

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS*

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Chapter 5.04

REGULATIONS

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5.04.010 Purpose.

This chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation. (Ord. 12 §2, 1961).

5.04.020 Definitions.

A. "Person" as used in this chapter, includes 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 other than as an employee.

B. "Business," as used in this chapter, includes professions, trades and occupations and all and every kind of calling whether or not carried on for profit. (Ord. 12 §1, 1961).

5.04.030 Other revenue ordinances to apply.

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the city and shall remain subject to the regulatory provisions of other ordinances. (Ord. 12 §3, 1961).

5.04.040 License--Required.

There are imposed upon the businesses, trades, professions, callings and occupations specified in this chap-

ter, license taxes in the amounts prescribed in this chapter. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city to do so or without complying with any and all applicable provisions of this chapter. This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state. Persons not required to obtain licenses prior to doing business within the city because of conflict with applicable statutes of the United States or of the state shall be liable for payment of the tax imposed by this chapter; provided, however, a license may be issued to a person who is a nonresident or a resident for less than one (1) year immediately preceding the application date if such person has had a fixed place of business in the city for at least two (2) years immediately preceding the application. (Ord. 43 §1, 1963; Ord. 12 §4, 1961).

5.04.050 License--Separate required when.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on and each license shall authorize the licensee to transact and carry on any business or businesses thereat unless prohibited by state law or city ordinance; provided, however, a separate license shall be required for the businesses enumerated in subsection j of Section 5.04..140. (Ord. 30.52, 1962; Ord, 12 §5, 1961).

5.04.060 License--Exemptions.

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

B. None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the clerk for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to such commerce. Such application may be made before, at or within six (6)

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

C. Any person claiming an exemption pursuant to this section shall file a verified statement with the city clerk stating the facts upon which exemption is claimed. The city clerk shall, upon a proper showing contained in the verified statement, issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this chapter. The city clerk, 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. 12

§6, 1961).

5.04.070 License--Application--Issuance.

Every person required to have a license under the provisions of this chapter shall make application for the same to the city clerk and upon the payment to the prescribed license tax the city clerk 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. (Ord. 12 §7 1961).

5.04.080 License--Appeal of refusal procedure.

Any person aggrieved by any decision of the city clerk with respect to the issuance or refusal to issue such license may appeal to the council by filing a notice of appeal with the city clerk. The council shall thereupon fix a time and place of hearing such appeal. The city clerk shall give notice of the time and place of hearing by serving it personally or by depositing it in the U.S. Post Office at Arvin, California, postage prepaid, addressed to such person at his last known address. The council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter. (Ord. 12 §8, 1961).

5.04.090 License--Nontransferable--Fee.

No license issued pursuant to this chapter shall be transferable; provided that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may upon application therefor and paying a fee of one dollar (\$1.00.00) have the license amended to authorize the transacting and carrying on of such business under such license at some other location to which the business is or is to be moved. (Ord. 12 §9, 1961).

5.04.100 License--Duplicate.

A duplicate license may be issued by the city clerk to replace any license previously issued under this chapter which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of filing such statement paying to the city clerk a duplicate license fee of one dollar (\$1.00) (Ord. 12 §10, 1961).

5.04.110 License--Posting required.

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

A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep

the license posted in a conspicuous place upon the premises where such business is carried on;

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business. (Ord. 12 §11, 1961).

5.04.120 License--Fees.

All license fees payable under this chapter shall be due and payable in full as follows:

A. Annual License. In advance on the first day of January;

B. Quarterly License Taxes. In advance on the first day of January, April, July and October of each year.

C. Monthly Licenses. On the first day of each and every month in advance;

D. Daily Licenses. In advance each day. (Ord. 12 §12, 1961).

5.04.130 Failure to pay business license tax--Penalties.

The council finds that if any business license tax payment is not made within thirty (30) days after it is due then the council will presume that the failure to pay is intentional, and, if the payment of the principal amount of the business license tax is still not paid thirty (30) days after the imposition of the initial penalty the council finds that it is appropriate to presume that the continuing failure to pay is wilful. Therefore, thirty (30) days after any business tax is due and payable, a penalty in an amount to be determined from time to time by resolution of the city council, shall be added to the unpaid amount. If, thirty (30) days after the imposition of the initial late fee, the tax is still unpaid, an additional penalty in an amount to be determined from time to time by resolution of the city council, in addition to the initial late penalty shall be added to the unpaid amount of the business license tax to cover the cost of enforcement. (Ord. 255 §2, 1991; Ord. 112 §1, 1975; Ord. 12 §13, 1961).

5.04.140 License tax--Flat rate.

Every person transacting and carrying on the business enumerated in this section shall pay a license tax in the amount following the description of the business:

A. Auctioneer, except one limited to auctioning real estate, without a fixed place of business in the city, ten dollars (\$10.00) per day;

B. Bus for transportation of passengers for hire where such operation has a terminal point for receiving or discharging passengers in the city or an office therein, ten dollars (\$10.00) per year;

C. Fire sales, damaged goods sales, closing out sales, twenty-five dollars (\$25.00) per day;

D. Hotels, motels, lodgingshouses, trailer courts, cabins or courts, five dollars (\$5.00) per quarter;

E. Peddlers-as per Chapter 5.05 of this title;

F. Packing houses, processing houses, cotton gin and similar establishments, twenty-five dollars (\$25.00) per year;

G. Palmist, fortuneteller, clairvoyant, one hundred dollars (\$100.00) per quarter;

H. Shows, theaters, carnivals or exhibitions not having a fixed place of business in the city, two hundred dollars (\$200.00) per day;

I. Skating rink, five dollars (\$5.00) per quarter;

J. Skee ball or other mechanical contrivance wherein and whereby balls are manually thrown at objects or into slots or holes, or shuffleboard or bowling machines or similar devices, or for operating or offering for use any jukebox or any mechanical device wherein and whereby the public is invited to insert coins to secure the playing of musical selections, two and one-half dollars (\$2.50) per quarter for each machine, device or contrivance;

K. Trading stamps: The selling to any person in the city of any stamps, coupons, tickets, cards or other devices to be issued by the vendee to the vendee's customers, and which stamps or other devices entitle said customers to procure from the issuer or any other person, any goods, wares or merchandise free of charge upon the presentation of one (1) or a number of such stamps, coupons, tickets, cards or other devices, twenty-five dollars (\$25.00) per quarter;

L.1. Arcades. Every person engaged in the business of an arcade, shall pay the city a license tax of two (2) cents for each dollar of gross receipts realized and returned to such person from such business. The license tax shall be paid annually within thirty (30) days from the end of the city's fiscal year, and each such person shall place and have on deposit with the city a security deposit of one hundred dollars (\$100.00). The security deposit shall be returned to the licensee upon a termination of the license, provided that at the time all license taxes of such person payable to the city have been fully paid,

2. Amusement Machine. The term "amusement machine," as used in this chapter, means any mechanical, electrical, electronic or other machine, apparatus, contrivance or device which may be operated or played by the placing or deposit therein of a coin, check, slug, ball, token, card or other article, or by paying for the use thereof in advance or after use, involving in its operation or play either skill or chance, including but not limited to pinball machines, bowling game machines, shuffleboard machines, marble game machines, video game machines, or any other similar machine or device. The term "amusement machine" does not include phonographs, jukeboxes or other music machines,

3. Arcade. The word "arcade," for purposes of this chapter, means any business with a fixed place of business which maintains on the business premises two (2) or more amusement machines available for use and play by the public generally or by patrons of such business, whether the business of arcade is conducted as a single business or in conjunction with another business. (Ord. 297, 1996; Ord. 247 (part), 1991; Ord. 176, 1982; Ord. 133 §14, 1978; Ord. 30 §1, 1962; Ord. 12 §14, 1961).

5.04.150 License tax--Other fixed businesses.

Every person who engages in business at a fixed place of business within the city and is not subject to the provisions of Section 5.04.140 shall pay an annual license tax of thirty dollars (\$30.00) per year. (Ord. 231 (part), 1988; Ord. 12 §17, 1961).

5.04.160 License tax--Wholesale delivery by vehicle.

Every person not having a fixed place of business in the city who is not subject to the provisions of Section

5.04.140 and who delivers, for wholesale purposes, goods, wares or merchandise or any kind by vehicle in the city shall pay a license tax of five dollars (\$5.00) per quarter. (Ord. 12 §15, 1961).

5.04.170 License tax--Other outside businesses.

Every person not having a fixed place of business within the city who engages in business within the city and is not subject to the provisions of Section 5.04.140 or Section 5.04.160 shall pay a license tax of forty-five dollars (\$45.00) per year. (Ord. 231 (part), 1988: Ord. 30 §4, 1962; Ord. 12 §6, 1961).

5.04.180 License tax--Procuration.

Whenever a business is first commenced during the year, the license tax shall be prorated for the number of months remaining in the year after the first day of the month in which such business is commenced provided, however, that the minimum license fee in any event under any proration shall be equal to one-half (1/2) of the yearly license fee for such business. There shall be no proration of quarterly, monthly or daily license fees. (Ord. 30 §3, 1962; Ord. 12 §18, 1961).

