

5. BUSINESS LICENSE AND REGULATIONS

Title 5

BUSINESS LICENSES AND REGULATIONS

Chapter 5.04

BUSINESS LICENSES GENERALLY

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5.04.010 Definitions.

As used in this chapter:

“Business” includes professions, trades, and occupations and all and every kind of calling whether or not carried on for profit.

“City” means the city of Amador city, a municipal corporation of the state of California, in its present incorporated form, or in any later reorganized, consolidated, enlarged or re-incorporated form.

“Collector” means the city tax collector, finance director or other city officer chartered with the administration of this chapter.

“Person” includes all domestic and foreign corporations,

associations, syndicates, joint stock corporations, partnerships of every kind, clubs, associations, business, or common law trusts, societies, and individuals transacting and carrying on any business in the city other than as an employee.

“Sale” includes the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law. (Ord. 54 § 1, 1979)

5.04.020 Revenue measure.

This chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation. (Ord. 54 § 2, 1979)

5.04.030 Effect on other ordinances.

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the city, and shall remain subject to the regulatory provisions of other ordinances. (Ord. 54 § 3, 1979)

5.04.040 License and tax payment required.

There are imposed upon the businesses, trades, professions, callings and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city so to do and paying the tax hereinafter proscribed 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 of California. Persons not so required to obtain a license prior to doing business within the city nevertheless shall be liable for payment of the tax imposed by this chapter. (Ord. 54 § 4, 1979)

5.04.050 Branch establishments.

A separate license must be obtained for each branch, establishment, or separate place of business in which the business is conducted. (Ord. 54 § 5, 1979)

5.04.060 Exemptions.

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 of California from the payment of such taxes as are herein prescribed.

Any person claiming an exemption pursuant to this section shall file a sworn statement with the collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this chapter.

The collector shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this chapter.

The collector after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein. (Ord. 54 § 6, 1979)

5.04.070 Contents of license.

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

- 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; and
- E. Such other information as may be necessary for the enforcement of the provisions of this chapter. (Ord. 54 § 7, 1979)

5.04.080 Appeal.

Any person aggrieved by any decision of the collector with respect to the issuance or refusal to issue such license may appeal to the council by filing a notice of appeal with

the clerk of the council. The council shall thereupon fix a time and place for hearing such appeal.

The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Amador City, 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. 54 § 8, 1979)

5.04.090 Additional power of collector.

In addition to all other power conferred upon him or her, the collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding thirty (30) days, and in such case to waive any penalty that would otherwise have accrued. (Ord. 54 § 9, 1979)

5.04.100 License nontransferable— Changed location and ownership.

No license issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may upon application therefor and paying a fee to be set by resolution have a license amended to authorize the transacting and carrying on of such business under said license at some other location to which the business is or is to be moved; provided further, that transfer whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this section. For the purpose of this section stockholders, bondholders, partnerships, or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity. (Editorially amended during 2002 codification; Ord. 54 § 10, 1979)

5.04.110 Posting and keeping licenses.

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. (Ord. 54 § 11, 1979)

5.04.120 Duplicate license.

A duplicate license may be issued by the collector to replace any license previously issued hereunder which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of filing such statement paying to the collector a duplicate license fee to be set by resolution. (Editorially amended during 2002 codification; Ord. 54 § 12, 1979)

5.04.130 License tax—How and when payable.

Every person transacting and carrying on a business within the city shall pay a license tax on the first day of January in advance of business to be paid at such time and in such amounts as shall hereinafter be set forth by the city council from time to time by resolution. (Ord. 115, 1993; Ord. 54 § 13, 1979)

5.04.140 Outside businesses.

Every person not having a fixed place of business within the city who engages in business within the city shall pay a license tax at the same rate prescribed herein for persons engaged in the same type of business from and having a fixed place of business within the city. (Ord. 54 § 14, 1979)

