.04.190 - Exemptions—Exclusions.

- A. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or the State of California for the payment of such fees as are prescribed in this chapter.
- B. Any person claiming an exemption pursuant to this section shall file a sworn statement with the collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the fees imposed by this chapter.
- C. The provisions of this chapter shall not be deemed to require payment of a license fee by any doctor, lawyer, architect, dentist or other professional person not having a fixed place of business within the city who is called upon to come into the city to render services; provided, however, that nothing in this section or any subsection of it shall exempt any person from complying with any of the regulatory measures or provisions of the ordinances of the city save and except the payment of license fees required thereby; provided, further that any license exempt of fee is nontransferable.
- D. The provisions of this chapter shall not apply to public utilities which are subject to and are paying a franchise tax to the city, except that any such firm when engaged in selling goods, wares or merchandise at retail shall be subject to license of such selling business.
- E. Highway Carrier. Persons who operate vehicles for hire and pay Public Utilities Commission taxes for intercity (between cities) activities shall be exempt. Pursuant to the California Public Utilities Code (Highway Carriers Uniform Business License Tax Act), Chapter 3, Section 4301 et seq., and the regulations promulgated thereunder, intracity (within the city) business activities shall not be entitled to such exemption.
- F. Bank/financial Institution. Any bank or financial institution which pays taxes under the California Revenue and Taxation Code Sections 23181 and 23182 shall be exempt.
- G. Insurance Companies. Insurance companies are exempt under the provisions of Article XIII, Section 28 of the California Constitution. Independent insurance brokers shall not be exempt.
- H. The provisions of this chapter shall not apply to any auctioneers who are licensed and regulated under provisions of Chapter 5.08 of this title.
- I. The provisions of this chapter shall not apply to any garbage collectors who are licensed and regulated under the provisions of this code.
- J. The city council may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided in this section.
- K. An exemption will be revoked whenever there is reason to believe that any person to whom a tax exempt certificate was issued pursuant to this section has furnished false or misleading information in the affidavit.
- L. Collector shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the City of the license fee required by this chapter.
- M. The collector, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided in this section.

(Ord. 470 § 2 (part), 1991: prior code § 12-19)

5.04.200 - License withheld.

- A. The collector shall not issue a license to any person for conducting any business while there is pending any action under this chapter against that person as the holder of any license at the same location until such action has been

concluded.

- B. No license for any ensuing, current or unexpired period shall knowingly be issued or renewed to any person who at the time of making application therefor is indebted to the city for any unpaid business license tax.
- C. If any person shall have made payment for his license with a check which was returned by the bank upon which it was drawn because of insufficient funds a fee, to be set by council resolution, for insufficient funds will be added to the amount of license tax due. The collector may thereafter require that such person make payment of his business license tax by cash, money order, or certified check.
- D. Payment of business license tax is required prior to license issuance.

(Ord. 470 § 2 (part), 1991: prior code § 12-20)

5.04.210 - Refunds.

- A. No refund shall be issued for any business which ceases to exist or changes ownership after an annual license tax is paid.
- B. No tax collected under the provisions of this chapter shall be refundable or prorated in any manner, except that if the business subject to the tax shall establish to the satisfaction of the collector it has overpaid the tax and shall, within a period of one year from the day on which the overpayment was made, file with the collector a claim for refund. Upon the filing of such a claim and when the collector determines that an overpayment has been made, the collector may refund, or allow credit on a renewal, of the amount overpaid.

(Ord. 470 § 2 (part), 1991: prior code § 12-21)

5.04.220 - Statements and records.

- A. No statements shall be conclusive as to the matters set forth therein, nor shall the filing of them preclude the city from collecting by appropriate action such sum as is actually due and payable under the provisions of this chapter. Such statement and each of the several items therein contained shall be subject to audit and verification by the collector or authorized employees of the city who are authorized to examine, audit and inspect such books and records of any licensee or applicant for license as may be necessary in their judgment to verify or ascertain the amount of license tax due.
- B. All persons subject to the provisions of this chapter shall keep complete records of business transactions, including sales, receipts, purchases and other expenditures, and shall retain all such records for examination by the collector. Such records shall be maintained for a period of at least three years. No person required to keep records under this section shall refuse to allow authorized representatives of the collector to examine those records at reasonable times and places.

(Ord. 470 § 2 (part), 1991: prior code § 12-22)

5.04.230 - Information confidential.

It is unlawful for the collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a license or pay a license tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income profits, losses, expenditures or any particular thereof set forth in any statement or application, or to permit any statement or application or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this section shall be construed to prevent:

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

- collecting taxes imposed under the provisions of this chapter;
- B. The disclosure of information to, or the examination of records by, federal or State officials or the tax officials of another city or county if a reciprocal arrangement exists, or to a grand jury or court of law upon subpoena;
 - C. The disclosure of information and the results of the examination of records of particular taxpayers, or relating to particular taxpayers, or to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayers to the city;
 - D. The disclosure, after the filing of a written request to that effect, to the taxpayer himself or to his successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the city attorney approves each such disclosure and that the collector may refuse to make any disclosure referred to in this subsection when, in his opinion, the public interest would suffer thereby;
 - E. The disclosure of the names and business addresses of persons to whom licenses have been issued and the general type or nature of their business;
 - F. The disclosure by way of public meeting or otherwise of such information as may be necessary to the city council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes or submits an offer of compromise with regard to a claim asserted against him by the city for license taxes, or when acting upon any other matter;
 - G. The disclosure of general statistics regarding taxes collected or business done in the city.

(Ord. 470 § 2 (part), 1991: prior code § 12-23)

5.04.240 - Statements required as to number of employees.

In all cases where the amount of license to be paid by any person is based upon the number of employees, such person shall, before obtaining a license for his business, render to the collector a sworn statement showing the average number of employees employed by such person during the license period next preceding the date of such statement.

No such statement shall be conclusive upon the city or upon any officer thereof as to the matters therein set forth, and it shall not prejudice the rights of the city to recover any amount that may be ascertained to be due from said persons, in addition to the amount shown by such statement to be due in case such statement be found to be incorrect. The correctness of all such statements shall be subject to verification by the collector or an employee of the city authorized and empowered to inspect and audit all books and records of any and all persons licensed to carry on any business specified in this chapter.

(Ord. 470 § 2 (part), 1991: prior code § 12-24)

5.04.250 - Failure to file statement.

- A. If any person fails to file any required statement within the time prescribed or if, after demand therefor made by the collector, he fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain.
- B. If the collector is not satisfied with the information supplied in applications or statements filed, he may determine the amount of any license tax due by means of any information he may be able to obtain.
- C. If such a determination is made, the collector shall give notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within fifteen days after the mailing or serving of such notice, make application in

writing to the collector for a hearing on the amount of the license tax. If such application is made, the collector shall cause the matter to be set for hearing within fifteen days before the city council. The collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The city council shall consider all evidence produced and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving notices of assessment.

(Ord. 470 § 2 (part), 1991: prior code § 12-25)

5.04.260 - Appeals.

Any person aggrieved by any decision of the collector with respect to any provision of this chapter may appeal to the city council by filing a notice of appeal with the clerk of the council within fifteen days after notice of the decision of the collector. The city council shall thereupon fix a time and place for hearing such appeal not later than thirty days after the notice of appeal is received by the clerk. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to such person at his last known address. The city council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of the ordinance codified in this chapter.

(Ord. 470 § 2 (part), 1991: prior code § 12-26)

5.04.270 - Enforcement.

- A. It shall be the duty of the collector and he is directed to enforce each and all of the provisions of this chapter.
- B. The chief of police shall render such assistance in the enforcement of these provisions as may from time to time be required by the collector.
- C. The collector and each and all of his assistants and any police officer shall have the power and authority to enter free of charge and at any reasonable time any place of business required to be licensed under the provisions of this chapter and demand the exhibit of the license certificate. Any person having such license certificate theretofore issued in his possession or under his control who willfully fails to exhibit it on demand shall be guilty of an infraction and subject to a penalty.
- D. The conviction and fine of any person for engaging in any business without first obtaining a license to conduct such business shall not relieve such person from paying the license tax to conduct such business, nor shall the payment of any license tax prevent a criminal prosecution for the violation of any of the provisions of this chapter. All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Ord. 470 § 2 (part), 1991: prior code § 12-27)

5.04.280 - Failure to pay tax—Penalties.

For failure to pay a business tax when due, the collector shall add a penalty to the business license tax. Where an audit or inspection of the books or records of a business reveals the amount of business tax paid for any business tax period is less than the amount which was actually due, it shall be deemed for purposes of this section that such deficiency was a failure to pay a business tax when due. Interest charges shall be added to all taxes imposed and remaining unpaid after delinquency, including any deficiency in payment of taxes. Penalties and interest as provided in this section shall be assessed from the date when the deficiency was required to be paid pursuant to this chapter. The collector may, for good cause shown, waive all or any part of any otherwise applicable penalty and interest.

(Ord. 470 § 2 (part), 1991: prior code § 12-28)

5.04.290 - Violation—Penalty.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any authorized officer of this city any material fact in procuring the license or permit provided for in this chapter shall be deemed guilty of a misdemeanor punishable under Chapter 1.12 of this Code, nevertheless, that any violation or offense may be deemed an infraction punishable under Chapter 1.12 of this Code and charged as such in the discretion and at the election of the prosecuting attorney, in which event the punishment therefor shall not be imprisonment but a fine not to exceed the amounts specified by Chapter 1.12 of this Code as then in effect. Every day a violation of any provision of this chapter continues constitutes a separate offense.

(Ord. 470 § 2 (part), 1991: prior code § 12-29; Ord. No. 791, § 1, 9-26-2017)

Chapter 5.08 - AUCTIONS AND AUCTIONEERS

Sections:

5.08.010 - Purpose.

This chapter shall not apply to any public officer or officer of a court, who in pursuance of his duty as such officer shall conduct within the city an auction sale pursuant to any law of the state or of the United States of America, or order of a court, nor to licensed pawnbrokers or loan companies selling or offering for sale unredeemed pledges or chattels in the manner provided by law, nor to the sale of livestock by auction.

(Prior code § 3-1)

5.08.020 - License required.

No person shall sell or exhibit for sale by way of auction, except under and by virtue of legal process, any personal property without first obtaining the proper license therefor as provided in this chapter.

(Prior code § 3-2)

5.08.030 - License for each location.

Each separate location shall have a separate license under this chapter.

(Prior code § 3-3)

5.08.040 - Application.

An applicant for a license under this chapter for an auction sale shall file an application therefor with the city clerk not later than thirty days prior to the auction sale to be licensed, upon forms prescribed by the city clerk, which shall include:

- A. The name and address of the applicant;
- B. The location and time of the proposed auction sale;
- C. A sworn statement of the inventory on hand and the personal property to be offered at auction;
- D. The quality, quantity, kind or grade of each item;
- E. The wholesale market value thereof;
- F. The name of the owner of such personal property proposed to be sold at such auction sale; and

G. Such other information as the city clerk shall prescribe.

(Prior code § 3-4)

5.08.050 - Fees.

- A. Every person who for two years immediately preceding application for a license under this chapter who has operated, managed or maintained a place of business in the city where goods, wares, merchandise or other personal property have been regularly sold, shall pay an auctioneer's license fee of twenty dollars per day, payable in advance.
- B. All other auctioneer's license fees shall be of the following two classes:
 - 1. The first class shall be a daily license only, and the license fee shall be one hundred and fifty dollars per day, payable in advance.
 - 2. The second class shall be a yearly license, and the license fee shall be one thousand dollars, payable in advance.

(Prior code § 3-5)

5.08.060 - Denial of license.

No license shall be issued to any person who has been convicted of violating any of the provisions of this code or other ordinances of the city relating to auction sales, for a period of five years after such conviction.

(Prior code § 3-6)

5.08.070 - Bond required.

Each applicant for a license to conduct an auction under this chapter shall post with the city clerk, prior to the issuance of such license, a cash, or surety company, or other bond satisfactory to the city clerk, in the sum of five thousand dollars, conditioned upon observance by the applicant of all the provisions of this chapter and upon the truth of all of the representations made in connection with the application for such license and in the course of any auction sale, and as a guarantee that the purchase price of any article purchased will be returned to any purchaser upon the proof that any false or misleading statement or representation has been made concerning any personal property sold or offered for sale at any auction sale, or in such auction place of business.

(Prior code § 3-7)

5.08.080 - Authority of licensee.

A license issued pursuant to this chapter shall authorize the holder of it, subject to the provisions of this code and other ordinances of the city and laws of the state, to sell or offer for sale personal property at auction.

(Prior code § 3-8)

5.08.090 - Nontransferable.

Any auctioneer's license granted under this chapter shall not be assignable or transferable.

(Prior code § 3-9)

5.08.100 - Duties of licensee.

The person to whom a license under this chapter has been granted shall remain in continuous attendance at all times while such sale by auction is being conducted, and shall be responsible for any violation of the provisions of this chapter relating to the conduct of such auction sale.

(Prior code § 3-10)

5.08.110 - Sale articles to be labeled.

No licensee under this chapter shall offer for sale by auction any personal property to which there is not attached a card or ticket or label containing a true and correct statement, plainly written or printed in English, specifying the kind and quality of such personal property. Such tag or label shall remain securely attached thereto and shall be delivered to the purchaser as a true and correct description and representation of the article sold, and shall be deemed prima facie evidence of intent to defraud in case such written statement is not a true and correct description and representation of such article sold.

(Prior code § 3-11)

5.08.120 - Labeling of jewelry.

- A. When an auction sale under this chapter relates to jewelry, it is unlawful for any person so licensed to offer for sale by auction any article to which there is not attached a card or ticket or label containing a true and correct statement, plainly written or printed in English, specifying the kind and quality of the metal of which such article is made or composed, or the percentage of karat or purity of such metal. If such articles are plated or overlaid, then such tag or label shall contain a true statement of the kind of plate.
- B. When precious stones are for sale or sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true name, weight and quality of such stones.
- C. When semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true names of such stones.
- D. When imitations of precious or semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, such imitations shall be described or defined as synthetic or imitations of such stones as they purport to represent.
- E. When watches and clocks are sold the true names of the manufacturers shall be stated in writing and no parts of the movements or mechanism of them shall be substituted or contain false and misleading names of trade marks; neither shall secondhand or old movements be offered for sale in new cases without a true statement to that effect. Used and rebuilt watches should be so indicated.
- F. Such tag or label shall remain securely attached to any such article or merchandise, shall be delivered to the purchaser as a true and correct description and representation of the article sold and shall be deemed prima facie evidence of intent to defraud in case such written statement is not a true and correct description and representation of such articles sold.

(Prior code § 3-12)

5.08.130 - Inventory control.

- A. During an auction sale under this chapter, no addition whatsoever shall be made to the stock of personal property set forth in the inventory attached to the application for the license therefor, and nothing shall be offered for sale or sold at any such sale by auction which is an addition to the stock of merchandise described in such inventory, which has been added to the stock of merchandise described in such inventory or which has been added to the applicant's stock within a period of thirty days prior to the date the applicant filed the application for license.

- B. It is unlawful for any person to offer for sale or sell at any auction sale any personal property in addition to the stock li described in the inventory.

(Prior code § 3-13)

5.08.140 - Official observer.

Each applicant for a license under this chapter to conduct an auction sale shall permit and provide for an official observer representing the city to be in attendance at all times during such auction sale for observation and investigation for the purpose of seeing that no personal property is sold except that which is included in the inventory filed with the city clerk. The applicant shall pay to such official observer the sum of seven dollars and fifty cents per day, in advance, for each day such auction is held.

(Prior code § 3-14)

5.08.150 - False or misleading statements.

- A. It shall be unlawful for any licensee under this chapter or his agents or employees to make any statements, either written or verbal, which are false in any particular, or which have a tendency to mislead or to make any misrepresentations whatsoever with reference to any article sold or offered for sale during the auction licensed thereby.
- B. Every auctioneer and every person selling personal property at auction shall be deemed to warrant that all representations made in the course of such sale are true and correct, and that the purchase price of any articles purchased will be returned to any purchaser upon proof that any false or misleading statement or representation has been made concerning such personal property, or concerning such auction sale by the auctioneer, or by any person conducting, managing, or carrying on such auction sale.

(Prior code § 3-15)

5.08.160 - False bidders.

- A. No auctioneer or any person conducting, managing or carrying on an auction sale shall use any person as a false bidder for the purpose of increasing the price of any article offered for sale at such auction.
- B. No person shall make a false bid or any other bid than a bona fide bid at any auction sale, or act as a by-bidder or what is commonly known as "capper," "booster" or "shiller" at any auction or place where personal property is sold, held or offered for sale at auction; or shall offer or make false bids on any personal property held or offered for sale at such auction, or pretend to buy any personal property at any auction sale in order to, in any manner, stimulate such sales by any deceit or misrepresentation in the making of bids or offers for the purchase of any personal property held or offered for sale at such auction.

(Prior code § 3-16)

5.08.170 - Noisemaking to draw attention to auction.

It is unlawful for any auctioneer or other person to ring a bell or cause or permit a bell to be rung in or about the front of the premises where there is conducted an auction sale, before, after or during such sale.

No person shall solicit or permit the soliciting by music, singing or loud noises to be made or done for the purpose of attracting the public to or of an auction sale.

(Prior code § 3-17)

Chapter 5.10 - CARDROOMS

Sections:

5.10.010 - Purpose.

- A. On October 11, 1997, Senate Bill 8 (SB8) (Lockyer) was chaptered as Chapter 867, Statutes 1997 by the California State Legislature. SB 8 repealed the Gaming Registration Act and enacted the Gambling Control Act. The Gambling Control Act, hereafter "the Act," establishes within the Office of the California Attorney General a Division of Gambling Control which will be responsible for licensing controlled gambling throughout the state. Any new cardroom within the city will be subject to a vote of approval by the electorate before commencing business. A cardroom is a gambling establishment under the Act. The state will deny a gambling license to any gambling establishment that is within the incorporated limits of a city which does not have an ordinance in place governing specific aspects of the business. The purpose of this chapter is to comply with the requirements of Business and Professions Code Section 19851 as included in the Act. Business and Professions Code Section 19851 requires that the city's ordinance govern the following matters:
1. The hours of operation of gambling establishments;
 2. Patron security and safety in and around the gambling establishments;
 3. The location of gambling establishments;
 4. Wagering limits in gambling establishments; and
 5. The number of gambling tables in each gambling establishment and in the jurisdiction.
- B. It is not the intention of this chapter to permit the playing of any game prohibited by the laws of State of California, including, but not limited to, those games enumerated in Section 330 of the Penal Code of the state.
- C. There is presently one cardroom in operation within the city, the Towers Casino and Cardroom.

(Ord. 559 § 1 (part), 1998; Ord. 605 § 1, 2002; Ord. No. 713B N.S., § 1, 4-13-2010)

5.10.020 - Definitions.

For the purposes of this chapter:

"Cardroom" means any space, room or enclosure, furnished or equipped with a table used or intended to be used as a card table for the playing of cards and similar games and the use of which is available to the public, or any portion of the public.

"Gambling" means to deal, operate, carry on, conduct, maintain or expose for play any controlled game as defined in subdivision (e) of Section 337j of the California Penal Code.

(Ord. 559 § 1 (part), 1998)

5.10.030 - State license required.

It is unlawful for any person, for himself or for any other person, to engage in or carry on, or to maintain, or to conduct, or cause to be engaged in, carried on, maintained or conducted, any cardroom in the city without first having secured a license from the State of California Attorney General, Division of Gambling Control to do so. Any cardroom or any card table which is located within a portion of any premises which sells or dispenses alcoholic beverages on the premises shall do so pursuant to all federal, state and local laws pertaining to such.

(Ord. 559 § 1 (part), 1998)

5.10.040 - Limitation on location and number of card tables.

- A. At no time shall there be more than eight card tables licensed to conduct such business by the city. Tables used during tournaments or free special events shall count toward this maximum table limit. Chairs shall be provided for all card p more than twelve players shall be permitted to play at any time at any one table. Authorized games shall not utilize do tiles, dice, spinning wheels, electronic player-controlled machines or any other device other than the standard decks o cards traditionally used for playing such games, poker chips, and the optional dealer shoes, except, to the extent such is allowed by applicable state law and/or state regulations, such equipment shall also be allowed in the city. However, proposed electronic player-controlled device or machine shall be allowed only upon obtaining prior approval of a use | pursuant to Chapter 17.72 of Title 17 of the Grass Valley Municipal Code.
- B. The number of card tables permitted in the Towers Casino and Cardroom, doing business at 115 Bank Street, is eight. The location of the Towers Casino and Cardroom establishment shall not change without the approval of the State Gaming Board and the city council.

(Ord. 559 § 1 (part), 1998; Ord. 605 § 2, 2002; Ord. No. 713B N.S., § 2, 4-13-2010)

5.10.050 - Tournaments—Additional permit required—Limitations.

- A. Notwithstanding the limitations on the number of card tables set forth in Section 5.10.040 of this chapter, a permitted cardroom may hold noticed and/or advertised card tournaments utilizing more than the maximum number of tables so stated in such section provided that the permittee first apply for and obtain a special tournament permit from the chief of police. An application for such a permit must be submitted to the chief of police accompanied by the fee in an amount as may be established by the city council from time to time by resolution and completed by the applicant at least five days prior to the date of the tournament. The application shall contain the following information:
1. Date, time and duration of tournament;
 2. Number of card tables;
 3. Copies of any advertising or notices posted by the applicant promoting the tournament; and
 4. Statement of additional security, if any, to be provided during the tournament.
- B. Card tournaments shall be limited in any calendar year at each permitted cardroom based upon the following: For each cardroom authorized by this chapter the number of card tables allowed annually for tournaments shall be proportionate to the number of card tables authorized in the establishment on a daily basis; additional tables are permitted by law so long as the increase does not exceed twenty-five percent per year the authorized number.

Example: an establishment with two tables is authorized to have 365 days × 2 tables = 730 table days each year.
Twenty-five percent of 730 table days = 182.5 table days.

Such an establishment could have any number of tournaments in any calendar year provided that the number of additional tables for the permitted tournaments in any calendar year does not exceed one hundred eighty-two tables. In this regard, in the example given, one tournament could be held in such an establishment each month for one day using an additional fifteen tables.

(Ord. 559 § 1 (part), 1998)

5.10.060 - Hours of operation.

All cardrooms may operate seven days a week, twenty-four hours each day. Should the chief of police determine that the hours of operation pose a threat to public safety, the chief of police shall provide written notice to the applicant that the hours of operations may be adjusted if the public safety issue is not immediately corrected. Should the chief of police recommend adjusting the hours of operation permanently, the matter shall be deferred to the city council for a final determination.

(Ord. 559 § 1 (part), 1998; Ord. No. 713B N.S., § 3, 4-13-2010)

5.10.070 - Patron security and safety.

- A. The licensee shall be responsible for maintaining security on both the premises of the cardroom and the parking lot used by the cardroom and the parking lot used by the cardroom for its patrons and employees. The licensee shall maintain and implement a plan for security and safety of patrons and employees of the licensee in and around the gaming establishment. The plan shall set forth provisions necessary to ensure the safety and security of patrons and employees, including measures taken or instituted on the cardroom site to avoid follow-home robbers. Failure to submit or maintain an approved security plan shall be grounds for the denial or revocation of a cardroom license.
- B. The contents of a security plan shall also provide a complete description and layout of all security measures, both physical and operational, for the handling of money, including, but not limited to, provisions, if applicable, for the following:
 - 1. Purchase of chips and protection against counterfeit chips;
 - 2. Check-cashing or ATM card-cashing procedure;
 - 3. Procedures for bringing money to or removing money from the premises; and/or
 - 4. Procedures for determining and depositing daily gross receipts.

All information provided regarding security measures, internal controls, or provisions relating to the handling of cash, chips and cards shall be deemed confidential and shall not be available for public inspection unless required by law.

- C. If, at any time, the chief of police determines that security measures beyond those contained in an approved security plan are necessary to protect the health and safety of the public, the chief of police is authorized to require such additional security measures as are deemed necessary. Such additional security measures may include, but shall not be limited to, placement of or an increase in uniformed security personnel on both the premises and the parking lot used by the cardroom for its patrons and employees, and the installation of security cameras. Such determinations by the chief of police shall be based on the:
 - 1. Propensity for peace disturbances or criminal activity in the geographic area in which the cardroom is located;
 - 2. Criminal activity or peace disturbances on cardroom premises or the parking lot used by the cardroom for its patrons and employees;
 - 3. Particular time of day; and/or
 - 4. Any other factors which affect the health and safety of the public and cardroom patrons.

The chief of police shall notify the licensee in writing of the necessary security plan changes and shall provide the licensee with a reasonable period of time to implement the changes. Upon receiving the written notice of security plan changes, the licensee shall conform to those requirements within the time provided and shall maintain those requirements in full force and effect until such time as the chief of police deems they are no longer necessary.

- D. The licensee shall not knowingly permit the consumption of alcoholic beverages outside of the premises or in the parking lot which the cardroom uses for its patrons.
- E. The licensee shall not knowingly permit any obviously intoxicated person to participate in any card game.
- F. The licensee shall not knowingly permit any illegal activity to occur on the premises or in the parking lot used by the cardroom for its patrons or employees. Illegal activity includes, but is not limited to, narcotics violations, bookmaking, illegal gambling, loan sharking, receiving stolen property, or prostitution.
- G. The licensee shall permit the chief of police, health department, fire department or any other authorized public official to inspect the premises at any time during the hours of operation.
- H. During all hours of operation, all doors, except for emergency exits, to the establishment must be unlocked and accessible to the general public and open to police inspection.

