

CODE ORDINANCE

**CITY OF REDMOND  
ORDINANCE NO. 2546**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING RMC TITLE 5, BUSINESS LICENSE AND REGULATIONS, TO DELETE OBSOLETE REFERENCES TO THE DUTIES OF THE CITY CLERK, REFLECTING THESE DUTIES AS THOSE OF THE FINANCE DIRECTOR; TO EXTEND THE DUE DATES FOR BUSINESS LICENSE RENEWALS AND REQUIRING REGISTRATION OF NON-PROFIT ORGANIZATIONS; CHANGING THE DUE DATES FOR MISCELLANEOUS LICENSES TO FEBRUARY 1; TO UPDATE REFERENCES AND REQUIREMENTS FOR PEDDLERS' LICENSES; TO ADDRESS RESPONSIBILITY FOR OBTAINING CRIMINAL HISTORY BACKGROUND REPORTS AND REVIEWING LICENSE APPLICATIONS AND CRIMINAL CONVICTION DATA; AND GENERAL CODE FORMAT REVISIONS

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WHEREAS, provisions of Title 5 of the Redmond Municipal Code have become outdated or are in need of modification to address current procedure; and

WHEREAS, staff is desirous of amending Title 5 of the Redmond Municipal Code to delete obsolete references to the duties of the City Clerk, reflecting those duties as those of the Finance Director; general codification formatting; extension of the due dates for business license renewals and registration of non-profit organizations; amending the due dates for miscellaneous licenses to February 1; updating references and requirements for peddlers' licenses; and to address the

responsibility for obtaining criminal history background reports and license application review.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1.        Classification.        This ordinance is of a general and permanent nature and shall become a part of the City Code.

Section 2.        Amendment of Title.        RMC Title 5, Business Licenses and Regulations, is hereby amended to read as follows:

**Title 5**

**BUSINESS LICENSES AND REGULATIONS**

Chapters:

- 5.04        General Business Regulations
- 5.05        Public Massage Establishment
- 5.08        [~~HAWKERS~~—AND]    Peddlers, Solicitors,    and Canvassers
- 5.10        Regulation of Pawnbrokers
- 5.12        Detective Agencies
- 5.16        Taxicabs
- 5.20        Cabaret Dances
- 5.22        Public Dances and Dance Halls
- 5.28        Carnivals, Circuses, and Amusement Activities
- 5.32        Repealed
- 5.36        Music Boxes
- 5.44        Occupation Tax
- 5.48        Garbage Collection Tax
- 5.52        Public Bathhouses
- 5.56        Tow Trucks
- 5.60        Cable Communications Systems
- 5.64        Repealed
- 5.65        Commute Trip Reduction Program
- 5.68        Licensing and Operation of Adult Entertainment Facilities

- 5.75 Business [REGISTRATION] License for [ef]  
Telecommunications Carriers and Providers
- 5.80 Shooting Sports Facilities

Chapter 5.04

GENERAL BUSINESS REGULATIONS\*

Sections:

- 5.04.010 Purpose.
- 5.04.020 Scope.
- 5.04.030 Definitions.
- 5.04.040 Business license required.
- 5.04.050 Finance Director as license officer.
- 5.04.060 Qualifications of applicants.
- 5.04.070 Procedures for issuance of license.
- 5.04.080 Fees - Payment.
- 5.04.084 Temporary employees.
- 5.04.085 Penalty for late payment - Interest.
- 5.04.090 Display of license - Renewal - Transfer.
- 5.04.100 Notification of exemption or termination of business activities.
- 5.04.110 Operating without a license.
- 5.04.120 License fee additional to others imposed.
- 5.04.130 Exemptions.
- 5.04.140 Criteria for denial, suspension or revocation of license.
- 5.04.150 Request for hearing.
- 5.04.160 Penalties.

5.04.010 Purpose.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue and for regulation.

5.04.020 Scope.

All persons engaging in a business or occupation within the limits of the city as hereinafter defined shall be subject to the provisions of this [CHAPTER] title. The finance director shall be responsible for enforcing the provisions of this title.

#### 5.04.030 Definitions.

Where used in this chapter or title, the following words and terms shall have the meanings as defined in this section, unless, from the context, a more limited or different meaning is clearly defined or apparent:

~~+(1)+~~ **(A)** "Business" includes all activities, occupations, pursuits, or professions located or engaged within the city with the object of gain, benefit or advantage to the person engaging in the same, or to any other person or class, directly or indirectly;

~~+(2)+~~ **(B)** "Business license" is that document issued by the city licensing the transaction of the indicated business by the person whose name appears thereon for the stated year. For the purpose of this chapter, an original or officially issued duplicate shall constitute a valid "business license" for every purpose;

~~+(3)+~~ **(C)** "Employee" means any person who performs work, labor, or services for a business and is on the business' payroll. For the purpose of this chapter, the term "employee" also includes all full-time, part-time, and temporary employees or workers on the business' payroll, and self-employed persons, sole proprietors, owners, managers, partners, any family members working at the business, and any officers, agents or personal representatives acting in a fiduciary capacity;

~~+(4)+~~ **(D)** "Engaging in business" means commencing, conducting or continuing in any business

within the city, whether or not an office or physical location for the business lies within the city. Engaging in business includes the performance of work or services by contractors, consultants, representatives, agents or other persons within the city, even though the office location of the contractor, consultant, representative, agent or other person is not within the city limits; the exercise of corporate or franchise powers, as well as the liquidation of a business when the liquidators hold themselves out to the public as conducting such business; and furnishing temporary employees and/or workers to other businesses;

{(5)} (E) "Finance director" or "director" means the City of Redmond Finance Director or his/her designee;

~~{(6) "GROSS REVENUE" SHALL HAVE ITS ORDINARY MEANING AND ALSO MEANS THE VALUE ACCRUING FROM THE BUSINESS ACTIVITY WITHIN THE CITY OR CONDUCTED FROM THE CITY INCLUDING COMPENSATION FOR THE RENDITION OF SERVICES (WITHOUT ANY REDUCTION FOR LABOR COSTS OR THE COST OF MATERIALS USED), SALE OF PERSONAL PROPERTY (WITHOUT DEDUCTION FOR THE COST OF PROPERTY SOLD), GAINS OR DIVIDENDS REALIZED, RENTS, ROYALTIES, CONTRIBUTIONS, FEES AND COMMISSIONS, ALL WITHOUT ANY DEDUCTION FOR ANY EXPENSE, TAXES, OR LOSSES}~~

{(7)} (F) "Person" includes the singular and the plural and also means and includes any person, firm, corporation, association, club, partnership, society or any group of individuals acting as a unit;

~~+(8)+~~ (G) "City" means the ~~[C]~~city of Redmond, Washington; and

~~+(9)+~~ (H) "Year" means a calendar year.