5.04.150 Pro-ration license tax.

License taxes covering any operations commencing after the first day of January of any year may be pro-rated for the balance of the license period on a monthly basis. (Ord. 54 § 15, 1979)

5.04.160 Rules and regulations.

The collector may make rules and regulations not inconsistent with the provisions of this chapter as be necessary or desirable to aid in the enforcement of the provisions of this chapter. (Ord. 54 § 16, 1979)

5.04.170 Enforcement.

It shall be the duty of the collector, and he or she is directed 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 collector or the city council. (Ord. 54 § 17, 1979)

5.04.180 License tax a debt.

The amount of any license tax and penalty imposed by

the provisions of this chapter shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction, for the amount of any delinquent license tax. (Ord. 54 § 18,1979)

5.04.190 Remedies cumulative.

All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof. (Ord. 54 § 19, 1979)

**5.04.200 Effect of chapter on past actions
Unexpired licenses.**

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

Where a license for revenue purposes has been issued to any person by the city and the tax paid for the business for which the license has been issued under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for the business by this chapter shall not be payable until the expiration of the term of such unexpired license. (Ord. 54 § 20, 1979)

5.04.210 Violation—Penalty.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit hereinafter provided for shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Ord. 54 § 21, 1979)

Chapter 5.08
CATV SYSTEMS

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5.08.010 Definitions.

As used in this chapter:

“Cable service” means: (i) the one-way transmission to subscribers of video programming; and (ii) subscriber interaction if any, which is required for the selection or use of such video programming.

“Cable system” means a system of antennas, cables, wires, lines, fiber optic cables, waveguides or other conductors, converters, equipment or facilities, used for distributing video programming to home subscribers, and/or producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of signals, cable system does not include common carrier telephone service.

“City” means Amador City, a municipal corporation of the state of California, in its present incorporated form or in any later reorganized or enlarged form.

“Council” means the present governing body of the city and/or any future governing body of the city.

“Franchise” means authorization granted by the city in

the form of a contract to construct, operate and maintain a cable system within the city pursuant to the Government Code of the state of California Section 53066.

“Franchise area” means the entire area within the city and shall include any future enlargements and additions to the city.

“Grantee” means the person, or legal entity and its lawful successor, transferee, or assignee, to whom the council has granted a franchise to operate a cable system and/or video provider system.

“Gross revenues” means all revenues received by the grantee from subscribers for cable services delivered over the cable system utilizing the franchise and service area within the city. The term shall include, but not be limited to, cable installation and cable re-connection fees, subscriber fees for basic service, charge for lease of channels, revenue from pay television service, revenue from cable services delivered over the cable system. The term shall not include any revenue generated from advertising, any type of converter rentals or equipment rentals. In addition, gross revenues shall not include any taxes on services furnished by grantee imposed directly or indirectly on any subscriber by any state, city or other governmental unit or third party and collected by the grantee on behalf of such entity; and, provided further that gross revenues shall not include adjustments to cash receipts and non-operating cash receipts such as bad debts, refunds, credit adjustments, returned checks, and sales of assets.

“Material breach” means any substantial and repeated failure to comply with the consumer service standards set forth in California Government Code Sections 53055, 53088.2 and/or the terms and conditions of this chapter.

“Property of the grantee” means all property owned, installed or used by grantee in the conduct of a franchised cable system and/or video provider business within the city.

“Service area” means that part of the franchise area which passes through the public rights-of-way.

“Streets” or “public rights-of-way” means the surface of and the space above and below any public street, road, highway, freeway, lane, alley, sidewalk, parkway, driveway, public utility easement, dedicated utility strip, or right-of-way dedicated for compatible uses now or hereafter existing as such within the city.

“Subscriber” means any person or entity within the city’s franchise and service area lawfully receiving for any purpose any service from the grantee and with the grantee’s express permission, including, but not limited to the conventional

cable television service or retransmission of television broadcast, pay television, radio signals, home alarm system monitoring services, data transmission or receiving services, any cable related services for which grantee receives compensation, and/or video provider services.