5.04.190 Exempted businesses.

This chapter shall not be construed to require the licensing of any business, occupation or activity carried on wholly for the benefit of charitable purposes from which profit is not derived either directly or indirectly by any person, or to the conducting of any entertainment, dance, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects whenever the receipts from such entertainment, dance, concert, exhibition or lecture go to any church, school, or to any religious or benevolent purpose within the city or to any veteran, military, fraternal, or local chamber of commerce within the city. (Ord. 12 §19, 1961).

5.04.200 Enforcement.

It is the duty of the city manager to enforce each and all of the provisions of this chapter, and the chief of police shall render such assistance in the enforcement hereof as may from time to time be required by the city manager. Each department of the city which issues permits

or entitlement of use shall require the production of a valid unexpired certificate of payment of the business license tax prior to the issuance of such a permit. The immediately preceding sentence shall not be construed to require any person to obtain a certificate prior to doing business within the city if such requirement conflicts with the construction or applicable statutes of the United States or of the state of California.

In the exercise of the duties imposed upon him hereunder, the city manager shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with. For the purposes of this paragraph, in the case of a person coming into the city to do business from a location outside the city the "place of business" shall be deemed to be that place where such person is engaging in business or offering to engage in business in the city. (Ord. 255 §3, 1991: Ord. 12 §20, 1961).

5.04.210 Violation.

Every person violating any provision of this chapter or knowingly or intentionally misinterpreting to any officer or employee of this city a material fact in procuring the certificate herein provided for shall be deemed guilty of a separate offense for each day, or portion thereof, punishable thereof as provided in this section. Any person violating the provisions of this chapter is guilty of an infraction subject to the provisions of Government Code Section 36900(b).

The conviction and punishment of any person for engaging in any business without a valid certificate shall not relieve such person from paying taxes and penalties due and unpaid at the time of such conviction, nor shall the payment of any tax or penalty prevent a criminal prosecution for the violation of any of the provisions of this chapter. All remedies prescribed in this chapter 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. 255 §4, 1991: Ord. 12 §21, 1961).

5.04.220 License tax deemed debt.

Any sum required to be paid under the provisions of this chapter shall be deemed a debt owed to the city, and

any person who engages in any business without first obtaining and paying for a valid certificate as required by this chapter shall be liable to an action by and in the name of the city in any court of competent jurisdiction for recovery of any such sum. (Ord. 255 §5, 1991: Ord. 12 §22, 1961).

5.04.230 Rules and regulations.

The city manager 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.

Such rules and regulations shall be known as "Business Operations Tax Rules and Regulations," shall be placed in written form and numbered consecutively, and shall be approved by the city attorney before becoming effective. A copy of the "Business Operations Tax Rules and Regulations" shall be filed with the city clerk.

The city manager is authorized to waive part or all of any penalty due under Section 5.04.130 upon making a determination as to the first penalty that the presumption of the intentional nature of the violation was inappropriate as to the facts of the particular case and, as to the second penalty, the presumption of wilful behavior was not appropriate as to the facts of the particular case. (Ord. 255 §6, 1991).

5.04.240 Failure to obtain business license and pay tax.

If any person required to obtain a business license pursuant to this chapter fails to pay the business license tax, the city manager shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax and any penalties due. (Ord. 255 §6,* 1991).

* Editor's note: Ord. 255 contained two Sections numbered "6."

5.04.250 Notice of city manager determination.

The city manager shall give to the person written notice of any determinations made pursuant to Section 5.04.240. This notice may be served personally or by postage paid mail addressed to the person at the address as it appears in the records of the city manager. In case of service by mail of any notice required under this article,

the service is complete at the time of deposit in the United States mail. (Ord. 255 §7, 1991).

5.04.260 Hearing--City manager determination.

Any person served pursuant to Section 5.04.250 of this article may, within fifteen (15) days after service or mailing of such notice, make application in writing to the city manager for a hearing to review the amounts determined and assess under Section 5.04.240. If application by the person for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the city manager shall become final and conclusive and immediately due. (Ord. 255 §8, 1991).

5.04.270 Appeal.

Any person aggrieved by any decision of the city manager with respect to any determination made pursuant to Section 5.04.250 may appeal to the council by filing a notice of appeal with the city clerk within fifteen (15) days after service of the city manager's decision. The council's decision shall be final and conclusive and shall be served upon the appellant in the manner prescribed by Section 5.04.250. Any amounts determined shall be due and payable upon the service of notice. (Ord. 255 §9, 1991).

Chapter 5.05

PEDDLERS

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5.05.010 Findings and purpose.

A. The city council finds that the unregulated practice of peddling is a nuisance in that:

1. The activity is often carried on at night, causing annoyance to residents and intruding into their privacy;

2. The methods used by some of those engaged in the activity cause apprehension;

3. The activity is one which can be used as a front or cover for gaining access to premises for the purpose of engaging in criminal activity;

4. The nature of the activity permits those to engage in it and leave the city before they become widely known and enables them to avoid complying with the law;

5. The nature of certain businesses, as described in this chapter, does not give the city sufficient control to correct the abuses in these activities.

B. Based upon these findings, the city council concludes that the unregulated and uncontrolled activity of peddling affects the welfare of the city and is a public nuisance. It is the purpose of this chapter to define the activity sought to be regulated to impose upon those seeking to engage in it, conditions and requirements which will permit the city to protect the welfare of its citi-

zens, and prevent intrusion into the privacy, and to regulate the activity to prevent abuses of it. (Ord. 247 (part), 1991).

5.05.020 Definitions.

As used in this chapter:

A. Act of Permittee. The act or omission of any person's partner, associate, director, officer, agent or employee or any peddler whose services are engaged thereby, is for all purposes the act or omission of the permittee regulated by this Chapter 5.05.

B. "Approved location" means and includes an approved site as designated by the city manager or his designee, from which a peddler, operating from a motor vehicle or mobile unit may sell his products.

C. "Mobile unit" means any vehicle, truck, trailer, cart, wagon, dray, conveyance or structure on wheels not firmly fixed to a permanent foundation which does not have a license to operate by the Department of Motor Vehicles of the state.

D. "Mobile vehicle" means and includes any automobile, truck, trailer or other conveyance requiring a license from the Department of Motor Vehicles or the state.

E. "Peddler" means and includes any person, whether a resident of the city or not, who, not incidental to similar activities regularly conducted from a fixed place of business, travels by foot, wagon, motor vehicle or any other type of vehicle, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruit, truck garden products, farm products, dairy products, bakery products, groceries, other products (hereinafter referred to in this chapter as "products"), offering and exposing the same for retail sale, or making retail sales of the same and delivering the same to purchases, or who sells or offers the same for sale from a motor vehicle or mobile unit or who solicits, exposes or offers the same for retail sale for delivery at a later time.

F. "Permittee" means and includes any natural person, partnership, corporation, firm or association, engaged in the business of peddling; it also includes a receiver or trustee appointed by any court. However, it

shall not be deemed to include those persons merely employed by the permittee.

G. "Public street" means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadway, parkway strips, alleys and sidewalks. (Ord. 247 (part), 1991).

5.05.030 Peddler's permit--Required.

Absent any legal exemption, it is unlawful for any person to peddle or solicit any product, or to allow other persons under that person's employ to peddle or solicit any product, within the corporate limits of the city, without first obtaining and having a peddler's permit therefor as provided in this chapter, except that paid employees of a person or business holding such a peddler's permit need not have a permit nor shall a permit be required of any person who solicits orders from retail dealers on behalf of a wholesaler, jobber or manufacturer, or who solicits for a bona fide political or religious purpose; no person shall engage in such services as may be permitted hereunder except in accordance with such terms, conditions, restrictions and limitations as may be set forth in the permit, and in this Chapter 5.05. (Ord. 253 §2, 1991: Ord. 247 (part), 1991).

5.05.040 Peddler's permit--Application--Information required.

Applicants for peddler permits must file with the city manager or his designee an application on a form to be furnished by the city manager or his designee. (Ord. 247 (part), 1991).

5.05.050 Peddler's permit--Period of validity.

A peddler's permit shall be valid for the calendar year and prorated quarterly. (Ord. 247 (part), 1991).

5.05.060 Peddler's permit--Application--Investigation and approval by city manager or his designee.

The city manager or his designee shall undertake an investigation of the applicant's record and background, such as shall be reasonably necessary to protect the public. If as a result of such investigation, the city manager or his designee should find that the applicant has been convicted of a crime involving violence, larceny or

sale of drugs within the previous three (3) years, or involving a crime of a sexual nature within the previous five (5) years of the application date, or that the applicant has made false statements on the application form provided, the city manager or his designee may disapprove such application; otherwise, the city manager or his designee shall approve and shall issue the peddler's permit. (Ord. 247 (part), 1991).

5.05.070 Approved location permit--Required.

It is unlawful for any person to peddle from a fixed location, on any public street, unless that person peddles from a motor vehicle or motor unit and obtains an approved location permit therefor as provided in this chapter. (Ord. 247 (part), 1991).