- I. Each card table shall have assigned to it a person whose duty shall be to supervise the game and see that it is played in accordance with the provisions of the Penal Code and other applicable laws of the state. This person may have more than one table under his or her supervision. This person may also act as the dealer.
- J. Cardrooms shall be located and so arranged that card tables and the players at the tables are plainly visible from the door opening of the cardroom when the door is opened. No wall, partition, screen or similar structure between the front door opening and any card table located in the cardroom shall be permitted if it interferes with such visibility.
- K. After the chief of police sends written notice of the conditions, as either a part of or to supplement the approved security plan, if the cardroom operator disagrees with the conditions, he/she shall file a request for hearing in front of the city administrator. At the hearing, it shall be the chief of police's burden to prove the grounds for the conditions exist. If a hearing is requested, such conditions shall not become final until the hearing has concluded. Written notice of the city administrator's decision shall be provided to the cardroom operator within ten days.

(Ord. 559 § 1 (part), 1998; Ord. No. 713B N.S. § 4, 4-13-2010)

5.10.080 - Wagering limits.

Wagering at any card table in any game shall be limited to table stakes; no side-bets shall be permitted.

(Ord. 559 § 1 (part), 1998)

5.10.090 - Loaning of money—Credit and other regulations and limitations.

No licensee, employee or agent of the licensee or any other person in charge or control of any cardroom shall:

- A. Loan any money, check or anything of value to any person who is playing, or intends to play, any card game;
- B. Extend credit for gambling purposes except as provided under the provisions of the Division of Gambling Control Regulations, specifically Sections 1504.2 through 1504.4 and any subsequent amendments to same;
- C. Purchase or agree to purchase, any real or personal property from any person who is playing, or intends to play, any card game;
- D. Communicate in any way, whether verbally or nonverbally, to any other person, whether playing a card game or not, any information concerning the cards held, or the card game being played, by any person in the cardroom;
- E. Knowingly permit any person to enter or remain on the premises of the cardroom or to play any card game while such person is under the influence of any intoxicating beverage, narcotic or dangerous drug; and
- F. Charge any fee to cash a check of any person who is playing, or intends to play, any card game. In this regard no checks drawn against any federal, state or county fund, including, but not limited to, social security, unemployment insurance, disability payments or public assistance other than payroll checks or checks for the delivery of goods or services that are drawn against a federal, state or county fund shall be cashed on the premises of any card game.

(Ord. 559 § 1 (part), 1998)

5.10.100 - Charges.

The licensee shall establish a reasonable charge to customers and there shall not be permitted any percentage "rake-off" or "cut" of any pots or bets retained by the licensee, employee or agent of the licensee or any other person in charge or control of any cardroom.

(Ord. 559 § 1 (part), 1998)

5.10.110 - Posting of regulations.

There shall be posted in every cardroom in letters plainly visible from all parts thereof, signs stating that no game which is prohibited by state law shall be played in the cardroom. These signs shall also contain such other information as may be required by state law and this chapter as the chief of police may require, including the amount of the charge for participation.

(Ord. 559 § 1 (part), 1998)

5.10.120 - Rules and regulations—Operation in violation unlawful.

It is unlawful to operate a cardroom in violation of any of the provisions of this chapter.

(Ord. 559 § 1 (part), 1998)

5.10.130 - Fees.

Any cardroom licensee conducting business within the incorporated limits of the city shall, in addition to the applicable business license fees for each cardroom establishment, pay the city fees as established by resolution of the city council, for each card table on such premises for the purpose of administering and enforcing the provisions of this chapter.

(Ord. 559 § 1 (part), 1998; Ord. No. 713B N.S., § 5, 4-13-2010)

5.10.140 - Violations—Misdemeanor—Public nuisance.

- A. Any person who violates any provision of this chapter is guilty of a misdemeanor. Each and every violation shall constitute a separate offense.
- B. In addition to the criminal sanctions provided in this section, the operation of any cardroom in violation of the provisions of this chapter or other applicable laws and regulations shall be deemed a public nuisance.

(Ord. 559 § 1 (part), 1998)

Chapter 5.12 - BINGO GAMES

Sections:

5.12.010 - Definitions.

As used in this chapter:

"Bingo" means a game of chance, which prizes are awarded on the basis of designated numbers or symbols on a card which conform to the numbers or symbols selected at random.

"City" means the City of Grass Valley, California.

"License period" means the period from January 1 of one year to December 31 of the same year.

"Minor" means one who has not reached the age of legal majority, eighteen years.

"Nonprofit, charitable organization" means an organization exempt from the payment of bank and corporation taxes under the provisions of Revenue and Taxation Code Section 23701(d) and an organization to which a contribution or gift would be a charitable contribution under the provisions of Section 170(c)(2) of the Internal Revenue Code of 1954.

(Ord. 470 § 4, 1991: prior code § 12-32)

5.12.020 - License required.

All organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701-1 of the Revenue and Taxation Code and all mobile home park associations and senior citizens organizations who wish to conduct bingo games, the proceeds of such games to be used only for charitable purposes, shall procure a license to operate any such bingo game for charity, and it shall be unlawful for any such organization to conduct a bingo game for charitable purposes within the corporate limits of the city without first having procured a license from the city to do so and without complying with any and all applicable provisions of this chapter.

(Ord. 470 § 4, 1991: prior code § 12-33)

5.12.030 - Fee.

The city shall impose a license fee, not to exceed the actual cost of issuing such license, which shall be established by resolution of the city council, on each nonprofit, charitable organization which is authorized to conduct bingo games for charity. This fee shall become delinquent if it remains unpaid thirty days after the due date.

(Ord. 470 § 4, 1991: prior code § 12-34)

5.12.040 - Dates payable.

All licenses under the provisions of this chapter, unless otherwise expressly stated in this chapter, shall be construed to be annual licenses, and payment shall be due on January 1 for the license period ending December 31 of the same year.

(Ord. 470 § 4, 1991: prior code § 12-35)

5.12.050 - Application.

- A. Every nonprofit, charitable organization required to have a license under the provisions of this chapter shall make application for it to the collector and upon payment of the prescribed license fee the collector shall issue such nonprofit, charitable organization a license which shall contain:
1. The name of the nonprofit, charitable organization to which the license is issued;
 2. The date of issuance;
 3. Such other information as may be necessary for the enforcement of the provisions of this chapter, including, but not limited to, a written statement sworn to before some officer authorized to administer oaths that such organization is exempt from the payment of bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701-1 of the Revenue and Taxation Code or that such organization is a mobile home park association or senior citizens organization.
- B. No such statement shall be conclusive upon the city or any officer of it as to matters in it set forth, and it shall not prejudice the rights thereof of the city to make an independent investigation as to the status of the organization applying for a license.

(Ord. 470 § 4, 1991: prior code § 12-36)

5.12.060 - Games to benefit charity.

The following rules and regulations, as set forth in Penal Code 326.5, enacted under the authority of Section 19(c) of Article IV of the Constitution of the State of California shall be applicable to all licensees under the provisions of this chapter.

- A. It is a misdemeanor for any person to receive a profit, wage, or salary from any bingo game authorized by Section 19(c) of Article IV of the state Constitution.
- B. A violation of subsection A of this section shall be punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the general fund of the city.
- C. No minor shall be allowed to participate in any bingo game.
- D. An organization authorized to conduct bingo games pursuant to this chapter shall conduct a bingo game only on property owned or leased by it, and which property issued by such organization for an office or for the performance of the purposes for which the organization is organized. Nothing in this subsection shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization.
- E. All bingo games shall be open to the public, not just to members of the authorized organization.
- F. A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of such game.
- G. No individual corporation, partnership or other legal entity except the organization authorized to conduct the bingo game shall hold a financial interest in the conduct of such bingo game.
- H. With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a separate fund or account and shall not be commingled with any other fund or account. Such profit shall be used only for charitable purposes.
- I. With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a separate fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:
 - 1. Such proceeds may be used for prizes;
 - 2. A portion of such proceeds, not to exceed ten percent of the proceeds after the deduction for prizes, or five hundred dollars per month, whichever is less, may be used for rental of property, overhead, and administrative expenses.
- J. No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.
- K. The total value of prizes awarded during the conduct of an evening of bingo games shall not exceed two hundred and fifty dollars in cash or kind or both, for each separate game which is held.

(Ord. 470 § 4, 1991: prior code § 12-37)

5.12.070 - Display of license.

All licenses must be kept and posted in the following manner:

The licensee carrying on a bingo game for charity in the city shall keep the license posted in a conspicuous place upon the premises where the bingo game is carried on.

(Ord. 470 § 4, 1991: prior code § 12-38)

Chapter 5.16 - CABLE TELEVISION FRANCHISE

Sections:

5.16.010 - Adoption.

A cable franchise agreement with Comcast of California IX, Inc. is hereby adopted, attached [to Ordinance 664] and made part of this chapter by reference as though set forth in the chapter at length.

(Ord. No. 664, § 2, 6-25-2006)

Chapter 5.18 - CABLE SYSTEMS AND OPEN VIDEO SYSTEMS

Sections:

Article I. - General

5.18.010 - Definitions.

For the purposes of this article, the following terms, phrases, words and abbreviations shall have the meanings given in this chapter. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined in this article shall have the same meaning as in Title 47, United States Code, section 521 et seq., and, if not defined therein, their common and ordinary meaning. References to governmental entities or officials whether persons or entities refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances and regulations now in force or hereinafter enacted or amended.

"Access," "PEG access," or "PEG use" refers to the availability of a cable system or open video system for public, education or government use (including Institutional Network use) by various agencies, institutions, organizations, groups and individuals, including the City of Grass Valley and its designated access providers, to acquire, create and distribute programming not under a franchisee's editorial control, including, but not limited to:

1. "Public access" or "public use" means access where organizations, groups, or individual members of the general public, on a nondiscriminatory basis, are the primary or designated programmers or users having editorial control over their communications;
2. "Education access" or "education use" means access where accredited educational institutions are the primary or designated programmers or users having editorial control over their communications;
3. "Government access" or "government use" means access where government institutions or their designees are the primary or designated programmers or users having editorial control over their communications.

"Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

"Basic service" means any service tier regularly provided to all subscribers which includes the retransmission of local television broadcast signals.

"Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

"Cable communications system" refers to open video systems (OVS) and cable systems.

"Cable service" means:

1. The one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and
2. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"Cable system" means a facility, 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:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) A facility that serves subscribers without using, or connecting to a facility that uses, any public right-of-way within the city;
- (3) A facility of a common carrier which is subject, in whole or in part, to the provisions of the Communications Act of 1934, Title II (Common Carriers), as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- (4) Any facilities of any electric utility used solely for operating its electric utility systems; or
- (5) An OVS that is certified by the FCC.

Any reference to a cable system includes the cable system as a whole, or any part thereof, including all facilities, pedestals, equipment cabinets, electronic equipment and devices appurtenant to the system.

"Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system or OVS and which is capable of delivering a television signal whether in an analog or digital format. The definition does not restrict the use of any channel to the transmission of analog television signals or one-way transmission.

"City" means the City of Grass Valley and all departments, divisions, and agencies of the city established by state law or by the Grass Valley Municipal Code.

"City administrator" means the Grass Valley City Administrator or his/her designee.

"Construction, operation or repair" and similar formulations of that term means the named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready and excavation.

"Downstream channel" means a channel designed and activated to carry a transmission from the headend to other points on a cable communications system, including interconnections.

"FCC" means the Federal Communications Commission.

"Franchise" refers to an authorization granted by a franchising entity to the operator of a cable communications system giving the operator the non-exclusive right to occupy the space, or use facilities upon, across, beneath, or over public rights-of-way in the city, and to provide specified services within a franchise area.

"Franchise area" means the area within the city that a franchisee is authorized to serve by the terms of its franchise or by operation of law.

"Franchisee" refers to a person holding a cable communications system franchise granted by the city or by the state under applicable law.

"Franchise fee." (a) In consideration of the grant and exercise of a franchise to construct, install, operate, or provide services using facilities in the public rights-of-way, a cable communications system operator shall pay to the city a franchise fee adopted pursuant to CPUC section 5840; (b) UVPP Fees. A UVPP that provides services using a cable system for which charges are assessed to subscribers, but are not received by the cable system franchisee, shall pay a fee in lieu of a franchise fee on such service pursuant to the franchise fee calculation contained in the cable system franchise.

"Gross revenues" means all cash, credits, property, or other consideration of any kind or nature received directly or indirectly by a franchisee, its affiliates, from any source whatsoever arising from, attributable to, or in any way derived from a franchisee's operation of a cable system within the franchise area. Gross revenues include, but are not limited to, fees charged to subscribers for basic service; fees charged to subscribers for any optional, premium, per-channel, or per-program service; monthly fees charged to subscribers for any tier of service other than basic service; installation, disconnection, reconnection, and change-in-service fees; leased channel fees; fees, payments, or other payment received as consideration from programmers for carriage of programming on the cable system; converter rentals or sales; studio rental, production equipment, and personnel fees; advertising revenues, including a per capita share of advertising revenues for advertising carried on more than one cable system; revenues from home shopping channels; sales of programming guides; and such other revenue sources as may now exist or hereafter develop. Gross revenues, however, shall not include any bad debt (defined as unpaid subscriber or advertiser accounts), any taxes on services furnished to a franchisee and imposed directly upon any subscriber or user by the state, city, or other governmental unit and collected by a franchisee on behalf of such governmental unit. The amount paid as a franchise fee shall not be deducted from gross revenues unless required to be deducted under federal law.

"License" refers to the legal authorization, terminable at will, to use a particular, discrete, and limited portion of the public rights-of-way to construct, operate or repair a cable system.

"Operator" when used with reference to a system, refers to a person: (a) Who directly or through one or more affiliates provides service over a cable communications system and directly or through one or more affiliates owns a significant interest in such facility; or (b) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a facility.

"OVS" means an open video system as defined by 47 C.F.R. 76.1500(a). A reference to an OVS includes pedestals, equipment enclosures (such as equipment cabinets), amplifiers, power guards, nodes, cables, fiber optics and other equipment necessary to operate the OVS, or installed in conjunction with the OVS.

"Person" includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the city.

"Public property" means any property that is owned or under the control of the city that is not a public right-of-way, including, for purposes of this article, but not limited to, buildings, parks, poles, structures in the public rights-of-way such as utility poles and light poles, or similar facilities or property owned by or leased to the city.

"Public rights-of-way" means the surface of and the space above and below any street, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive, or right-of-way or easement primarily dedicated to travel, now or hereafter existing within the city which may be properly used for the purpose of installing, maintaining, and operating a cable communications system; and any other property that a franchisee is entitled by state or federal law to use by virtue of the grant of a franchise.

"Revocation" means the city's affirmative act of terminating a franchise.

"School" means any accredited primary school, secondary school, college and university.

"Subscriber" means the city or any person who is lawfully receiving, for any purpose or reason, any cable service via a cable communications system with franchisee's express permission, whether or not a fee is paid for such service.

"Termination" means the conclusion of a franchise by any means, including, but not limited to, by expiration of its term, abandonment or revocation.

"Transfer" means any transaction in which: (1) all or a portion of any facilities or any rights to use or operate facilities located in the public rights-of-way are sold, conveyed, transferred, assigned, encumbered (except as set forth in this chapter) or leased, in whole or in part, directly or indirectly, by one or more transactions to another person, whether voluntarily or by operation of law or otherwise; or (2) there is any change, acquisition, or transfer in the identity of the person in control of the franchisee, or any person that controls franchisee, including, without limitation, forced or voluntary sale, merger, consolidation, or receivership; or (3) the rights or obligations under the franchise are sold, conveyed, transferred, assigned, encumbered (except as set forth in this chapter) or leased, in whole or in part, directly or indirectly, by one or more transactions to another person, whether voluntarily or by operation of law or otherwise. It will be presumed, for purposes of clause (2) above, that any transfer or cumulative transfer of a voting interest by a person or group of persons acting in concert of ten percent or more of franchisee, or person that controls franchisee, or any change in the managing general partners of a franchisee is a change of control. "Transfer" does not include: (1) a lease to a UVPP pursuant to 47 U.S.C. Sections 532 or 573; (2) the transmission of a commodity or electronic signal using facilities on a common carrier basis; (3) a lease or other right to use facilities mandated pursuant to 47 U.S.C. Section 224, or (4) a pledge in trust, mortgage or other encumbrance against the facilities, or any portion thereof, given to a bona fide institutional lender in connection with a loan or other financing required to secure the construction, operation, or repair of the facilities ("Loan") provided that such loan is subject to the rights and powers of the city pursuant to the franchise and applicable law, including, without limitation, the right of the city to approve any transfer upon foreclosure. "Transferring" and "transferee" shall have correlative meanings.

"Unaffiliated video programming provider" or "UVPP" means any person who uses capacity on a franchised cable system to deliver cable service or other communications service (as that term is used in 47 U.S.C. Section 542(h)) to subscribers and who is not an affiliate of the franchisee.

"Upstream channel" means a channel designed and activated to carry transmissions from a point on the cable system, other than the headend, to the headend or another point on the cable system.

"User" means a person or the city utilizing a channel, capacity or equipment and facilities for purposes of producing or transmitting video, voice and data materials contrasted with receiving it in the capacity of a subscriber.

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

5.18.020 - Franchise required.

No person may construct or operate a cable communications system in the city without first obtaining a franchise issued by the city or under applicable state law; provided that the following shall not be required to obtain a franchise under this article:

- A. The City of Grass Valley; or

- B. A UVPP that is only delivering cable service or other communications service (as that term is used in 47 U.S.C. Sec subscribers.

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

5.18.030 - Possessory interest of public property.

A franchisor granted pursuant to this article or under applicable state law shall notify the franchisee of potential tax liability for property taxes pursuant to Cal. Rev. and Tax Code Section 107.6.

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

5.18.040 - Failure to obtain a franchise.

Consistent with the requirements of due process, a person's failure to obtain a franchise as required by this article may, in the city's discretion, result in:

- A. Forfeiture, by operation of law, of the person's facilities located in the public rights-of-way that are not authorized by an existing franchise; and/or
- B. A city order and/or court order that the facilities be removed, and that penalties and damages be paid as set forth in the city's municipal code or in state law.

(Ord. 645 § 1 (part), 2004)

5.18.050 - Existing franchises.

Franchisees existing as of the effective date of this article shall, in addition to all the obligations and duties prescribed by the terms of their existing franchises, be subject to the substantive and procedural requirements in this chapter, except as prohibited by applicable law. Nothing in this chapter is intended to invalidate a lawful, existing franchise or to waive any obligations imposed by such a franchise. Notwithstanding the foregoing, provisions of this article that expressly refer to a "franchise granted pursuant to this article" shall not apply to franchises initially granted prior to the effective date of this article.

(Ord. 645 § 1 (part), 2004)

5.18.060 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.060, form of franchise, which derived from Ord. 645, 2004.

5.18.070 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.070, filing an application, which derived from Ord. 645, 2004.

5.18.080 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.080, application fee, which derived from Ord. 645, 2004.

5.18.090 - Nature of franchise.

- A. Scope. A franchise shall authorize and permit a franchisee to construct, operate, maintain and repair a cable

system, or an OVS (as applicable) to provide cable service in the city, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain facilities appurtenant to such system in, on, over, under, upon, across, and along those public rights-of-way that the city may authorize a franchisee to use.

- B. Nothing Passes by Implication. A franchise shall not convey rights other than as specified in the ordinance codified in this chapter, or in a franchise agreement; no rights shall pass by implication.
- C. Franchise Not in Lieu of Other Authorizations. A franchise shall not include, or be a substitute for:
 1. Complying with requirements for the privilege of transacting and carrying on a business within the city, including, but not limited to, complying with the conditions the city may establish before constructing facilities for, or providing, non-cable services;
 2. Any permit, agreement or authorization required in connection with operations on or in public rights-of-way or public property, including by way of example and not limitation, street cut permits;
 3. Any permits or agreements for occupying any other property of the city or private entities to which access is not specifically granted by the franchise.
- D. Franchisee Must Comply With Other Laws. A franchise does not relieve a franchisee of its duty to comply with all city ordinances and regulations, and every franchisee must comply with the same. Likewise, the rights granted under a franchise are subject to the exercise of police and other powers the city now has or may later obtain, including, but not limited to, the power of eminent domain. Every franchise shall be deemed to incorporate all the requirements of the city charter.
- E. Franchise Not a Grant of Property Rights. A franchise does not convey title, equitable or legal, in the public rights-of-way. Rights granted may not be subdivided or subleased.
- F. Franchise Non-Exclusive. No franchise shall be exclusive, or prevent the city from issuing other franchises or authorizations, or prevent the city from itself constructing, operating, or repairing its own cable communications system, with or without a franchise.
- G. Franchise Term. Every franchise shall be for a term of years that shall be specified in the franchise.
- H. Costs Borne by Franchisee. Unless otherwise specifically stated in a franchise or required by law, all acts which a franchisee is required to perform under the franchise or applicable law must be performed at the franchisee's expense.
- I. Failures to Perform. If a cable communications system operator fails to perform work that it is required to perform within the time provided for performance, the city may perform the work and bill the operator therefor. The operator shall pay the amounts billed within thirty days.

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

5.18.100 - Administration of ordinance; adoption of regulations.

- A. Adoption of Regulations. The city may from time to time adopt regulations to implement the provisions of the ordinance codified in this chapter.
- B. Delegation. The city administrator or his or her designee(s) are hereby authorized to administer the provisions of this chapter and any franchise issued pursuant thereto, and to provide any notices (including noncompliance notices) and to take any action on the city's behalf that may be required hereunder or under applicable law.
- C. No Waiver. The failure of the city, upon one or more occasions, to exercise a right or to require compliance or performance under a franchise 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.
- D. Administration of Public, Educational and Government Access. The city may designate one or more entities, including itself, to control and manage the use of public, educational and government access channels, facilities and equipment.

(Ord. 645 § 1 (part), 2004)

5.18.110 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.110, transfers, which derived from Ord. 645, 2004.

5.18.120 - General conditions upon construction, operation and repair.

- A. Franchisee Must Follow Local Rules. The construction, operation, and repair of cable communications systems shall be performed in compliance with all laws, ordinances, departmental rules, regulations, and practices affecting such system. By way of example, and not limitation, this includes zoning and safety codes, construction standards, regulations for providing notice to persons that may be affected by system construction, and directives governing the time, place and manner in which facilities may be installed in the rights-of-way. Persons engaged in the construction, operation, or repair of communications facilities shall exercise reasonable care in the performance of all their activities and shall use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or to property.
- B. No Permit Without Franchise. A franchise is required before a permit may be issued for work associated with the construction of a cable communications system. Any permit issued for such work to a person that does not hold a franchise shall vest no rights in the permittee; the permit may be revoked at will, and the permittee shall remove all facilities installed under the permit upon the city's demand.
- C. Permits Must be Obtained. Construction, operation or repair of a cable communications system shall not commence until all required permits have been obtained from the proper City officials and all required fees have been paid. All work performed will be performed in strict accordance with the conditions of the permit. Upon order of the city, any work and/or construction undertaken that is not completed in compliance with the city's requirements, or which is installed without obtaining necessary permits and approvals shall be removed.
- D. No Interference. Interference with the use of the public rights-of-way by others, including others that may be installing cable communications systems, must be minimized. The city may require a person using the rights-of-way to cooperate with others through joint trenching and other arrangements to minimize adverse impacts on the rights-of-way.
- E. Plans for and Publicizing Work. Work shall be publicized as the city may direct from time to time. The publication of work may be used to notify the public and operators of other communications systems, of the impending work, in order to minimize inconvenience and disruption to the public.
 1. Each franchisee shall provide the city a plan for any initial system construction, or for any substantial rebuild, upgrade or extension of its facility, which shall show its timetable for construction of each phase of the project, and the areas of the city that will be affected.
 2. The city administrator may from time to time, when the city receives application for a permit to use a particular route, or upon the city administrator's own initiative, designate by published order a route or proposed route for installation of communications facilities and may (a) require all persons who wish to emplace underground facilities along that route or any part thereof to install them during a specified period provided all costs are shared equitably and (b) otherwise prohibit initial emplacement of such facilities along the route or any part thereof for twenty-four months or after such other, longer period as is necessary to protect the public interest.
- F. Existing Poles to be Used. To the extent possible, operators of cable communications systems shall use existing poles and conduit. Additional poles may not be installed in the right-of-way, nor may pole capacity be increased by vertical or horizontal extenders, without the permission of the city administrator.