“Video provider” means any person, company, or service which provides one or more channels of video programming to a residence, including a home, condominium, apartment or mobilehome, where some fee is paid, whether directly or as included in dues and rental charges, for that services, whether or not public rights of way are utilized in the delivery of the video programming. A “video provider” shall include, but not be limited to, providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution services, and any other providers of video programming, whatever their technology. (Ord. 105.1 §2,1996)

5.08.020 Franchise terms.

The city may grant a nonexclusive franchise to construct, operate, and maintain a cable system and/or a cable system operating as a video provider to any person or legal entity, whether or not operating under the provisions and terms of this chapter. The grantee shall be obligated to make service available within the service area as defined by the franchise, grantee shall have the right but not the obligation to install, construct, repair, replace, rebuild, or maintain a cable system and/or video provider system in any location outside the service area, including, but not limited to, private gated communities. This chapter does not require the council to grant a franchise when, in the council’s opinion, granting a franchise is not in the public interest. No franchise shall be granted on terms and conditions different from or less favorable than any other franchise granted by the council. (Ord. 105.1 § 3, 1996)

5.08.030 Uses permitted by grantee.

Any franchise granted pursuant to the provision 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 install, construct, repair, replace, reconstruct, and maintain in, on, over, under, upon, across and along any public street, such wires, cables, conductors, conduit, vaults, amplifiers, appliances, and other property as may be installed except where unusual circumstances exist and where express written permission is provided by the city council. (Ord. 105.1 § 4, 1996)

5.08.040 Duration of franchise-Termination and penalties.

A. No franchise shall be for a term longer than twenty-five (25) years. The council may grant a franchise for any shorter term.

B. A franchise may be terminated prior to its expiration by:

1. Mutual agreement of the council and the grantee; or
2. A finding of the council, after a public hearing set no less than thirty (30) days after notice to the grantee, that:
 - a. The grantee has failed to materially comply with any provision of this chapter,
 - b. The grantee has materially breached the terms of the franchise contract,
 - c. The grantee has materially breached the provisions of California Government Code Sections 53055, 53055.1, 53056, 53088.2,
 - d. The grantee has attempted to evade any material and fundamental provision of this chapter,
 - e. The grantee has failed to restore service after ninety-six (96) consecutive hours of interrupted service throughout the service area (except when approval of such interruption is obtained from city or where such interruption is caused by acts of nature),
 - f. The grantee has misrepresented a material fact in grantee’s proposal or negotiation of the franchise, or
 - g. Failure of the grantee to allow inspection of the business and financial records as provided below.

C. Prior to any forfeiture or termination, city or its duly appointed agent and/or representative shall set forth the items of breach and make written demand that the grantee comply with the applicable requirement. If the failure, refusal or neglect of the grantee continues for a period of thirty (30) days following such written demand or if the failure, refusal or neglect cannot be cured, city or its duly appointed agent and/or representative may place its request for termination of the franchise upon the city council agenda for consideration, review and/or decision by the city council. At least thirty (30) days prior to the date of such city council meeting, the city or its duly appointed agent and/or representative shall cause to be served upon grantee (a) written notice of intent to request such termination, and the basis for such request, and (b) statement of the time and place of meeting.

D. In the event that the items of breach set forth above requires substantial additional financial commitments by the grantee for its cure, city shall allow an additional time. The additional time shall be reasonable in the light of the

additional financial commitment required.

E. The city may, upon due notice given by city to grantee and in lieu of termination and/or forfeiture of the franchise assess monetary sanctions against grantee by fine or penalty in the hereinafter designated amounts for material breaches of this chapter or material breaches of California Government Code Sections 53055, 53088.2.