5.05.080 Approved location permit--Terms and conditions.

An approved location permit shall be issued only to permittees holding a peddler's permit, by the city manager or his designee under the following terms and conditions:

A. No permit shall be issued for locations immediately adjacent to residentially zoned property nor shall any permit be issued for locations within five hundred (500) feet of the nearest property line of any public school.

B. If more than one (1) application is received at the same time for the same location not occupied by an applicant, the successful application shall be drawn by lot.

C. Every permit shall be valid for a period of one (1) year from date of issue, unless revoked in the manner as hereinafter provided by this chapter.

D. No peddler shall peddle from, at, or in conjunction with a motor vehicle or mobile unit except at the approved location for which that peddler has been or his employer has been issued an approved location permit therefor.

E. Permits issued under this chapter shall not be sold, assigned or transferred, and shall cover the permittee to whom issued only.

F. No peddler shall peddle from a mobile unit which exceeds the following dimensions: four (4) feet high, five (5) feet wide, six (6) feet long.

G. No peddler shall employ or have any movable or permanent stands, tables, chairs or devices at any ap-

proved location other than the permitted motor vehicle or mobile unit and one stool for his own use. The stool used by the peddler shall not block movement of pedestrians along the sidewalk.

H. Notwithstanding the fact that the permittee has met all the terms and conditions as set forth in this section, permits shall be subject to the approval of the city manager or his designee as to vehicular traffic safety and convenience and pedestrian safety and convenience. Appropriate separation of peddlers' motor vehicles and mobile units from each other and from established businesses conducting similar activities will be required to promote traffic and pedestrian safety and convenience.

I. A peddler operating at an approved location shall park or locate any motor vehicle or mobile unit in such a way that the motor vehicle or mobile unit is located directly at the approved location and in such a way as to avoid obstructing any sidewalk, street or roadway where possible. (Ords. 247 (part), 1991).

5.05.090 Insurance required.

Before an approved location permit is issued, each peddler shall at his sole cost and expense, and during the entire term of his permit or any renewal thereof, obtain and maintain all of the following minimum insurance requirements:

A. Comprehensive general liability insurance with a minimum limit of three hundred thousand dollars (\$300,000) combined single limit for bodily injury and property damage and including at least the following coverages:

1. Vendor's liability;
2. Product's liability.

B. A worker's compensation policy shall be provided for any and all employees of the permittee.

1. This coverage shall provide the stationary limit of coverage (under coverage A) worker's compensation.

2. This coverage shall also provide for one hundred thousand dollars (\$100,000) liability (for coverage B) employer's liability.

C. Required endorsements:

1. "The city of Arvin, its employees, officers, agents, contractors, and invitees are hereby added as additional insureds."

2. "This policy shall be considered primary insurance as respects any other valid and collectible insurance the City of Arvin may possess including any self-insured retention the City may have, and any other insurance the City does possess shall be considered excess insurance only."

3. "This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

4. "Thirty days' written notice of cancellation shall be given to the City of Arvin in the event of cancellation and/or reduction of any nature in the coverage." Such notice shall be sent to:

City Manager
City of Arvin
P.O. Box 548, 200 Campus Drive
Arvin, CA 93203

Endorsement No. 4 listed above is the only endorsement required to be made a part of the worker's compensation and employer's liability policy.

D. Proof of coverage shall be in the form of a properly issued certificate of insurance with copies of all required endorsements attached thereto, evidencing all required coverages. Evidences of insurance coverage shall be submitted at the time of the approved location permit application to:

City Manager
City of Arvin
P.O. Box 548, 200 Campus Drive
Arvin, CA 93203

E. Before any approved location permit is issued, the applicant shall agree to hold the city, its employees, and its agents harmless from any liability arising from the use of the permit. (Ord. 247 (part), 1991).

5.05.100 Approved location permit--Issuance conditions.

If the city manager or his designee determines that the applicant has sufficient insurance referred to in Section 5.05.090, and after the approval of the city manager or his designee respecting the terms and conditions stated herein, then in that event and not otherwise, the city manager or his designee shall approve the location applied

for by the applicant and shall issue a permit for the approved location. (Ord. 247 (part), 1991).

5.05.110 Permit--Application--Fee.

No application shall be processed and no peddler's permit shall be issued under the provisions of this chapter unless the applicant therefor shall have, unless exempted, paid the fees as set forth in the schedule of fees established by resolution of council. (Ord. 247 (part), 1991).

5.05.120 Permit--Revocation--Conditions.

Any peddler's permit and any approved location permit issued under the provisions of this chapter may be revoked by the city manager or his designee after notice and hearing for any of the following reasons:

A. Fraud, misrepresentation or false statement contained in the application for the permit;

B. Fraud, misrepresentation or false statement made in the course of carrying on the business regulated by this chapter;

C. Any violation of any of the provisions of this chapter or of any other provision of this code relating to any of the peddling activities conducted or carried on by the peddler;

D. Peddling in any unlawful manner, or in such manner as is a menace to or deleterious to the public health, safety or general welfare;

E. Any violation of any provision of federal, state, or local laws;

F. Conduct of the peddling activities in an unlawful manner, or conviction of a crime involving violence, larceny or sale of drugs within the previous three (3) years, or involving a crime of a sexual nature within the previous five (5) years;

G. Failure to have the minimum insurance coverage as referred to in Section 5.05.090 of this chapter;

H. Failure to sell his products at permitted location at least fifteen (15) days in each calendar quarter. Two (2) hours of selling or vending shall be considered a day for purposes of this section. (Ord. 247 (part), 1991).

5.05.130 Permit--Revocation--Hearing required.

Before revoking any permit, the city manager or his designee shall give to the permittee a reasonable notice in writing of the proposed revocation and of the grounds thereunder, and also of the time and place at which the holder of the permit will be given a reasonable opportunity to show cause why his permit should not be revoked. The notice may be served personally upon the permittee, or may be mailed, postage prepaid, to the permittee at his last known address or at any address shown upon his application, at least ten (10) days prior to the date of the hearing. Upon conclusion of the hearing, the city manager or his designee may, for any of the above-mentioned grounds, revoke the permit. (Ord. 247 (part), 1991).

5.05.140 Appeal from denial or revocation of permit.

Any person whose application has been decided by the city manager or his designee or any person who has had his permit revoked by the city manager or his designee shall have the right to an administrative appeal before the city manager or his designee. Any unfavorable decision by the city manager may be appealed in writing, stating the grounds therefor, within ten (10) days of the decision, to the code enforcement appeals commission. The commission shall hold a hearing thereon within a reasonable time and the decision of the commission shall be final. (Ord. 247 (part), 1991).

5.05.150 ID--Display requirements.

Each peddler, at all times while he is engaged in peddling, shall carry with him, and shall display on request, his peddler's permit. (Ord. 247 (part), 1991).

5.05.160 Hours of business--Exceptions.

It is unlawful for any person to peddle or solicit goods, wares, merchandise or other products from any vehicle or conveyance traveling within, upon or along any public street in the city during the hours of darkness (one-half (1/2) hour past sunset to one-half (1/2) hour before sunrise); provided and excepting, however, that the provisions of this section shall not apply to the sale of foodstuffs to employees of industrial establishments at or adjacent to such establishments, or to workmen or employees at any construction job site, if the foodstuffs sold to

such persons at such places are sold to such employees or workmen for immediate consumption at such places. (Ord. 247 (part), 1991).

5.05.170 Noise restrictions.

No person shall use, play or employ any sound, outcry, amplifier, loudspeaker, or any other instrument or device for the production of sound when the motor vehicle or mobile unit from which the peddler is peddling is stationary upon any private place in the city or any of the streets, avenues, alleys, parks, or other public places of the city. No person shall use, play or employ any sound, outcry, amplifier, loudspeaker, or any other instrument or device for the production of sound between the hours of seven (7:00) p.m. (Pacific Standard Time or Pacific Daylight Saving Time, whichever is in effect) of any Saturday or any day preceding any holiday, and eleven (11:00) a.m. (Pacific Standard Time or Pacific Daylight Saving Time, whichever is in effect) of the succeeding Sunday or holiday. No peddler shall use, play or employ any amplifier, loudspeaker, or any other instrument or device for the production of sound which emits more than ten (10) decibels of sound in any octave band, measured at a distance of fifty (50) feet by standard sound-measuring equipment, or any amplifier, loudspeaker or any other instrument or device for the production or amplification of sound. (Ord. 247 (part), 1991).

5.05.180 Refuse.

Every peddler, vendor or solicitor who conducts business from a motor vehicle or mobile unit as defined in this chapter shall provide a trash receptacle readily accessible to persons making purchases from such peddler or vendor, and the peddler or vendor shall deposit or cause to be deposited therein, all litter and garbage resulting from sales made by him and left by the purchasers in the immediate vicinity of the place of sale. (Ord. 247 (part), 1991).