1. To minimize disruption of public passage or infrastructure, to forestall or relieve exhaustion of rights-of-way capacity, to protect environmentally sensitive areas, the city administrator may require as a condition of issuing any rights-of-way permit for the erection of new poles or construction of underground conduit, the installation of which requires excavation of or over a traveled way that the franchisee, licensee, or holder of the rights-of-way permit provide pole space or empty conduit that meets its own present and reasonably foreseeable requirements for the purpose of accommodating the city and/or other franchisees and licensees.
- G. Undergrounding.
1. Whenever all existing utilities are located underground in an area in the city, every cable communications system operator in the same area must locate its cable communications system underground.
 2. Whenever the owner of a pole locates or relocates underground within an area of the city, every cable communications system operator in the same area shall concurrently relocate its facilities underground.
 3. The city administrator may, for good cause shown, exempt a particular system or facility or group of facilities from the obligation to locate or relocate facilities underground, where relocation is impractical, or where the city and the subscriber's interest can be protected in another manner. Nothing in subsection G.1. of this section prevents the city from ordering communications facilities to be located or relocated underground except for franchisee's ordinary engineering practice making undergrounding impracticable or infeasible under other provisions of the city municipal code.
- H. Prompt Repairs. Any and all public rights-of-way, other public property, or private property that is disturbed or damaged during the construction, operation, maintenance or repair of a cable communications system shall be promptly repaired by the operator. Public property and public rights-of-way must be restored to the satisfaction of the city or to a condition as good or better than before the disturbance or damage occurred.
- I. Movement of Facilities for Government.
1. A cable communications system operator shall, by a time specified by the city, protect, support, temporarily disconnect, relocate, or remove any of its property when required by the city by reason of traffic conditions; public safety; public right-of-way construction and repair (including regrading, resurfacing or widening); public right-of-way vacation; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned system or utility, public work, public facility, or improvement; or for any other purpose where the work involved would be aided by the removal or relocation of the cable communications system. Collectively, such matters are referred to in this section as the "public work."
 2. Except in the case of emergency, the city shall provide written notice describing where the public work is to be performed at least one week prior to the deadline by which a cable communications system operator must protect, support, temporarily disconnect, relocate or remove its facilities. However, in an emergency, or where a cable communications system creates or is contributing to an imminent danger to health, safety, or property, the city may protect, support, temporarily disconnect, remove, or relocate any or all parts of the cable communications system without prior notice, and charge the cable communications system operator for costs incurred.
- J. Movement for Others.
1. To accommodate the construction, operation, or repair of the facilities of another person authorized to use the streets or public property, a franchisee shall, by a time specified by such person, protect, support, temporarily disconnect, relocate or remove its facilities. The franchisee must be given written notice describing where the construction, operation or repair is to be performed at least fifteen days prior to the time by which its work must be completed. The city may resolve disputes as to responsibility for costs associated with removal, relaying, or relocation of facilities among entities authorized to install facilities in the streets or on public property if such entities are unable to do so themselves.

2. A cable communications system operator shall, on the request of any person holding a valid permit issued by a g authority, temporarily raise or lower its wires by a time specified to permit the moving of buildings or other objec communications system operator shall be given not less than seven days' advance notice to arrange for such terr changes. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requ
- K. Abandonment in Place.
1. A cable communications system operator may abandon any property in place in the public rights-of-way upon written notice to the city. However, if, within ninety days of the receipt of written notice of abandonment, the city determines, that the safety, appearance, functioning or use of the public rights-of-way and facilities in the public rights-of-way will be adversely affected, the property must be removed by a date specified by the city.
 2. A cable communications system operator that abandons its property must, upon request, transfer ownership of the properties to the city at no cost, and execute necessary quitclaim deeds and indemnify the city against future costs associated with mitigating or eliminating any environmental hazard associated with the abandoned property.
- L. System Subject to Inspection. Every cable communications system shall be subject to inspection and testing by the city. Each operator must respond to requests for information regarding its system and plans for the system as the city may from time to time issue, including requests for information regarding its plans for construction, operation and repair and the purposes for which the plant is being constructed, operated or repaired.
- M. Underground Services Alert. Each operator of a cable communications system that places facilities underground shall be a member of the regional notification center for subsurface installations (Underground Services Alert) and shall field mark the locations of its underground communications facilities upon request. The operator shall locate its facilities for the city at no charge.
- N. Plan for Construction. Every franchise shall specify for the city a construction schedule that will apply to any required construction, upgrade, or rebuild of the cable communications system. The schedule shall provide for the prompt completion of the project, shall show its timetable for construction of each phase of the project, with benchmarks for deliverables and the areas of the city that will be affected. The city shall have the right to impose penalties on the operator for a failure to meet the accepted timetable and benchmarks.
- O. Use of Facilities by the City. The city shall have the right to install and maintain, free of charge upon any poles or in any conduit owned by a franchisee any wire and pole fixtures that do not unreasonably interfere with the cable service operations of the franchisee.

(Ord. 645 § 1 (part), 2004)

5.18.130 - Protection of the city and residents.

- A. Indemnity Required. No permit issued for work associated with construction of a cable communications system shall be valid or effective until and unless the city obtains an adequate indemnity from the franchisee. The indemnity must:
1. Release the city from and against any and all liability and responsibility in or arising out of the construction of the cable communications system; and
 2. Indemnify and hold harmless the city, its trustees, elected and appointed officers, agents, and employees, from and against any and all claims, demands, or causes of action of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by the city or any third party arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the cable communications system operator, or its agents, independent contractors or employees related to or in any way arising out of the construction of the system.
- B. Construction Bonds. Every franchisee constructing a cable communications system within the City for Grass Valley

for which a permit is required shall obtain and maintain bonds during construction of the cable system to ensure the faithful performance of its responsibilities under this article and any franchise. The amount of the performance and payment bonds shall be set by the city administrator, but shall not be less than ten percent of the estimated cost of constructing or (in the case of existing systems) upgrading the system, and including a sufficient amount to cover the removal of facilities and/or restoration of city facilities within the right-of-way. The bond shall be in a form acceptable to the city attorney. Bonds must be obtained prior to the effective date of any permit, unless the city administrator specifically provides otherwise.

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

5.18.140 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.140, enforcement and remedies, which derived from Ord. 645, 2004.

5.18.150 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.150, books and records, which derived from Ord. 645, 2004.

5.18.160 - Reports.

- A. Quarterly Statement. Within forty-five days of the end of each calendar quarter, a franchisee shall submit a statement as required by Section 5.18.210(B) hereof.
- B. Annual Reports. The city administrator may require a cable communications system operator to submit a report containing the following information within ninety days after the end of the operator's fiscal year:

A fully audited or certified revenue report from the previous calendar year for the cable communications system, and a certified statement setting forth the computation of gross revenues used to calculate the franchise fee for the preceding year and a detailed explanation of the method of computation showing (i) gross revenues by category (e.g., basic, pay, pay-per-view, advertising, installation, equipment, late charges, miscellaneous, other); and (ii) what, if any, deductions were made from gross revenues in calculating the franchise fee (e.g., bad debt, credits and refunds), and the amount of each deduction.

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

5.18.170 - Maps required.

Each franchisee shall maintain accurate maps and improvement plans which show the location, size, and a general description of all facilities installed in the public rights-of-way and any power supply sources (including voltages and connections). Maps shall be based upon post-construction inspection to verify location. Each franchisee shall provide a map to the city showing the location of its facilities, in such detail and scale as may be reasonably directed by the city administrator and update the map at least annually, and whenever the facility expands or is relocated. Copies of maps shall be provided in hard copy and on disk, in a commercially available electronic format specified by the city administrator.

(Ord. 645 § 1 (part), 2004)

5.18.180 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.180, other required records, which derived from Ord. 645, 2004.

5.18.190 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.190, exemptions, which derived from Ord. 645, 2004.

5.18.200 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.200, privacy, which derived from Ord. 645, 2004.

5.18.210 - Procedures for paying franchise fees and fees in lieu of franchise fees.

- A. Fees Paid Quarterly. The franchise fee paid pursuant to Section 5.18.270, or fee in lieu of franchise fee paid pursuant to Section 5.18.370 shall be paid quarterly unless otherwise specified in a franchise. Payment for each quarter shall be made to the city not later than forty-five days after the end of each calendar quarter.
- B. Quarterly Statement. Unless a franchise provides otherwise, a franchisee or other entity subject to a fee under Section 5.18.270 or 5.18.370 shall file with the city within forty-five days of the end of each calendar quarter a statement showing gross revenues during the preceding quarter and the number of subscribers served.
- C. Acceptance of Payment Not a Release. No acceptance by the city of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such payment be construed as a release of any claim the city may have for additional sums payable.
- D. Fee Not in Lieu of Taxes. Neither the franchise fee under Section 5.18.270, nor the fee paid in lieu of the franchise fee under Section 5.18.370, is a payment in lieu of any tax, fee or other assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable communications system operators or their services, but not including a tax, fee, or assessment which is unduly discriminatory against operators or subscribers).
- E. Final Statement of Gross Revenues. Within ninety days of the date a franchisee ceases operations under a franchise (whether because of franchise termination, transfer, bankruptcy or for any other reason), the franchisee shall file a final statement of gross revenues covering the period from the beginning of the calendar year in which the operations ceased to the date operations ceased. The statement shall contain the information and be audited or certified as required by Section 5.18.160(C)(1).

(Ord. 645, § 1(part), 2004; Ord. No. 782A, § 1(Exh. A), 1-24-2017.)

Article II. - Special Rules Applicable to Cable Systems

5.18.220 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.220, applications generally, which derived from Ord. 645, 2004.

5.18.230 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.230, application for an initial franchise or renewal franchise, which derived from Ord. 645, 2004.

5.18.240 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.240, application for renewal franchise filed pursuant to 47. U.S.C. § 546, which derived from Ord. 645, 2004.

5.18.250 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.250, application for transfer, which derived from Ord. 645, 2004.

5.18.260 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.260, legal qualifications, which derived from Ord. 645, 2004.

5.18.270 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.270, franchise fee, which derived from Ord. 645, 2004.

5.18.280 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.280, no exclusivity, which derived from Ord. 645, 2004.

5.18.290 - Reserved.

Editor's note— Sec. 1(Exh. A), of Ord. No. 782A, adopted Jan. 24, 2017, repealed § 5.18.290, minimum franchise conditions, which derived from Ord. 645, 2004.

5.18.300 - Rate regulation and consumer protection.

- A. All Rates Subject to Regulation. The city may regulate any of the cable communications system operator's rates and charges, except to the extent it is prohibited from doing so by law. The city will regulate rates in accordance with FCC rules and regulations, where applicable. Except to the extent FCC rules provide otherwise, all rates and charges that are subject to regulation, and changes in those rates or charges must be approved in advance. The city administrator may take any required steps to file complaints, toll rates, issue accounting orders or take any other steps required to comply with FCC regulations. The city council shall be responsible for issuing rate orders that establish rates or order refunds.
- B. No Rate Discrimination. To the extent the city lawfully may enforce such a requirement, a cable communications system operator is prohibited from discriminating in its rates or charges or from granting undue preferences to any subscriber, potential subscriber, or group of subscribers or potential subscribers; provided, however, that a franchisee may offer temporary, bona fide promotional discounts in order to attract or maintain subscribers, so long as such discounts are offered on a non-discriminatory basis to similar classes of subscribers; and a franchisee may offer discounts for the elderly, the disabled, or the economically disadvantaged; and such other discounts as it is expressly entitled to provide under federal law, if such discounts are applied in a uniform and consistent manner.
- C. Redlining Prohibited. A cable communications system operator shall not deny access or charge different rates to any group of subscribers or potential subscribers because of the income of the residents of the local area in which such group resides.
- D. Customer Service.
 1. Each cable communications system operator must satisfy FCC, state and city cable customer service standards

and consumer protection standards. City cable customer service standards may be adopted by resolution. In the case of a conflict among standards, the stricter standard shall apply.

2. For violation of cable customer service standards, penalties will be imposed as follows:
 - a. Two hundred dollars for each day of each material breach, not to exceed six hundred dollars for each occurrence of material breach.
 - b. If there is a subsequent material breach of the same provision within twelve months, four hundred dollars for each day of each material breach, not to exceed twelve hundred dollars for each occurrence of the material breach.
 - c. If there is a third or additional material breach of the same provision within twelve months of the first, one thousand dollars for each day of each material breach, not to exceed three thousand dollars for each occurrence of the material breach.
3. Any penalty assessed under this section will be reduced dollar for dollar to the extent any liquidated damage provision of a franchise imposes a monetary obligation on a franchisee for the same customer service failures, and no other monetary damages may be assessed. The city will provide notice, and impose penalties, under this section pursuant to the procedures established by California Government Code § 53088.2(r).

(Ord. 645 § 1 (part), 2004)

Article III. - Open Video Systems

5.18.310 - Additional definitions.

"OVS agreement" means a contract entered into in accordance with the provisions of this article between the city and an OVS franchisee setting forth the terms and conditions under which the franchise will be exercised.

(Ord. 645 § 1 (part), 2004)

5.18.320 - Applications for grant or renewal of franchises.

A. Initial and Renewal Franchise: Application.

1. A written application shall be filed with the city for grant of an initial or renewal franchise.
2. To be acceptable for filing, a signed original of the application shall be submitted together with six copies. The application must conform to any applicable request for proposals, and contain all information required under subsection B of this section. All applications shall include the names and addresses of persons authorized to act on behalf of the applicant with respect to the application.

B. Contents of Applications. The city administrator may specify the information that must be provided in connection with a request for proposals or an application for an initial or renewal franchise. At a minimum, each application must: identify the applicant, where it plans to construct its system, and the system construction schedule; show that the applicant will provide adequate channels, facilities and other support for public, educational and government use (including institutional network use) of the OVS; and show that the applicant is financially, technically and legally qualified to construct and operate the OVS. The application must contain the following information:

1. Identity of the applicant; the persons who exercise working control over the applicant; and the persons who control those persons, to the ultimate parent.
2. A proposal for construction of the open video system that includes at least the following:
 - a. A description of the services that are to be provided over the facility.
 - b. Identification of the area of the city to be served by the proposed system, including a description of the

proposed franchise area's boundaries.

- c. The location of proposed facility and facility design, including a description of the miles of plant to be installed, and a description of the size of equipment cabinets, shielding and electronics that will be installed along the plant route, the power sources that will be used and a description of the noise, exhaust and pollutants, if any, that will be generated by the operation of the same.
- d. A map of the route the facility will follow; a designation of the portions of the system that will be placed aboveground and the portions that will be placed underground, and the construction techniques that the applicant proposes to use in installing the system aboveground and underground; a schedule for construction of the facility, describing when and where construction will begin, how it will proceed, benchmarks for completion of phases, and when it will be completed; and the expected effect on right-of-way usage, including information on the ability of the public rights-of-way to accommodate the proposed system, including, as appropriate given the system proposed, an estimate of the availability of space in conduits and an estimate of the cost of any necessary rearrangement of existing facilities.
- e. A description, where appropriate, of how services will be converted from existing facilities to new facilities, and what will be done with existing facilities.
- f. Evidence satisfactory to the city that the applicant has the financial resources to complete the proposed project, and to construct, operate and repair the proposed facility over the franchise term. It is not the intent of the city to require an applicant to prove that the services it proposed to offer will succeed in the marketplace.
- g. Evidence satisfactory to the city that applicant is technically qualified to construct, operate and repair the proposed facility. At a minimum, the applicant must show that it has experience or resources to ensure that work is to be performed adequately, and can respond to emergencies during and after construction is complete.
- h. Evidence satisfactory to the city that the applicant is legally qualified, which proof must include a demonstration that the applicant:
 - (i) Has received, or is in a position to receive, necessary authorizations from state and federal authorities;
 - (iii) Has not engaged in conduct (fraud, racketeering, violation of antitrust laws, consumer protection laws, or similar laws) that allows city to conclude the applicant cannot be relied upon to comply with requirements of franchise, or provisions of this title;
 - (iv) Is willing to enter into a franchise, to pay required compensation and to abide by the provisions of applicable law, including those relating to the construction, operation or maintenance of its facilities, and has not entered into any agreement that would prevent it from doing so;
- i. An affidavit or declaration of the applicant or authorized officer thereof certifying the truth and accuracy of the information in the application, and certifying that the application meets all requirements of applicable law.
- j. An applicant may show that it would be inappropriate to deny it a franchise by virtue of: the particular circumstances surrounding the acts or omissions at issue; the steps taken by the applicant to cure all harms flowing therefrom and to prevent their recurrence; and the lack of involvement of the applicant's principals, or the remoteness of the acts or omissions from the operation of open video system facilities.
- k. To the extent that the applicant is in any respect relying on the financial or technical resources of another person, including another affiliate, the proofs should be provided for that person. An applicant will be presumed to have the requisite financial, or technical or legal qualifications to the extent such

qualifications have been reviewed and approved by a state agency of competent jurisdiction; or if applicant is a holder of a franchise in the city for a cable system or open video system, and conduct under such other franchise provides no basis for additional investigation.

C. Procedure for Applying for Grant of a Franchise.

1. A person may apply for an initial or renewal franchise on its own initiative or in response to a request for proposals. Upon receipt of an application the city shall promptly proffer the applicant a proposed OVS agreement, which shall be mailed to the person requesting its issuance and made available to any other interested party. The city may request such additional information as it deems appropriate.
2. An applicant shall respond to requests for information completely, and within the time directed by the city, and must strictly comply with procedures, instructions, and requirements the city may establish.
3. An application may be rejected if it is incomplete or the applicant fails to follow procedures or respond fully to information requests.

D. Evaluation. In evaluating a franchise application, the city may consider the following:

1. The extent to which the applicant has substantially complied with the applicable law and the material terms of any existing city OVS franchise;
2. Whether the applicant has the financial, technical, and legal qualifications to hold an OVS franchise;
3. Whether the application satisfies any minimum requirements established by the city for, or will otherwise provide adequate public, educational, and governmental use capacity, facilities, or financial support (including with respect to institutional networks);
4. Whether issuance of a franchise would require replacement of property or involve disruption of property, public services, or use of the public rights-of-way;
5. Whether the approval of the application may eliminate or reduce competition in the delivery of cable service in the city.

E. Issuance. If the city finds that it is in the public interest to issue a franchise considering the factors above, and such other matters as it is required or entitled to consider, and subject to the applicant's entry into an appropriate OVS agreement, it shall issue a franchise. Prior to deciding whether or not to issue a franchise, the city may hold one or more public hearings or implement other procedures under which comments from the public on an application may be received.

F. Legal Qualifications. In order to be legally qualified:

1. The applicant must be willing to comply with the provisions of this article and applicable laws, and to comply with such requirements of an OVS agreement as the city may lawfully require;
2. The applicant must not hold a cable system franchise, or have pending an application for a cable system franchise;
3. The applicant must not have had any cable system or OVS franchise validly revoked, by the city within three years preceding the submission of the application;
4. The applicant may not have had an application for an initial or renewal cable system franchise to the city denied on the ground that the applicant failed to propose a cable system meeting the cable-related needs and interests of the community, or as to which any challenges to such franchising decision were finally resolved (including any appeals) adversely to the applicant, within three years preceding the submission of the application; and
5. The applicant may not have had an application for an initial or renewal OVS franchise denied on any grounds within three years of the applications.
6. The applicant shall not be issued a franchise if, at any time during the ten years preceding the submission of the application, applicant was convicted of fraud, racketeering, anticompetitive actions, unfair trade practices

or other conduct of such character that the applicant cannot be relied upon to deal truthfully with the city and the subscribers, or to substantially comply with its obligations.

7. Applicant must have the necessary authority under California and federal law to operate an OVS, and must be certified by the FCC under Section 653 of the Cable Act.
 8. The applicant shall not be issued a franchise if it files materially misleading information in its application or intentionally withholds information that the applicant lawfully is required to provide.
 9. For purposes of subsection F.2.—5. of this section, the term applicant includes any affiliate of applicant.
- G. Exception. Notwithstanding subsection F of this section, an applicant shall be provided a reasonable opportunity to show that, a franchise should issue even if the requirements of subsection F.4., 5. are not satisfied, by virtue of the circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of a cable system.

(Ord. 645 § 1 (part), 2004)

5.18.330 - Transfers.

- A. City Approval Required. No transfer shall occur without prior written notice to and approval of the city.
- B. Application.
 1. A franchisee shall promptly notify the City of any proposed transfer, and submit an application for its approval.
 2. The city administrator may specify information that must be provided in connection with a transfer application. At a minimum, an application must: describe the entities involved in the transaction and the entity that will hold the franchise; describe the chain of ownership before and after the proposed transaction; show that the entity that will hold the franchise will be legally, financially, and technically qualified to do so; attach complete information on the proposed transaction, including the contracts or other documents that relate to the proposed transaction, and all documents, schedules, exhibits, or the like referred to therein; and attach any shareholder reports or filings with the securities and exchange commission ("SEC") that discuss the transaction.
 3. For the purposes of determining whether it shall consent to a transfer, the city or its agents may inquire into all qualifications of the prospective transferee and such other matters as the city may deem necessary to determine whether the transfer is in the public interest and should be approved, denied or conditioned. If the transferee or franchisee refuse to provide information, or provide incomplete information, the request for transfer may be denied.
- C. Determination by the City.
 1. In deciding whether a transfer application should be granted, denied or granted subject to conditions, the city may consider the legal, financial, and technical qualifications of the transferee to operate the OVS; whether the incumbent OVS operator is in compliance with its OVS agreement and this article and, if not, the proposed transferee's commitment to cure such noncompliance; whether the transferee owns or controls any other OVS or cable system in the city, and whether operation by the transferee may eliminate or reduce competition in the delivery of cable service in the city; and whether operation by the transferee or approval of the transfer would adversely affect subscribers, the public, or the city's interest under this article, the OVS agreement, or other applicable law.
 2. In order to obtain approval of a transfer, an applicant must show, at a minimum, that: the transferee is qualified; the transfer will not adversely affect the interests of subscribers, the public, or the city; and that non-compliance issues have been resolved. No application shall be granted unless the transferee agrees in writing

that it will abide by and accept all terms of this title and the franchise, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous franchisee for all purposes. The proposed transferee shall pay all reasonable costs incurred by the city in reviewing and evaluating the applications.

(Ord. 645 § 1 (part), 2004)

5.18.340 - Minimum requirements.

- A. PEG Access. No OVS operator shall be issued a franchise, or may commence construction of an OVS system, until (1) it agrees to match in all respects the highest PEG obligations borne by any cable communications system operator in the city; or (2) it agrees to PEG obligations acceptable to the city.
- B. Institutional Network. Any OVS operator that constructs an I-Net must match in all respects the highest I-Net obligations borne by any cable communications system operator in the city, unless it agrees to alternative I-Net obligations acceptable to the city.
- C. Construction Provisions. Every OVS agreement shall specify the construction schedule that will apply to any required construction, upgrade, or rebuild of the OVS. The schedule shall provide for prompt completion of the project, considering the amount and type of construction required.
- D. Testing. Each OVS operator shall perform at its expense such tests as may be necessary to show whether or not the franchisee is in compliance with its obligations under this article or a franchise.
- E. Consumer Protection Provisions. Every franchisee must satisfy customer service and consumer protection requirements established from time to time under state or local law and applicable to OVS.

(Ord. 645 § 1 (part), 2004)

5.18.350 - Special termination rules.

If a franchisee's FCC certification is revoked or otherwise terminates as a result of the passage of time or as a matter of law, the city may revoke the OVS franchise after a hearing. The OVS franchise may also be revoked if federal regulations or statutory provisions governing OVS are declared invalid or unenforceable, or are repealed.

(Ord. 645 § 1 (part), 2004)

5.18.360 - Rate regulation.

The city may regulate a franchisee's rates and charges except as prohibited by law, and may do so by amendment to this article, separate ordinance, by amendment to an OVS agreement, or in any other lawful manner.

(Ord. 645 § 1 (part), 2004)

5.18.370 - Fee in lieu of franchise fee.

- A. OVS Operators. In lieu of the franchise fee required by this section, an OVS franchisee shall pay a fee of five percent of the gross revenues of the franchisee, its affiliates or any OVS operator of the OVS.
- B. Persons Leasing OVS Capacity.
 - 1. A person leasing capacity from an OVS operator, other than a person whose revenues are included in the payment made under subsection A of this section shall pay the city a fee in lieu of the franchise fee required by this section of five percent of the gross revenues of such person.
 - 2. Notwithstanding the foregoing, where franchisee charges a person, other than an affiliate, to use its OVS (the "use payments"); and that person recovers those use payments through charges to its subscribers that are

included in that person's gross revenues; and that person fully recovers the use payments through the charges to its subscribers and pays a fee on those charges pursuant to subsection A of this section; then franchisee may deduct from its gross revenues the use payments it receives from that person.

(Ord. 645 § 1 (part), 2004)

5.18.380 - Exclusive contracts.

A franchisee may not require a subscriber or a building owner or manager to enter into an exclusive contract as a condition of providing or continuing service, nor may a franchisee enter into any arrangement that would effectively prevent other persons from using the OVS to compete in the delivery of cable services with a franchisee or its affiliates.

(Ord. 645 § 1 (part), 2004)

Article IV. - Miscellaneous

5.18.390 - Captions.

The captions to sections throughout this article are intended solely to facilitate reading and reference to the sections and provisions of this article. Such captions shall not affect the meaning or interpretation of this article.

(Ord. 645 § 1 (part), 2004)

5.18.400 - Calculation of time.

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this article or any franchise, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed in this section, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time.

(Ord. 645 § 1 (part), 2004)

5.18.410 - Severability.

If any term, condition, or provision of this article shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder of this chapter shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, such provision shall thereupon return to full force and effect without further action by the city and shall thereafter be binding on the franchisee and the city.

(Ord. 645 § 1 (part), 2004)

5.18.420 - Connections to cable system; use of antennae.

- A. **Subscriber Right to Attach.** To the extent consistent with federal law, subscribers shall have the right to attach VCR's, receivers, and other terminal equipment to a franchisee's cable system. Subscribers also shall have the right to use their own remote control devices and converters, and other similar equipment.
- B. **Removal of Existing Antennae.** A franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the subscriber or potential subscriber, or prohibit installation of a new antenna, provided that such antenna is connected with an appropriate device and complies with applicable law.

(Ord. 645 § 1 (part), 2004)

5.18.430 - Discrimination prohibited.

- A. No Retaliatory Actions. A cable communications system operator shall not discriminate among persons or the city or take any retaliatory action against a person or the city because of that entity's exercise of any right it may have under federal, state, or local law, nor may the cable communications system operator require a person or the city to waive such rights as a condition of taking service.
- B. Employment and Hiring Practices. A cable communications system operator shall not refuse to employ, discharge from employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, color, creed, national origin, sex, sexual orientation, age, disability, religion, ethnic background, or marital status. A cable communications system operator shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, and hiring practices, as the same may be amended from time to time.

(Ord. 645 § 1 (part), 2004)

5.18.440 - Transitional provisions.