**5.04.040 Business license required.**

~~+(a)+~~ (A) No person shall engage in any business within the city without first having obtained and being the holder of a valid and subsisting license to engage in such business or activity, to be known as a "business license," and without paying the license fee imposed by this chapter. Provided, however, that an independent contractor who provides work, labor, or services to business entities licensed hereunder shall not be required to obtain a separate business license when all of the license fees required by this chapter with respect to such a person are included in the license fees paid by the entities which receive the person's work, labor, or services, pursuant to Section 5.04.080.

~~+(b)+~~ (B) Persons or companies doing business in the city of Redmond must comply with this chapter regardless of the physical location of the business (i.e., whether inside or outside Redmond ~~C~~city limits). An original or officially issued duplicate license must be obtained for each location where business is transacted.

~~+(c)+~~ (C) A person shall obtain a separate business license for each separate business engaged in, including but not limited to a separate business license for each business for which a separate Unified

Business Identifier ("UBI") number is issued by the Washington State Department of Licensing.

**5.04.050 Finance Director as license officer.**

(A) The [F]finance [D]director shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall have the authority to:

(1) Adopt Forms. Adopt application, license, renewal, annual return, and all other necessary or convenient forms and prescribe the information to be provided. Such required information shall include, but not be limited to, the name of the applicant, his or her residence address, date of birth, place of business, the nature of the business, the form of ownership, the names of all officers of the business, the UBI number (if applicable), and the number of employees;

(2) Obtain Endorsement. Submit applications, when deemed appropriate, to other city officials for their endorsements thereon as to compliance by the applicant with all city regulations which the officials have the duty of enforcing;

(3) Investigate. Investigate and determine the eligibility of any applicant for a license as prescribed herein;

(4) Examine Records. Examine and audit the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this chapter. The records of a business, including but not limited to federal and

state tax returns and invoices, shall be open for examination by the [F]finance [D]director or authorized agent at any time to the extent not prohibited by law;

(5) Give Notice. Notify any applicant of the acceptance or rejection of the application;

(6) Regulate Form of Licenses. Ensure that each license is numbered, and shows the name of the licensee, business address and the character of the business authorized to be transacted.

#### 5.04.060 Qualifications of applicants.

(A) Standards to be Applied. The [F]finance [D]director shall base the decision to issue or deny the license upon the following criteria:

(1) Applicant History. All violations of city regulations or convictions within the 10 years immediately preceding application, which directly relate to the operation of the applicant's current proposed business;

(2) License History. The license history of the applicant, whether such person is previously operating in this or another jurisdiction under a license has had such license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action;

(3) No Obligation to [E]city. Except as otherwise provided in this chapter, applicants shall not be in default under the provisions of this chapter or indebted or obligated in any manner to the city,



except for current taxes and other obligations not past due;

(4) Compliance with City Regulations. The proposed use of any premises shall not be in violation of any city building, safety, fire, health or land use regulations as determined by the city department charged with the enforcement of said regulations.

#### 5.04.070 Procedures for issuance of license.

~~+(a)+~~ (A) Formal Application Required. Every person required to procure a license under the provisions of this chapter shall submit an application for such license to the [F]finance [D]director. The application shall be made upon forms provided by the [F]finance [D]director.

(1) Determination of whether a business license application is complete for purposes of issuing a business license shall be made by the finance director.

(2) An application for a business license shall be deemed to be abandoned 90 days after the date of application, unless such application has been pursued in good faith or a license has been issued. Expired applications shall forfeit a minimum of \$90 of the new application fee.

~~+(b)+~~ (B) Commencement of Business Activities. No person shall be entitled or authorized to engage in business within the city until such time as the [F]finance [D]director has approved the issuance of a business license pursuant to the terms of this chapter. The acceptance of a business license

application by the city shall not be deemed to grant any right or privilege under this chapter, except as otherwise provided by law.

~~+(e)+~~ (C) Burden on Applicant. The ~~[F]~~finance ~~[D]~~director, or other designated officer, is authorized, but not required, to mail to persons engaging in business forms for applications and/or renewals for licenses, but failure of the person to receive any such form shall not excuse the person from making application for and securing the license required by this chapter.

~~+(d)+~~ (D) Applications for new business licenses, including home businesses, within the boundaries of Wellhead Protection Zones 1, 2, or 3 shall be accompanied by a completed Hazardous Materials Questionnaire to determine the regulatory status of the business. The City of Redmond Director of Public Works, or his or her designee, shall review and approve the Hazardous Materials Questionnaire. Applications for business license renewals do not need to be accompanied by a Hazardous Materials Questionnaire; however, the City of Redmond Director of Public Works, or his or her designee, may require an updated Hazardous Materials Questionnaire from renewing businesses in accordance with the requirements under Chapter 13.07, Wellhead Protection.

#### 5.04.080 Fees - Payment.

~~+(a)+~~ (A) ~~[STANDARD FEE METHOD]~~ Reporting by Hours Method. ~~[EXCEPT AS OTHERWISE PROVIDED BY THIS CHAPTER, EVERY PERSON ENGAGING IN BUSINESS WITHIN THE~~

~~CITY SHALL PAY AN~~ The annual business license fee is calculated by determining ~~[BASED UPON]~~ the number of employee hours worked in the city of Redmond during the previous year and then multiplying that figure by \$0.046875.