5.05.190 Parking restrictions.

A. It is unlawful for any peddler selling any goods, wares, merchandise or other products to:

1. Permit any motor vehicle from which the peddler is peddling, to remain standing or stopped, for peddling

purposes, at any place on any public street in the city for a period of time exceeding ten (10) minutes, or at any location within five hundred (500) feet of that place on any public street within any two (2) hour period for a period of time exceeding ten (10) minutes;

2. Make any stop, for the purpose of making any sale upon any public street or other public place, within five hundred (500) feet, measured along the traveled way of any public street or streets, of any school property.

B. It is unlawful for any peddler to sell any goods, wares, merchandise or other products from any motor vehicle within or upon any public street except from or at the side of such motor vehicle which is nearest to the curb of such street. (Ord. 247 (part), 1991).

5.05.200 Rules, regulations and enforcement.

The city manager or his designee shall have the power to establish rules and regulations consistent with provisions of this chapter, such rules and regulations to have as their purpose the enforcement of the provisions of this chapter and the vehicular traffic safety and convenience and pedestrian safety and convenience; subject to the approval of the same by the city council; and upon their approval by the city council, such rules and regulations shall have the effect of law. (Ord. 247 (part), 1991).

5.05.205 Compliance with other laws.

Nothing in this chapter shall relieve a person from compliance with any other municipal, state or federal laws, rules or regulations including, but not limited to, regulations respecting health permits, traffic or safety rules or regulations. (Ord. 247 (part), 1991).

5.05.210 Exemption--Vendors--Annual or special events conducted by nonprofit or charitable organizations.

Vendors conducting a business for profit while such vendors are participating in a crafts fair, exhibition, parade, celebration, dance, amusement entertainment, or other event consisting of a collection of food, beverage, art, crafts, or souvenir sales by various individuals or persons, when the crafts fair, exhibition, parade, celebration, dance, amusement entertainment or other event is conducted by a nonprofit or charitable organization, asso-

ciation or institution shall be exempted from the provisions of this chapter, provided such nonprofit or charitable organization applies at least six (6) weeks prior to the date of the proposed event to the city manager on forms to be provided by such manager and meets all of the requirements for an exemption established by the director of finance and such manager.

Such nonprofit or charitable organizations shall issue space permits to such vendors and may charge a reasonable fee for such business participation.

Such exemption shall be for the duration of the event only. (Ord. 247 (part), 1991).

5.05.220 Exemption--Veterans.

Persons exempt under California Business and Professions Code Sections 16001 and 16001.5 shall be exempt from the license fee requirements under this chapter. (Ord. 247 (part), 1991).

Chapter 5.08

BINGO*

Sections:

- 5.08.010 Defined.
- 5.08.020 Eligible organizations.
- 5.08.030 License--Applicant eligibility.
- 5.08.040 License--Application--Term.
- 5.08.050 License--Application--Information required.
- 5.08.060 License--Investigation.
- 5.08.070 License--Issuance.
- 5.08.080 License--Suspension--Revocation procedures.
- 5.08.090 License--Revocation--Alternate procedure.
- 5.08.100 License--Revocation--Appeal.
- 5.08.110 Maximum prize designated.
- 5.08.120 Special account for profits required--Audit by city.
- 5.08.130 Financial interest in licensee only required.
- 5.08.140 Exclusive licensee operation required.

- 5.08.150 Open to public.
- 5.08.160 Attendance capacity.
- 5.08.170 Conducted on licensee's property only.
- 5.08.180 Operation hours.
- 5.08.190 Minors prohibited.
- 5.08.200 Intoxicated persons prohibited.
- 5.08.210 Participant's presence required.
- 5.08.220 Receipt of profit deemed misdemeanor--
Fine.
- 5.08.230 City may enjoin violation.

* For statutory provisions on bingo games for charity, see Penal Code §326.5.

5.08.010 Defined.

"Bingo" as used in this chapter, means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. (Ord. 118 §10, 1976).

5.08.020 Eligible organizations.

Organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g and 237011 of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations, and provided that the receipts of those games are used only for charitable purposes, are eligible to apply to the city for a license to conduct bingo games in the city under the provisions of 326.5 of the Penal Code and the provisions of this chapter. (Ord. 296, 1996: Ord. 118 §1, 1976).

5.08.030 License--Applicant eligibility.

No license shall be issued to any organization unless such applicant is an eligible organization under Section 5.08.020 and its application conforms to the requirement, term, and conditions of this chapter. (Ord. 118 §3, 1976).

5.08.040 License--Application--Term.

Eligible organizations desiring to obtain a license to conduct bingo games in the city, shall file an application in writing therefor in the office of the city clerk on a form to be provided by the city clerk. The issuing authority shall be the city administration. The license

issued shall be for a term of one (1) year from the date of issuance, subject to renewal and annual fee. (Ord. 118 §2, 1976).

5.08.050 License--Application--Information required.

A. The application for a license shall contain the following:

1. The name of the applicant organization and a statement that the applicant is an eligible organization under Section 5.08.020;

2. The name and signature of at least two (2) officers including the presiding officer, of the corporation or community chest and the trustee of any trust;

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

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

5. That the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code and this chapter, as they may be amended from time to time, and agrees that the license to conduct bingo games may be revoked by the city administrator upon violation of any of such provisions.

B. The application shall be signed by the applicant under the penalty of perjury.

C. The annual license fee fixed by the city council by resolution shall accompany the application.

D. The applicant shall also submit, with its application a Certificate or Determination of Exemption Under Section 23701d of the Revenue and Taxation Code, or a letter of good standing from the Exemption Division of the Franchise Tax Board in Sacramento, showing exemption under Section 23701d. (Ord. 118 §4, 1976).

5.08.060 License--Investigation.

Upon receipt of the completed application and the fee, the city clerk shall refer the same to interested departments of the city, including, but not limited to, the city administrator, city attorney, police department and the fire department, for investigation as to whether or

not all the statements on the application are true and whether or not the property of the applicant qualifies and the extent to which it qualifies, as property on which bingo games may lawfully be conducted, as to fire, occupancy and other applicable restrictions. (Ord. 118 §5, 1976).

5.08.070 License--Issuance.

Upon being satisfied that the applicant is fully qualified under the law to conduct bingo games in the city, the city administrator shall issue a license to such applicant, which shall contain the following information:

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

B. The address where bingo games are authorized to be conducted;

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

D. The date of the expiration of such license;

E. Such other information as may be necessary or desirable for the enforcement of the provisions, of this chapter. (Ord. 118 §6, 1976).

5.08.080 License--Suspension--Revocation--Procedures.

A. Whenever it appears to the chief of police that the licensee is conducting a bingo game in violation of any of the provisions of this chapter, the chief of police shall have the authority to summarily suspend the license and order the licensee to immediately cease and desist any further operation of any bingo game..

B. Any person who continues to conduct a bingo game after any summary suspensions thereof under subsection a of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding six (6) months or by both such fine and imprisonment.

C. The order issued under subsection A of this section shall also notify the licensee that it shall have five (5) days from the date of such order to request a hearing before the city administrator to determine whether such license shall be revoked. Failure to request, in writing, such hearing before the city administration

within such five (.5) day period, shall result in a revocation of the license.

D. Upon such request by the licensee, whose license has been suspended under subsection A of this section, for a hearing to determine whether such license shall be revoked, the city administrator shall provide such hearing within ten (10) days after receipt of such request at which hearing the suspended licensee may appear before the city administrator for the purpose of processing evidence why the license should not be revoked. No license shall be revoked under this section unless notice of the time and place of such hearing first been given at least five (5) days before the hearing thereof by depositing in the United States mail a notice directed to such suspended licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the suspension and revocation.

E. Any organization whose license is revoked under this section shall not conduct any bingo game in the city until such time as the city council, on appeal, determines to overrule the decision of the city administrator. (Ord. 118 §7, 1976).

5.08.090 License--Revocation--Alternate procedure.

A. Whenever it appears to the city administrator that the licensee is conducting bingo games in violation of any of the provisions of this chapter, or that the license was obtained by fraudulent representation and no summary suspension is ordered, under Section 5.08.080, the license may be revoked; provided, however, the licensee may appear before the city administrator at the time fixed by the city administrator for the purpose of presenting evidence why the licensee should not be revoked. No license shall be revoked under this section unless written notice has first been given at least five (5) days before the hearing thereof by depositing in the United States mail a notice directed to such licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the revocation.

B. Any organization whose license is revoked under this section shall not conduct any bingo game in the city until such time as the city council, on appeal, determines

to overrule the decision of the city administrator. (Ord. 118 §8, 1976).

5.08.100 License--Revocation--Appeal.

A. Any holder of a license whose license is revoked under this chapter shall have the right, within ten (10) days after receiving notice in writing of the revocation, to file a written appeal to the city council. Such appeal shall set forth the specific ground or grounds on which it is based. The city council shall hold a hearing on the appeal within thirty (30) days after its receipt by the city, or at a time thereafter agreed upon and shall cause the appellant to be given at least ten (10) days written notice of such hearing. At the hearing the appellant or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of his appeal. The determination of the city council on the appeal shall be final.