- A. Persons Operating Without a Franchise. The cable communications system operator of any facility installed as of the effective date of this article, for which a franchise is required under this article, shall have three months from the effective date of this article to file one or more applications for a franchise. Any cable communications system operator timely filing such an application under this subsection A of this section shall not be subject to a penalty for failure to have such a franchise so long as such application remains pending; provided, however, nothing in this chapter shall relieve any cable communications system operator of any liability for its failure to obtain any permit or other authorization required under other provisions of the city municipal code, and nothing in this chapter shall prevent the city from requiring removal of any facilities installed in violation of the city municipal code.
- B. Persons Holding Franchises. Any person holding an existing franchise for a cable communications system may continue to operate under the existing municipal code provisions to the conclusion of its present term (but not any renewal or extension thereof) with respect to those activities expressly authorized by the franchise; and provided further that, such person shall be subject to the other provisions of this article to the extent permitted by law.
- C. Persons with Pending Applications. Pending applications shall be subject to this article. A person with a pending application shall have thirty days from the effective date of this article to submit additional information to comply with the requirements of this article governing applications.

(Ord. 645 § 1 (part), 2004)

APPENDIX A

CUSTOMER SERVICE STANDARDS

The Franchisee shall comply with the customer service and reporting requirements in this section, or as amended. These requirements include but are not limited to the requirements set forth in FCC regulations, including 47 C.F.R. § 70.309 and other applicable law. To the extent the provisions of this section differ from applicable FCC regulations or any applicable law, the provision or provisions that impose the highest standard or greatest legal duties or obligations upon the Franchisee shall take precedence, unless a different order of precedence is expressly set herein.

- A. Office Availability.

1. Each Franchisee will maintain offices at a convenient locations in the County that will be open for walk-in traffic at least ten (10) hours per day (except legal holidays) Monday through Friday, with some evening hours, and at least five (5) hours on Saturday to allow Subscribers to pay bills, drop off equipment and to pick up equipment.
 2. Each Franchisee will perform service calls, installations, and disconnects at least ten (10) hours per day Monday through Saturday, except legal holidays, provided that a Franchisee will respond to outages twenty-four (24) hours a day, seven (7) days a week.
- B. Telephones. All Call Response statistics shall be measured on the basis of call response statistics in all call centers that serve Subscribers. If the call centers serve Subscribers located in other communities, the Franchisee shall insure that call center representatives do not give priority or preferential treatment to Subscribers located in other communities.
1. Definition of Call Response terms:
 - a. Answer time is the interval between when the Franchisee receives a call and when an interactive voice response (IVR) or agent answers.
 - b. Speed of Answer is the amount of time between when the customer is transferred into the agent queue from either an IVR or an agent and the time an agent answers.
 - c. Calls Abandoned is the percentage of calls in any agent queue that are abandoned.
 - d. Trunks Busy represents the percentage of time customers receive a busy signal when they call customer service during normal business hours.
 2. Each Franchisee will establish a publicly listed local toll-free telephone number. Customer service representatives must answer the phone at least ten (10) hours per day, Monday through Saturday, except legal holidays, for the purpose of receiving requests for service, inquiries, and complaints from Subscribers. After such business hours the phone will be answered so that customers can register complaints and report service problems on a twenty-four (24) hour per day, seven (7) day per week basis, and so that the Franchisee can respond to service outages as required herein.
 3. Standards for Call Response.
 - a. Answer Time will not exceed thirty (30) seconds or four (4) rings. Under normal operating conditions the Franchisee shall meet this requirement at least ninety (90) percent of the time.
 - b. The average Speed of Answer shall not exceed thirty (30) seconds. Under normal operating conditions the Franchisee shall meet this requirement at least ninety (90) percent of the time.
 - c. The percentage of Calls Abandoned shall not exceed three (3) percent under normal operating conditions.
 - d. Subscribers shall receive a Trunks Busy signal less than three (3) percent of the time under normal operating conditions.
 4. Call Response Reports.
 - a. Franchisee shall submit reports on Call Response statistics every calendar quarter, except as otherwise provided in this section.
 - b. If any of a Franchisee's quarterly Call Response statistics fail to demonstrate compliance with any applicable requirement, the Franchisee must thereafter submit monthly reports on all Call Response times until the Franchisee requests and the City approves resuming quarterly reporting.

c. Information in the reports about Call Response times shall be determined on the basis of the simple average of results during business hours under normal operating conditions for the entire reporting period, and any report submitted at the end of a calendar quarter shall report the total number of calls during the proceeding quarter and the average Call Response times during that quarter.

5. Other Reports.

a. A Franchisee shall submit reports on all customer service standards identified in this Section during each successive calendar quarter for the term of the Franchise except as otherwise might be provided herein. If a Franchisee's reports for two (2) quarters within a calendar year fail to demonstrate that the Franchisee has complied with any customer service standard in paragraphs B through (B)(4)(c) of this section, the Franchisee shall thereafter submit monthly reports about performance of each such requirement until it reports three (3) consecutive months with less than five (5) percent deviation from any minimum required standard unless the Franchisee demonstrates to the City's satisfaction that the deviation occurred when it was not operating under normal operating conditions as defined in 47 C.F.R. § 76.309 and reports on the nature and duration of such non-normal operating conditions.

b. Timing. A Franchisee shall submit reports within thirty (30) days after the close of the applicable reporting period. Each report shall include data from the applicable reporting period.

c. Each of the reporting requirements in this Section is self-executing and the Franchisee agrees that the City does not need to provide additional notice or an opportunity to cure in order to establish that the Franchisee has committed a breach of these requirements for the purposes of the Franchisee's obligation to pay liquidated damages as described in this Section.

d. Compliance. If a monthly or quarterly report indicated that a Franchisee has failed to meet any of the minimum required standards, the Franchisee shall provide a written explanation of the deviation within ten (10) business days of the report, including steps being taken to cure the deviation, and the time expected to implement the cure. A Franchisee must cure within thirty (30) days unless a longer period is agreed to in writing by the City, which agreement shall not be unreasonably withheld.

C. Scheduling Work.

1. All appointments for service, installation, or disconnection will be specified by date. Each Franchisee will set a specific time at which the work will be done, or offer a choice of time blocks, which will not exceed four (4) hours in length. A Franchisee may also, upon request, schedule service installation calls outside normal business hours, for the express convenience of the customer.

2. If at any time an installer or technician is late for an appointment and/or believes a scheduled appointment time will be missed, an attempt to contact the customer will be made before the time of appointment and the appointment rescheduled at a time convenient to the customer, if rescheduling is necessary. It is the Operator's burden to prove it met the appointment.

3. The Franchisee will offer and fully describe to Subscribers who have experienced a missed appointment (where the missed appointment was not the Subscriber's fault) that the Subscriber may choose between the following options;

a. Installation or service call free of charge, if the appointment was for an installation or service call for which a fee was to be charged;

b. One (1) month of the most widely subscribed to service tier free of charge for other appointments; and

- c. An opportunity to elect remedies under California Civil Code 1722, if applicable.
 4. If the Franchisee makes reasonable and no less than three (3) attempts to confirm an appointment during the scheduled appointment time or appointment window and is unsuccessful in obtaining such confirmation, the Franchisee may assume that the customer has cancelled the appointment.
- D. Service Standards.
1. Under normal operating conditions, requests for service, repair, and maintenance must be acknowledged by a trained customer service representative within twenty-four (24) hours, or before the end of the next business day, whichever is earlier.
 2. A Franchisee will respond to all other inquiries (including billing inquiries) within five (5) business days of the inquiry or complaint.
 3. Under normal operating conditions, repairs and maintenance for outages or service interruptions must be completed within twenty-four (24) hours after the outage or interruption becomes known to Franchisee where the Franchisee has adequate access to facilities to which it must have access in order to remedy the problem.
 4. Under normal operating conditions, work to correct all other service problems must be begun by the next business day after notification of the service problem, and must be completed within five (5) business days from the date of the initial request.
 5. When normal operating conditions do not exist, a Franchisee will complete the work in the shortest time possible.
 6. A Franchisee will not cancel a service or installation appointment with a customer within 24 hours of the appointment or after the close of business on the business day preceding the scheduled appointment, whichever is earlier.
 7. Requests for additional outlets, service upgrades or other connections (e.g., DMX, VCR, A/B switch) separate from the initial installation will be performed within seven (7) business days after an order has been placed.
 8. Under normal operating conditions, the service standards set out in Sections 1—7 will be met at least ninety-five (95) percent of the time, measured on a quarterly basis.
 9. The failure of the Franchisee to hire sufficient staff or to properly train its staff will not justify a Franchisee's failure to comply with this provision.
- E. Disabled Services. With regard to Subscribers with disabilities, upon Subscriber request, each Franchisee will arrange for pickup and/or replacement of converters or other Franchisee equipment at the Subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).
- F. Notice to Subscribers regarding Service. A Franchisee will provide each Subscriber at the time service is installed, and annually thereafter, clear and accurate written information:
1. On placing a service call, filing a complaint, or requesting an adjustment (including when a Subscriber is entitled to refunds for outages and how to obtain them);
 2. Showing the telephone number of the City office responsible for administering the Cable Television Franchise;
 3. Detailing current rates and charges (which must include any senior, disabled or other discounts offered and the least expensive tier of service available), channel positions, services provided, delinquent Subscriber disconnect and reconnect procedures; information regarding the availability of parental control devices, the conditions under which

they will be provided and the cost (if any) charged;

4. Describing conditions that must be met to qualify for discounts;
 5. Describing any other of the Franchisee's policies in connection with its Subscribers; and
 6. Describing any discounts, services, or specialized equipment available to Subscribers who are seniors or with disabilities; explaining how to obtain them; and explaining how to use any accessibility features.
- G. Notices to the City. Franchisee will provide the City with copies of all notices provided to its Subscribers pursuant to this article.
- H. Changes in Noticed Information. Franchisee will provide the City Administrator (or designee) at least sixty (60) days, and all Subscribers at least thirty (30) days, written notice of any material changes in the information required to be provided under this article, except that, if federal law establishes a shorter notice period and preempts this requirement, the federal requirement will apply.
- I. Truth in Advertising. Each Franchisee will take appropriate steps to ensure that all written Franchisee promotional materials, announcements, and advertising of residential Cable service to Subscribers and the general public, where price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, a Franchisee will take appropriate steps to ensure that price terms are clearly and accurately disclosed to potential customers in advance of taking the order.
1. Each Franchisee will maintain a file open for public inspection containing all notices provided to Subscribers under these customer service standards, as well as all promotional offers made to Subscribers. The notices and offers will be kept in the file for at least one (1) year from the date of such notice or promotional offer.
- J. Interruptions of Service. A Franchisee shall inform Subscribers and the City, three (3) days prior to any scheduled or planned interruption of service for planned maintenance or construction; provided, however, that planned maintenance that does not require more than one (1) hour interruption of service and/or that occurs between the hours of 12:00 a.m. and 6:00 a.m. will not require such notice to Subscribers, and notice to the City must be given no less than twenty-four (24) hours before the anticipated service interruption.
- K. Prorated Billing. A Franchisee's first billing statement after a new installation or service change will be prorated as appropriate and will reflect any security deposit.
- L. Billing Statement.
1. A Franchisee's billing statement must be clear, concise, and understandable; must itemize each category of service and equipment provided to the Subscriber; and must state clearly the charges therefor.
 2. A Franchisee's billing statement must show a specific payment due date not earlier than the later of:
 - a. Fifteen (15) days after the date the statement is mailed; or
 - b. The tenth (10th) day of the service period for which the bill is rendered.
 3. A late fee or administrative fee (collectively referred to below as a "late fee") may not be imposed for payments earlier than twenty-seven (27) days after the due date specified in the bill.
 4. A late fee may not be imposed unless the Subscriber is provided written notice at least ten (10) days prior to the date the fee is imposed that a fee will be imposed, the date the fee will be imposed and the amount of the fee that will be imposed if the delinquency is not paid. A late fee may not be imposed unless the outstanding balance exceeds \$10.00 and may not exceed \$5.00.

5. Subscribers will not be charged a late fee or otherwise penalized for any failure by a Franchisee, including failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made. Payments will be considered timely if postmarked on the due date.
 6. A Franchisee's bill must permit a Subscriber to remit payment by mail or in person at the Franchisee's local office.
- M. Credit for Service Impairment.
1. A Subscriber's account will be credited a prorated share of the monthly charge for the service upon Subscriber request if a Subscriber is without service or if service is substantially impaired for any reason for a period exceeding four (4) hours during any twenty-four (24) hour period; or automatically if the loss of service or impairment is for twenty-four (24) hours or longer.
 2. A Franchisee need not credit Subscriber where it establishes that a Subscriber will obtain a refund for a loss of service or impairment caused by the Subscriber or by Subscriber-owned equipment (not including, for purposes of this Section, in-home wiring installed by the Franchisee).
- N. Billing Complaints. Franchisee will respond to all written billing complaints from Subscribers within thirty (30) days.
- O. Billing Refunds. Refunds to Subscribers will be issued no later than
1. The earlier of the Subscriber's next billing cycle following resolution of the refund request, or thirty (30) days; or
 2. The date of return of all equipment to Franchisee, if Cable service has been terminated.
- P. Credits for Cable service. Credits for Cable service will be issued no later than the Subscriber's next billing cycle after the determination that the credit is warranted.
- Q. Disconnection/Downgrades.
1. A Subscriber may terminate service at any time.
 2. A Franchisee will promptly disconnect from the Franchisee's Cable System or downgrade any Subscriber who so requests. No charges for service may be made after the Subscriber requests disconnection. No period of notice before voluntary termination or downgrade of Cable service may be required of Subscribers by any Franchisee. There will no charge for disconnection, except for the collection fee authorized by state law, and any downgrade charges will conform to applicable law.
- R. Security Deposit. Any security deposit and/or other funds due a Subscriber that disconnects or downgrades service will be returned to the Subscriber within thirty (30) days or in the next billing cycle, whichever is later, from the date disconnection or downgrade was requested except in cases where the Subscriber does not permit the Franchisee to recover its equipment, in which case the amounts owed will be paid to subscribers within thirty (30) days of the date the equipment was recovered, or in the next billing cycle, whichever is later.
- S. Disconnection due to Nonpayment.
1. A Franchisee may not disconnect a Subscriber's Cable service for nonpayment unless:
 - a. The Subscriber is delinquent in payment for Cable service;
 - b. A separate, written notice of impending disconnection, postage prepaid, has been sent to the Subscriber at least twenty (20) days before the date on which service may be disconnected, at the premises where the Subscriber requests billing, which notice must identify the names and address of the Subscriber whose account is delinquent,

state the date by which disconnection may occur if payment is not made, and the amount the Subscriber must pay to avoid disconnection, and a telephone number of a representative of the Franchisee who can provide additional information concerning and handle complaints or initiate an investigation concerning the services and charges in question;

c. The Subscriber fails to pay the amounts owed to avoid disconnection by the date of disconnection; and

d. No pending inquiry exists regarding the bill to which Franchisee has not responded in writing.

2. If the Subscriber pays all amounts due, including late charges, before the date scheduled for disconnection, the Franchisee will not disconnect service. Service may only be terminated on days in which the customer can reach a representative of the Franchisee either in person or by telephone.

3. After disconnection (except as noted below), upon payment by the Subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the Franchisee will promptly reinstate service.

T. Immediate Disconnection. A Franchisee may immediately disconnect a Subscriber if:

1. The Subscriber is damaging, destroying, or unlawfully tampering with or has damaged or destroyed or unlawfully tampered with the Franchisee's Cable System;

2. The subscriber is not authorized to receive a service, and is facilitating, aiding or abetting the unauthorized receipt of service by others; or

3. Subscriber-installed or attached equipment is resulting in signal leakage that is in violation of FCC rules.

4. After disconnection, the Franchisee will restore service after the Subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and all amounts owed the Franchisee for damage to its Cable System or equipment. Provided that, no reconnection fee may be imposed on a Subscriber disconnected pursuant to this article if the leakage was the result of the Franchisee's acts or omissions; or in any case unless the Franchisee notifies the Subscriber of the leakage at least three (3) business days in advance of disconnection, and the Subscriber has failed to correct the leakage within that time.

U. Franchisee's Property. Except as applicable law may otherwise provide, a Franchisee may remove its property from a Subscriber's premises within thirty (30) days of the termination of service. If a Franchisee fails to remove its property in that period, the property will be deemed abandoned unless the Franchisee has been denied access to the Subscriber's premises, or the Franchisee has a continuing right to occupy the premises under applicable law.

V. Deposits. A Franchisee may require a reasonable, non-discriminatory deposit on equipment provided to Subscribers. Deposits will be placed in an interest-bearing account, and the Franchisee will return the deposit, plus interest earned to the date the deposit is returned to the Subscriber, less any amount the Franchisee can demonstrate should be deducted for damage to such equipment.

W. Parental Control Option. Without limiting a Franchisee's obligations under Federal law, a Franchisee must provide parental control devices at no charge to all Subscribers who request them that enable the Subscriber to block the video and audio portion of any channel or channels of programming.

X. Penalties. Pursuant to California Government Code § 63088.2, and any successor statute or regulation, penalties will be assessed against a Franchisee for any breach of Sections 1-23 of these customer service standards.

Y. Notwithstanding the requirements of this article, the City Administrator is authorized to relieve a Franchisee of its obligations under this article if

1. Franchisee shows that there is an alternative standard that is substantially similar to that established by this article;
2. In light of the number of customers served by a Cable System Operator, the requirements of this article are, in the City Administrator's sole discretion, unduly burdensome and there is an alternative way to serve the same interest.

APPENDIX B

APPLICATION FOR OVS FRANCHISE

A. Please provide the following information on a separate attachment:

1. The name and address of the Applicant.
2. Identify who owns and controls the Applicant. Your answer should list the names and addresses of the ten (10) largest holders of an ownership interest in the Applicant the names and addresses of all Persons in the Applicant's direct ownership chain, showing their relation to one another. If there are contracts for the management and operation of the OVS, or arrangements for use of the OVS by an Affiliate, the entities involved and their ownership, and their relationship to the Applicant should be described.

B. Please provide information sufficient to show that you have the technical resources to construct and maintain the proposed OVS. Identify the companies and personnel that will be involved in the construction and maintenance, and references for the entities identified.

C. Please check the appropriate box.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Is Applicant willing to comply with the provisions of the City Municipal Code and other applicable laws; and to comply with such requirements of an OVS Agreement as the City may lawfully require?
<input type="checkbox"/>	<input type="checkbox"/>	Does Applicant, or its affiliates hold a cable system franchise for the City, or have a pending request a cable system franchise (whether an initial or renewal franchise, or transfer request)?
<input type="checkbox"/>	<input type="checkbox"/>	Has Applicant had a request for cable or OVS franchise denied by the City?
<input type="checkbox"/>	<input type="checkbox"/>	If so, did the denial occur, or was a challenge to the denial resolved adversely to Applicant, in the last 30 months?
<input type="checkbox"/>	<input type="checkbox"/>	Has Applicant had cable or OVS franchise revoked by the City or any jurisdiction in Nevada County?
<input type="checkbox"/>	<input type="checkbox"/>	If so, did the revocation occur, or was a challenge to the revocation resolved adversely to Applicant, in the last 36 months?
<input type="checkbox"/>	<input type="checkbox"/>	Does Applicant must have the necessary authority under California and federal law to operate an OVS? (If yes, please provide proof of the authorization).

□	□	During the ten (10) years preceding the submission of the Application, was Applicant found guilty of violating a consumer protection laws, or laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct?
□	□	Does an elected official of the City hold a controlling interest in the Applicant or an Affiliate of the Applicant?

In any case where the answer to a question was "yes," please provide a detailed explanation of your answer.

D. Please provide a statement prepared by a certified public accountant showing that Applicant has the financial resources necessary to construct and operate the OVS as proposed.

E. Please identify the area of the City that will be served by the OVS, with accompanying maps.

F. Provide a schedule for construction of the OVS, including an estimate of plant mileage and its location; whether or not an institutional network will be constructed information on the availability of space in conduits including, where appropriate, an estimate of the cost of any necessary rearrangement of existing facilities; and a description, where appropriate, of how services will be converted from existing facilities to new facilities.

G. Describe in detail the channels, facilities and other support you propose to provide for public, educational and government use of the system.

The undersigned hereby certifies the truth and accuracy of the information in the Application, and all attachments thereto, acknowledges the enforceability of Application commitments, and certifies that the Application meets all requirements of applicable law.

FOR: _____

BY _____

ITS _____

Subscribed and sworn before me this _____ day of _____, _____.

Chapter 5.19 - STATE VIDEO FRANCHISES

Sections:

5.19.010 - State video service fees for public, educational, and governmental access.

- (a) (1) As of December 31, 2006, the city was imposing a fee for public, educational, and government access (hereinafter, "PEG") channel facilities capital uses of sixty cents per month per subscriber as part of the city-granted cable franchise held by Comcast of California IX, Inc. (Comcast).
- (2) The PEG capital support fee described in subsection (a)(1) of this section is for PEG capital support and is in addition to the franchise fee paid to the city by the cable operators.
- (b) (1) Any state franchise holder shall pay to the city, or if directed by the city, to the city's designated PEG provider, a PEG fee equal to one and four-tenths percent of gross revenues, an amount equivalent to the level of PEG funding remitted by Comcast as of December 31, 2006.

- (2) The PEG capital support fees of subsection (b)(1) of this section are for PEG capital support and are in addition to the franchise fee to be paid to the city by the state video service franchise holders.
 - (3) Any state franchise holder shall remit the PEG support fee within forty-five days after the end of each calendar quarter. Each payment shall be accompanied by a summary, detailing the calculation of the PEG support fee.
 - (4) If a state franchise holder fails to pay the PEG support fee when due, or underpays the amount due, the state franchise holder shall pay interest, pursuant to Public Utilities Code section 5860(h), at the annual rate equal to the highest prime lending rate during the period of delinquency, plus one percent, or the maximum rate allowed by law.
- (c) Upon the expiration of the city-granted franchise to Comcast, all state video franchise holders operating in all areas of the city shall pay a fee to support PEG channel facilities of sixty cents per subscriber per month. The fee shall be payable quarterly no later than June 1, September 1, December 1 and March 1 for the preceding calendar quarter for which the payment is due.

(Ord. No. 782A, § 1(Exh. B), 1-24-2017 ; Ord. No. 783, § 1, 6-27-2017)

5.19.020 - Customer service penalties.

- (a) Any holder of a state video service franchise shall comply with all applicable state and federal customer service and protection standards pertaining to the provision of video service.
- (b) The city will provide any holder of a state video franchise written notice of any material breach of applicable customer service and protection standards, and will allow the franchise holder at least thirty calendar days from the receipt of the notice to remedy the specified material breach. A material breach that is not remedied by the state video franchise holder within the remedy period shall subject the state video franchise holder to the following penalties to be imposed by the city:
 - (1) For the first occurrence of a material breach, a penalty of not more than five hundred dollars for each day of each material breach, not to exceed one thousand five hundred dollars for each occurrence of a material breach.
 - (2) For the second violation of the same nature within twelve months, a penalty of one thousand dollars for each day of each material breach, not to exceed three thousand dollars for each occurrence of the material breach.
 - (3) For a third or further violation of the same nature within twelve months, a penalty of two thousand five hundred dollars for each day of each material breach, not to exceed seven thousand five hundred dollars for each occurrence of the material breach.
- (c) Any notice and any penalty may be issued or imposed by the city administrator. Any notice shall be in writing and sent to the state franchisee's address of record with the California Public Utilities Commission. Notices shall be transmitted by United States Postal Service certified or registered mail, return receipt requested and postage prepaid, or by private commercial delivery or courier service for same day or next business day delivery with delivery and receipt signature required.
- (d) The state video service franchise holder may appeal any finding of material breach or imposition of penalties to the city council. Any appeal must be made within ten calendar days of receipt by the state video service franchise holder of the finding of material breach or the imposition of penalties, and must be submitted in writing to the city clerk and the city manager in order to be placed on a city council agenda for consideration. Any appeal must contain a detailed explanation of why the appellant believes that the finding of material breach or the imposition of penalties was inconsistent with statutory requirements.
- (e) The city and any state video service franchise holder may mutually agree to extend the time periods specified herein. Any such agreement shall be in writing and executed by the city manager and an authorized representative of the state video franchise holder.

- (f) Any penalty imposed on a state video franchise holder shall be paid to the city. Under California Public Utilities Code, s 5900(g), the city shall submit one-half of all penalties received from a state video franchise holder for violations of cust service standards to the Digital Divide Account established by California Public Utilities Code, section 280.5.

(Ord. No. 782A, § 1(Exh. B), 1-24-2017.)

5.19.030 - Procedures for appeal of denial of an encroachment permit.

- (a) As provided by California Public Utilities Code section 5885, the city shall either approve or deny an application from a state video service franchise holder for an encroachment permit within sixty days of receiving a completed application.
- (b) For purposes of this section, an "encroachment permit" means any permit issued by the city relating to construction or operation of facilities relating to the provision of video service under a state video service franchise in the public rights-of-way.
- (c) An application for an encroachment permit is considered complete when the applicant has complied with all statutory and city-imposed requirements for such an application, including those of the California Environmental Quality Act (Public Resources Code sections 21000 et seq.), Title 12 of this Code, and other applicable ordinances of the city.
- (d) Any city denial of an application for an encroachment permit shall be in writing and shall contain a detailed explanation of the reason for the denial.
- (e) An applicant whose application for an encroachment permit has been denied shall have the right to appeal the denial of a permit to the city council by filing both a written notice of appeal and the required cash deposit with the city clerk within fifteen days after the administrative authority's action on the permit. The city council shall consider such appeal at its first regularly scheduled council meeting occurring five or more business days after receipt of the appeal by the city clerk, with or without a public hearing as deemed appropriate and may affirm, overrule, or modify the administrative authority's determination.