~~[(1) THE ANNUAL LICENSE FEE (BASE FEE AND SURCHARGE) SHALL BE CALCULATED BY MULTIPLYING THE NUMBER OF EMPLOYEE HOURS WORKED IN REDMOND BY AN HOURLY RATE. THE APPROVED TAX RATE PER FULL TIME EMPLOYEE IS \$0.046875 (WHICH REPRESENTS A BASE FEE MULTIPLIER OF \$0.018229 PER EMPLOYEE HOUR WORKED AND SURCHARGE MULTIPLIER OF \$0.028646 PER EMPLOYEE HOUR WORKED), AS MAY BE ADJUSTED HEREIN.]~~

~~(2) IF A BUSINESS HAS MORE THAN ONE LOCATION IN REDMOND THE ANNUAL BUSINESS LICENSE FEE CALCULATION MUST INCLUDE ANNUAL EMPLOYEE HOURS AT ALL LOCATIONS.]~~

(3) Annual employee hours are calculated based on the sum of the four quarterly reports submitted to the Washington State Department of Labor and Industries for the previous year.

(4) It shall be the responsibility of the employer to determine the number of hours worked within the city from these reports. Businesses that did not file quarterly reports with the Washington State Department of Labor and Industries shall determine the number of hours worked within the city and demonstrate, if required, to the satisfaction of the finance director, that the number of employee hours worked is correct.

(5) Employers without a full year history would need to estimate the number of employee hours that will be worked in the current calendar year.

(6) If a business has more than one location in the city of Redmond, the annual business license fee calculation must include annual employee hours at all locations.

(7) Businesses with more than one location must use the same method of calculation for all locations.

~~[(b)]~~ (B) [ALTERNATIVE] Reporting by FTE Method.

A business may choose to calculate its annual license fee based on the number of its full-time equivalent employees. The annual business license fee is calculated by multiplying the number of full-time equivalent employees by \$90. ~~[THE NUMBER OF EMPLOYEES SHALL BE BASED ON THE SUM OF THE EMPLOYEES IN THE FOUR QUARTERLY REPORTS SUBMITTED TO THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES FOR THE PREVIOUS YEAR DIVIDED BY FOUR. IT WILL BE THE RESPONSIBILITY OF THE EMPLOYER TO DETERMINE THE NUMBER OF EMPLOYEES WORKING WITHIN THE CITY FROM THESE REPORTS. BUSINESSES THAT DID NOT FILE QUARTERLY REPORTS WITH THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES SHALL DETERMINE THE NUMBER OF EMPLOYEES WORKING IN THE CITY AND DEMONSTRATE, IF REQUIRED, TO THE SATISFACTION OF THE FINANCE DIRECTOR OR HIS/HER AUTHORIZED AGENT, THAT THE NUMBER OF EMPLOYEES IS CORRECT. EMPLOYERS WITHOUT A FULL YEAR HISTORY WOULD NEED TO ESTIMATE THE~~

~~NUMBER OF EMPLOYEES THAT WILL WORK IN THE CITY FOR THE CURRENT CALENDAR YEAR.~~

~~(1) UNDER THE FTE METHOD THE LICENSE FEE SHALL BE CALCULATED BY MULTIPLYING THE NUMBER OF EMPLOYEES BY \$90.00 (A BASE FEE OF \$35.00 PER FULL-TIME EMPLOYEE AND A SURCHARGE OF \$55.00 PER FULL-TIME EMPLOYEE), AS MAY BE ADJUSTED HEREIN.~~

~~(2) ONCE THE FTE METHODOLOGY HAS BEEN SELECTED, IT MUST BE USED FOR FUTURE RENEWALS.~~

~~(3) BUSINESSES WITH MORE THAN ONE LOCATION MUST USE THE SAME METHOD OF CALCULATION FOR ALL LOCATIONS.~~

~~(4) FOR BUSINESSES WITH EMPLOYEES WHO WORK LESS THAN 1,920 HOURS PER YEAR (THE WORK HOUR FIGURE USED BY THE WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES) THE TOTAL NUMBER OF HOURS WORKED BY ALL SUCH EMPLOYEES DURING THE FOUR QUARTERS OF THE PREVIOUS YEAR SHALL BE ADDED TOGETHER AND DIVIDED BY 1,920 TO DETERMINE THE FTE EQUIVALENCY.~~

~~(5) IT WILL BE THE RESPONSIBILITY OF THE BUSINESS TO DETERMINE THE TOTAL NUMBER OF FTE'S (OR EQUIVALENCY) AND DEMONSTRATE, IF REQUIRED, TO THE SATISFACTION OF THE FINANCE DIRECTOR OR HIS/HER AUTHORIZED AGENT, THAT THE CALCULATION IS ACCURATE.]~~

(6) The number of full-time equivalent employees shall be based on the sum of the full-time employees in the four quarterly reports submitted to the Washington State Department of Labor and Industries for the previous year divided by four.

(7) It shall be the responsibility of the employer to determine the number of full-time

equivalent employees working within the city from these reports. Businesses that did not file quarterly reports with the Washington State Department of Labor and Industries shall determine the number of full-time equivalent employees working in the city and demonstrate, if required, to the satisfaction of the finance director, that the number of full-time equivalent employees is correct.

(8) For businesses with employees who work less than 1,920 hours per year (the work hour figure used by the Washington Department of Labor and Industries) the total number of hours worked by all such employees during the four quarters of the previous year shall be added together and divided by 1,920 to determine the full time employee equivalency.

(9) Employers without a full year history would need to estimate the number of full-time equivalent employees that will work in the city for the current calendar year.

(10) If a business has more than one location in the city of Redmond, the annual business license fee calculation must include annual full-time equivalent employees at all locations.

(11) Businesses with more than one location must use the same method of calculation for all locations.

~~+(e)+~~ (C) If at any time during the year it appears that the number of employee hours worked or if using the FTE method the number of employees was under-reported at the time of application or renewal,

an additional license fee and a penalty on the additional license fee shall be due. The penalty shall be equal to twenty percent (20%) per annum of the additional fee, plus any accounting, legal, or administrative expenses incurred by the city in determining the under-reporting or in collecting the tax and penalty.