B. Any organization whose license is finally revoked may not again apply for a license to conduct bingo games in the city for a period of one (1) year from the date of such revocation; provided, however, if the ground for revocation is cancellation of the exemption granted under Section 23701d of the Revenue and Taxation Code, such organization may again apply for a license upon proof of reinstatement of such exemption. (Ord. 118 §9, 1976).

5.08.110 Maximum prize designated.

The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250.00) in cash or kind, or both, for each separate game which is held. (Ord. 118 §11, 1976).

5.08.120 Special account for profits required--Audit by city.

All profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. The licensee shall keep full and accurate record of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games which are authorized by this chapter. The city, by and through its authorized officers, shall have the right to examine and audit such record at any reason-

able time and licensee shall fully cooperate with the city by making such record available. (Ord. 118 §12, 1976).

5.08.130 Financial interest in licensee only required.

No individual, corporation, partnership or other legal entity except the licensee shall hold a financial interest in the conduct of such bingo game. (Ord. 118 §13, 1976).

5.08.140 Exclusive licensee operation required.

A bingo game shall be operated and staffed only by members of the licensee organization. Such members shall not receive a profit, wage or salary from any bingo game. Only the licensee shall operate such games, or participate in the promotion, supervision or any other phase of such game. (Ord. 118 §14, 1976).

5.08.150 Open to public.

All bingo games shall be open to the public, not just to the members of the licensee organization. (Ord. 118 §15, 1976).

5.08.160 Attendance capacity.

Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the fire department and building department of the city in accordance with applicable laws and regulations. The licensee shall not reserve seats or space for any person. (Ord. 118 §16, 1976).

5.08.170 Conducted on licensee's property only.

A licensee shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purpose for which the organization is organized. The license issued under this chapter shall authorize the holder thereof to conduct bingo games only on such property, the address of which is stated on the application. In the event the described property ceases to be used as an office and a place for performance of the purposes for which the licensee is organized, the license shall have no further force or effect. A new license may be obtained by an eligible organization, upon application under this chap-

ter, when it again owns or leases property used by it for an office or for performance of the purposes for which the organization is organized. (Ord. 118 §17, 1976).

5.08.180 Operation hours.

No licensee shall conduct any bingo game more than six (6) hours out of any twenty-four (24) hour period. No bingo game shall be conducted before ten (10) a.m. nor after two (2) a.m. of any day. (Ord. 118 §20, 1976).

5.08.190 Minors prohibited.

No person under the age of eighteen (18) years of age shall be allowed to participate in any bingo game. (Ord. 118 §18, 1976).

5.08.200 Intoxicated persons prohibited.

No person who is obviously intoxicated shall be allowed to participate in a bingo game. (Ord. 118 §19, 1976).

5.08.210 Participant's presence required.

No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted. (Ord. 118 §21, 1976).

5.08.220 Receipt of profit deemed misdemeanor--Fine.

It is a misdemeanor under Section 326.5 (b) of the Penal Code of the state for any person to receive a profit, wage or salary from any bingo game authorized under this chapter, a violation of which is punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city. (Ord. 118 §22, 1976).

5.08.230 City may enjoin violation.

The city may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code or of this chapter. (Ord. 118 §23, 1976).

Chapter 5.12

CARD ROOMS

Sections:

- 5.12.010 License--Required.
- 5.12.020 License--Application--Information required.
- 5.12.030 License--Prohibited persons.
- 5.12.040 License--Fingerprinting required.
- 5.12.050 License--Issuance--Revocation.
- 5.12.060 License--Fees.
- 5.12.070 License--Nontransferable.
- 5.12.080 License--Validity of address.
- 5.12.090 License--Removal authorized.
- 5.12.100 License--Revocation ends operation.
- 5.12.110 Employees--Requirements.
- 5.12.120 Game rules--Posting required.
- 5.12.130 Alcoholic beverages prohibited.
- 5.12.140 Persons under twenty-one prohibited.

5.12.010 License--Required.

It is unlawful for any person to operate, conduct, or maintain or cause to be so operated, conducted or maintained any place, business or establishment in the city where any kind of game is played with cards without first obtaining a license therefor as provided in this chapter. (Ord. 13 §2, 1961).

5.12.020 License--Application--Information required.

Application for any license required by this chapter shall be made to the city council and shall contain the following information:

- A. Name of applicant;
- B. Address of applicant and address of place proposed to be licensed under this chapter;
- C. Length of residence of applicant in the city;
- D. Such other information as may be deemed necessary by the city council to properly determine applicants eligibility for a license under this chapter. (Ord. 13 §3, 1961).

5.12.030 License--Prohibited persons.

No license shall be issued to any applicant under the age of twenty-one (21) years or to any person convicted of a felony in any state of the United States or to any person not of good moral character or to any person who has resided in the city less than one (1) year immediately preceding the application date. (Ord. 13 §4, 1961).

5.12.040 License--Fingerprinting required.

All applicants for licenses under this chapter shall furnish the city council with copies of the fingerprints of both hands of the applicant and every person proposed to be employed by applicant should the license be granted. (Ord. 13 §5, 1961).

5.12.050 License--Issuance--Revocation.

If the city council is satisfied that the applicant meets all requirements of this chapter and will maintain an orderly and reputable place of business, it shall issue a license to such person upon payment of the license fees provided in this chapter. Any license so issued is purely permissive and such license shall not grant the licensee any fixed interest or property rights therein and such license shall be revocable at any time by the city council and the city council may, in its discretion, limit, reject, refuse, take up or fail to issue a license to any applicant at any time, if in its judgment it appears to the best interest of the public health, safety and morals of the people of this city that such action should be so taken. (Ord. 13 §7, 1961).

5.12.060 License--Fees.

The license fee for any license issued under this chapter shall be the sum of one hundred twenty-five dollars (\$125.00) per calendar quarter, without proration, payable in advance, together with the additional license fee for each and every table over one (1) in the sum of twenty-five dollars (\$25.00) per calendar quarter or any part thereof without proration, payable in advance. (Ord. 13 §8, 1961).

5.12.070 License--Nontransferable.

Any license provided in this chapter shall not be assignable nor transferable and shall terminate upon the death of the licensee. (Ord. 13 §9, 1961).

5.12.080 License--Validity of address.

Any license provided in this chapter shall be valid only at one (1) address or contiguous place of business and never at two (2) separate and disconnected locations. (Ord. 13 §12, 1961).

5.12.090 License--Removal authorized.

Any license provided in this chapter may be removed from one (1) location to another within the city; provided, that the written permission therefor be first had and obtained from the city council. (Ord. 13 §10, 1961).

5.12.100 License--Revocation ends operation.

It is unlawful for any person to maintain or cause to be operated, conducted or maintained, any card room or card table after notice of revocation of such license. (Ord. 13 §11, 1961).

5.12.110 Employees--Requirements.

All persons employed in any cardroom by any person holding a license issued under this chapter shall meet all of the requirements imposed under this chapter on applicants other than payment of a license fee and other than residency requirements. (Ord. 13 §6, 1961).

5.12.120 Game rules--Posting required.

Every license shall post in two (2) conspicuous places in the licensed premises the rules and regulations governing the conduct of all games permitted to be played in such premises. (Ord. 13 §15, 1961).

5.12.130 Alcoholic beverages prohibited.

No alcoholic beverage shall be served or consumed in the cardroom area and the cardroom area shall be separated from the rest of the building by a solid partition not less than forty-eight (48) inches in height. (Ord. 13 §14, 1961).

5.12.140 Persons under twenty-one prohibited.

It is unlawful for any person licensed under this chapter to permit any individual under the age of twenty-one (21) years to play at any card table in the licensed premises or to be present in any licensed premises. (Ord. 13 §13, 1961).

Chapter 5.16

CATV REGULATIONS*

Sections:

- 5.16.010 Granting of franchise--Compliance with provisions required.
- 5.16.020 Definitions.
- 5.16.030 Franchise--Permitted uses--Trespassing prohibited.
- 5.16.040 Franchise--Duration.
- 5.16.050 Franchise--Application.
- 5.16.060 Franchise--Payment--Financial statement--Record inspection by city authorized.
- 5.16.070 Franchise--Limitations.
- 5.16.080 Rights reserved to city.
- 5.16.090 Permits and authorizations.
- 5.16.100 Grantee's property--Location--Requirements.
- 5.16.110 Grantee's property--Removal.
- 5.16.120 Change required by public improvements.
- 5.16.130 Failure to perform work--Grantee to pay costs.
- 5.16.140 CATV installation shielding.
- 5.16.150 Faithful performance bond--Required.
- 5.16.160 Indemnification of the city.
- 5.16.170 Inspection of property and records authorized.
- 5.16.180 Operational standards.
- 5.16.190 Filing with city clerk.
- 5.16.200 Approval required for rate schedule.
- 5.16.210 Subscribers entitled to refund when.
- 5.16.220 City rate approval power ceases when.

* For statutory provisions authorizing any city to license, authorize by franchise and regulate a community antenna television system, see Gov. Code §53066.