1. The fines and/or penalties are as follows:

a. For each day of material breach the sum of fifty dollars (\$50.00) to a maximum of two hundred dollars (\$200.00).

b. For each subsequent material breach of the same nature occurring within twelve (12) months, for which material breach the city has previously given notice and assessed a fine or penalty, the penalty or fine will be increased by the city to one hundred dollars (\$100.00) per day to a maximum of six hundred dollars (\$600.00).

2. In assessing a fine or penalty pursuant to subsection (E)(1) of this section (supra) the following shall apply:

a. The city shall give the grantee written notice of any alleged material breach of this chapter and/or Government Code Sections 53055, 53055.1, 53056, 53088.2 and allow the grantee at least thirty (30) days to from receipt of the written notice to remedy the specific breach.

b. A material breach for the purpose of assessing penalties shall be deemed to have occurred for each day, following the expiration of the period described in subsection C of this section, that any material breach has not been remedied by the grantee, irrespective of the number of customers affected.

3. In no event shall city impose a fine or penalty for material breaches against grantee where the breach is outside of the reasonable control of grantee. (Ord. 105.1 § 5, 1996)

5.08.050 Franchise fees.

For the use of the city franchise and service area and for the purpose of providing revenue to defray city's administrative costs in administering and enforcing this chapter, grantee shall, during the term of the franchise, pay to the city annually, in lawful money of the United States of America, five percent of the grantee's gross revenues collected from subscribers within the city, or in any manner gained and derived in each calendar year or portion thereof, by the grantee from the operation of the cable system and related activities within the franchise and service area of city. The fee shall not exceed the maximum

fee set by state or federal law. The franchise may set out a method of adjusting the fees during the franchise period.

The grantee shall pay the franchise fee to the city clerk. The grantee shall submit, within sixty (60) days after the expiration of the calendar year, a statement detailing the gross revenues derived the preceding year. The grantee shall pay the franchise fee to the city clerk; payment must be postmarked by the tenth day after the time for filing such statement.

Each payment shall be accompanied by a statement verified by the grantee, or an officer thereof, showing, in such form and details as the city may require, the facts material to substantiate the amount and method of computation of the franchise fee.

In the event that the grantee wilfully withholds payment of the fees specified, the grantee shall pay the city liquidated damages of two percent per month on the unpaid balance. (Ord. 105.1 §6, 1996)

5.08.060 General provisions.

All franchises shall be governed by the following provisions:

A. Franchises shall be nonexclusive as to service area.

B. No privilege shall be granted in any franchise except those granted by this chapter and in subsequent franchise agreements.

C. All transmission and distribution structures shall be located so as not to interfere with the proper use of public rights-of-way and shall be positioned to cause the least interference with the right of reasonable convenience of property owners who adjoin any such public rights-of-way.

D. In the case of any disturbance of pavement or other surfacing by the grantee, the grantee shall, at its own cost and in a manner approved by the city, replace and restore all pavement and surfacing in as good a condition as before the disturbance.

E. Whenever it is necessary to interrupt service for repairs or alterations, the grantee shall make reasonable efforts to do so at a time which will cause the least inconvenience to the subscribers.

F. A franchise is a privilege to be held in personal trust by the grantee. The franchise cannot be sold, transferred, leased, assigned, or disposed of in whole or in part by forced or involuntary sale, merger, consolidation, operation of law or otherwise without the prior consent of the council, expressed by resolution and under such conditions as set by the council. Such consent of the council shall not be unreasonably

withheld, grantee shall not be required to receive the council's consent for sales, transfers, leases, or assignment of the franchise among or between commonly controlled companies.

G. Time is of the essence in the performance of a franchise. The grantee shall not be relieved of its obligation to comply promptly with any provision of this chapter or its franchise by any failure of the city to enforce prompt compliance.

H. The city may delegate any of its rights and powers to any city employee or officer;

I. The grantee shall be subject to all city ordinances, rules, regulations, building codes and other enactments relating to public works and construction, including, but not limited to, the undergrounding of utilities, street work, and relocation of property within public rights-of-way.