~~+(d)+~~ (D) The license fee for a business required to be licensed under this chapter and not located within the city's corporate limits shall be calculated based upon the number of employee hours worked or the number of full-time equivalent employees within the city, but in no event shall the license fee be less than the minimum fee set forth in this chapter. [~~IF THE NUMBER OF EMPLOYEE HOURS WORKED IS NOT KNOWN AT THE TIME OF RENEWAL, THE BUSINESS SHALL ESTIMATE THE MAXIMUM NUMBER OF EMPLOYEE HOURS THEY ANTICIPATE USING IN REDMOND DURING THE YEAR.~~]

~~+(e)+~~ (E) Businesses doing business in the city that have no employees physically working within the city shall pay the minimum license fee required under this chapter.

~~+(f)+~~ (F) The minimum fee for any license issued under this chapter shall be \$90.00 [~~A BASE FEE OF \$35.00 AND A SURCHARGE OF \$55.00~~], AS MAY BE ADJUSTED HEREBIN]

(1) Exemptions. The following entities may claim an exemption from the license or renewal fee, but if exempt under this subsection such entities shall register under this chapter.

(a) Any entity exempt from taxation under 26 U.S.C. Sec. 501(c)(3), upon furnishing proof to the finance director of its nonprofit status.

(b) Governmental entities that engage solely in activities which are not exclusively governmental, such as some activities of a hospital or medical clinic.

(c) A nonprofit business operated exclusively for a religious purpose that files with the city a copy of its current IRS 501 (C) (3) exemption certificate issued by the Internal Revenue Service.

(d) Civic groups, service clubs, and social organizations that are not engaged in any profession, trade, or occupation, but are organized to provide civic, service or social activities in the city. Examples of such organizations may include but are not limited to: Soroptimists; Kiwanis; Lions; Rotary; American Legion; children's and adults' athletic organizations; and similar types of groups, clubs or organizations.

~~+(g)+~~ (G) The annual license fee shall become due and payable on January 1st of each calendar year. The business license fee shall not be prorated for any part of any year.

~~+(h)+~~ (H) A licensee may request that the city refund that portion of the annual business license overpaid on the basis that the business miscounted the number of employee hours worked or the number of employees. The request must be in writing and the city must receive the request and all supporting payroll



documentation no later than 60 days after the end of the licensee's fiscal year in which the error was made. If the [F]finance [D]director is satisfied that the business paid an excess business license fee, then the city will refund the excess fee paid by the business during either the current calendar year or one prior calendar year.

~~+(i)+~~ (I) Payment made by [~~DRAFT~~OR] check shall not be deemed a payment of the fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check [OR ~~DRAFT~~] operate as an acquittance or discharge of the fee unless and until the check [OR ~~DRAFT~~] is honored. Any person who submits a business license fee payment by check to the city pursuant to the provisions of this chapter shall be assessed a NSF fee set by the [F]finance [D]director if the check is returned unpaid by a bank or other financial institution for insufficient funds in the account or for any other reason.

~~+(j)+~~ (J) If any person required by the terms and provisions of this chapter to pay a license fee for any period fails or refuses to do so, he shall not be granted a license for the current period until the delinquent license fee, together with penalties, has been paid in full. Any license fee due and unpaid under this chapter and any penalties thereon shall constitute a debt to the city and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

5.04.084 Temporary employees.

The following provisions shall apply to businesses engaged in the practice of providing temporary employees or workers ("temporary agencies") to businesses located within the city and to businesses located within the city which utilize the services of such employees or workers:

(1) Temporary agencies located within the city shall include all temporary employees and workers placed with businesses located within the city in calculating the number of employee hours worked in addition to employees described under RMC 5.04.030~~+(3)~~ (C);

(2) Temporary agencies located outside the city which place temporary employees or workers with businesses located within the city shall include all such temporary employees and workers in calculating the number of hours worked by their employees;

(3) Businesses located within the city which utilize temporary employees or workers provided by a temporary agency shall not include the temporary employees or workers in calculating the number of their employee hours;

(4) Temporary agencies placing temporary employees and workers within the city shall calculate the number of hours worked by such employees and workers in the manner provided by RMC 5.04.080~~+(a)~~ (A);

(5) In submitting an initial business license application or subsequent renewal application, all businesses located within the city which use

temporary employees or workers furnished by a temporary agency shall indicate the number of employee hours worked by using the formula set forth in RMC 5.04.080~~{(a)}~~ **(A)** and further indicate the names and addresses of the temporary agencies furnishing said employees or workers. Failure to so report the number of hours worked by temporary employees or workers or the names and addresses of the agencies furnishing said employees or workers shall result in imposition of a penalty equal to ten percent (10%) of the company's total business license fee. In addition, failure to report may result in revocation, suspension, or denial of the business license.

**5.04.085 Penalty for late payment - Interest.**

**(A)** For each payment due, if such payment is not made by the due date, there shall be added penalties as follows:

(1) ~~[FOR EACH PAYMENT OR PORTION THEREOF THAT IS MORE THAN THIRTY (30) DAYS PAST DUE, A]~~ **A** penalty of fifty (50) percent of the license fee due shall be ~~[IMPOSED FOR,]~~ imposed for each payment or portion thereof that is received or postmarked after February 15<sup>th</sup> or the next business day.

(2) ~~[FOR ANY PAYMENT OR PORTION THEREOF THIS IS MORE THAN SIXTY (60) DAYS PAST DUE, A]~~ **A** penalty of one hundred (100) percent of the license fee due shall be imposed for any payment or portion thereof that is received or postmarked after March 15th or the next business day.

(B) The [~~F~~]finance [~~D~~]director [~~OR HIS/HER AUTHORIZED AGENT~~] is authorized, but not obligated, to waive all or any portion of the penalties and interest provided herein in the event that the [~~D~~]director [~~OR HIS/HER AUTHORIZED AGENT~~] determines that the late payment was the result of excusable neglect or extreme hardship.

**5.04.090 Display of license - Renewal - Transfer.**

~~+(a)+~~ (A) Display of License. Every license granted under this chapter shall be posted in a conspicuous place in the place of business of the licensee. No person shall allow any license to remain posted, displayed, or used after the period for which it was issued has expired, or when it has been suspended or revoked, or for any other reason become ineffective.