The franchise granted under Ordinance 50 was renewed, with additional conditions, by Ordinance 218, adopted November 10, 1986.

5.16.010 Granting of franchise--Compliance with provisions required.

A nonexclusive franchise to construct, operate and maintain a community antenna television system in the city may be granted by the city council to any person, firm or corporation offering to furnish and provide such system, pursuant to the terms of this chapter. (Ord. 50 §1, 1964).

5.16.020 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section:

A. "Community antenna television system," referred to henceforth in this chapter as "CATV," means coaxial cables, wave guides or other conductors and equipment for providing television service by cable or through its facilities as contemplated in this chapter. CATV shall not mean or include the transmission of any special program or event in the manner commonly known and referred to as "pay television" transmission.

B. "Grantee" means the persons or corporations to whom or which a franchise under this chapter is granted by the city council and the lawful successor or assignee of such persons or corporations.

C. "Gross annual receipts" means any and all compensation in the form of gross rental or service receipts, excluding initial installation charges, received directly or indirectly from subscribers or users in payment for television signals received within the city,. Gross annual receipts shall not include any taxes on the services furnished by the grantee imposed directly on any user or subscriber by any city, state or other government unit and collected by the grantee for such governmental unit.

D. "Subscribers" includes any person or entity receiving for any purpose the CATV service of the grantee, as defined in this section. (Ord. 50 §2, 1964).

5.16.030 Franchise--Permitted uses--Trespassing prohibited.

A. Any nonexclusive franchise granted pursuant to the provisions of this chapter shall authorize and permit the grantee to engage in the business of operating and providing a CATV system in the city, and for that purpose to erect, install, construct, repair replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street or highway, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate and provide similar facilities or properties rented or leased from a public utility franchised or permitted to do business in the city.

B. The grantee may make a charge to subscribers for connection to its CATV system and a fixed monthly charge as filed and approved as provided in this chapter for transmission to them only of television and audio programs received free by the public generally at the same time from regular licensed stations. No charge may be made to subscribers for any other transmissions directed to them.

C. No permission or license is given to enter private property without the express consent of the owner or the agent in possession thereof. (Ord. 50 §3, 1964).

5.16.040 Franchise--Duration.

No franchise granted by the city council under this chapter shall be for a term longer than twenty (20) years following the date of acceptance of such franchise by the grantee or the renewal thereof. Any such franchise may be terminated prior to its date of expiration by the city council in the event that the council shall have found after notice and public hearing, that (1) the grantee has failed to comply with any term or condition of any franchise or permit issued under this chapter or (2) any provision of this chapter has become invalid or unenforceable, and the council further finds that such provision constitutes a consideration material to the grant of such franchise; provided, however, that the grantee shall be given at least thirty (30) days' notice of any proposed termination proceedings. (Ord. 50 §4, 1964).

5.16.050 Franchise--Application.

A. Application for a franchise under this chapter shall be filed with the city clerk in a form approved by the city and shall contain the following information:

1. The name and address of the applicant;

2. A statement as to whether the applicant is an individual person, a partnership or corporation, the names and addresses of all partners, if a partnership, and the names and addresses of all officers and directors, if a corporation;

3. A general description of the applicant's proposed CATV operation, including a map of areas to be served;

4. A statement or schedule in a form approved by the city of proposed rates and charges to subscribers for installation and services, and a copy of the proposed service agreement between the grantee and its subscribers shall accompany the application. For unusual circumstances, such as underground cable required, or more than one hundred fifty (150) feet of distance from cable to connection of service to subscribers, an additional installation charge over that normally charged for installation as specified in the applicant's proposal may be charged, with easements to be supplied by subscribers. For remote, relatively inaccessible subscribers within the city, service will be made available on the basis of cost of materials, labor and easements if required;

5. A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person, firm, group or corporation with respect to the franchise and the proposed operations;

6. The applicant shall also furnish a financial statement as to its financial ability to complete installation and operation of the CATV system.

B. Upon consideration of any such application the city council may grant a franchise for CATV to such applicant as may appear from the application to be in its opinion best qualified to render proper and efficient CATV service to television viewers and subscribers in the city. The council's decision in the selection will be final.

C. Any franchise issued pursuant to this chapter shall include the following conditions:

"The CATV system herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the city of Arvin and no other purpose whatsoever."

D. The inclusion of the statement set forth in subsection C of this section, in any such franchise shall not be deemed to limit the authority of the city to include any other reasonable condition, limitation or restriction which it may deem necessary to impose in connection with such franchise pursuant to the authority conferred by this chapter. (Ord. 50 §19, 1964).

5.16.060 Franchise--Payment--Financial statement--Record inspection by city authorized.

A. Any grantee granted a franchise under this chapter, shall pay to the city, during the life of such franchise, and at the times specified in this chapter a sum equal to two percent (2%) of the monthly total gross receipts of the grantee derived from franchise operations within the city. Such payment by the grantee to the city shall be in lieu of any occupation tax, license tax, or similar levy, and shall be paid monthly or as directed by the city.

B. The grantee shall file with the city, within thirty (30) days after the expiration of any calendar year during which such franchise is in force, a financial statement prepared by a certified public accountant showing in detail the total gross annual receipts, as defined in Section 5.16.020 of the grantee, its successors or assignees, during the preceding calendar year. It shall pay to the city, within fifteen (15) days after the time for filing such statements, any unpaid balance for the calendar year covered by such statements. In any year, or portion thereof, commencing with the beginning of the fourth (4th) year following the effective date of the franchise, the minimum monthly payment shall be one hundred dollars (\$100.00) or five percent (5%) of the monthly gross receipts, whichever is less.

C. The city shall have the right of inspection of the grantee's records showing its gross receipts.

D. Except for supplying highspeed internet services, which shall be exempted from the annual payment requirement to the city for not more than twenty-four (24)

months following the passage of the ordinance codified in this section. By its acceptance of this franchise, the grantee agrees to pay the city annually in lawful money of the United States, two percent (2%) of the total gross receipts received by the grantee in each calendar year, or a portion thereof, during the term of this franchise, from the furnishing of its CATV service within the franchise area. The city council may, without further noticed hearing and at its sole discretion, reduce the period of exemption for highspeed internet service. (Ord. 318 §1, 2000; Ord. 133 §18, 1978; Ord. 68 §1, 1969; Ord. 50 §5, 1964).

5.16.070 Franchise--Limitations.

A. A franchise granted under this chapter shall be nonexclusive.

B. No privilege or exemption shall be granted or conferred by any franchise granted under this chapter except those specifically prescribed in this chapter.

C. Any privilege claimed under such franchise by the grantee in any street, or other public property, shall be subordinate to any prior lawful occupancy of the streets, or other public property, and shall be in conformance with Section 53066 of the California Government Code.

D. Any such franchise shall be a privilege to be held in personal trust by the original grantee. It cannot in any event be sold, transferred, leased, assigned or disposed of in whole or in part, either by forced or involuntary sale, of by voluntary sale, merger, consolidation or otherwise, without prior consent of the city expressed by resolution, and then only under such conditions as may be therein prescribed. The consent of the city may not be arbitrarily refused; provided, however, the proposed assignee must show financial responsibility and must agree to comply with all provisions of this chapter and provided further, that no such consent shall be required for a transfer in trust, mortgage or other hypothecation as a whole, to secure an indebtedness.

E. The grantee shall have no recourse whatsoever against the city for any loss, cost, expense, or damage, arising out of any provisions or requirements of this chapter or its enforcement.

F. The grantee is subject to all requirements of the city ordinance rules, regulations and specifications of the city heretofore or hereafter enacted or established, including, but not limited to those concerning street work, street excavations, use, removal and relocation of property within a street, and other street work. (Ord. 50 §6, 1964).

5.16.080 Rights reserved to city.

There is reserved to the city every right and power which is required to be reserved. by this chapter or provided by any ordinance of the city ,and the grantee, by its acceptance of any franchise, agrees to be bound thereby and to comply with any action or requirements of the city in its exercise of such right or power, heretofore or hereafter enacted or established. (Ord. 50 §7, 1964).

5.16.090 Permits and authorizations.

The grantee shall proceed within thirty (30) days with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including utility joint use attachment agreements, and microwave carrier licenses to be granted duly constituted regulatory agencies having jurisdiction over the operation of CATV systems, or their associated microwave transmission facilities. Further, the grantee shall commence the installation within ninety (90) days subsequent to the obtaining of all the necessary permits, and authorizations, and shall proceed to render service to subscribers within ninety (90) days following the commencement of installation of the system. The completion of the installation shall be pursued with reasonable diligence thereafter, so that service to all areas designated on the map accompanying the application for franchise, as provided in Section 5.16.050, shall be provided within one (1) year from the date that service was first provided. Failure to do any of the foregoing shall be grounds for termination of franchise. (Ord. 50 §8, 1964).

5.16.100 Grantee's property--Location--Requirements.

A. Any poles, wires, cable lines, conduits or other properties of the grantee to be constructed or installed in streets shall be so constructed or installed only at

such locations and in such manner as shall be approved by the superintendent of streets of the city acting in the exercise of his reasonable discretion.