J. Neither this chapter nor a franchise shall relieve a grantee of any obligation involved in obtaining pole space from any utility company or other entity maintaining poles in public rights-of-way.

K. Grantee shall, at all times during the franchise, comply with all existing and future laws, rules, and regulations of general applicability of the city, the state of California, and the United States of America.

L. If at any time during the franchise period the city shall elect to alter or change the width or grade of any public rights-of-way, the grantee shall, upon reasonable written notice by the city to the grantee, remove, relay, or relocate its facilities. The first such move shall be at the grantee's expense; subsequent moves shall be at the city's expense.

M. Any fixtures placed in any public rights-of-way by the grantee shall be placed in such a manner that does not interfere with the travel or use of such public rights-of-way.

N. The grantee shall, when requested by any person holding a permit to move a building, temporarily relocate its wires to permit the moving of the building. The cost of moving the grantee's wires shall be borne by the requesting person. The grantee may require payment in advance.

O. Grantee is authorized to trim vegetation along any public rights-of-way in order to prevent that vegetation from contacting the grantee's wires and cables. Upon grantee's request, the city may trim the vegetation. If the city trims the vegetation, then the city may recover from grantee only that pro rata portion of the costs that are reasonably caused as a result of grantee's wires and cables.

P. In all sections of the city where the cables, wires, and other facilities of all other public utilities are placed

underground, the grantee shall place its cables, wires, or other like facilities underground.

Q. It is unlawful for the owner of any privately owned area which includes a proposed public right-of-way on any tentative subdivision map approved by the city to fail to grant access to streets, individual homes, or home sites, in such privately owned area to each grantee on terms identical to or as favorable as the terms offered to any other public utility or grantee.

R. The prevailing party shall receive reasonable attorney fees and costs incurred as the result of any litigation, arbitration, or mediation of disputes between the city and the grantee.

S. Any additional franchises granted under this chapter to provide cable television service within the city shall require the grantee of such additional franchise to wire and serve the service area embraced by such franchise within a reasonable time and in a sequence which does not discriminate against the lower income or minority residents and shall contain the same requirements set forth in other cable system franchises granted by the city.

T. Subscription Agreement. Before grantee shall provide service to any subscriber, grantee shall obtain a signed contract from the subscriber containing a provision substantially as follows:

Subscriber understands that in providing service grantee is making use of public right-of-way within the city of Amador city, and that the continued use of these public rights-of-way is in no way guaranteed. If the continued use of such rights-of-way is denied to grantee for any reason, grantee will make every reasonable effort to provide service over alternate routes, subscriber agrees he will make no claim nor undertake any action against the city, its officers, its employees, or grantee if a service to be provided by grantee hereunder is interrupted or discontinued because the continued use of such rights-of-way is denied to grantee for any reason.

U. All customer complaints, comments or suggestions regarding technical quality or programming shall be directed to the cable company. (Ord. 105.1 § 7, 1996)

5.08.070 Rights reserved to the city.

The following rights are reserved to the city:

A. The right to acquire the property of the grantee either by purchase or through eminent domain, at fair market value.

Any taking of the property of the grantee through eminent domain and any subsequent valuation shall be conducted in accordance with the laws of the state of California and the Communications Act of 1934, as amended.

B. Every right and power which is required to be reserved or provided by any ordinance of the city. The grantee by its acceptance of any franchise agrees to be bound by and to comply with any action or requirements of the city in its exercise of such rights and powers.

C. The right to grant subsequent and coexisting franchises to any other persons or entities.

D. The right to enter into mutually agreeable discussions and to negotiate amendments to construction, operation, or maintenance standards that modify a franchise prior to the expiration of a franchise term. No modifications or amendments shall become effective until all grantees agree to such modifications or amendments.