~~+(b)+~~ (B) Renewal. Each license granted shall expire at the end of the calendar year in which it is issued. Each licensee shall be responsible to renew the license for each ensuing calendar year.

~~+(c)+~~ (C) Nontransferability. Any license issued under and by virtue of the provisions of this chapter shall be personal and nontransferable.

~~+(d)+~~ (D) New Location Desired. A licensee shall have the right to change the location of the licensed business provided confirmation of the legality of the business activity at the new location is obtained by the [~~F~~]finance [~~D~~]director.

~~+(e)+~~ (E) Multiple Locations. In case a licensee desires to conduct business at two (2) or more

separate locations, a business license must be conspicuously posted at each location where business is transacted. A supplemental location application must be completed for each location where business is conducted in addition to the primary location of the business. After receipt of a supplemental location application, the [F]finance [D]director shall issue a duplicate business license for each such additional location. Prior to issuance of a duplicate business license for an additional location, the [F]finance [D]director shall first confirm the legality of the business at each such location.

**5.04.100 Notification of exemption or termination of business activities.**

~~+(a)+~~ **(A)** Every person who has obtained a business license required by this chapter and who thereafter ceases to engage in business within the city shall, prior to the end of the calendar year during which business operations have been terminated, notify the [F]finance [D]director in writing that business activities have ceased. Any business for which a license has been issued shall be presumed to continue in operation within the city unless notice of termination of business activities has been given as provided above, and enforcement proceedings may be commenced on the basis of such presumption.

~~+(b)+~~ **(B)** Every person who engages in a business in the city which is exempt from the licensing provisions of this chapter under federal, state or local laws shall notify the [F]finance [D]director in

writing of the exemption and the basis for the exemption.

~~+(e)+~~ (C) Any business which is exempt from the provisions of this chapter or has terminated its business activities in the city shall not be entitled to a refund of any license fee paid under this chapter.

5.04.110 Operating without a license.

Any person who engages in, or carries on, any business subject to the payment of a license fee hereunder without having obtained a business license to do so shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on; and any person subject thereto who fails or refuses to pay the license fee, or any part thereof, on or before the due date, shall be deemed to be operating without having obtained a license to do so.

(A) Any city of Redmond police officer, any code compliance officer, or other such person designated by the finance director can assist the finance director in enforcing the provisions of Title 5.

(B) Businesses operating without a license are subject to a one hundred (100) percent penalty of the licensing fee due.

(C) The finance director is authorized, but not obligated, to waive all or any portion of the penalties provided herein in the event that the finance director determines that operating without a

license was due to excusable neglect or extreme hardship.

**5.04.120 License fee additional to others imposed.**

The license fee levied in this chapter shall be additional to any license fee or tax imposed or levied under the law or any other ordinance of the city except as expressly provided herein.

**5.04.130 Exemptions.**

The provisions of this chapter shall not apply to:

(1) Any instrumentality of the United States, the State of Washington, or political subdivision thereof with respect to the exercise of governmental functions;

(2) Any farmer, gardener, or other person who sells, delivers or peddles any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meat or any farm produce or edibles raised, caught, produced or manufactured by such person in the state;

~~[(3) ANY ENTITY EXEMPT FROM TAXATION UNDER 26 U.S.C. SEC. 501(C)(3), UPON FURNISHING PROOF TO THE FINANCE DIRECTOR OF ITS NONPROFIT STATUS]~~

(4) Any apartment or condominium, residential rental or leasing activity which does not involve more than four residential units at any one location within the city;

(5) Any insurers or their agents, as those terms are defined in RCW 48.01.050 and 48.17.010, respectively, who represent insurance companies or sell insurance to the public and are properly licensed

by the state. Provided, however, that this exemption shall not apply to insurance brokers or solicitors, as said terms are defined in RCW 48.17.020 and 48.17.030, respectively;

(6) Newspaper carriers under the age of 18;  
[~~or~~]

(7) Any person, business, enterprise, firm, or corporation which the city is forbidden to license or tax under state or federal law[~~-~~] ; or

(8) Businesses that do not engage in other business activities within the city limits but are merely complying with destination-based sourcing rules as outlined in the National Streamlined Sales Tax (SST) Agreement.

5.04.140 Criteria for denial, suspension or revocation of license.

The [~~F~~]finance [~~D~~]director may deny issuance of a business license to any applicant or suspend or revoke any and all business licenses of any holder when such person, or any other person with any interest in the application or license:

(1) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws of this state or the city which may affect or relate to the applicant's or license holder's business;

(2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;



(3) Is or has been convicted of, forfeits bond upon, or pleads guilty to any felony offenses directly related to the operation of the applicant's or license holder's business;

(4) Makes a misrepresentation or fails to disclose a material fact to the city related to any of the obligations set forth in this chapter;

(5) Violates any building, safety, fire or health regulation on the premises in which the business is located after receiving warning from the city to refrain from such violations;

(6) Is in violation of a zoning regulation of the city;

(7) Is indebted or obligated to the city for past due taxes excluding special assessments such as LID assessments.

#### **5.04.150 Request for hearing.**

~~+(a)+~~ **(A)** Notification of Suspension, Revocation, or Denial. When the [~~F~~]finance [~~D~~]director determines that there is cause for denying, suspending or revoking any license issued pursuant to this chapter, the [~~D~~]director shall notify the applicant or person holding such license by registered or certified mail, return receipt requested, of the [~~D~~]director's decision. Notice mailed to the address on file shall be deemed received three (3) days after mailing. The notice shall specify the grounds for the denial, suspension or revocation. The suspension or revocation shall become effective ten (10) days from the date the notice is delivered or deemed received unless the

person affected thereby files a written request with the [D]director for a hearing before the [E]city [H]hearing [E]examiner within such ten (10) day period.

~~+(b)+~~ **(B)** Hearing Procedure. Upon written request as set out above, the [H]hearing [E]examiner shall schedule and hold a hearing within thirty (30) days following receipt of such request. During the pendency of the hearing and until action by the [E]city [E]council the action of the [D]director shall be stayed. At the hearing, both the applicant or licensee and the city shall be entitled to present evidence. Upon completion of the hearing, the [H]hearing [E]examiner shall make written findings and a recommendation to the [E]city [E]council. At a public meeting, the [E]city [E]council, upon considering the findings and recommendations of the [H]hearing [E]examiner, shall, without need for further evidence:

- (1) Accept the [H]hearing [E]examiner's recommendation as presented; or
- (2) Determine no action is warranted; or
- (3) Modify the recommended action.