(Ord. No. 782A, § 1(Exh. B), 1-24-2017.)

Chapter 5.24 - GAS FRANCHISE

Sections:

5.24.010 - Definitions.

Whenever in this chapter the words or phrases defined in this section are used, they shall have the respective meanings assigned to them in the following definitions:

"City" means the City of Grass Valley, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

"Constitutional franchise" means the right acquired through acceptance by grantee or its predecessor in estate of the offer contained in the provisions of Section 19 of Article XI of the Constitution of the State of California, as the section existed prior to its amendment on October 10, 1911.

"Gas" means natural or artificial gas, or a mixture of natural and artificial gas.

"Grantee" means Pacific Gas and Electric Company, its lawful successors or assigns.

"Install, maintain and use" means to lay, construct, erect, install, operate, maintain, use, repair or replace.

"Pipes and appurtenances" means pipes, pipelines, mains, services, traps, vents, vaults, manholes, meters, gauges, regulators, valves, conduits, appliances, attachments, appurtenances and, without limitation to the foregoing, any other property located or to be located, in, upon, along, across, under or over the streets of the city, and used or useful in transmitting and/or distributing gas.

"Streets" means the public streets, ways, alleys and places as they now or may hereafter exist within city, including state highways, now or hereafter established within city, and freeways hereafter established within city.

(Prior code § 10-24)

5.24.020 - Granted to PG & E—Purpose.

The franchise (1) To use, for transmitting and distributing gas suited for lighting but for use by consumers for any and all lawful purposes other than lighting, all pipes and appurtenances which are now or may hereafter be lawfully placed and maintained in the streets within city under the constitutional franchise of grantee; (2) To install, maintain and use in the streets and places all pipes and appurtenances, whenever and wherever the constitutional franchise of grantee is not now nor shall hereafter be available therefor, necessary to transmit and distribute gas suited for, and for use by, consumers for any or all lawful purposes; and (3) To utilize the pipes and appurtenances in the public streets and places for transmitting gas for use outside the boundaries of the city for any and all lawful purposes is granted to Pacific Gas and Electric Company, its successors and assigns.

(Prior code § 10-25)

5.24.030 - Relocations of pipes, appurtenances.

Grantee of this franchise shall relocate, without expense to city, any pipes and appurtenances theretofore installed, and then maintained or used under this franchise, if and when made necessary by any lawful change of grade, alignment or width of any streets by city, including the construction of any subway or viaduct; provided, however, that the cost of any such relocation made necessary by the construction or any lawful change of grade, alignment or width of any freeway constructed by the State of California shall be divided equally between grantee and the State of California.

(Prior code § 10-26)

5.24.040 - Term indeterminate.

The franchise shall be indeterminate, that is to say, the franchise shall endure in full force and effect until the same shall, with the consent of the Public Utilities Commission of the State of California, be voluntarily surrendered or abandoned by grantee, or until the state or some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of the franchise and situate in the territorial limits of the state, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for noncompliance with its terms by grantee.

(Prior code § 10-27)

5.24.050 - Payments to city.

Grantee of the franchise shall during the term thereof pay to city a sum annually which shall be equivalent to two percent of the gross annual receipts of grantee arising from the use, operation, or possession of the franchise; provided, however, that such payment shall in no event be less than a sum which shall be equivalent to one percent of the gross annual receipts derived by grantee from the sale of gas within the limits of city under the franchise and the constitutional franchise.

(Prior code § 10-28)

5.24.060 - Statement of receipts—Forfeiture.

- A. Grantee shall file with the clerk of city, within three months after the expiration of the calendar year, or fractional calendar year, following the date of the granting hereof, and within three months after the expiration of each and every calendar year thereafter, a duly verified statement showing in detail the total gross receipts of grantee during the preceding calendar year, or such fractional calendar year, from the sale of gas within city. Grantee shall pay to city within fifteen days after the time for filing such statement, in lawful money of the United States, the aforesaid percentage of its gross receipts for such calendar year, or such fractional calendar year, covered by such statement.
- B. Any neglect, omission or refusal by grantee to file such verified statement, or to pay the percentage at the time and in the manner specified, shall be grounds for the declaration of a forfeiture of this franchise and of all rights of grantee hereunder.

(Prior code § 10-29)

5.24.070 - Authority to grant.

This franchise is granted under the Franchise Act of 1937, and the provisions of the city charter.

(Prior code § 10-30)

5.24.080 - Publication expenses.

Grantee of the franchise shall pay to city a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting thereof; such payment to be made within thirty days after city shall have furnished grantee with a written statement of such expense.

(Prior code § 10-31)

Chapter 5.28 - HANDBILLS AND CIRCULARS

Sections:

5.28.010 - Definitions.

As used in this chapter, the following words have the following meanings:

"Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

1. Which advertises for sale any merchandise, product, commodity, or thing; or
2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or
3. Which directs attention to or advertises any meetings, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expense incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given, or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing

contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state or under any ordinance of this city; or

4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

"Handbill distributor" means any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

"Handbill poster" means any person engaging in the business for hire of posting, fastening, nailing, or otherwise affixing any written, painted or printed matter of any kind, or other form or reproduction thereof, (hereinafter called "sign"), containing a message or information of any kind whatsoever, to any outdoor billboard, or to, or upon, any bridge, fence, pole, post, sidewalk, tree, or to, or upon, the exterior of any other structure except that the terms of this definition shall not apply to, nor include any, such sign mounted on, fastened to, or suspended from the outside of any building or other structure, in accordance with and authorized by any provisions of an ordinance or statute, either for any public convenience or use or regulating the construction or use of so-called outdoor display signs, whether such display signs are illuminated or not.

"Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

"Noncommercial handbill" means any printed or written matter, any sample or device, dodger, circular leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a sign, or a commercial handbill, or a newspaper.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

"Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

"Public place" means any and all streets, boulevard, avenues, lanes, alleys, or other public ways; and any and all public parks, squares, spaces, plazas, grounds and buildings.

Words singular in form may include the plural; any words plural in form may include the singular; and words in the masculine gender shall include the feminine and neuter genders.

(Prior code § 12-36)

5.28.020 - Posting prohibited in certain cases.

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flag-stone, or any other portion or part of any public way or public place, or any lamp post, electric light, telegraph, telephone or trolley line pole, or railway structure, hydrant, shade tree or tree-box or upon the piers, columns,

trusses, girders, railings, gates or other parts of any public bridge or viaduct, or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of the city.

(Prior code § 12-37)

5.28.030 - Broadcast of handbills prohibited.

It is unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within this city; and it is also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided, however, that it is not unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill.

(Prior code § 12-38)

5.28.040 - Placing on vehicles prohibited.

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept it.

(Prior code § 12-39)

5.28.050 - Distribution on vacant property prohibited.

It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Prior code § 12-40)

5.28.060 - Distribution where posting prohibits.

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises.

(Prior code § 12-41)

5.28.070 - Distribution on private property.

No person licensed under the provisions of this chapter, or any other person, shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this chapter, the aforesaid licensed or other person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by federal postal laws or regulations.

(Prior code § 12-42)

5.28.080 - Names and addresses required.

It is unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or noncommercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

- A. The person who printed, wrote, compiled or manufactured the handbill;
- B. The person who caused the handbill to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring the handbill shall also appear thereon.

(Prior code § 12-43)

5.28.090 - License—Fee.

- A. It is unlawful for any person to engage in the business of a handbill poster for hire or as a handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this chapter and all other relevant laws and regulations; provided, that nothing contained in this section shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in the city.
- B. Any person desiring to engage, as principal, either in the business of a handbill poster for hire, or in the business of distributing commercial or noncommercial hand bills for hire, shall make application to and receive from the city clerk, or other officer empowered to issue the same, who shall act whenever the city clerk is referred to in this section, a license in the manner and for the period prescribed by the terms of this article and by all relevant provisions of the city code. Such applicant shall make written application to the city clerk upon a form or forms provided for such purpose by the city clerk. Such form shall contain, among other things that may be required, the name, the business address, and a brief description of the nature of the business to be conducted by the applicant, the probable number of agents and employees so to be engaged, together with a request for a license for the period for which the applicant seeks to engage in such business.
- C. Without excluding other just grounds for revocation, the city council, or official so empowered by law, may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with the intent to obtain a license by means of false or fraudulent representations, or for violation of this chapter, or any other grounds specified by law. Such application shall be accompanied by the fee provided for in this chapter.
- D. No license issued under this chapter shall be transferrable; and if any such license shall be surrendered by the licensee therein named, or shall be revoked for cause, neither the licensee named in such license, nor any other person, shall be entitled to any refund of any of such fee.
- E. License fees under the terms of this chapter, and for any such purpose, shall be as follows:
 - For a period of one year, the sum of thirty-five dollars;
 - For a period of three months, the sum of twenty dollars;
 - For a period of one week, the sum of ten dollars;
 - For a period of one day, the sum of five dollars; provided, that persons acting for licensees, as agents or employees, in the posting or distributing of any such signs or handbills, shall not be required to obtain a license or pay a fee, but each such person shall comply with each and all of the other provisions of this chapter, and be subject to them.

(Prior code § 12-44)

5.28.100 - Exemptions.

The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter.

(Prior code § 12-45)

5.28.110 - Posting of prohibited matter.

It is unlawful for the owner, lessee, occupant or agent of premises to permit any person, whether licensed or acting under the terms of this chapter, or otherwise, to post, affix, or otherwise attach to any building, structure or fixture located upon such premises, whether such fixture be natural or artificial, any poster or handbill containing any matter prohibited by the terms of this chapter.

(Prior code § 12-46)

5.28.120 - Incentive or obscene content.

It is unlawful for any person to post, to hand out, distribute or transmit any sign, or any commercial or noncommercial handbill:

- A. Which may reasonably tend to incite riot or other public disorder, or which advocates disloyalty to, or the overthrow of, the government of the United States or of this state by means of any artifice, scheme, or violence, or which urges any unlawful conduct, or encourages or tends to encourage a breach of the public peace or good order of the community; or
- B. Which is offensive to public morals or decency, or which contains blasphemous, obscene, libelous or scurrilous language.

(Prior code § 12-47)

5.28.130 - Certain ordinances not affected.

This chapter shall not be deemed to repeal, or modify any ordinance ever ordained, including the provisions of Section 8.24.030 of this code, prohibiting deposit of garbage, rubbish, or waste material in public places, and the provisions of Chapter 5.36 of this title, prohibiting those not having a fixed and permanent business in the city and being duly licensed to engage in such business, from engaging in the business of hawking, peddling, or vending goods, wares, merchandise, periodicals, reading matter and the like.

(Prior code § 12-48)

5.28.140 - Violation—Penalty.

Any person who violates any of the provisions of this chapter is guilty of an infraction punishable under Chapter 1.12 of this Code. Each separate day or any portion thereof during which any violation occurs or continues is a separate offense.

(Ord. 459 § 17, 1991; prior code § 12-50; Ord. No. 791, § 1, 9-26-2017)

Chapter 5.32 - SPECIAL EVENTS

Sections:

5.32.010 - Intent and purpose.

The intent of this chapter is to provide a regulatory framework for permitting special events. Special events shall be conducted so as not to cause any detrimental effects to surrounding properties and the community, and shall not violate any other ordinance or regulation of the city. The provisions set forth in this chapter shall establish criteria for characterizing events as "special events" and standards and conditions for approving and permitting such special events.

(Ord. 626 § 1, 2003)

5.32.020 - Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Administrative authority" means the chief of police or his or her designee, or the director of the department or his or her designee having the responsibility for and control over the event.

"Applicant" means any person, firm, association, corporation, organization, club or ad hoc committee who or which seeks a special event permit from the city, through the chief of police, to conduct or sponsor a special event governed by this chapter. An applicant must be eighteen years of age or older. The applicant shall be the individual who is directly responsible for organizing and/or conducting the event and/or the facility manager.

"Extraordinary police services" means responsive police services which are in addition to and in excess of the normal police services provided to the facility or off-site as a direct result of the event at the facility.

"Open to the public" means an event not limited to invitees and otherwise open to any member of the public with or without an admission fee or charge.

"Special event" means, including but without limitation, any assembly, congregation, attraction, display, entertainment, demonstration, carnival, bazaar, circus, rodeo, or other traveling show, fair, festival, food faire, cook-off, dance, sporting event, concert or performance, or any other planned occurrence, that is likely to meet any one or more of the following criteria:

- A. Be attended by fifty people or more;
- B. Obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, or otherwise fail to comply with traffic laws and controls; or
- C. Can be reasonably expected to become a hazard to the public peace, health, safety or general welfare as determined by either the chief of police or fire chief.
- D. Sales of alcoholic beverages by any organization, including charitable, civic, cultural, fraternal, patriotic, political, religious, social, or amateur sports organizations.

Special event, as defined in this section, shall not include:

- A. An event held in a private residence where no admission is charged, the event is not open or advertised to the public, and no extraordinary police services are required;
- B. An event held in a members-only facility at which the only participants are the members (and their invited nonpaying guests) and no extraordinary police services are required;
- C. Events sponsored by religious entities held in the religious entity's facility which only members by permission attend and no extraordinary police services are required;
- D. For-profit entertainment activities of persons, entities and businesses such as cabarets who or which are

currently licensed to regularly provide specified entertainment activities at fixed locations in the city and no extraordinary police services are required;

- E. Any entertainment for which other special permits have previously been obtained, such as, but not limited to, parade permits, dance permits, short-term encroachment permits and city sponsored events otherwise permitted when the chief of police determines such other permits are more appropriate for the particular event;
- F. Any event, series of events and/or specific type of event may be exempted at the discretion of the chief of police, based upon evidence that the event or events will not impact police services and will not affect public health, safety and welfare;
- G. Any event at a private facility that was designed for the purpose of conducting the type of activities that are contemplated for the special event for less than five hundred participants;
- H. Funeral processions;
- I. Governmental agencies acting within the scope of their authorized functions;
- J. An event or events coordinated through the community development department complying with the temporary commercial use permit process.

(Ord. 626 § 1, 2003)

5.32.030 - Special events committee established.

A special events committee composed of representatives from each city department is hereby established. The committee will meet on a periodic basis to review special event applications. The chair for the special events committee shall be the chief of police or his or her designee.

(Ord. 626 § 1, 2003)

5.32.040 - Special event permit required.

No person or organization shall conduct, maintain, organize or advertise a special event or permit its premises to be used for any special event without first obtaining a special event permit as provided for by this chapter. Special event permits for events shall be approved by the appropriate administrative authority and issued prior to the commencement of the special event. No permit issued under the provisions of this chapter shall be transferable or movable to another location or another permittee.

(Ord. 626 § 1, 2003)

5.32.050 - Application for special event.

- A. Applications for permits to conduct special events shall be completed in writing on a form provided by the city and shall be filed with the appropriate administrative authority within the time frames listed below.

Applications should be filed no more than one hundred eighty days nor less than forty five days prior to the opening date of the event. The above notwithstanding, the administrative authority may accept either early or late applications (1) upon the showing of good cause by the applicant, (2) if the administrative authority determines that there is sufficient time for the city to process and investigate the application, or (3) if the administrative authority determines additional time for such processing will be required.

- B. A special event permit shall be considered effective once the applicant has completed the application form, obtained all required permits, paid all fees as determined by city council resolution, and has agreed, in writing, with any special conditions imposed by the administrative authority. The requirements of this section may be waived by

the administrative authority if consistent with city policy on fee waiver. The applicant may appeal the requirements or conditions related to the issuance of the special event permit to the city council.

(Ord. 626 § 1, 2003)

5.32.060 - Contents of application form.

The application for a special event permit should include, but is not limited to, the following information:

- A. All special events:
 1. The name, address, and telephone number of the applicant and an alternative contact person.
 2. If the event is proposed to be sponsored by an organization, the name, address and telephone number of the organization, and the authorized head of the organization must be listed on the application. If requested by the administrative authority, written authorization to apply for the special event permit by an officer of the organization must be submitted with the application.
 3. The name, address, and telephone number of the person who will be present and in charge of the entire event on the day of the event.
 4. The nature/purpose of the event.
 5. Date and estimated start and ending time of the event.
 6. Location of the event, including its boundaries.
 7. Estimated number of participants and spectators in the event, including a list of all vendors and contractors involved with the event.
 8. The extent and type of advertising and promotion.
 9. The type and estimated number of vehicles, animals, and structures which will be used at the event.
 10. The size, shape, and material of signs or banners to be posted along the route if any and the method of posting.
 11. Whether there will be water, toilets, and first aid stations at the event.
 12. Description of any sound amplification equipment which will be used at the event.
 13. Whether any food, beverages, or merchandise will be sold at the event.
 14. Whether any alcoholic beverages will be sold or dispensed at the event.
 15. Whether volunteers to monitor the route will be employed at the event.
 16. Parking needs or requirements for the event.
 17. Whether dogs or animals will be permitted at the event.
- B. Additional information required for parades, races, and other events affecting city right-of-way:
 1. The assembly point for the event, the time at which units of the parade or other event will begin to assemble.
 2. The route to be traversed.
 3. Whether the parade or other event will occupy all or only a portion of the streets proposed to be traversed.
 4. The intervals of space to be maintained between units of a parade or other event.
 5. The number, types, and size of floats.
 6. Material and maximum size of any signs or banners to be carried along the route if any.
- C. Supplemental information. Any supplemental information which the administrative authority shall find reasonably necessary, under the particular circumstances of the special event application, to determine

whether to approve, or conditionally approve a special event permit pursuant to Sections 5.32.090 and 5.32.100.

(Ord. 626 § 1, 2003; Ord. No. 15-761, § 2, 10-13-2015)

5.32.070 - Encroachment permit required.

An encroachment permit shall be required for any special event proposing the closure of any public street within the. Said permit application shall be reviewed and approved by the director of public works or his or her designee, under the provisions of this code. Good cause shall include, but not be limited to, a determination that the application of this section would violate the constitutional rights of any individual.

(Ord. 626 § 1, 2003)

5.32.080 - Permit conditions.

The administrative authority may condition the issuance of a special events permit by imposing reasonable requirements concerning the time, place, and manner of the event, and such requirements as necessary to protect the safety of persons and property, and the control of traffic, provided such conditions shall not unreasonably restrict individual rights as guaranteed under the United States Constitution. Such conditions include, but may not be limited to:

- A. Alteration of the date, time, route or location of the event proposed on the event application.
- B. Conditions concerning the area of assembly and disbanding of parade or other events occurring along a route.
- C. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street traversed.
- D. Requirements for the use of traffic cones, delineators or barricades.
- E. Requirements for the provision of first aid or sanitary facilities.
- F. Requirements for use of event monitors, and providing notice of permit conditions to event participants.
- G. Restrictions on the number and type of vehicles, animals, or structures at the event, and inspection and approval of floats, structures, and decorated vehicles for safety purposes.
- H. Compliance with animal protection ordinances and laws.
 - I. Requirements for use of trash containers, recycling containers, cleanup, and restoration of city property or right-of-way.
 - J. Restrictions on use of amplified sound.
 - K. Notification to businesses and residences along the affected street(s).
 - L. Compliance with any relevant ordinance or law and obtaining any legally required permit or license.
 - M. Compliance with city requirements as outlined in Section 5.32.110.
 - N. Restrictions on the consumption of alcoholic beverages.

(Ord. 626 § 1, 2003)

5.32.090 - Special event fees.

- A. Fee schedule:
 - Application fee: (set by resolution)
 - Facility rental fees: (by established rates)

Other charges: (varies according to services requested and/or required)

Security/cleaning deposit: (by agreement—see Section 5.32.100)

- B. Prepayment of fees. Upon approval of an application for a special event permit, the administrative authority shall provide the applicant with a statement of the estimated cost of providing traffic-control services for the event. The charges shall include estimated costs for providing overtime police officers for traffic control and overtime public works personnel and equipment charges for road closures at the event unless exempted. The applicant/sponsor of the event shall be required to prepay the estimated traffic-control fees prior to the issuance of a special event permit. Traffic control by officers includes clearing the route or site of unauthorized vehicles, diversion of traffic around the event, and directing pedestrian and vehicular traffic along the route of an event in the event the actual costs incurred by the city, including overhead costs, exceed the amount of the prepaid estimated traffic-control fee, the applicant/sponsor may be billed by the administrative authority for any additional, actual costs incurred by the city.
- C. Computing traffic-control fees. The traffic-control fees will be computed by determining the number of police officers and public works personnel that will be required for traffic control in addition to those who would otherwise be on duty at the time, the number of hours city personnel will be required to be on duty for the event, and the city's full cost of providing personnel on an hourly basis at rates established in accordance with city personnel rules and regulations and conditions contained within memorandums of understanding between the city and employee labor organizations. Every effort shall be made to incorporate the use of barriers, traffic cones, police explorers, and other devices which are less expensive than actual police officers whenever reasonably possible.
- D. Refunds. If the actual cost for traffic control on the date of the event is less than the estimated cost pursuant to subsection A above, the applicant/sponsor will be promptly refunded the difference by the city.

(Ord. 626 § 1, 2003)

5.32.100 - Security for cleanup—Other city fees.

- A. At the time of filing an application for special event permit, if deemed necessary by the administrative authority, the applicant shall submit an agreement on a form provided by the city and signed by the applicant stating that, within forty-eight hours (excluding parks—see parks facilities requirements) after the conclusion of the special event, the applicant will clean and restore or cause to be cleaned or restored to its original condition the property upon which the special event is to occur. Such agreement shall be secured by a cash deposit or a surety bond payable to the city. The administrative authority shall determine the amount of the security deposit using the following criteria:
1. Rate established by resolution for every five hundred people expected to attend; or
 2. Rate established by resolution for every mile of city right-of-way involved.
- B. The security deposit shall be refundable on compliance with the provisions and requirements of this chapter, including but not limited to the removal of trash and debris, temporary signs, temporary circulation improvements, temporary fencing, and appurtenant accessory facilities and structures and the cleanup of the site. In the event the applicant fails to comply with the terms of this chapter and remove all temporary facilities and structures or clean the site in a manner satisfactory to the administrative authority, the city may do so or cause the same to be done following a notice to the applicant requesting removal and cleanup within seven days, and the reasonable costs thereof shall be charged against the applicant and its cash deposit or bond. In the event the city removes or causes to be removed any temporary improvements, notice shall be given to the applicant indicating that the city has removed such temporary facilities or structures and that they will be destroyed and/or will become the property of the city within thirty days of such notice if neither the applicant nor any representative of the same has contacted

the city prior to the expiration of the thirty-day period. All notices shall be sent to the applicant's address as provided on the special event permit application unless the applicant supplies the city a substitute address in writing.

(Ord. 626 § 1, 2003)

5.32.110 - Liability and property damage insurance.

The applicant shall, prior to the issuance of the special event permit, submit to the administrative authority a certificate and endorsement of insurance issued by an insurance company authorized to do business in the State of California and having a policyholder's rating of "A" (excellent) or better, and a financial rate of "VIII or better in "Best's Insurance Reports-Fire and Casualty," or by a company approved in writing by the risk manager, which shall evidence the fact that the applicant has in full force and effect a comprehensive general liability and property damage insurance policy covering every activity of the proposed special event in amounts to be determined by the city administrator, based on the nature and liability potential of the event.

Should the event be held on public property, the said documents shall name the city, its officers, agents, employees and volunteers as additional insureds and shall indicate that the insurance is primary and any insurance which may be carried by the city shall be considered as excess thereto. The certificate and endorsement shall also indicate that the policy of insurance cannot be modified or canceled by the insurance carrier without at least thirty days' prior written notice to the city. Any certificates and endorsements shall be subject to approval by the city as to form, content, and financial ability of the insurer. The requirements of this section may be waived by the city's risk manager upon a showing of good cause. Good cause shall include, but not be limited to, a determination that the application of this section would violate the constitutional rights of any individual.

(Ord. 626 § 1, 2003)

5.32.120 - Hold-harmless agreement.

Prior to the issuance of a special event permit, the applicant shall provide the city with an executed hold-harmless agreement on a form provided by the administrative authority, which shall substantially state that the applicant agrees to indemnify, defend and hold the city and its officers, employees, and agents harmless and free from any liability, penalty, expense or loss of any nature, including but not limited to liability for damage or injury to any persons or property arising out of or in connection with the special event. The requirement for a hold-harmless agreement may be waived by the city's risk manager upon a showing of good cause. Good cause shall include, but not be limited to, a determination that the application of this section would violate the constitutional rights of any individual.

(Ord. 626 § 1, 2003)

5.32.130 - Clearances and inspections; posting permit.

No special event permit shall be issued until clearance and inspections from the appropriate agencies and departments have been completed. The special event permit and all business permits relating to the event must be posted on the premises in a conspicuous place, and a copy thereof must be in the possession of the individual responsible for the supervision or conduct of the operation prior to the start of the activity.

(Ord. 626 § 1, 2003)

5.32.140 - Approval.

The administrative authority shall approve, conditionally approve or deny applications for special event permits based on compliance or noncompliance with the provisions set forth within this chapter.