E. The granting of any franchise shall not constitute a waiver to the exercise of any governmental right or power of the city. The council is hereby authorized and empowered to adjust, settle, or compromise any controversy between the grantee and the city arising from the operations of the grantee. (Ord. 105.1 § 8, 1996)

5.08.080 Permits, installation and services.

The grantee shall comply with the following time limits:

A. Within ninety (90) days after acceptance of a franchise, the grantee shall proceed with due diligence to obtain all required permits, including, but not limited to, any utility joint use agreement, microwave carrier licenses and any other permits, licenses, and authorizations required by any regulatory agencies having jurisdiction over the operation of cable systems.

B. Within ninety (90) days after obtaining all required permits, grantee shall commence construction and installation of the cable system, weather permitting.

C. Within a reasonable time, not to exceed one year after the commencement of construction, grantee shall make service available to subscribers in the service area as designated in the franchise and to all public schools within the service area.

D. Failure of the grantee to timely perform the requirements set forth in subsections A through C of this section shall be cause for termination of the franchise.

E. The time for performance of subsections A through C of this section shall be extended if the grantee, acting in

good faith, experiences delays by reason of circumstances beyond its control. (Ord. 105.1 § 9, 1996)

5.08.090 Removal and abandonment of cable system.

The following shall apply to the removal of the cable system:

A. In the event that the use of a substantial part of the cable system is discontinued, except for a reasonable cause, for a continuous period of sixty (60) days, or if the franchise has been terminated, canceled or has expired, the grantee shall promptly, upon being given sixty (60) days notice, by certified mail, remove from the public rights-of-way all property of such system. Upon such removal, the grantee shall restore such public rights-of-way to as good a condition before the removal.

B. Any property of the grantee remaining in place ninety (90) days after termination, cancellation, or expiration of the franchise shall become the property of the city. For purposes of this section, lawful extensions of the franchise beyond the expiration date shall not constitute abandonment. (Ord. 105.1 § 10, 1996)

5.08.100 Failure to perform work.

In the event that the grantee fails to restore a public right-of-way to its previous condition as required by this chapter or franchise, the city may, at its option, have the restoration work performed at the grantee's expense. The grantee shall pay the cost of such work within ten (10) days after receipt of an itemized bill for the restoration work. (Ord. 105.1 § 11, 1996)

5.08.110 Performance bond.

The grantee shall with the filing of an acceptance or award of any franchise created under this chapter, file with the city clerk, a performance bond or bonds as required by the franchise. Such bond or bonds shall be maintained for the duration of the franchise, for periods and in amounts specified in the franchise and shall be at the grantee's sole expense. The bond or bonds shall be corporate surety bonds in a company and in a form approved by the city attorney. If the grantee fails to comply with any provision of this chapter or the franchise, the city shall recover damages and reasonable attorney fees and costs jointly and severally from the principal and surety of such bond up to the full amount of the bond or bonds. (Ord. 105.1 § 12, 1996)

5.08.120 Inspection of property and records.

A. Inspection of Property, Transactions and Maps Required of Grantee. At all reason able times, grantee shall permit any duly authorized representative of city to examine its cable system, together with any appurtenant property of the grantee situated within the franchise and service area, and to examine any and all maps kept or maintained by the grantee or under its control which address or relate to the operations, affairs, transactions or property of the grantee with respect to the cable system. If any such documents are not kept in the franchise and/or service area, such documents shall, upon reasonable request, be made available to the city.

B. Inspection of Records and Reports Required of Grantee.

1. Upon thirty (30) days notice the city may request that grantee provide to city a summary of service calls for the previous month showing type of service, nature of complaint and resolution of service call.