B. The grantee shall not install or erect any facilities or apparatus on public property or rights-of-way within the city, (except those installed or erected upon public utility facilities now existing), without written approval of the superintendent of streets of the city.

C. In those areas and portions of the city where either the transmission and distribution facilities of the public utility providing telephone service, or those of the utility providing electric service, are underground, then the grantee shall likewise construct, operate and maintain all of its transmission and distribution facilities underground. Amplifiers in grantee's transmission and distribution lines may be in concrete boxes or vaults upon the surface of the ground. (Ord. 50 §9, 1964).

5.16.110 Grantee's property--Removal.

In the event that the use of any part of the CATV system is disconnected for any reason for a continuous period of twelve (12) months or in the event such system or property has been installed in any street or public place without complying with the requirements of its franchise, or the franchise has been terminated, cancelled or has expired, the grantee shall promptly upon being given notice, remove from the streets of public places all such property and poles of such system other than any which the superintendent of streets may permit to be abandoned on such place. In the event of any such removal, the grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the superintendent of streets. (Ord. 50 §10, 1964).

5.16.120 Change required by public improvements.

The grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place or remove from the street, alley or public places, any property of the grantee when required by the superintendent of streets by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks or any other type of structures or

improvements by governmental agencies when acting in a governmental or proprietary capacity, or any other structures or public improvements; provided, however, the grantee shall in all such cases have the privileges and be subject to the obligations to abandon any property of the grantee in place, as provided in Section 5.16.110. (Ord. 50 §11, 1964).

5.16.130 Failure to perform work--Grantee to pay costs.

Upon failure of the grantee to complete any work required by law or by the provisions of this chapter to be done in any street, within the time prescribed and to the satisfaction of the superintendent of streets, the superintendent of streets may cause such work to be done and the grantee shall pay to the city the cost thereof in the itemized amounts reported by the superintendent of streets to the grantee within thirty (30) days after receipt of such itemized report. (Ord. 50 §12, 1964).

5.16.140 CATV installation shielding.

The grantee shall at all times during the term of any franchise granted under this chapter at its own cost and expense, properly and in a good workmanlike manner, install and maintain adequate shielding, filtering and grounding at affected installations within the CATV system to eliminate television interference encountered from fundamental frequency overlaid by radio amateur transmissions which are in compliance with Federal Communications regulations. (Ord. 50 §13, 1964).

5.16.150 Faithful performance bond--Required.

A. The grantee shall, concurrently with the filing of and acceptance of award of any franchise granted under this chapter, file with the city clerk, and at all times thereafter maintain in full force and effect for the term of such franchise, at the grantee's sole expense, a corporate surety bond in a company approved by and in a form to be approved by the city attorney in the amount of five thousand dollars (\$5,000) renewable annually, and conditioned upon the faithful performance of the grantee, and upon the further condition that in the event the grantee fails to comply with any one or more of the provisions of this chapter, or of any franchise issued to the grantee under this chapter, there shall be recoverable jointly,

and severally from the principal and surety of such bond any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed by this chapter which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond; such condition to be a continuing obligation for the duration of such franchise and thereafter until the grantee has liquidated all of its obligations with the city that may have arisen from the acceptance of such franchise by the grantee or from its exercise of any privilege therein granted. The bond shall provide that thirty (30) days prior written notice of intention not to renew, cancellation or material change, be given to the city.

B. Neither the provisions of this section, any bond accepted by the city pursuant thereto, nor any damages recovered by the city thereunder, shall be constructed to excuse faithful performance by the grantee or limit the liability of the grantee under any franchise issued under this chapter or for damages, either to the full amount of the bond or otherwise. (Ord. 50 §14, 1964).

5.16.160 Indemnification of the city.

A. The grantee shall, at all times during the existence of any franchise issued under this chapter, maintain in full force and effect, furnish to the city, and file with the council at its own cost and expense, a general comprehensive liability insurance policy, in protection of the city, its officers, boards, commissions, agents and employees, in a company approved by, and in a form satisfactory to the city attorney, protecting against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of grantee under such franchise, with minimum liability limits of three hundred thousand dollars (\$300,000.00) for personal injury or death of any one person and five hundred thousand dollars (\$500,000.00) for personal injury or death of two (2) or more persons in any one (1) occurrence, and fifty thousand dollars (\$50,000.00) for damage to property resulting from any one (1) occurrence.

B. The policies mentioned in subsection A of this section shall name the city, its officers, boards, commis-

sions, agents and employees, as additional insured and shall contain a provision that a written notice of any cancellation or reduction in coverage of such policy shall be delivered to the city ten days in advance of the effective date thereof, if such insurance is provided in either case by a policy which also covers grantee or any other entity or person than those above named, then such policy shall contain the standard cross-liability endorsement.

C. No franchise granted under this chapter shall be effective unless and until each of the policies of insurance as required in this section have been delivered to the city. (Ord. 50 §15, 1964).

5.16.170 Inspection of property and records authorized.

At all reasonable times, the grantee shall permit any duly authorized representative of the city to examine all property of the grantee, together with any appurtenant property of the grantee situated within or without the city, and to examine and transcribe any and all maps and other records kept or maintained by the grantee or under its control which deal with the operations, affairs, transactions or property of the grantee with respect thereto. The grantee shall, at all times, make and keep in the city full and complete plans and records showing the exact location of all CATV system equipment installed or in use in streets, alleys and public places in the city. (Ord. 50 §16, 1964).

5.16.180 Operational standards.

The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In determining the satisfactory extent of such standards the following will apply:

A. The system shall be installed using all-band equipment capable of passing the entire VHF and FM spectrum, and it shall have the further capability of converting UHF for distribution to subscribers on the VHF band.

B. The system, as installed, shall be capable of passing standard color TV signals without the introduction of noticeable effects on color fidelity and intelligence.

C. The system and all equipment shall be designated and rated for twenty-four (24) hour-per-day continuous operation.

D. The system signal-to-noise ratio shall be not less than forty-six (46) decibels.

E. Hum modulation of picture signal shall be less than five percent (5%).

F. The system shall use components having VSWR of one and four-tenths (1.4) or less.

G. The master antenna to be installed for the CATV system shall be located at a point where the signal strength of the TV stations to be received shall be not less than five hundred (500) microvolts per meter for low-band channels two (2) through six (6) and not less than eight hundred (800) microvolts perimeter for high-band channels seven (7) through thirteen (13) for at least fifty percent (50%) of the time at a receiving antenna height of thirty (30) feet above ground. Each CATV subscriber shall receive a minimum signal strength of two thousand (2,000) microvolts as measured at the antenna terminals of the television set. Methods of measuring the standards set forth in this section, where necessary, will be established by the city.

H. The system, as installed, shall be capable of receiving, and designed to receive and transmit to subscribers all television and audio signals originating in commercial TV stations licensed to operate in Kern County, as well as such other stations as may be selected. (Ord. 50 §17, 1964).

5.16.190 Filing with city clerk.

All matters provided in this chapter to be filed with the city shall be filed with the city clerk. (Ord. 50 §18(a), 1964).

5.16.200 Approval required for rate schedule.

The rate schedule for any service agreement or increase thereto to subscribers must have written approval of the city. (Ord. 50 §18(c), 1964).

5.16.210 Subscribers entitled to refund when.

If the grantee should fail to operate its system for a period of two years from the date such service begins, the subscribers who have paid installation charges shall be entitled to a refund of the installation charges less one-twenty-fourth (1/24) of each charge for each month elapsing from the time service was first started to that

subscriber and during which time service was available to him. (Ord. 50 §18(b), 1964).

5.16.220 City rate approval power ceases when.

In the event the Public Utilities Commission of the state or the Federal Communications Commission takes jurisdiction over the operations and rates of the grantee, then the authority of the city to approve rates and charges shall cease. (Ord. 50 §18(d), 1964).

Chapter 5.24

YARD SALES

Sections:

- 5.24.010 Yard sale defined.
- 5.24.020 Permit--Required.
- 5.24.030 Permit--Conditions.
- 5.24.040 Hours of sale--Designated.
- 5.24.050 Hours of sale--Exemptions.
- 5.24.060 Permit--Posted for inspection.
- 5.24.070 Inspection of property.

5.24.010 Yard sale defined.

"Yard sale," for the purpose of this chapter, means any event to which members of the public may come and purchase identifiable or tangible personal property; provided, however, it does not mean any such event which constitutes a sales activity, wholesale or retail, by any business which has a current business license issued by the city. (Ord. 177 (part), 1982).

5.24.020 Permit--Required.

It is unlawful for any person, corporation, partnership, joint venture, association or any other form of organization to organize, conduct, establish or operate a yard sale in the city without first obtaining a permit to do so from the city manager or his authorized representative for a fee of ten dollars (\$10.00) per permit. (Ord. 231 (part), 1988: Ord. 177 (part), 1982).