- A. The application may be denied for failure to meet any required condition. Such conditions may include, but not b following:
1. Information contained in the application, or supplemental information requested from the applicant, is found to be false or fraudulent in any material detail.
 2. The applicant fails to complete the application form after having been notified of additional information or documents required.
 3. Another special event permit application has been received prior in time, or has already been approved, to hold another event at the same time and/or place requested by the applicant, or so close in time and/or place as to cause undue traffic congestion, or the city is unable to meet the personnel needs for both events.
 4. The time, route, or size of the event will substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or disrupt the use of a street at a time when it is usually subject to traffic congestion.
 5. The concentration of persons, animals and vehicles at the site of the event or the assembly and disbanding areas around an event will prevent proper police, fire, or ambulance services to areas contiguous to the event.
 6. The parade, or other event moving along a route within the city, and on city rights-of-way, will not move from its point of origin to its point of termination in three hours or less.
 7. The location of the event will substantially interfere with any construction or maintenance work scheduled to take place upon or along city streets, or a previously granted encroachment permit.
 8. The event shall occur at a time when a school is in session, at a route or location adjacent to the school or class thereof, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class thereof.
 9. The event shall occur at a route or location adjacent to a hospital or fire station, and the noise or other disruptions created by the event would negatively affect the activities of said hospital or fire station.
- B. When the grounds for denial of an application for permit specified in subsections A.3 through A.9 above can be corrected by altering the date, time, duration, route, or location of the event, the administrative authority shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of conditions for permit issuance. The conditions imposed shall provide for only such modification of the applicant's proposed event as are necessary to achieve compliance with subsections A.3 through A.9 above.

(Ord. 626 § 1, 2003)

5.32.150 - Granting of permit.

The administrative authority shall grant a permit for a special event if it is found that:

- A. The special event will be held at a location which complies with and meets all of the health, zoning, fire, and safety requirements, standards, and laws of the state and all ordinances and resolutions of the city applicable thereto, as well as all reasonable conditions as required by the administrative authority.
- B. All information required by this chapter is included within the application and all documents required by this chapter have been filed.

(Ord. 626 § 1, 2003)

5.32.160 - Appeals.

Either the denial of an application for a special permit or the imposition of conditions not acceptable to the applicant may be appealed to the city council by filing both a written notice of appeal and the required cash deposit with the city clerk within fifteen days after the administrative authority's action on the permit. The city council shall consider such appeal at its first regularly scheduled council meeting occurring five or more business days after receipt of the appeal by the city clerk, with or without a public hearing as deemed appropriate and may affirm, overrule, or modify the administrative authority's determination.

(Ord. 626 § 1, 2003)

5.32.170 - Conditions of permit.

In approving an application for a special event permit, the administrative authority may impose such conditions as are deemed necessary to ensure that the permit will be in compliance with the findings required by Section 5.32.150. Such conditions may include but shall not be limited to those conditions in the special event policy which may be adopted by resolution of the city council from time to time.

(Ord. 626 § 1, 2003)

5.32.180 - Revocation of permit.

- A. A special event permit may be revoked if the administrative authority finds that one or more of the following conditions exist:
1. Circumstances have changed to such a degree that one or more of the findings contained within this chapter can no longer be made in a positive manner.
 2. The special event permit was obtained in a fraudulent manner.
 3. The applicant fails, neglects or refuses to fulfill any of the conditions imposed upon the granting of the permit.
 4. The applicant violates or attempts to violate any law of the state, or the provisions of this chapter, or any other law, ordinance or policy of the city.
- B. Such revocation shall become effective immediately upon order by the administrative authority.

(Ord. 626 § 1, 2003)

5.32.190 - Violations.

Any person who willfully fails to comply with the requirements of this chapter, or of any conditions attached hereunder, or who falsifies any information on any application hereunder is guilty of a misdemeanor punishable as set forth by state law. Any special event operator otherwise than in accordance with the chapter shall be a public nuisance which may be enjoined or abated as permitted by law.

(Ord. 626 § 1, 2003)

Chapter 5.36 - SOLICITATION

Sections:

5.36.010 - Purpose and intent.

- A. The purpose of this chapter is to regulate solicitation in the city to allow residents to protect their peace and tranquility, to allow the free and safe flow of pedestrian and vehicular traffic, and to deter fraud and other criminal behavior. It is the intent of this chapter to respect the rights of free expression guaranteed by the California and

United States Constitutions; to constitute reasonable, content-neutral, time, place and manner restrictions; and to impose the smallest burden on expressive activity necessary to accomplish the objectives of this chapter. This chapter shall be construed in light of this intent.

- B. The exclusion of religious and political motivations from the purposes for solicitation regulated by this chapter is intended to provide greater protection for such expressive activity as required by such judicial decisions as Watchtower Bible & Tract Society of New York) Inc. v. Village of Stratton (2002) 536 U.S. 150, and not to require city officials to determine what does and does not constitute bona fide religious and political motives except as necessary to do so. Accordingly, in the enforcement of this chapter, city officials shall accept claims that activity is politically or religiously motivated unless evidence is obtained demonstrating those claims to be untruthful.

(Ord. No. 762, § 2, 10-27-2015)

5.36.020 - Definitions.

Unless it is apparent from the context that another meaning is intended, the following words in this chapter shall have the meaning ascribed to them by this section:

- A. "Charitable" shall mean and include activity, either actual or purported, that is philanthropic, social service, welfare, benevolent, educational, and fraternal - but not religious or political - in character.
- B. "Solicit" and "solicitation" shall mean the request, directly or indirectly, of money, credit, property, financial assistance, patronage or other things of value; hawking, peddling, or vending for charitable or commercial purposes; or offering to perform services for payment. A "solicitation" shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale referred to in this subsection. "Solicit" or "solicitation" includes activity conducted door to door, in any place of public accommodation, in any place of business open to the public generally, on city streets and sidewalks, in the public parks, or in any public places. "Solicit" and "solicitation" shall also mean and include the following methods of securing money, patronage, credit, property, financial assistance or any other thing of value:
1. Any oral or written request;
 2. The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication, unless such handbill or written advertisement has been placed within a business open to the public generally with the express permission of the owner or operator of such business;
 3. The offer, sale or taking of orders for any goods, services, merchandise, wares or other tangible items.

(Ord. No. 762, § 2, 10-27-2015)

5.36.030 - Solicitation permit required.

No person shall engage in solicitation, as that term is defined in Section 5.36.020, within the city without having first obtained a permit from the city manager; but when a permit has been issued to any person, the agents and solicitors for such person shall not be required to obtain individual permits.

(Ord. No. 762, § 2, 10-27-2015)

5.36.040 - Exemptions.

This chapter shall not apply to solicitations made upon premises owned or occupied by the organization on whose behalf such solicitation is made.

(Ord. No. 762, § 2, 10-27-2015)

5.36.050 - Application for permit.

- A. An application for permit to solicit, or for renewal of such a permit, shall be made to the city manager upon forms prescribed by the city manager and signed under penalty of perjury. The application shall be filed with the city manager at least seven calendar days before a permit to conduct a solicitation may become effective; provided, however, that the city manager may for good cause shown allow the filing of a late application. The city manager shall grant or deny the permit within five business days after the application is made. In the event the city manager fails to act upon a permit within the time prescribed herein, the permit shall be deemed granted.
- B. An application for a new or renewed solicitation permit shall contain at least the following information: address, telephone and other contact information for the applicant; the purpose for which the solicitation is to be made; the total amount of any funds to be raised thereby, if any; the use or disposition to be made of any receipts; an outline of the method or methods to be used in conducting the solicitations, including dates and times for the commencement, conduct and termination of the solicitation; a statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the city or by any department, officer or employee thereof; the names of other cities or unincorporated areas in which the person registering has solicited or proposes to solicit within the month preceding or following the period in which the person seeks to solicit in the city; and if the applicant is unable to provide any of the foregoing information, the reasons why such information is not available.
- C. If, while any application is pending, or during the term of any permit, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the city manager in writing thereof within twenty-four hours after such change, provided that notice need not be given the city manager other than on a day when city hall is open for business.

(Ord. No. 762, § 2, 10-27-2015)

5.36.060 - Issuance of permit.

- A. The city manager shall issue a permit for solicitation unless any of the following have been demonstrated:
 - 1. The applicant has failed to provide the required information or to articulate a reasonable basis for his or her inability to do so;
 - 2. Any statement made in the application is untrue; or
 - 3. The proposed time, place or manner of solicitation is inconsistent with any provision of this code or other applicable law, or poses a threat to the public health or safety.
- B. If the city manager denies a permit to any applicant, the city manager, within the time for action on an application set forth in paragraph (A) of Section 5.36.050, shall arrange to send by registered mail or personal delivery written notice of the denial to the applicant, stating the reasons for such denial. The city manager may use fax, email or any other means reasonably calculated to give actual notice to the applicant.

(Ord. No. 762, § 2, 10-27-2015)

5.36.070 - Term of permit.

All permits issued under this chapter shall be valid for thirty calendar days unless renewed, revoked or suspended pursuant to this chapter. Upon good cause shown, the city manager may issue a permit valid for more than thirty calendar days, but in no event shall a permit be valid for more than six months. Any permit issued under this chapter shall not be transferable or assignable.

(Ord. No. 762, § 2, 10-27-2015)

5.36.080 - Identification card.

All persons to whom permits have been issued hereunder shall furnish an identification card to each of their agents and solicitors, which card is required to be in the possession of each agent and solicitor and presented upon request when soliciting in the city. Identification cards shall include at least the following: the permit number; the name and address of the permittee; a statement describing the permittee's purpose and activity; the signature of the permittee or one authorized to bind the permittee; the name and signature of the solicitor to whom the card is issued; the period of time during which the solicitation is authorized; and, printed prominently thereon in red, the statement, "This identification card is not an endorsement of any solicitation by the City of Grass Valley or any of its officers or employees."

(Ord. No. 762, § 2, 10-27-2015.)

5.36.090 - Revocation of permit.

If it is shown that any person to whom a permit has been issued under this chapter has violated any provision of this chapter or of any other law in connection with solicitation in the city, the city manager shall immediately suspend the permit and shall notify the permit holder within two business days of the suspension as specified in Section 5.36.060 for a notice of denial of a solicitation application, stating the reasons for the suspension.

(Ord. No. 762, § 2, 10-27-2015.)

5.36.100 - Appeals.

If an applicant or permittee is aggrieved by any action of the city manager to deny, suspend or revoke a permit, he or she may appeal to the city council by filing within fifteen calendar days of the decision a written statement with the city clerk setting forth reasons for the appeal. The city clerk shall set a time and place for hearing the appeal at the next regularly scheduled council meeting which occurs more than eighty-four hours after the notice of appeal is received and shall notify the applicant or permit holder of the time and place of hearing. The city council may affirm, reverse or affirm with conditions, the decision of the city manager and shall apply the standards of this chapter in doing so. Unless the city council unconditionally approves the permit, it shall state the reasons for its decision in writing. The council may delegate its decision to a hearing officer provided that the decision of that officer is provided to the appellant not later than eighty-four hours after the council timely acts under this section. The action of the city council or hearing office shall be final as to the city, but shall be subject to judicial review pursuant to Code of Civil Procedure, Section 1094.5.

(Ord. No. 762, § 2, 10-27-2015.)

5.36.110 - Manner of solicitation and prohibitions.

No person shall do any of the following when engaged in solicitation:

- A. Solicit without a permit or solicit without carrying on his or her person the identification card required by this chapter.
- B. Solicit after a permit has expired.
- C. Solicit at any dwelling, including but not limited to a house, apartment, or condominium at which is displayed a sign reading "No Solicitations," "Do Not Disturb," or any other indication that the occupants do not wish to be solicited or to have their privacy otherwise disturbed.
- D. Touch, come into physical contact with, or affix any object to the person of any member of the public, without the express permission of that person.
- E. Persistently and importunately solicit any member of the public after such person expresses his or her desire

not to be solicited.

- F. Intentionally obstruct the free movement of any member of the public on any street, sidewalk or other place or in any place open to the public.
- G. Threaten any harm to any person who declines to be solicited.
- H. Misrepresent his or her physical or mental health.
- I. Solicit for any purpose other than those specified in the application upon which the permit was issued.
- J. While the occupant of a moving vehicle, solicit, or attempt to solicit, business or contributions of money or other property, from a person within the public right-of-way who is not in that same vehicle.
- K. Solicit, or attempt to solicit, business or contributions of money or other property, from a person who is the occupant of a moving vehicle or a vehicle stopped in traffic while the solicitor is not in that same vehicle.

(Ord. No. 762, § 2, 10-27-2015)

5.36.120 - Violations; penalties.

Any person who intentionally violates any provision of this chapter is guilty of a misdemeanor punishable as provided in Chapter 1.12 of this Code.

(Ord. No. 762, § 2, 10-27-2015)

Chapter 5.40 - TAXICABS AND OTHER VEHICLES FOR HIRE

Sections:

5.40.010 - Definitions.

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

"Driver" means any person in charge of or operating any passenger-carrying motor vehicle, either as owner or employee or under the direction of owners or employees.

"Owner" means any person who, in any manner, has the proprietary use, ownership or control of any passenger-carrying motor vehicle.

"Taxicab" means any motor vehicle used solely or mainly for the transportation of passengers for hire, on call or demand, over the public streets of the city, irrespective of whether the operations extend beyond the city, and between such points and over such route as may be directed by the passenger, of a distinctive color or insignia and of public appearance such as is in common usage for taxicabs.

(Prior code § 10-55)

5.40.020 - Vehicle safety—Annual inspection.

- A. All public passenger vehicles for hire shall be under the supervision and control of the chief of police, and he shall not permit any driver to operate any taxicab in the city while it or any equipment used on it or with it shall be unsafe, defective or unsanitary, and every taxicab shall be at all times subject to the inspection of any police officer of the city.
- B. All such vehicles shall be inspected annually for safety purposes by an agency designated by the chief of police.

(Prior code § 10-56)

5.40.030 - Rates and charges—Generally.

The city council shall, from time to time, fix by resolution the schedule of rates and charges for taxicab service; and it is unlawful for the owner or driver of any taxicab in the city to fix, charge or collect for taxicab service a rate more than that fixed in such schedule.

(Ord. 512 § 1, 1994: prior code § 10-57)

5.40.040 - Charges—Failure to pay.

No person, except where credit is extended, shall refuse to pay the lawful fare for the use of any taxicab after hiring it.

(Prior code § 10-58)

5.40.050 - Liability insurance required.

- A. It is unlawful for any owner or operator to drive or operate a taxicab, or cause it to be driven or operated in the city, and no certificate for operation of it shall be granted, unless and until there is on file with the city clerk, and in full force and effect at all times while such taxicab is being operated, a policy of auto liability insurance approved by the city attorney, with a solvent and responsible company authorized to do business in the State of California, whereby the owner and driver of each of the taxicabs operated under the franchise are insured against liability for damage to property and for injury to or death of any person as a result of the ownership, operation, defective construction of such taxicab or other use thereof. Further, such policy of insurance shall name the city, its officers, agents and employees as additional insureds. Additionally, a vehicle owner and driver shall indemnify, defend and hold harmless the city, its officers, agents and employees from claims arising from or alleged to arise from the negligence of the vehicle owner or driver.
- B. Such policy shall have a minimum liability coverage of one million dollars for the injury or death of one person, one million dollars for the injury or death of two or more persons in the same accident and two hundred fifty thousand dollars for injury or destruction to property in any one accident. Additional coverage shall be provided by the certificate holder as required by the risk manager and/or city attorney if deemed necessary based on the history of the holder's operation of the taxicab business, the driving and/or criminal history of drivers employed by the holder and other conditions which may create additional risks associated with the operation of the taxicab business.
- C. Such policy of insurance shall guarantee the payment of any final judgment rendered against such owner or driver to any person suffering injury or damage to his person or property, within the required limits, irrespective of the financial condition of such owner or any acts or omissions of such owner or driver, and shall inure to the benefit of such person.
- D. The receipt by the city of a notice of cancellation of a policy of insurance for reasons attributed to such an act of an owner shall result in the suspension of the insured vehicle's certificate of operation; the suspension shall commence on the effective date of the cancellation of insurance as stated in the notice. The holder of a suspended certificate must apply for and obtain a new certificate of operation prior to resuming operating the subject vehicle within the city. The certificate holder is responsible also to keep the city informed of deletions and additions of vehicles to the insurance schedule when changes are made during the year.
- E. If at any time such policy of insurance is canceled by the company issuing it, or the authority of the company to do business in the state is revoked, the city clerk shall require the owner to replace such policy with another company satisfactory to the city attorney and in default thereof the owner's certificate of operation shall be revoked.

(Ord. 636 § 1, 2003: Ord. 521 § 1, 1995: Ord. 512 § 2, 1994: prior code § 10-59)

5.40.060 - Use of taxicab stand.

No person driving a taxicab, while awaiting employment, shall stand such taxicab on any street or place other than upon a designated taxicab stand, nor shall any driver of a taxicab, while awaiting employment, drive so as to interfere with vehicular traffic.

(Prior code § 10-60)

5.40.070 - Refusal of service.

No driver operating under a driver's permit issued pursuant to the terms of this chapter, shall refuse, when the vehicle is in service and not otherwise engaged, to transport any person who presents himself for carriage in a sober and orderly manner and for a lawful purpose.

(Prior code § 10-61)

5.40.080 - Most direct route to be used.

Any driver employed to transport passengers to a definite point shall take the most direct route that will take the passengers to their destination safely and expeditiously.

(Prior code § 10-62)

5.40.090 - Issuance of receipts.

If requested, every driver of a taxicab shall give a receipt upon payment of the correct fare. In case of a dispute the matter shall be determined by the officer in charge at the police station. Failure to comply with such determination shall subject the offending party to a charge of violation of this chapter.

(Prior code § 10-63)

5.40.100 - Certificate required.

No person shall engage in the business of operating any taxicab in the city without first having obtained from the chief of police a certificate of operation for each individual vehicle.

(Ord. 512 § 3, 1994; prior code § 10-64)

5.40.110 - Application for certificate.

Any person applying for a certificate of operation shall file with the chief of police a verified application accompanied by a fee in the amount established by city council resolution from time to time, which shall set forth the following:

- A. The name and address of the company or persons making the application;
- B. The make, type, year of manufacture and passenger seating capacity of each taxicab for which application for a certificate is made;
- C. A description of the proposed color scheme, insignia or other distinguishing characteristics and signage of each taxicab;
- D. Proof of a recent vehicle inspection for safety compliance;
- E. Proof of insurance on all vehicles to be operated;

F. Such other information as the chief of police may require.

(Ord. 512 § 4, 1994: prior code § 10-65)

5.40.160 - Substitution of vehicles.

If an owner sells or transfers title to a taxicab for which a certificate of operation has been issued, or in the event a taxicab for which a certificate has been issued has been destroyed, the owner is entitled, as a matter of right, upon written application to the chief of police, made within fifteen days after such sale, transfer or destruction, to have a new certificate issued, providing the taxi meets those applicable requirements of Section 5.40.110 but for no greater number than sold, transferred or destroyed; provided that such owner has complied with all the provisions of this chapter.

(Ord. 512 § 9, 1994: prior code § 10-70)

5.40.170 - Certificate canceled after forty-five-day lapse in service.

If any taxicab service permitted under this chapter is for any reason discontinued for a period of forty-five days, without the prior permission of the chief, the certificate of operation granted therefor shall be automatically canceled and shall be restored only in accordance with the provisions of this chapter.

Any owner who shall retire and not replace any taxicab for a period of forty-five days shall immediately surrender to the chief of police the certificate granted for such taxicab.

(Ord. 512 § 10, 1994: prior code § 10-71)

5.40.180 - Suspension and revocation of certificate.

The chief of police may at any time revoke or suspend any certificate of operation granted pursuant to this chapter for the following reasons:

- A. If the owner's/driver's/operator's license or insurance has been revoked or suspended;
- B. If the owner fails to operate taxicabs in accordance with the provisions of this chapter;
- C. If the owner discontinues or suspends operation of taxicabs for a period of forty-five days without permission first obtained;
- D. If taxicabs are operated at a rate of fare greater than that approved by the city council.

Any revoked or suspended permit shall be surrendered to the chief of police and the operation of all taxicabs covered by such certificates shall cease and be unlawful.

(Ord. 512 § 11, 1994: prior code § 10-72)

5.40.185 - Appeals.

Any owner or driver aggrieved by a decision of the chief of police may appeal that decision to the city council. Such appeal must be submitted in writing to the city clerk within fifteen days of the date which the original decision occurred, briefly stating the facts and grounds of appeal, and signed by the appellant. Upon receipt of the appeal, the city clerk shall set the item on the city council's agenda no later than thirty days from the date of the filing of the appeal and shall notify the appellant of the hearing date. The appellant shall pay a fee in an amount established by resolution of the city council to cover the cost of expenses of the appeal process. Following the hearing of any such appeal, city council may affirm, reverse or modify the action of the chief of police. The action of city council on any such appeal shall be final and conclusive.

(Ord. 512 § 12, 1995)

5.40.190 - Driver's permit required.

No person shall operate or drive a taxicab in the city without having first obtained a written permit to do so from the chief of police.

(Prior code § 10-73)

5.40.200 - Driver's permit—Application.

To secure a driver's permit under this chapter, written application shall be filed with the chief of police and shall be accompanied by a deposit in an amount established by the city council from time to time to cover the cost of an identification card to be issued and carried by the permittee during all working hours. Such identification card shall not be transferable.

(Ord. 512 § 13, 1994; prior code § 10-74)

5.40.210 - Driver's permit—Denial.

The chief of police shall not issue a driver's permit under this chapter for any of the following reasons:

- A. If the applicant is under twenty-one years of age;
- B. If the applicant does not possess a valid motor vehicle license issued by the state which permits the transporting of passengers for hire;
- C. If the applicant is a reckless driver or has been convicted of reckless driving or driving while under the influence of intoxicating liquor or narcotics;
- D. If the applicant is guilty or has been convicted of a felony or crime involving moral turpitude; or
- E. If the applicant violates any provisions of this chapter.

(Ord. 459 § 18, 1991; prior code § 10-75)

5.40.220 - Driver's permit—Issuance.

Upon satisfying the requirements of this chapter, the applicant for a driver's permit under this chapter shall be fingerprinted, and his record filed in the office of the police department; and thereupon a permit shall be issued, which shall be fixed in a conspicuous place in the taxicab so as to be seen from the passenger's compartment. Such permit shall set forth the name, address and telephone number of the owner of the taxicab.

(Prior code § 10-76)

5.40.230 - Driver's permit—Term.

- A. When issued, a driver's permit under this chapter shall be valid for one year from the date of issuance, unless it has been revoked for any of the causes set forth in this chapter.
- B. The driver, in making application for a renewal of his permit, shall follow the same procedure as set forth in making his original application; except, that he shall not be required to pay the identification card deposit, be fingerprinted or furnish photographs.
- C. Driver shall pay a fee in an amount established by resolution of the city council from time to time for the issuance of renewal permits.

(Ord. 512 § 14, 1994; prior code § 10-77)

5.40.240 - Change of employer.

If any driver holding a permit pursuant to this chapter changes his employment to a different owner, he shall, within twenty-four hours thereafter, notify the chief of police for the purpose of having his driver's permit changed so as to properly designate the name of the new employer.

(Prior code § 10-78)

5.40.250 - Driver's permit—Revocation.

- A. The chief of police is authorized and directed to revoke and cancel, without previous notice, any driver's permit granted pursuant to this chapter whenever a driver violates any of the provisions of this chapter or for any of the reasons set forth in Section 5.40.210.
- B. The holder of the permit thus revoked may, within ten days thereafter, appeal such order of revocation to the city council, which shall, after due notice to the holder, hear and determine the matter and its decision shall become final.
- C. Any person whose permit is thus revoked shall not be eligible to apply for another for a period of one year from the date of such revocation.

(Prior code § 10-79)

5.40.260 - Designation of taxicab stands.

The chief of police may designate, in writing, stands on the public streets to be occupied by taxicabs after application for a permit therefor has been made and the fee has been paid as provided in this chapter.

(Prior code § 10-80)

5.40.270 - Approval of taxicab stand.

Before any designation of a taxicab stand is made as provided in this chapter, the written consent of the tenants or lessee of the ground floor or portion of the ground floor fronting the space where such stand is to be located shall be obtained. In the event the ground floor or portion of the ground floor fronting the space where such stand is to be located is not occupied by a tenant or lessee, then the written consent of the owner of the building fronting the space where such stand is to be located shall first be obtained.

(Prior code § 10-81)

5.40.280 - Where stands prohibited.

No taxicab stand shall be designated within twenty feet of the curb line of any street crossing.

(Prior code § 10-82)

5.40.290 - Permit for taxicab stand—Fee.

- A. Application for taxicab stand permits shall be filed with the chief of police.
- B. Such application shall be accompanied by the written consent required under this chapter, together with a fee of thirty dollars for each taxicab, which fee shall be paid by the applicant before any permit shall be issued under this chapter.

(Prior code § 10-83)

5.40.300 - Stand permit—Issuance.

A taxicab stand permit shall be issued by the chief of police and shall specify the name and address of the permittee and the number of vehicles, class and character of service permitted thereunder.

(Prior code § 10-84)

5.40.310 - Stand permit—Term.

- A. All permits issued pursuant to this chapter, unless sooner revoked, shall expire at the end of one year from the date of issuance.
- B. Application for renewal of permits shall be made at least five days before the date of expiration and the same requirements shall apply as in case of an original application.

(Prior code § 10-85)

5.40.320 - Stand permit—Display.

Every permittee under this chapter shall display in plain sight in each taxicab used by him a copy of his permit.

(Prior code § 10-86)

5.40.330 - Stand permit—Revocation.

Any permit for the use of a taxicab stand granted under this chapter may be revoked by the chief of police upon giving ten days' notice to the holder thereof and to the city council, and it is unlawful for any person to occupy a stand with a taxicab after such revocation and notice has been given.

(Prior code § 10-87)

5.40.340 - Exclusive use of permit holder.

- A. Any portion of the public streets designated as a taxicab stand shall be for the exclusive use of the taxicabs of the holder of the permit for such taxicab stand.
- B. It is unlawful for any person, other than the permittee, to park his automobile or any other vehicle upon any portion of the public streets designated as a taxicab stand, and it is unlawful for the owner or operator of any passenger vehicle for hire, other than the permittee, to use the stand designated under such permit.