2. City reserves the right during the life of the franchise and for one year thereafter to have access at all normal business hours and upon the giving of reasonable notice to the grantee’s nonproprietary and accessible contracts, engineering plans, accounting, financial data, and service records relating to the property and the operations of the grantee within the franchise and service areas and to all other records required to be kept under this agreement. (Ord. 105.1 § 13, 1996)

5.08.130 Indemnification, hold harmless and insurance.

A. The grantee shall indemnify, protect, hold harmless and defend the city, its council members, officers, employees and agents from and against any and all claims, liability, demands, actions, costs, expenses, attorneys’ fees, judgments, awards for damages, suits and proceedings of any nature whatever, arising out of or in any way connected with acts, omissions, operations or activities under, pursuant to, or authorized by this agreement by grantee or by its officers, employees, agents, contractors, subcontractors, or consultants.

B. The grantee shall, at its sole cost and expense, maintain in effect at all times during the duration of this agreement comprehensive general and automobile liability insurance in a form acceptable to the city’s attorney. The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from grantee’s construction, operation, or maintenance under this franchise, or by its employees, agents, consultants, contractors, subcontractors, or anyone directly or

indirectly employee, retained or contracted by any of the foregoing. The amount of the insurance shall not be less than one million dollars (\$1,000,000.00) single limit coverage applying to death, bodily and personal injury or property damage, or a combination thereof. Prior to commencing work under the franchise the grantee shall provide the city with a certificate of insurance evidencing that all insurance required by this franchise has been obtained and is in full force and effect. The certificate shall provide that thirty (30) days written notice of any change or cancellation of the insurance shall be provided to the city. Such insurance and certificate shall include a provision for endorsement naming the city, its council members, officers, employees and agents, as additional insured with respect to liability arising out of the performance of grantee under the franchise, and providing that, for the purposes of this provision, such insurance is primary insurance with respect to the interest of the city and that of any other insurance maintained by the city. (Ord. 105.1 § 14, 1996)

5.08.140 Technical standards.

The grantee shall construct, install, operate and maintain its system in a manner consistent with FCC technical standards. (Ord. 105.1 § 15, 1996)

5.08.150 Notice requirements.

All notices provided for in this chapter shall be prepaid, registered mail addressed to the city as follows:

City of Amador City
Box 200
Amador City, CA 95601

5.08.160 Refusal of service in franchise area prohibited.

All cable system service shall be provided to subscribers on an equal and uniform basis. No person, firm, corporation, or other entity within the city limits and where trunk lines are in place, shall be refused service; provided, however, that the grantee shall not be required to provide service to any subscribers who does not pay the grantee the applicable connection fee, service charges, past due fees and service call fees as may from time to time be charged. (Ord. 105.1 § 17, 1996)

5.08.170 Amendment.

This chapter may be amended, supplemented or otherwise modified if required, only by an amended ordinance passed by city, subject to the requirements specified in Section 5.08.080(D). (Ord. 105.1 § 18, 1996)

5.08.180 Waiver of rights.

Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this franchise and this chapter, shall not be deemed to be a waiver with respect to any other breach, default or matter. (Ord. 105.1 § 20, 1996)

5.08.190 Remedies not exclusive.

The use by either party of any remedy specified herein for the enforcement of this chapter and franchise is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law. (Ord. 105.1 § 21, 1996)

**Chapter 5.12
COMMERCIAL FILMING**

Sections:

- 5.12.010 Definitions.**
- 5.12.020 Permits and exemptions.**
- 5.12.030 Rules and regulations.**
- 5.12.040 Liability provisions.**
- 5.12.050 Application and issuance of permit.**
- 5.12.060 Violation.**

5.12.010 Definitions.

As used in this chapter:

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

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

“News media” means the filming or videotaping for the purpose of spontaneous unplanned television news broadcast by reporters, photographers or camera personnel. (Ord. 133 § 1, 1998)

5.12.020 Permits and exemptions.

A. Permit Required.

1. No person(s) shall use any public property or facility for the purpose of taking commercial motion pictures or television pictures or commercial still photography without first applying for and receiving a permit from the city.

2. Projects which qualify under Section 501(c)(3) of the Internal Revenue Code (Charitable Films) require a permit and proof of liability provisions (Section 5.12.040) but will not be required to pay the permit fee.