5.24.030 Permit--Conditions.

The city manager or his authorized representative shall issue a yard sale permit to an applicant if he finds all of the following conditions exist as to the application:

A. The operation or conduct of the requested event will not be contrary to the public peace, health, safety and welfare of the city;

B. The applicant has submitted satisfactory evidence that adequate and safe parking accommodations will be provided for the yard sale; and

C. The location at which the proposed yard sale is to be held is a location where not more than two (2) yard sales have been conducted within the last consecutive twelve (12) months immediately preceding the date of filing the pending application. (Ord. 177 (part), 1982).

5.24.040 Hours of sale--Designated.

Any yard sale permit issued hereunder shall be for a period not exceeding three (3) consecutive calendar days. A permittee granted a permit under this chapter shall not conduct a yard sale for a period of time in excess of three (3) consecutive calendar days, and at no time before seven (7) a.m. or after nine (9) p.m. (Ord. 177 (part), 1982).

5.24.050 Hours of sale--Exemptions.

The city manager may issue yard sale permits in excess of that limit listed in the preceding section to:

A. Churches, if said church has established and maintains a location where regularly scheduled worship is held;

B. Civic, social, and nonprofit organizations who regularly conduct activities in the city. (Ord. 177 (part), 1982).

5.24.060 Permit--Posted for inspection.

Any permittee granted a yard sale permit shall post the issued permit in a place which is open to inspection by any peace officer, fire prevention officer or health officer of the city. Such permit must be posted only during that period of time that the yard sale is open for business. (Ord. 177 (part), 1982).

5.24.070 Inspection of property.

All identifiable and tangible personal property which is exhibited for sale at a yard sale shall be made accessible by the permittee to law endorsement officials at all times for their review and inspection, and during any such sale the location thereof shall be open by permittee to all fire prevention and health officers of the city for the purpose of their inspection to determine that the sale complies with the city's and state's fire prevention and health regulations. (Ord. 177 (part), 1982).

Chapter 5.28

ALCOHOLIC BEVERAGE SALES

Sections:

- 5.28.010 Definitions.
- 5.28.020 Premises requiring conditional use permit.
- 5.28.030 Continuation or reestablishment of premises--Restrictions.
- 5.28.040 Chapter provisions not exclusive.
- 5.28.050 Alcoholic beverage warning signs.

5.28.010 Definitions.

For the purpose of this chapter only, the following terms shall be defined as follows:

A. "Bona fide public eating place" means licensed premises which are maintained in good faith and used for the regular service of meals to patrons. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day. (Business and Professions Code Section 23038).

B. Conditional Use Permit. For the purpose of this chapter, "conditional use permit" shall be as defined in Chapter 17.56 of the Arvin Municipal Code.

C. "On-sale beer and wine, public premises Type 42" means and authorizes the sale of beer and wine for consumption on the premises wherein no person under twenty-one (21) years of age is allowed, plus the sale of beer and wine for consumption off the premises where sold.

D. "On-sale beer Type 40" means and authorizes the sale of beer for consumption on the premises where sold and the sale of beer for consumption off the premises where sold.

E. "On-sale general public premises, Type 48" means and authorizes the sale of beer, wine and distilled spirits for consumption on the premises wherein no person under twenty-one (21) years of age is allowed, plus the sale of beer and wine only for consumption off the premises where sold. (Ord. 295, 1996: Ord. 219 §1, 1986).

5.28.020 Premises requiring conditional use permit.

The city council hereby declares that all new on-sale retail alcoholic beverage establishments, commonly known as bars, which includes on-sale beer, Type 40; on-sale beer and wine, Type 42; and on-sale general public premises, Type 48 retail licenses, shall only be permitted upon the granting of a conditional use permit by the planning commission. This chapter specifically excludes all other licenses, including bona fide restaurants. (Ord. 219 §2, 1986).

5.28.030 Continuation or reestablishment of premises--
Restrictions.

Those establishments dispensing alcoholic beverages, including beer and wine, for on-site consumption may not be continued or reestablished, if any of the following occur after the effective date of the ordinance codified in this chapter:

A. The establishment changes its type of retail liquor license within a license classification; or

B. The operation of the establishment is abandoned or discontinued, including the case where the license for such operation is suspended; or

C. There is a substantial change in the mode or character of the operation of the establishment. (Ord. 219, §3, 1986).

5.28.040 Chapter provisions not exclusive.

The regulations of this chapter are in addition to those set forth in the zoning provisions of Title 17 of the Arvin Municipal Code, and do not contain any rights not otherwise granted under the provisions and procedures contained in Title 17 of this code. (Ord. 219, §4, 1986).

5.28.050 Alcoholic beverage warning signs.

A. Purpose. The Surgeon General of the United States has advised women who are pregnant, or considering pregnancy, not to drink alcoholic beverages. Recent research indicates that alcohol consumption during pregnancy, especially in the early months, can harm the fetus, and result in birth defects involving heart and bone structure. In order to serve the public health, safety and welfare, the declared purpose of this chapter is to educate the public by requiring that warning signs be placed at all locations where alcoholic beverages are sold to the public.

B. Duty to Post Signs or Notices.

1. Any person or entity who owns, operates, manages, leases or rents premises offering wine, beer or other alcoholic beverages for sale, or dispensing for consideration to the public, shall cause a sign or notice to be posted on the premises as provided in this section. The sign or notice shall read as follows:

WARNING. DRINKING ALCOHOLIC BEVERAGES, INCLUDING BEER AND WINE, DURING PREGNANCY CAN CAUSE BIRTH DEFECTS.

2. It shall also contain the telephone number of the county department to call for more information.

3. The sign or notice as required herein shall not be smaller than ten inches (10") wide by ten inches (10") long, nor shall the lettering for the required wording be less than one inch (1") in height.

C. Placement of Notice. The required sign or notice shall be placed as follows:

1. Where the sale or dispensing of wine, beer or other alcoholic beverage to the public is primarily intended for consumption off the premises, at least one (1) sign shall be so placed as to assure that it is conspicuously displayed so as to be readable from all locations at which such sale or dispensing occurs.

2. Where the sale of wine, beer or other alcoholic beverages to the public is primarily provided through over-the-counter service, at least one (1) sign shall be placed to assure that it is readable from all counter locations available to the public.

3. Where the sale or dispensing of wine, beer or other alcoholic beverages to the public is primarily provided for consumption on the premises at tables served by food or beverage service persons, at least one (1) sign shall be placed to assure it is readable by the public entering the premises. In addition, at least one (1) sign shall be placed to assure that it is conspicuously displayed so as to be readable in each public restroom.

D. Language. In the event a substantial number of the public patronizing a premises offering for sale or dispensing wine, beer or other alcoholic beverages, uses a language other than English as a primary language, any sign or notice required by subsection B of this section shall be worded in both English and the primary language or languages involved.

E. Enforcement, Violation and Penalties.

1. Primary enforcement of the provisions of this section shall be with the local health officer.

2. Anyone subject to the provisions of subsection B of this section who knowingly fails to post the required warning is guilty of an infraction. (Ord. 224, 1988).

Chapter 5.32

PUBLIC DISPATCHED TOW VEHICLES

Sections:

- 5.32.010 Definitions.
- 5.32.020 Purpose and intent.
- 5.32.030 Permit required.
- 5.32.040 Term of permits.
- 5.32.050 Adoption of rules and regulations.
- 5.32.060 Permit--Nontransferable.

5.32.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this chapter as follows:

A. "Tow truck" means a motor vehicle which has been altered, designed or equipped for and exclusively used in the business of towing vehicles by means of a crane, tow

bar, towline, or dolly, or is otherwise exclusively used to render assistance to other vehicles.

B. "Towing service" means providing a tow truck in response to a police dispatch in police emergency situations or in response to orders or requests for towing service by members of the police department pursuant to the provisions of law. (Ord. 239 §1, 1990).

5.32.020 Purpose and intent.

The purpose of this chapter is to provide a fair and impartial means of distributing police emergency requests for towing services among qualified firms, and to insure that such service is prompt, in the public interest, and efficient for police operations requiring removal of vehicles from public streets. It is not the purpose to regulate tow trucks or towing services other than those dispatched by the police in emergency situations. (Ord. 239 §2, 1990).

5.32.030 Permit required.

In order to be eligible to receive city referrals or assignments, a towing service shall first have obtained a referral service permit. No person shall operate a towing service unless such person has a valid permit obtained pursuant to the terms of this chapter. A permit issued hereunder is in addition to any business license which such business must possess under any other law or ordinance. (Ord. 239 §3, 1990).

5.32.040 Term of permits.

Permits issued pursuant to this chapter shall be valid until revoked as provided herein. (Ord. 239 §4, 1990).

5.32.050 Adoption of rules and regulations.

The city council shall adopt, by resolution, the procedures for obtaining a towing service permit and the rules and regulations governing such towing service permits. (Ord. 239 §5, 1990).

5.32.060 Permit--Nontransferable.

Each permit issued pursuant to this chapter is personal to the permittee and is nontransferable and any sale, transfer, assignment, lease or sublease of a tow

truck or towing service shall void the permit issued here-
under. (Ord. 239 §6, 1990).