(Prior code § 10-88)

5.40.350 - Vehicle number permitted to use stand.

The chief of police shall designate the number of taxicabs, not exceeding two, that shall be allowed to stand at any one time at any designated taxicab stand.

(Prior code § 10-89)

Chapter 5.42 - HORSE-DRAWN VEHICLES

Sections:

5.42.010 - Purpose.

The purpose of this chapter is to regulate the operation of horse-drawn vehicles in the city, in order to insure that horse-drawn vehicles are operated safely, to protect the public health, safety and welfare, and to help preserve, recapture and maintain the historic ambience of the area.

(Ord. 511 § 1 (part), 1994)

5.42.020 - Definitions.

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

"Chief of police" means the chief of police of the City of Grass Valley or his designee.

"For hire" means any use of a horse-drawn vehicle for which any consideration is paid by any person.

"Horse-drawn vehicle" means and includes any wagon, coach, omnibus, or any vehicle which is powered in whole or in part by a horse, mule, or other animal.

"Agents" means city officers, employees or affiliates.

(Ord. 511 § 1 (part), 1994)

5.42.030 - Permits required.

It is unlawful to operate or cause to be operated a horse-drawn vehicle for hire within the city unless the operating permit required by this chapter shall have first been obtained.

(Ord. 511 § 1 (part), 1994)

5.42.040 - Exemption from permit requirements.

The permit requirements of this chapter shall not apply to the use of a horse-drawn vehicle for special events, such as a parade, wedding or funeral, provided that during the special event rides in the vehicle are not being offered to the general public.

(Ord. 511 § 1 (part), 1994)

5.42.050 - Application for operating permit.

- A. An application for the operating permit required by this chapter shall be made to the chief on forms to be provided by the city. Such application shall include:
1. The name and business address of the applicant;
 2. A description of the vehicles to be operated under the permit including manufactured date; owner shall provide evidence that the vehicle is in safe condition to operate without endangering the public;
 3. Identification and photographs of the animals which will pull the vehicles;
 4. An agreement to have a veterinary examination of the work animals to assure soundness of health condition prior to the issuance of the operating permit;
 5. Evidence the animals that will be pulling the vehicles have been adequately trained to pull safely fully loaded vehicles of the type used;

6. An agreement to provide insurance in the amounts specified in Section 5.42.060 which shall include a hold-harmless behalf of the city and any of its agents;
7. Each application must be accompanied by a fee in an amount established by resolution of the city council from time to time;
8. Evidence that persons who will be driving the vehicles are properly trained and capable of operating the vehicles in a manner which will assure the safety of the animals, the passengers and others on the streets;
9. Names, addresses and proper identification of authorized drivers;
10. Such additional information bearing on the proposed operation as the chief may require.

(Ord. 511 § 1 (part), 1994)

5.42.060 - Insurance required.

No operator's permit shall be issued, and no operator's permit shall be valid, unless the permittee has and maintains in full force and effect at the permittee's own cost and expense the following insurance coverage:

- A. Worker's compensation insurance coverage as required by California statutes. In the event the operator is self-insured, he shall furnish a certificate of permission to self-insure by the Department of Industrial Relations Administration of Self-Insurance, Sacramento and evidence of at least one million dollars per occurrence excess workers' compensation limit combined with the self-insurance retention.
- B. Comprehensive general liability insurance, broad form property damage liability and personal injury liability. The amount of the policy shall be no less than five hundred thousand dollars single limit per occurrence, issued by an admitted insurer or insurers as defined by the California Insurance Code, providing that the city, its officers, employees and agents are to be named as additional insureds under the policy. The policy shall stipulate that this insurance will operate as primary insurance and that or other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder.

Said policies shall provide that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of this contract, without thirty days written notice to the city prior to the effective date of such cancellation or change in coverage. The permittee shall have the city's standard certificate of insurance completed and filed with the city clerk prior to issuance of any permit and prior to engaging in any operation or activity authorized by the permit.

(Ord. 511 § 1 (part), 1994)

5.42.070 - Indemnification.

Any person to whom an operating permit is issued shall assume the defense of, and indemnify and hold harmless the city, its officers, employees and agents from and against all actions, claims, losses, damages, liability, costs and expenses of every type and description, including but not limited to attorney fees, to which any or all of them may be subjected by reason or resulting from, directly or indirectly, in whole or in part, the permittee's agents, officers or employees, directly or indirectly arising from the activity authorized by such permit.

(Ord. 511 § 1 (part), 1994)

5.42.080 - Renewal.

All permits issued hereunder shall expire one year following the date of issuance and shall be renewed annually. A nonrefundable renewal application fee for each permit shall be set by resolution of the city council. Any ground which would be grounds for denying an initial permit shall be grounds for denying a permit renewal.

(Ord. 511 § 1 (part), 1994)

5.42.090 - Suspension or revocation of permit.

- A. An operating permit issued hereunder may be suspended whenever the city receives a written opinion from a duly-licensed equine veterinarian that any animal used by the operator to draw a horse-drawn vehicle is under excessive physical stress, is malnourished, is not in sound condition, or is otherwise unhealthy such that continued use of the animal to draw a vehicle would pose a threat to the animal, to the passengers, to members of the public, or whenever an operator fails to permit examination of an animal used by him a city-selected equine veterinarian upon twenty-four hours' notice. Upon request of the operator, a hearing shall be held before the chief within three working days after the notice of the suspension at which time the chief shall determine whether the grounds for the suspension existed and whether such suspension should be instituted. The operator may appeal the decision of the chief to the city council by filing a notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, within ten days after the date of the chief's decision. The notice of appeal shall state generally the grounds of appeal.
- B. Any permit issued hereunder may be suspended or revoked when it shall appear to the chief that any activity authorized by the permit is being carried out in such a manner as to constitute a nuisance, or to be injurious to the public health, safety or welfare, or in violation of any conditions imposed upon the permit, or that there exists any of the grounds which would have been grounds for denial of the permit application. No permit shall be revoked or suspended until a hearing shall have been held by the chief.
- C. Written notice of the time and place of the hearing before the chief shall be given at least five days prior to the date set for such hearing to the person to whom the permit was granted and to any other person requesting prior notice in writing at least ten days prior to the hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery thereof to the persons to be notified, or by depositing the same in the U.S. mail in a sealed envelope, postage prepaid, addressed to such persons to be notified at the address appearing in the application for a permit.

(Ord. 511 § 1 (part), 1994)

5.42.100 - Proposed route or area of service.

West Main, South School, South Church, Mill, Condon Park, Mining Museum. All of Grass Valley as traffic and opportunity permits.

(Ord. 511 § 1 (part), 1994)

5.42.110 - Waste disposal.

Each carrier shall be equipped with a device to catch horse manure and prevent it from falling to the pavement; all missed drippings shall be cleaned up at the end of each shift. Urine shall be promptly diluted with water or water with disinfectants as it occurs.

(Ord. 511 § 1 (part), 1994)

5.42.120 - Care of the animals.

The operator shall comply with those rules of operation as drafted by the Carriage Operators of North America pertaining to the care and treatment of such animals as noted in Section 5.42.180 of this chapter. In addition, the operator shall comply with all other local and state laws pertaining to the care and treatment of horses for hire.

(Ord. 511 § 1 (part), 1994)

5.42.130 - Veterinary certification.

- A. No horse shall be permitted to work within the city unless it has first been examined by an equine veterinarian at least thirty days prior to issuance of the operator permit. The equine veterinarian shall certify the fitness of the horse to perform such work. A description of the equine veterinarian's examination or the horse's general physical condition shall likewise be attached to this permit as a condition thereto. Each examination shall include an inspection of teeth, legs, hooves and shoes, and its cardiovascular fitness and attest to the animal's physical ability to perform work or the duties required of it. A record of any injury, disease or deficiency observed by the equine veterinarian at the time of his/her examination shall likewise be included in the report together with any prescription or humane correction of same. A health certificate for each horse to be used by the operator, signed by the examining equine veterinarian must be provided to the city as a precondition of the issuance of any operator's permit.
- B. After the initial equine veterinarian examination such examinations shall be then completed on an annual basis.
- C. A health record shall be kept on each animal used by the operator containing the following information:
 1. A photograph and description of the animal;
 2. Dates of examinations and treatment;
 3. Any other information the city determines is reasonably necessary to insure proper care of the animal.

(Ord. 511 § 1 (part), 1994)

5.42.140 - Carriage operation.

The carriage must meet all California Vehicle Code lighting requirements and must operate at all times with due regard to traffic and in compliance with the California Vehicle Code.

(Ord. 511 § 1 (part), 1994)

5.42.150 - Hours/days of operation.

Carriages may only be operated in the city limits of the city during those days and hours established by resolution of the city council.

(Ord. 511 § 1 (part), 1994)

5.42.160 - Off street parking locations for equipment other than the carriage.

- A. Operator must identify and show proof of authorization to park equipment other than the carriage at a particular location if located within city limits.
- B. Vehicle/carriage, when parked, must be legally parked at all times.

(Ord. 511 § 1 (part), 1994)

5.42.170 - Designated parking location for the carriage.

The city council may adopt a resolution(s) authorizing the parking of carriages in designated parking spaces consistent with other local regulations and state law pertaining to such parking.

Notwithstanding any other provision of law a specific space for carriage parking only is hereby established immediately in front of the Holbrooke Hotel, between the hours and days of operation as established in Section 5.42.150; the space shall be identified by a white curb marking, a carriage-only parking sign and an A-board sign no larger than two feet by two and one-half feet by four feet may be placed adjacent to or immediately behind the curb.

(Ord. 511 § 1 (part), 1994)

5.42.180 - Regulations for operation of horse-drawn vehicles.

- A. No horse-drawn vehicle shall be left unattended on public right-of-way at any time.
- B. Tickets shall be sold only at designated locations or on the vehicles themselves. Ticket prices for rides offered shall be communicated to potential patrons before boarding the vehicle.
- C. All horses or other animals used to draw vehicles for hire in the city shall be subject to examination by an equine veterinarian or other qualified person of city's choice at any time. Such examination shall be conducted at a mutually agreed upon location. Failure to allow such examination shall be grounds for summary suspension of the operating permit pursuant to Section 5.42.030. Any person requesting a nonscheduled veterinary examination shall be responsible for the cost of any such examination.
- D. No animal shall work for more than eight hours per day or ten hours with an hour and one-half break, disconnected from the carriage in a twenty-four-hour period. All animals shall be rested and watered as needed. No animal shall work when the outdoor temperature exceeds one hundred degrees Fahrenheit.
- E. A health passport/work log shall be kept for each animal used by the operator, containing the following information:
 1. A photograph and description of the animal;
 2. Dates of vaccinations, wormings and other health care procedures;
 3. The dates and hours the animal works;
 4. Any other information which the city determines is reasonably necessary to insure proper care of the animal.
 One copy of the health passport/work log shall be kept with the animal at all times. Each operator shall provide a copy of the health passport/work log for every animal used in his/her operation when requested by the chief of police.
- F. Each operator of a horse-drawn vehicle shall install and properly maintain an effective device to catch feces before it falls to the ground and shall ensure that any feces or other waste deposited on the public right-of-way or any private property within the city is cleaned up immediately after each shift. In the event an operator fails to complete clean-up, the city may do so and bill operator for all costs incurred by city for the clean-up. Failure to pay a billing for this service within thirty days after date of mailing shall constitute grounds for suspension of the operator's permit.

(Ord. 511 § 1 (part), 1994)

5.42.190 - Violation—Penalties.

Whenever any act is prohibited by this chapter, or is made or declared to be unlawful, or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, the violation shall be a misdemeanor punishable under Chapter 1.12 of this Code; provided, nevertheless, that any such aforesaid violation or offense may be deemed an infraction punishable under Chapter 1.12 of this Code and charged as such in the discretion and at the election of the prosecuting attorney, in which event the punishment therefor shall not be imprisonment but a fine not to exceed the amounts specified by Chapter 1.12 of this Code as then in effect.

(Ord. 511 § 1 (part), 1994; Ord. No. 791, § 1, 9-26-2017)

Chapter 5.44 - GARAGE SALES

Sections:

5.44.010 - Permit required.

It shall be unlawful for any person to conduct a garage sale within the incorporated limits of the city without first obtaining a permit. Applications for permits and permits may be obtained from the Grass Valley police department. The permit shall be plainly exhibited at all times at the place of sale. No business license need be obtained for any such garage sale.

(Ord. 473 § 1 (part), 1992: prior code § 16-22)

5.44.020 - Garage sales limited.

During each calendar year at any single-family residence within the incorporated limits of the city there may be not more than four sales of personal property, commonly known as "garage sales." Garage sales may occur for no longer than three consecutive calendar days during any one of the four permitted sales. Sales shall be restricted to the personal property owned by persons regularly residing in the residence.

(Ord. 473 § 1 (part), 1992: prior code § 16-23)

Chapter 5.48 - LICENSING OF FIREARMS DEALERS

Sections:

5.48.010 - Purpose.

The city pursuant to California Penal Code Section 12072 is required to establish a procedure for the permitting of licensees to sell firearms at retail within the city.

(Ord. 493 § 1 (part), 1992)

5.48.020 - Application form—Fees.

An applicant for a permit under this chapter shall file with the chief of police a sworn application in writing, on a form to be furnished by the city. The applicant shall provide all information requested, including proof of compliance with all applicable federal, state and local laws when required by the chief of police, or the application will not be deemed complete. The application shall be accompanied by a nonrefundable fee in an amount as established by Resolution of the city council.

(Ord. 493 § 1 (part), 1992)

5.48.030 - Application—Investigation.

The chief of police shall conduct an appropriate investigation of the applicant to determine for the protection of the public safety whether the permit may be issued. The chief of police may require additional information of an applicant which he or she deems necessary to complete the investigation.

(Ord. 493 § 1 (part), 1992)

5.48.040 - Application—Denial.

The chief of police may issue a permit unless he or she finds:

- A. The applicant, or an officer, employee or agent thereof is under the age of twenty-one years.
- B. The applicant if not licensed as required by all applicable federal, state and local laws.
- C. The applicant, or an officer, employee or agent thereof has had a similar type permit previously revoked or denied for good cause within the immediately preceding year.
- D. The applicant, or an officer, employee or agent thereof has knowingly made any false or misleading statement of a material fact or omission of a material fact in the application for a permit.
- E. The applicant, or an officer, employee or agent thereof has been convicted of:
 1. Any offense so as to disqualify the applicant, or an officer, employee or agent thereof from owning or possessing a firearm under applicable federal, state and local laws.
 2. Any offense relating to the manufacture, sale, possession, use or registration of any firearm or dangerous or deadly weapon.
 3. Any offense involving the use of force or violence upon the person of another.
 4. Any offense involving theft, fraud, dishonesty or deceit.
 5. Any offense involving the manufacture, sale, possession, or use of any controlled substances as defined by the California Health and Safety Code as the definition now reads or may hereafter be amended to read.
- F. The applicant, or an officer, employee or agent thereof is an unlawful user of any controlled substance as defined by the California Health and Safety Code as the definition now reads or may hereafter be amended to read, or is an excessive user of alcohol, to the extent that such use would impair his or her fitness to be a dealer in concealable firearms.
- G. The applicant, or an officer, employee, or agent thereof has been adjudicated as a mental defective, or has been committed to a mental institution, or suffers from any psychological disturbance which would impair his or her fitness to be a dealer in concealable firearms.
- H. The operation of the business as proposed will not comply with all applicable federal, state and local laws.
- I. The business as proposed will be operated in the following locations:
 - a. Within a zoning district in which retail service is not a permitted or conditional use.
 - b. Within a zoning district in which residential use is the principal permitted or maintained use, or within two-hundred fifty feet of the exterior limits of any such district.
 - c. On or within two-hundred fifty feet of the exterior limits of any other premises occupied by a public or private day care center or day care home, elementary school, junior high school or high school.
 - d. On or within five hundred feet of the exterior limits of any other premises occupied by a dealer in concealable firearms, a cardroom, a massage establishment, or a hot tub/sauna establishment. Priority between such existing establishments shall be assigned in accordance with the dates upon which such establishments commenced such lawful operation, priority being given to the establishment having the earliest of such dates. In the event any dispute arises regarding said date, the applicant shall have the obligation to establish the date on which he or she commenced lawful operation.
 2. All distances referred to in this subsection shall be measured between the closest points on the exterior property lines or area boundaries of the parcels or areas involved, except that when a dealer in concealable firearms subject to the provisions of this chapter occupies one unit of a multiunit structure located on a single parcel, distances shall be measured from the exterior

boundaries of the unit so occupied. This subsection shall supersede any and all conflicting provisions regulating home occupations set out in the Grass Valley Zoning Ordinance No. 69 N.S. as amended.

- J. The applicant, or an officer, employee or agent thereof does not have, and/or cannot provide evidence of a possessory interest in the property at which the proposed business will be conducted.

(Ord. 493 § 1 (part), 1992)

5.48.050 - Permit—Form.

All permits issued pursuant to this chapter shall be in the form prescribed by the attorney general of the State of California.

(Ord. 493 § 1 (part), 1992)

5.48.060 - Permit—Duration—Renewal.

All permits issued pursuant to this chapter shall expire one year after the date of issuance; provided, however, that such permits may be renewed by the chief of police for additional periods of one year upon the permittee's submission of an application for renewal to the chief of police. Such renewal application must be received by the chief of police, in completed form, no later than forty-five days prior to the expiration of the current permit and must be accompanied by a nonrefundable fee in an amount established by the city council.

(Ord. 493 § 1 (part), 1992)

5.48.070 - Permit—Assignment.

The assignment or attempt to assign any permit issued pursuant to this chapter is unlawful and any such assignment or attempt to assign a permit shall render the permit null and void.

(Ord. 493 § 1 (part), 1992)

5.48.080 - Permit—Conditions.

Any permit issued pursuant to this chapter shall be subject to all of the following conditions, the breach of any of which shall be sufficient cause for revocation of the permit by the chief of police:

- A. The business shall be carried on only in the building designated in the permit.
- B. The permit or a copy thereof, certified by the chief of police, shall be displayed on the premises where it can easily be seen.
- C. No firearm shall be delivered:
 1. Within ten days of the application to purchase, or, after notice by the Department of Justice (DOJ) pursuant to subdivision (d) of California Penal Code Section 12076, within ten days of the submission to the department of any correction to the application, or within ten days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076 of the California Penal Code, whichever is later.
 2. Unless unloaded and securely wrapped or unloaded and in a locked container.
 3. Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer. As used in this chapter, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an

armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

4. Whenever the dealer is notified by the DOJ that the person is in a prohibited class described in Penal Code Section 12021 or 12021.1 or Section 8100 or 8103 of the Welfare and Institutions Code.
- D. No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.
- E. The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082 of the Penal Code.
- F. The licensee shall comply with Penal Code Sections 12073 and 12077 and Section 12072(a) and (b), and subdivision (a) of Section 12316.
- G. The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:
 1. IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON.
 2. IF YOU KEEP A LOADED FIREARM, OR A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 16 GAINS ACCESS TO THE FIREARM, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.
 3. DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.
 4. FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM WITHIN THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.
 5. NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30 DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30 DAY PERIOD.
- H. The licensee shall comply with all Federal guidelines outlined in Penal Code Section 12071.

(Ord. 597 § 1, 2002; Ord. 493 § 1 (part), 1992)

5.48.090 - Permit—Liability insurance.

- A. No permit shall be issued or continued pursuant to this chapter unless there is in full force and effect a policy of insurance in such form as the city attorney deems proper, executed by an insurance company approved by the city attorney whereby the applicant or permittee is insured against liability for damage to property and for injury to or death of any person as a result of the sale, transfer, or lease, or advertising for sale, transfer, or lease, or offering or exposing for sale, transfer, or lease, any pistol, revolver, or other firearm capable of being concealed upon the

person. The minimum liability limits shall not be less than one million dollars for damage to or destruction of property in any one incident, and one million dollars for the death of or injury to any one person; provided, however, that additional amounts may be required by the city attorney if deemed necessary.

- B. Such policy of insurance shall contain an endorsement providing that the policy will not be canceled until notice in writing has been given to the city, address in care of the Chief of Police, 125 E. Main Street, Grass Valley, California 95945, at least thirty days immediately prior to the time such cancellation becomes effective. Further, such policy of insurance shall name the city, its officers, agents and employees as additional insureds. Additionally, applicants and permittees shall indemnify, defend and hold harmless the city, its officers, agents and employees from claims arising from the negligence of the applicant or permittee.

(Ord. 493 § 1 (part), 1992)

5.48.100 - Permit—Authority to inspect.

Any and all investigating officials of the city shall have the right to enter the building designated in the permit from time to time during regular business hours to make reasonable inspections to observe and enforce compliance with building, mechanical, fire, electrical, plumbing or health regulations, or provisions of this chapter. A warrant shall be obtained whenever required by law.

(Ord. 493 § 1 (part), 1992)

5.48.110 - Excluded transactions.

As used in this chapter, engaging in the business of selling, leasing or transferring of firearms does not include any of the following:

- A. The sale, lease or transfer of any firearm by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law, or by a person who liquidates a personal firearm collection to satisfy a court judgment.
- B. The sale, lease or transfer of firearms by a person acting pursuant to Penal Code Section 12028(c).
- C. The sale, lease or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within sixty days of receipt of the firearm.
- D. The infrequent sale, lease or transfer of firearms. "Infrequent sale" means pistols, revolvers, or other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" can mean a single sale, lease or transfer of any number of pistols, revolvers or other firearms capable of being concealed upon the person, an occasional transaction or one without regularity.
- E. The sale, lease, or transfer of used firearms.

(Ord. 493 § 1 (part), 1992)

5.48.120 - Compliance.

Any person engaging in the business of selling, transferring, or leasing or advertising for sale, transfer, or lease, or offering or exposing for sale, transfer or lease, any pistol, revolver or other firearm capable of being concealed upon the person on the effective date of the ordinance codified in this chapter shall have a period of sixty days after such effective date to comply with the provisions of this chapter.

(Ord. 493 § 1 (part), 1992)

Sections:

5.52.010 - Purpose.

The immediate preservation of the public safety, health and, welfare required the adoption of this chapter. The public has purchased alarm systems which have malfunctioned, causing an increase in the false alarm reports which require an immediate response of emergency service units subjecting the general public to a dangerous situation.

(Ord. 497 § 1 (part), 1993)

5.52.020 - Definitions.

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

"Alarm agent" means any person who is employed by an alarm business operator, either directly or indirectly, who does not respond to activated alarms, but whose duties include any of the following: altering, installing, replacing, or moving on or in any building, structure or facility any alarm system.

"Alarm business" means the business of any person consisting of selling, installing, maintaining, servicing, altering, replacing or moving any alarm system or component parts thereof in or on any building, structure or facility, or responding to alarm systems.

"Alarm business operator" means any person who operates any business engaged in the sale and installation, maintenance, alteration or servicing of the alarm systems, or which responds to such alarm systems. Alarm business operator shall not include a business which merely sells from a fixed location or manufactures alarm systems, unless such business services, installs, monitors, or responds to alarm systems at protected premises.

"Alarm owner" means any person who has installed in any premise an alarm system. An alarm owner is normally the owner of the premise or the individual who has care and control over the protected premises. The alarm owner shall be responsible for the proper installation, maintenance and use of the alarm system.

"Alarm system" means any mechanical or electrical device designed to detect or enable a person to notify others of an unauthorized intrusion onto certain premises or the existence of an emergency on such premises, and which emits a sound or transmits a signal or message when activated. The following devices shall not constitute alarm systems within the meaning of this subsection:

1. Devices which do not register alarms that are audible, visible or perceptible outside the protected premises;
2. Devices which are not installed, operated or used for the purpose of reporting an emergency to the police;
3. Alarm devices affixed to motor vehicles; and
4. Alarm devices installed on a temporary basis by the police department.

"Answering service" means a telephone answering service providing among its services the receiving on a continuous basis through trained employees of emergency signals from alarm systems, and the subsequent immediate relaying of the messages by live voice to the communication center.

"Automatic dialing device" means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message indicating the existence of the emergency situation that the alarm system is designed to detect.

"Central station" means an office to which alarm systems are connected, where operators supervise the circuits.

"Direct line" means a telephone line leading directly from a central station to the communication center, where said line is used only to report emergency signals on a person-to-person basis.

"Emergency" means the commission or attempted commission of a robbery or burglary.

"False alarm" means the activation of an alarm system which results in a response by the police where an emergency does not exist. False alarms which the alarm owner can demonstrate were proximately caused by hurricanes, tornadoes, earthquakes or other violent acts of nature or circumstances over which the alarm owner has no control shall not be counted against an alarm owner for the purposes of false alarm charges.

"Interconnect" means to connect an alarm system to a telephone line, either directly or through a mechanical device that utilizes a standard telephone for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

"Modified central system" means an office to which alarm systems are connected where operators supervise the circuits but where guards are not maintained to investigate alarm systems.

"Person" shall include natural persons without regard to number or gender, any partnership, corporation, and any other type of legal entity.

"Primary trunkline" means a telephone line leading directly into the communication center for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company, covering the service area within the police department's jurisdiction.

"Siren" means any audible noise similar to that sounded by an authorized emergency vehicle under the conditions set forth in Section 21055 of the California Vehicle Code.

"Special trunkline" means a telephone line leading into the communication center and having the primary purpose of handling emergency signals or messages originating through a central station, modified central station or answering service.

(Ord. 497 § 1 (part), 1993)

5.52.030 - Business license required.

A. Alarm Business.

1. No person shall engage in, carry on, conduct or operate an alarm business without a business license therefor and having paid the annual business license fee in the amount provided for by resolution. No business license, which is required by this section, shall be issued or renewed for any operator of an alarm business who does not possess a valid, unexpired and unrevoked alarm company operator's license issued by the Department of Consumer Affairs, State of California.
2. It shall be unlawful for an alarm business company to conduct an alarm business within the city without possessing a valid alarm company's license issued by the Department of Consumer Affairs.