B. Exemptions.

1. Private Use. Permit shall not be required for still photography, videotaping or motion pictures intended solely for private/family use.

2. News Media. Permit shall not be required of reporters, photographers, or cameramen in the employ of a newspaper, news service, or similar entity engaged in the broadcasting of news events in the general public interest. (Ord. 133 § 2, 1998)

5.12.030 Rules and regulations.

A. The city council finds that certain rules and regulations are required to maintain the following:

1. The health and safety of all persons;
2. Avoidance of undue disruption to all persons within the affected area;
3. The safety of property within the city;
4. Avoidance of undue traffic congestion within the city.

B. Applicants will comply with the following:

1. Public notification of any alteration of pedestrian and/or vehicular traffic must be made not later than seventy-two (72) hours in advance of the disruption. Highway, street, or road closures, and any traffic controls must be coordinated with and approved by the sheriff's department, California Highway Patrol, and/or CALTRANS, as appropriate, and in advance of public notice.

2. Any interference with normal street/ sidewalk activities, equipment blocking doors or passage ways, special parking provisions, stunt work, pyrotechnics or other special effects or any other potential disruption must be publicly noticed seventy-two (72) hours prior to occurrence.

3. Use of city property, other than streets and sidewalks, requires special request and written permission from the city.

4. Copies of permissions, authorizations, public notices will be provided to the city prior to any commencement of activity.

5. Any property altered or harmed will be returned to its previous state and appearance.

6. Any alterations to buildings will be in keeping with the city ordinance which requires the maintenance of a historic character and appearance. (Ord. 133 § 3, 1998)

5.12.040 Liability provisions.

A. Liability Insurance. Before a permit is issued, a certificate of insurance will be required in an amount no less than one million dollars (\$ 1,000,000.00) naming the city as co-insured for protection against claims of third persons for personal injuries, wrongful deaths, and property damage. The city officers and employees shall be named as additional insureds. The certificate shall not be subject to cancellation or modification until after thirty (30) days written notification to the city. A copy of the certificate shall be provided prior to approval of the permit and shall remain on file.

B. Worker's Compensation Insurance. An applicant

shall conform to all applicable federal and state requirements for worker's compensation insurance for all persons operating under the permit.

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

D. Faithful Performance Bond. To ensure clean up and restoration of the site, applicant will be required to post a refundable faithful performance bond in an amount totaling ten thousand dollars (\$10,000.00) per day for each day of operation. Bond must be submitted at time of application. Bond may be returned to applicant after completion of operation and satisfactory inspection of the site by the city. (Ord. 133 § 4, 1998)

5.12.050 Application and issuance of permit.

A. Issuing authority is the city. Designated official is the city clerk and/or the mayor.

B. Applications must be completed in full and submitted with all applicable attachments not later than two weeks prior to the scheduled operation. Any missing information or failure to comply with requirements will be reason to deny the application.

C. Fees. A nonrefundable fee of one thousand dollars (\$1,000.00) shall be collected at the time application is submitted. Request for a change of date and/or rescheduling of activity must be submitted in writing, with a nonrefundable fee of one hundred dollars (\$100.00), no later than ninety-six (96) hours prior to the new date/time and a new seventy-two (72) hour public notice must be given.

D. Reimbursement of Personnel/Operating Costs. Applicant shall reimburse the city of Amador city or other appropriate agency (sheriff, fire, medical, etc.) for any personnel or operating cost associated with assisting the applicant before, during, or after the production. Costs shall be determined and fifty (50) percent of the anticipated costs shall be paid in advance of any activity. (Ord. 133 § 5, 1998)

5.12.060 Violation.

Violation of any provision of this chapter or a permit issued pursuant to, will result in immediate cancellation of the permit. Violation of the terms and conditions of this chapter and/or the permit is a misdemeanor. (Ord. 133 § 6, 1998)