~~+(c)+~~ **(C)** Appeal from City Council. Appeal from a decision of the [E]city [E]council shall be to the King County Superior Court and must be served and filed within thirty (30) days of the decision of the [E]city [E]council. In the event the applicant or license holder does not follow the procedures within the time periods set forth above, the license of said person shall be denied, suspended or revoked, and that action shall be final.

~~{(d)}~~ (D) Return of License upon Revocation. Whenever any license issued under this chapter is revoked, the licensee shall immediately return the license to the [~~F~~]finance [~~D~~]director.

#### 5.04.160 Penalties.

(A) Any person violating or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 1.01.110 of the Redmond Municipal Code.

(B) In addition to any criminal penalties provided for in (A) above, the finance director may also impose a civil penalty in an amount not to exceed \$1,000 per violation of this title. Any party assessed a civil penalty by the finance director may appeal the finance director's decision on such penalty as provided for in RMC 1.14.120.

### Chapter 5.05

#### PUBLIC MESSAGE ESTABLISHMENT

##### Sections:

5.05.010 Public message establishment defined.

5.05.020 Additional business license requirement for public message establishment.

5.05.010 Public message establishment defined.

For purposes of this chapter, a public message establishment means any place within the city where massages, as defined by RCW 18.108.010, are given or

furnished for, or in expectation of, any fee, compensation or monetary consideration.

**5.05.020 Additional business license requirement for public massage establishment.**

Any individual who applies for a business license for a public massage establishment must, in addition to meeting the licensing requirements of Chapter 5.04, provide the [~~CITY CLERK~~] finance director with evidence that the individual has received a state of Washington massage practitioner's license pursuant to RCW Chapter 18.108, which license shall be current and in effect unless such person is exempt from the state license requirement. Additionally, any individual rendering services at the public massage establishment must also possess a state of Washington massage practitioner's license.

**Chapter 5.08**

**[~~HAWKERS AND~~] PEDDLERS, SOLICITORS, AND CANVASSERS**

**Sections:**

- 5.08.000 Purpose.
- 5.08.010 Peddler, Solicitor, or Canvasser defined.
- 5.08.020 License required - Exceptions.
- 5.08.030 Application - Fee.
- 5.08.035 Restrictions on place and time of peddling, soliciting, or canvassing.
- 5.08.040 Penalty.

5.08.000 Purpose.

(A) The city council finds that public health, safety, and welfare requires that the citizens of the city be provided with information relating to persons and organizations who peddle, solicit, and canvass

within the city, that such activities be regulated, and that the citizens of the city be protected from deceptive and dishonest practices.

5.08.010 Peddler, Solicitor, or Canvasser defined.

(A) A "Peddler", "Solicitor", or "Canvasser" [FOR THE PURPOSE OF THIS CHAPTER SHALL BE CONSTRUED TO INCLUDE ALL PERSONS, BOTH PRINCIPALS AND AGENTS, WHO GO FROM PLACE TO PLACE, OR HOUSE TO HOUSE, CARRYING FOR SALE, EXPOSING FOR SALE, OR OFFERING FOR SALE, GOODS, WARES, MERCHANDISE OR SERVICES OF ANY TYPE. "PEDDLE" MEANS TO ENGAGE IN SUCH ACTIONS.] Is defined as any person, either a principal or agent, who goes from place to place within the city, and who:

(1) Sells, take orders for, or offers to sell, any goods, wares, or merchandise whether or not collecting in advance for such goods, wares or merchandise; and/or

(2) Sells, take orders for, or offers to sell services, whether or not collecting in advance for such services; and/or

(3) Seeks contributions or donations to private causes, as opposed to tax-exempt charities; and/or

(4) Seeks opinions, preferences or other information for commercial purposes.

5.08.020 License required - Exceptions.

(A) Any person seeking to engage in business as a peddler, solicitor, or canvasser shall first obtain a peddler, solicitor, or canvasser license [IT IS UNLAWFUL FOR ANY PEDDLER TO PEDDLE ANY GOODS, WARES,

~~MERCHANDISE OR SERVICES WITHOUT FIRST OBTAINING A  
PEDDLERS LICENSE]~~ as provided for in this chapter.

(B) Exceptions. No person shall be required to take out a license or pay a fee:

(1) For the peddling of local newspapers;

(2) For the peddling of fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any farm produce or edibles raised, caught, produced or manufactured by such person in any place in this state;

(3) When that person, after having been specifically requested by another to do so, calls upon that other person for the purpose of displaying goods, literature or giving information about any article, thing, product or service; [~~or~~]

(4) When that person is acting in his or her capacity as a member of a charitable, religious or nonprofit organization or corporation which has received tax exempt status under 26 U.S.C. Sec. 501(c)(3) or other similar civic, charitable or nonprofit organizations[~~+~~]

(5) When a person is engaged in political or other First Amendment speech or solicitation; or

(6) When that person's peddling or solicitation consists exclusively of the solicitation of order(s) to be filled solely by interstate shipment on behalf of businesses that do not maintain a place of intrastate business in the state of Washington.

5.08.030 Application - Fee.

(A) Every peddler, solicitor, or canvasser, other than those exempt under this chapter, whether principal or agent, shall before commencing business in the city make application in writing on a form to be provided by the [CITY-CLERK] finance director. The application shall include an authorization allowing release of all Washington State criminal history record information to the [REDMOND-POLICE] finance [D]department.

(B) Except as provided in this subsection, [A]at the time of the filing of the application, a fee in an amount set by council resolution shall be paid to the [CITY-CLERK] finance director to cover the costs of obtaining a criminal history conviction record from Washington State Patrol's Washington Access to Criminal History (WATCH) website [INVESTIGATION] and processing the application. Veterans who present a certificate of honorable discharge to the finance director shall be exempt from payment of the fee as provided in RCW 73.04.050 through 73.04.060.