- ##### B. Alarm Agent and Responding Alarm Agent.
- No person shall act as alarm agent or responding alarm agent without having previously registered as an alarm agent or responding alarm agent with the Department of Consumer Affairs, State of California. Any person acting as an alarm agent or responding alarm agent must, prior to performing any duties of an alarm agent or responding alarm agent, show his registration cards, issued by the Department of Consumer Affairs, State of California, to the chief of police or his representative.

(Ord. 497 § 1 (part), 1993)

5.52.040 - Regulations, requirements and duties.

A. Alarm System Requirements.

1. No alarm system shall be installed or connected on or after the date this chapter becomes effective which emits the sound of a siren similar to those installed in emergency vehicles as described in Section 21055 of the California Vehicle Code. It shall be the responsibility of the alarm owner to change the siren device if, after examination by a police representative, it is found to emit a siren conflicting with emergency vehicle usage as described in Section 21055 of the California Vehicle Code.
2. Any alarm system which emits the sound of a siren conflicting with emergency vehicles and which was installed and in operation prior to the effective date of this chapter shall have that part of the alarm system which emits the conflicting sound changed to comply with Section 21055 of the California Vehicle Code and the automatic shut-off requirements of subsection B of this section pertaining to audible alarm systems, within ninety days from the date the ordinance codified in this chapter becomes effective.

B. Audible Alarm System Requirements. Any alarm system which is installed or connected on or after the date this chapter becomes effective and which, when activated, generates an audible sound on the premises, shall have as part of the system an automatic shut-off that will deactivate the audible portion of the system within fifteen minutes after it is first activated.

If the alarm system has an automatic cutoff with a rearming phase the rearming phase must be able to distinguish between an open and closed circuit, and if the circuit is broken, the system shall not rearm.

C. Automatic Dialing Device Regulations.

1. No automatic dialing device shall be interconnected to a primary trunkline of the communications center or police department after the effective date of the ordinance codified in this chapter.
2. Within sixty days after the effective date of the ordinance codified in this chapter, all automatic dialing devices interconnected to a primary trunkline shall be disconnected therefrom. The owner or lessee of such device shall be responsible for having the device disconnected within a sixty-day time period.
3. Persons owning or leasing an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
 - a. A central station;
 - b. A modified central station; or
 - c. An answering service.
4. The relaying of messages to the communications center by a modified central station or an answering service shall be over regular telephone lines.
5. No automatic dialing device may be interconnected to the telephone company operator.

D. New alarm installations by city-licensed alarm owners will have a grace period of forty-five days after the date a system becomes operational before false alarm response charges will be imposed on the alarm owner.

E. Notices.

1. After the police department has recorded two false alarms in any quarter of any calendar year, generated by any alarm owner, the alarm owner and the alarm company maintaining the alarm system shall be notified either by personal delivery or first class mail that police response to any further false alarms will result in a charge for each such response.
2. The response to subsequent false alarms by any alarm owner after said owner has been once warned/advised by letter or citation shall result in a charge for each such response.
3. The fee for police response as provided herein shall be set by resolution of the city council as amended from

time to time.

- F. Response Required. When an alarm system has been activated, the alarm owner shall respond to the location within thirty minutes of being requested to do so by a representative of the communications center and/or city police department. If the alarm owner does not intend to respond to the location he must advise the representative of the communications center and/or city police department of this intention.
- G. Power Supply. All alarm systems shall be equipped with a backup power supply in such a manner that the failure or interruption of normal electrical utility power shall not activate the alarm system. This power supply must be capable of at least four hours of operation.
- H. Notification Card Required. All premises having an alarm system shall file and keep current an emergency notification card with the alarm installer or the city police department. Such notification card shall contain the name, address and telephone number of the person who will respond to the alarm, or render service or repairs to the alarm system during any hour of the day or night.
- I. Notice of Name of Servicer or Occupant. Every audible alarm system shall have a sign or notice posted on or near the audible device with the name and telephone number of the person or company responsible for the maintenance of the system. The notice shall be posted in such a position as to be readable from the ground level outside and adjacent to the building. All silent alarm systems shall have a notice on the premises which provides the same information.

(Ord. 497 § 1 (part), 1993)

5.52.050 - Confidentiality.

The information furnished and secured pursuant to this chapter shall be confidential in character, shall not be subject to public inspection, and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of the chapter; it is hereby declared that the public interest served by not making the information public clearly outweighs the public interest served by disclosure of the information.

(Ord. 497 § 1 (part), 1993)

5.52.060 - Compliance.

Any person or business subject to provisions of this chapter shall have a period of sixty days after the effective date of the ordinance codified in this chapter to comply with the provisions of this chapter.

(Ord. 497 § 1 (part), 1993)

5.52.070 - Violation—Penalty.

Any person who violates any of the provisions of this chapter is guilty of an infraction punishable under Chapter 1.12 of this Code. Each separate day or any portion thereof during which any violation occurs or continues is a separate offense.

(Ord. 497 § 1 (part), 1993; Ord. No. 791, § 1, 9-26-2017)

Chapter 5.56 - TOBACCO RETAILER LICENSE

Sections:

5.56.010 - Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

- A. "Authorized address" means a single person and mailing address authorized by the proprietors of a tobacco retailer to receive all communications and notices from the city related to the tobacco retailer's license or enforcement of this chapter. If an authorized address is not supplied, it shall be understood that the proprietors of the establishment consent to notices being sent to the tobacco retailer's business location in the city.
- B. "Chief" means the chief of police or his/her designee.
- C. "Code" means the Grass Valley Municipal Code.
- D. "Department" means the Grass Valley Police Department.
- E. "Drug paraphernalia" shall have the definition set forth in California Health and Safety Code section 11014.5, as that section may be amended from time to time.
- F. "Licensee" means the proprietor or proprietors of a tobacco retailer that has obtained a permit to operate from the city.
- G. "Identification" means the showing of information that positively shows the age of the person including state-issued identification cards, drivers' license, passport, military-issued identification card or other governmental-issued identification that clearly shows the age of the person.
- H. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity, and includes the definition of "person" found in Section 5.04.010 of the code.
- I. "Proprietor" means 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 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 share ultimate control over the day-to-day operations of a business.
- J. "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.
- K. "Smoking" means 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).
- L. "Tobacco paraphernalia" means 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. It does not include lighters, matches or other ignition type products.
- M. "Tobacco product" means: (1) any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; or (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 United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.
- N. "Tobacco retailer" means any person or business who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low cost samples of 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. 708, § II, 11-24-2009)

5.56.020 - Effective date of this chapter.

This chapter shall be effective as of January 1, 2010. As of January 31, 2010, it shall be unlawful for any person to act as a tobacco retailer, or to display or advertise the sale of tobacco products or tobacco paraphernalia, without obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur.

(Ord. No. 708, § II, 11-24-2009)

5.56.030 - Tobacco retailer license requirements and prohibitions.

- A. It shall be unlawful for any person to act as a tobacco retailer, or to display or advertise the sale of tobacco products or tobacco paraphernalia, without obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur.
- B. It shall be unlawful for a licensed tobacco retailer or any of the licensee's agents or employees, to violate any local, state, or federal law including those laws applicable to sale, display or advertising of tobacco products, tobacco paraphernalia, tobacco retailing or any related tobacco law.
- C. It shall be a violation of this chapter for any tobacco retailer or any of the licensee's agents or employees, to violate any local, state, or federal law regulating controlled substances or drug paraphernalia.
- D. Positive identification required. No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-one years old without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.
- E. Minimum age for persons selling tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.
- F. Self-service displays prohibited. Tobacco retailing by means of a self-service display is prohibited.
- G. False and misleading advertising prohibited. A tobacco retailer or proprietor without a valid tobacco retailer license:
 1. Shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a license under Paragraph A;
 2. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.
- H. Each tobacco retailer license shall be displayed in a publicly visible location at the licensed location.
- I. The issuance of a tobacco retailer's license does not guarantee a proprietor has complied with all applicable laws relating to the tobacco retailing, and neither the proprietor or members of the public should rely on the issuance of a license by the city as a determination such retailer is in compliance with all applicable city, state, federal or otherwise applicable laws, codes, rules or regulations.

(Ord. No. 708, § II, 11-24-2009)

5.56.040 - Limits on issuance of a tobacco retailer's license.

- A. No license shall be issued to authorize tobacco retailing at other than a fixed place of business. Tobacco retailing by

persons on foot or from vehicles is prohibited.

- B. No license shall be issued to authorize tobacco retailing at any location for which a tobacco retailer license suspension is in effect or within one year following revocation of a license at that location.
- C. No license shall be issued to authorize tobacco retailing at a special event other than from a properly licensed fixed place of business.

(Ord. No. 708, § II, 11-24-2009)

5.56.050 - Application procedure.

- A. 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.
- B. It is the responsibility of each proprietor to be informed of, comply with, all city, state, and federal, or otherwise applicable, codes, laws, rules or regulations applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license.
- C. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 5.56.120.
- D. All applications shall be submitted on a form supplied by the chief and shall contain the following information:
 1. The name, address, and telephone number of all proprietors of the tobacco retailer that is seeking a license.
 2. A statement signed by each proprietor that no drug paraphernalia is, or will be sold, at the location for which the license is sought.
 3. The business name, address, and telephone number of the single fixed location for which a license is sought.
 4. The authorized address where all communications and notices shall be sent.
 5. 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, and any other state required permits.
 6. Whether any proprietor of the business has previously had a state or local tobacco retailer's license, permit or similar entitlement, suspended or revoked and, if so, the dates and locations of all such suspensions or revocations.
 7. Such other information as the chief deems reasonably necessary for the administration or enforcement of this chapter.

(Ord. No. 708, § II, 11-24-2009)

5.56.060 - Duty to continuously update chief.

- A. All information required to be submitted to the city pursuant to this chapter, including the information required pursuant to Section 5.56.050 shall be updated with the chief whenever the information changes.
- B. A tobacco retailer shall provide the chief with any updates within ten business days of a change.

5.56.070 - Issuance of tobacco retail license.

- A. Upon the receipt of a complete application for a tobacco retailer's license and the license fee required by this chapter, which is in addition to any other fees that may be required by the tobacco retailer, the chief shall issue within thirty days of receipt of a completed application a tobacco retail license unless one or more of the following exists:
 1. The information presented in the application or supplementing the application, is inaccurate, false or untrue. Intentionally supplying inaccurate or false information shall be a violation of this chapter; or
 2. The application seeks authorization for tobacco retailing at a location for which a suspension is in effect

pursuant to this chapter, for which a license has been revoked pursuant to this chapter, or for which this chapter otherwise prohibits issuance of tobacco retailer licenses; or

3. The application seeks authorization for tobacco retailing for a proprietor to whom a suspension is in effect pursuant to this chapter, whose license has been revoked, or to whom this chapter otherwise prohibits a tobacco retailer license to be issued; or
 4. The city has information that the proprietor or his or her agent or employee has violated any local, state or federal tobacco control law, including this chapter, within the preceding twelve months; or
 5. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter, that is unlawful pursuant to this code, or that is unlawful pursuant to any other local, state, or federal law, rule or regulation; or
 6. The applicant has not complied with city requirements for a businesses license, zoning or development code, payment of any fees or charges for city services, or other related requirement; or
 7. That, based on specific facts identified by the chief, the chief reasonably concludes that the operation of the proposed tobacco retailer would pose a risk to the public, that the proprietors would not conduct the business in a law-abiding manner, and/or that the operation of the proposed business would subject patrons of the business to a risk of harm or criminal, deceitful or otherwise unethical practices.
- B. Any denial of an application shall be in writing, setting forth the reasons for denial of the permit. Such denial shall be subject to appeal in accordance with Section 5.56.130.

(Ord. No. 708, § II, 11-24-2009)

5.56.080 - License renewal and expiration.

- A. The term of a tobacco retailer license is one year beginning each calendar year on January 1 and ending on December 31. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the applicable license fee no later than thirty days prior to the expiration of the term.
- B. The city shall process and issue renewed tobacco retailer's license within fifteen days of receipt of the completed application for renewal.
- C. An application for a renewal of tobacco retailer's license will be deemed late, and subject to a penalty if the complete application, including all fees, is not received by the chief within thirty days of the date of expiration of the immediately preceding license. To reinstate a license that is deemed late, the proprietor must:
 1. Submit the tobacco retailer license fee plus a reinstatement fee of fifty percent of the initial licensing fee;
 2. Submit a signed affidavit affirming that the proprietor has not sold and will not sell any tobacco product or tobacco paraphernalia after the license expiration date and before the license is renewed.

(Ord. No. 708, § II, 11-24-2009)

5.56.090 - License nontransferable.

- A. A tobacco retailer's license may not be transferred from one person to another, from one proprietor to another, or from one location to another. Whenever tobacco retailer has a change in proprietors a new tobacco retailer's license is required.
- B. Notwithstanding any other provision of this chapter, prior violations at a tobacco retailer location shall continue to be counted against a location when considering enforcement action unless:
 1. The tobacco retailer at that location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and
 2. The new proprietor(s) provides the city with clear and convincing evidence that the new proprietor(s) has

acquired or is acquiring the location in an arm's length transaction. As used in this section, the term "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 informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.

(Ord. No. 708, § II, 11-24-2009)

5.56.100 - Fees for license.

The fee to issue or to renew a tobacco retailer's license shall be set by resolution of the city council, as amended from time to time. The fee shall be calculated so as not to exceed that amount which would recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators. Fees are nonrefundable except as may be required by law.

(Ord. No. 708, § II, 11-24-2009)

5.56.110 - Notice of revocation or suspension.

- A. Upon determining the existence of any of the grounds for suspension or revocation of a license, the chief may issue to the licensee a written notice of revocation, stating the reasons therefore, and serving the notice, together with a copy of this chapter, upon the licensee at the authorized address.
- B. The revocation or suspension shall become effective ten business days following the date of service upon the licensee, unless the licensee files a written request for an appeal hearing within ten calendar days of the date of service, pursuant to Section 5.56.130. If the licensee files an appeal within the time and manner prescribed, the license shall remain in effect until the appeal is finally determined.

(Ord. No. 708, § II, 11-24-2009)

5.56.120 - Grounds for suspension or revocation of license by chief.

- A. In addition to any other remedy authorized by law, a tobacco retailer's license may be suspended and eventually revoked if the chief finds pursuant to this chapter that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law related to tobacco retailing or the sale of tobacco products or paraphernalia. During any period of license suspension, the retailer must remove all tobacco products from public view.
- B. Revocation of license issued in error. A tobacco retailer's license shall be revoked if the chief finds that one or more of the bases for denial of a license under Section 5.56.070 existed at the time of application was made or at any time before the license was issued. The decision by the chief shall be final.

(Ord. No. 708, § II, 11-24-2009)

5.56.130 - Appeals.

- A. An applicant for a tobacco retailer's license, or a licensee may file an appeal from the following:
 1. The denial of an initial application for, or application for renewal of, a tobacco retailer's license;
 2. The revocation or suspension of a tobacco retailer's license.
- B. The appeal must be in writing on a form provided by the city, shall state the specific reasons for the appeal and the grounds asserted for relief, and be accompanied by a nonrefundable appeals processing fee set by

city council resolution. The appeal shall be filed with the city clerk within ten calendar days of receipt of the notice providing the grounds for the appeal. The failure to file an appeal within the time or in the manner prescribed in this section, or to include the appeals processing fee, waives the right to appeal.

- C. The appeals processing fee shall be set by resolution of the city council, as amended from time to time.

(Ord. No. 708, § II, 11-24-2009)

5.56.140 - Hearing before hearing officer.

- A. Upon timely receipt of a written request for a hearing, the city clerk shall schedule a hearing which shall be held no later than thirty calendar days after receipt of the request for healing.
- B. The city clerk shall serve a notice of hearing on the licensee at least ten calendar days prior to the scheduled date of the hearing.
- C. The chief shall have the burden of proof during the hearing, and shall prove by a preponderance of the evidence that the violations leading to suspension or revocation, or denial of the application, exist.
- D. At the conclusion of the hearing, the hearing officer shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions of law. The written decision shall be filed with the city clerk not later than seven calendar days following the date on which the hearing is closed. The city clerk shall, within three days of the filing of such decision, serve the applicant or licensee with notice and copy of the written decision.
- E. The provisions of the California Administrative Procedure Act (Government Code § 11500 et seq.), and the formal rules of evidence do not apply at the hearing. Any and all evidence which the chief or hearing officer deems reliable, relevant and not unduly repetitious may be considered.

(Ord. No. 708, § II, 11-24-2009)

5.56.150 - Finality of determination.

- A. With respect to appeals from the denial of an initial application for a tobacco retailer's license, the hearing officer's decision is final upon service of the hearing officer's decision on the appellant.
- B. With respect to an appeal from the denial of a renewal of a tobacco retailer's license, or from the revocation or suspension of a tobacco retailer's license, the hearing officer's decision is final ten days after service of the hearing officer's decision on the appellant, unless city council review is requested either by the chief or appellant.

(Ord. No. 708, § II, 11-24-2009)

5.56.160 - Request for review by city council.

- A. To request city council review of the hearing officer's decision, the applicant for a license, license holder, or chief shall file a written request with the city clerk within ten days following the date of service of the hearing officer's decision. The request for review shall state in detail the reasons for review and the error alleged in the hearing officer's decision, and include a copy of the hearing officer's decision attached to the request for review, and an appeals processing fee as set by city council resolution.
- B. Upon receipt of a request for review by city council, the city clerk shall schedule city council review not later than thirty calendar days following the date of filing of the notice of appeal. The city clerk shall provide notice of the time and date of the hearing to the appellant at least ten days in advance. The city council shall be authorized to deny the introduction of evidence and decide the matter after oral argument presented during the hearing, to admit supplementary evidence with respect to challenges or particular findings, or reject the findings and conclusions and conduct a de novo hearing. The determination by the city council granting or denying the appeal shall be final and shall be accompanied by findings of fact and conclusions of law, which may consist of an adoption by reference of those by the hearing officer.

- C. The city council is authorized to order the issuance or renewal of a license, may order the revocation of the license, suspend the license or order the license to remain in effect upon such terms and conditions as in the discretion of the city council are necessary and appropriate.

(Ord. No. 708, § II, 11-24-2009)

5.56.170 - Enforcement.

- A. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. Violations of this chapter, including violations for tobacco retailing without a license, shall be subject to all available enforcement actions, including administrative, criminal or civil citations as authorized pursuant to this code.
- C. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
- D. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- E. Violations of this chapter are hereby declared to be public nuisances.
- F. In addition to the provisions of this code any retailer who violates the tobacco retailer license twice in any twenty-four-month period will have their license suspended for not less than fifteen days.
- G. In addition to the provisions of this code any retailer who violates the tobacco retailer license three times in any thirty-six-month period will have their license suspended for not less than thirty days.
- H. In addition to the provisions of this code any retailer who violates the tobacco retailer license four times in any thirty-six-month period will have their license revoked.
- I. Each day on which a prohibited act occurs shall constitute a separate violation.

(Ord. No. 708, § II, 11-24-2009)

5.56.180 - License compliance monitoring.

- A. Compliance with this chapter shall be monitored by the department and/or city employees. Any peace officer may enforce the penal provisions of this chapter.
- B. The department shall check the compliance of each tobacco retailer at least one time per twelve-month period.
- C. 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.
- D. The city 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:
1. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official; or
 2. 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.
- E. No contest plea—Admission. A plea of "no contest" or its equivalent by a tobacco retailer for a violation of any law designated in subsection A of this section shall operate as an admission that this chapter has been violated for the purposes of license enforcement action up to and including revocation.

(Ord. No. 708, § II, 11-24-2009)

5.56.190 - Notice.

Whenever a notice is required to be given under this chapter, it shall be made as provided in this code, and addressed to such person to be notified at the authorized address.

(Ord. No. 708, § II, 11-24-2009)

5.56.200 - Conflicts with the code.

To the extent that any provision of this chapter conflicts with any other provision of the Grass Valley Municipal Code, the provisions of this chapter shall apply.

(Ord. No. 708, § II, 11-24-2009)

Chapter 5.58 - LOCALLY OR REGIONALLY GROWN AGRICULTURAL PRODUCTS

Sections:

5.58.010 - Purpose.

- A. The geographical boundaries of agricultural products marketed in Nevada County as "locally" or "regionally" grown are not uniformly defined, which has contributed to confusing, misleading, and often deceptive advertising with respect to the actual point of origin of the agricultural products.
- B. The purpose of this section is to enhance consumer information, awareness, and choice in the selection and purchase of agricultural products marketed or advertised in Grass Valley as "locally" or "regionally" grown.

(Ord. No. 744, § 1, 4-23-2013.)

5.58.020. - Notification required.

- A. All operators of produce stands, farmers' or growers' markets, and retail markets selling agricultural products that are marketed or advertised as "locally grown" or "regionally grown", or other substantially similar term shall prominently display for the consumer, at the location where such products are sold, a placard of at least five and one-half inches × eight and one-half inches in size that provides the following information in at least twenty-point font size:

ATTENTION CUSTOMERS

SOME OF OUR AGRICULTURAL PRODUCTS ARE ADVERTIZED AS LOCALLY OR REGIONALLY GROWN, THE TERMS "LOCAL" OR "REGIONAL" MAY MEAN SOMETHING DIFFERENT TO EACH CUSTOMER. IF YOU HAVE QUESTIONS ABOUT THE SPECIFIC AREA OR REGION IN WHICH THESE PARTICULAR AGRICULTURAL PRODUCTS WERE GROWN, PLEASE CONTACT AN EMPLOYEE FOR MORE INFORMATION.

(Ord. No. 744, § 1, 4-23-2013.)

5.58.030 - Definitions.

"Agricultural Product" shall mean any farm product, including fruit, nut, vegetable, berry or aquaculture product. (Cal Food and Agr. Code Section 56806.)

"Farmers' or Growers' Market" shall mean open markets, usually held outdoors, in public spaces, where farmers and others sell agricultural products to the public.

"Produce Stand" shall mean any temporary or permanent food facility or stand that sell agricultural products.

"Retail Market" shall mean any structure or area, including produce markets, retail markets, and supermarkets, which sell agricultural products in their raw or natural state.

(Ord. No. 744, § 1, 4-23-2013)

5.58.040 - Violations and penalties.

Any violation of this provision is unlawful and a public offense, and shall be a misdemeanor, unless otherwise specified by the agricultural commissioner, code compliance officer, or prosecuting attorney, to be an infraction. Each day that a violation exists, or continues, shall constitute a separate offense. Available enforcement activity may include criminal prosecution, nuisance abatement, civil litigation, injunctive relief, and administration citation as specified in Title 1 of the City Code.

(Ord. No. 744, § 1, 4-23-2013)

Chapter 5.60 - MOBILE MARIJUANA DISPENSARIES AND DELIVERY

Sections:

5.60.010 - Purpose and intent.

It is the purpose and intent of this chapter to preclude mobile marijuana dispensaries and marijuana delivery within the city.

(Ord. No. 764-B, § 1, 2-23-2016)

5.60.020 - Definitions.

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

"Delivery" means the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilitate the commercial delivery, transfer or transport of marijuana, marijuana edibles, or any marijuana products to or from any location within the city.

"Marijuana" is defined as that term is defined in Health and Safety Code § 11018 as that section may be amended from time to time.

"Marijuana dispensary" means a cooperative, collective, dispensary, operator, establishment, provider, association or similar entity that cultivates, distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away marijuana in the city for any purpose.

"Mobile marijuana dispensary" means any individual, clinic, cooperative, club, business, group or other entity which transports or delivers, or arranges the transportation or delivery, of marijuana to a person.

"Operate" or "operation" means to locate, operate, own, lease, supply, allow to be operated, or aid, abet, or assist in the operation of a mobile marijuana dispensary, and shall include any attempt to do so.

"Person" means any individual, firm, corporation, association, club, society, or other organization or entity, including, but not limited to, any owner, manager, proprietor, employee, volunteer, salesperson or agent thereof.

(Ord. No. 764-B, § 1, 2-23-2016)

5.60.030 - Mobile marijuana dispensaries prohibited.

Mobile marijuana dispensaries are prohibited in the city. No person shall operate any mobile marijuana dispensary within the city.

(Ord. No. 764-B, § 1, 2-23-2016)

5.60.040 - Marijuana delivery prohibited.

- A. No person shall deliver marijuana to any location within the city from a marijuana dispensary or mobile marijuana dispensary, regardless of where the marijuana dispensary or mobile marijuana dispensary is located or headquartered, 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 marijuana dispensary or mobile marijuana dispensary, regardless of where the marijuana dispensary or mobile marijuana dispensary is located or headquartered, or engage in any operation for this purpose.

(Ord. No. 764-B, § 1, 2-23-2016)

5.60.50 - Public nuisance declared.

Operation of any marijuana dispensary or mobile marijuana dispensary within the city in violation of the provisions of this chapter is hereby declared a public nuisance and may be abated by the city either pursuant to the Grass Valley Municipal Code or any other available remedies, including, but not limited to, declaratory relief and civil injunctions.

(Ord. No. 764-B, § 1, 2-23-2016)

5.60.060 - Violations and penalties.

A violation of this chapter shall be subject to any enforcement remedies available under the law and/or the Grass Valley Municipal Code. In addition, the city may enforce a violation of this chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction or by any other means authorized by law. Notwithstanding any other provision of this (Health and Safety Code § 11362.5) and/or the Medical Marijuana Program Act (Health and Safety Code §§ 11362.7—11362.83) shall be made criminal by this Code.

(Ord. No. 764-B, § 1, 2-23-2016)