(C) The [CITY-CLERK] finance director shall refer the application and the WATCH report to the [E]chief of [P]police or designee, who shall [MAKE] review the [A] criminal history [BACKGROUND—INVESTIGATION] conviction report of the applicant if applicable. Upon completion, the [E]chief of [P]police or designee shall forward the results of the [INVESTIGATION] review, to the [CITY-CLERK] finance director.

(D) If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the [CITY

CLERK] finance director shall, upon payment of the prescribed fee, issue the license to the applicant. The [CITY—CLERK] finance director shall deny the applicant the license if the applicant has:

(1) Committed any act consisting of fraud or misrepresentation;

(2) Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;

(3) Within the previous ten years, been convicted of a [~~MISDEMEANOR—OR~~] felony directly relating to his or her fitness to engage in the occupation of peddler, and including, but not limited to, those [~~MISDEMEANORS—AND~~] felonies involving moral turpitude, fraud or misrepresentation;

(4) Been charged with a [~~MISDEMEANOR—OR~~] felony of the type defined in subdivision 3 of this subsection, and disposition of that charge is still pending;

(5) Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and

(6) Made any false or misleading statements in the application.

(E) Every peddler, solicitor, or canvasser shall be required to carry the peddler's, solicitor's or canvasser's license and display it along with photo identification upon request by a prospective customer or law enforcement officer.



(F) The [CITY—CLERK] finance director is authorized to promulgate rules regarding the manner and method of payment, including a prohibition or regulation of payment by check.

(1) Any person who submits a peddler, solicitor, or canvasser license fee payment by check to the city pursuant to the provisions of this chapter shall be assessed a NSF fee set by the finance director if the check is returned unpaid by a bank or other financial institution for insufficient funds in the account or for any other reason.

5.08.035 Restrictions on place and time of peddling, soliciting, or canvassing.

(A) No peddler, solicitor, or canvasser shall engage or attempt to engage in the business of peddling, soliciting, or canvassing at any home, residence, apartment complex or business that prominently displays a "No Peddlers" or "No Solicitors" sign or any other similar sign that communicates the occupants' desire to not be contacted by peddlers, solicitors, or canvassers.

(B) No peddler, solicitor, or canvasser shall engage in the business of peddling, soliciting, or canvassing between the hours of nine p.m. and nine a.m.

5.08.040 Penalty.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished as provided in Section 1.01.110.

Chapter 5.10

REGULATION OF PAWNBROKERS

Sections:

- 5.10.010 License required.
- 5.10.015 Adoption by reference.
- 5.10.020 Repealed.
- 5.10.030 Definitions.
- 5.10.040 License fee.
- 5.10.050 Application for license.
- 5.10.055 Fixed place of business required.
- 5.10.060 Criteria for denial or revocation of license.
- 5.10.065 Request for hearing.
- 5.10.080 Records required.
- 5.10.090 Records and articles to be available for inspection.
- 5.10.100 Seller or consignor to give true name and address.
- 5.10.110 Transcript to be furnished.
- 5.10.120 Police seizures - Police holds.
- 5.10.125 Pawnbroker sale of pledged property limited - Written document required for transactions.
- 5.10.130 Penalty.

5.10.010 License required.

It is unlawful for any person, firm or corporation to engage in the business of pawnbroker within the [E]city without first obtaining a license pursuant to the provisions of this chapter.

5.10.015 Adoption by reference.

RCW 19.60.066 entitled "Prohibited Acts" is hereby adopted by reference as if set forth in full.

5.10.020 Exemptions.

*Repealed by Ord. 1778.*

5.10.030 Definitions.

~~+(a)+~~ (A) The term "pawnbroker" as used in this chapter, means and includes every person who takes or receives by way of pledge, pawn or exchange, goods, wares or merchandise of any kind of personal property whatever, for the repayment of security of any money loaned thereon, or to loan money on deposit of personal property, or the purchase or sale of personal property, or who makes public display of any sign indicating that he has money to loan on personal property under deposit or pledge.

~~+(b)+~~ (B) *Repealed by Ord. 1778.*

~~+(e)+~~ (C) *Repealed by Ord. 1778.*

5.10.040 License fee.

~~+(a)+~~ (A) The fee for a pawnbroker's license shall be set by Council resolution and will cover the costs of obtaining a criminal history conviction record from Washington State Patrol's Washington Access to Criminal History (WATCH) website and processing the application.

~~+(b)+~~ (B) License fees shall be due and payable on [~~JANUARY~~] February 1 of each year for which the license is issued. [~~FEES BECOMING DUE FOR LESS THAN ONE YEAR SHALL BE PRORATED ON A QUARTERLY BASIS~~] This

license shall be in lieu of the [C]city business license and shall not be assignable or transferable.

5.10.050 Application for license.

~~+(a)+~~ (A) All applications for issuance or renewal of a pawnbroker's license shall be made to and filed with the [CITY-CLERK] finance director on forms furnished for such purpose, and shall be accompanied by the required fee. The application shall state the true name of the applicant, who shall not be less than eighteen (18) years of age, the names of all persons having financial, proprietary or other interest in such pawnshop, together with such other information as the [CITY-CLERK] finance director deems appropriate. ~~[ANY PAWNBROKER NOW IN BUSINESS SHALL APPLY FOR SUCH LICENSE AS PROVIDED IN THIS SECTION WITHIN TEN (10) DAYS AFTER THE EFFECTIVE DATE OF THE ORDINANCE CODIFIED IN THIS SECTION.]~~

~~+(b)+~~ (B) Upon the filing of an application, ~~[IF]~~ the application and the WATCH report shall then be referred to the City of Redmond Police Department and any other [CITY-OFFICIALS] department the [CLERK] finance director feels appropriate, for [INVESTIGATION] review, report, and recommendation. Within thirty days after receipt of a copy of the application, the [POLICE] appropriate city departments shall investigate the statements set forth in the application and ~~[REPORT TO THE CITY CLERK]~~ determine whether the application contains false, misleading, or incomplete information. The ~~[POLICE-DEPARTMENT]~~ appropriate city departments shall, at the same time

and as part of its report to the [~~CITY-CLERK~~] finance director, render a written recommendation as to approval or denial of the application for permit or renewal thereof.

~~{(e)}~~ (C) Within thirty days after receiving the aforementioned report and recommendation from the [P]police and other city departments, the [~~CITY-CLERK~~] finance director shall grant or deny the permit or renewal thereof. If, from the information supplied to the [~~CITY-CLERK~~] finance director, it appears that the application is proper and the statements contained in the application are true and complete, and that the applicant or the owners of the corporation or partners of the partnership applying has satisfied all criteria for the granting of a license and has complied with all the requirements of the Redmond Municipal Code, the [~~CITY-CLERK~~] finance director shall issue a license to the applicant. Otherwise, the license application shall be denied pursuant to the criteria and procedures herein.

**5.10.055 Fixed place of business required.**

No person may operate as a pawnbroker within the city, unless the person maintains a fixed place of business within the city.

**5.10.060 Criteria for denial or revocation of license.**

The [~~CITY-CLERK~~] finance director may deny a license to any applicant or may suspend or revoke any and all licenses or permits of any holder when such person or any other person with any interest in the applicant for, or holder of, such license or permit:

(1) Knowingly causes, aids, abets, or conspires with another person to cause any person to violate any of the laws of this state or the city, which may affect or relate to the applicant's or license holder's business;

(2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(3) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to any felony offense directly related to the operation of the license holder's business within the last ten years;

(4) Shall fail to display its license on the premises where the licensed activity is conducted at all times during the operation of the licensed activity;

(5) Makes a misrepresentation of, or fails to disclose, a material fact to the city;

(6) Allows any person who has been convicted of, or forfeited bond upon, any offense directly related to the operation of the license holder's or a similar business, in the management or operation of any activity regulated by this license without prior written approval of the [~~CITY CLERK~~] finance director;

(7) Has violated any section of this chapter;

(8) Violates any building, safety, fire or health regulations on the premises in which the business is located after receiving warning from city to refrain from such violations;

(9) Is in violation of a zoning regulation of the city.

5.10.065 Request for hearing.

~~+(a)+~~ **(A)** Notification of Suspension, Revocation, or Denial. When the [~~CITY~~—~~CLERK~~] finance director determines that there is cause for denying, suspending or revoking any license issued pursuant to this chapter, the [~~CLERK~~] finance director shall notify the person holding such license by registered or certified mail, return receipt requested, of the [~~CLERK~~'S] finance director's decision. Notice mailed to the address on file shall be deemed received three days after mailing. The notice shall specify the grounds for the denial, suspension or revocation. The suspension or revocation shall become effective ten days from the day the notice is delivered or deemed received unless the person affected thereby files a written request with the [~~CLERK~~] finance director for a hearing before the [~~E~~]city [~~H~~]hearing [~~E~~]examiner within such ten-day period.

~~+(b)+~~ **(B)** Hearing Procedure. Upon written request as set out above, the [~~H~~]hearing [~~E~~]examiner shall schedule and hold a hearing within thirty days following receipt of such request. During the pendency of the hearing and until action by the [~~E~~]city [~~E~~]council the action of the [~~CLERK~~] finance director shall be stayed. At the hearing, both the applicant or licensee and the city shall be entitled to present evidence. Upon completion of the hearing, the [~~H~~]hearing [~~E~~]examiner shall make written findings and

a recommendation to the [E]city [E]council. At a public meeting, the [E]city [E]council upon considering the findings and recommendations of the [H]hearing [E]examiner shall, without need for further evidence:

(1) Accept the [H]hearing [E]examiner's recommendation as presented; or

(2) Determine no action is warranted; or

(3) Modify the recommended action.

~~+(e)+~~ (C) Appeal from [E]city [E]council. Appeal from a decision of the [E]city [E]council shall be to the King County Superior Court and must be served and filed within thirty days of the decision of the [E]city [E]council. In the event the applicant or license holder does not follow the procedures within the time periods set forth above, the license of said person shall be denied, suspended or revoked, and that action shall be final.

#### 5.10.080 Records required.

(A) Every pawnbroker shall maintain at his place of business a [BOOK] record [~~IN WHICH HE SHALL AT THE TIME~~] of [SUCH] all loans, purchases or sales, [ENTER] in the English language, [~~WRITTEN IN INK~~] and which must contain the following information:

~~+(a)+~~ (1) The date of the transaction;

~~+(b)+~~ (2) The name of the person conducting the transaction and making the entries required herein;

~~+(e)+~~ (3) The printed name, signature, date of birth, street and house number, telephone number,



the ~~[GENERAL DESCRIPTION OF THE SIZE, DRESS]~~ height,  
weight, gender, ~~[COMPLEXION]~~ race, color of hair and  
~~[FACIAL APPEARANCE]~~ eyes of the person with whom the  
transaction is had, including the identification which  
the customer shall present to verify his identity  
pursuant to Section 5.10.100, and the serial or other  
number of such identification;

~~+(d)+~~ (4) The name, street and house number  
of the owner of the property bought or received in  
pledge;

~~+(e)+~~ (5) The street and house number of the  
place from which the property bought or received in  
pledge was last removed;

~~+(f)+~~ (6) A description of the property  
bought or received in pledge, which shall include the  
name of the maker of such property or the manufacturer  
thereof and the serial number, if the article has such  
marks on it, or any other inscriptive or identifying  
marks, which, in the case of watches, shall contain  
the name of the maker and the number of both the works  
and the case. In the case of firearms, the caliber,  
barrel length, type of action, and whether it is a  
pistol, rifle, or shotgun shall be recorded.  
Provided, that when the article received is furniture  
or the contents of any house or room, actually  
inspected on the premises where the sale is made, a  
general description of the property shall be  
sufficient;

~~+(g)+~~ (7) The price paid or the amount  
loaned;

~~{(h)}~~ (8) The number of any pawn tickets issued therefor.

**5.10.090 Records and articles to be available for inspection.**

All books and other records of any pawnbroker relating to purchase, pledge, exchange, receipt of any goods, wares, merchandise or other articles or things of value, shall at all times be open for inspection by any commissioned law enforcement officer of this state or any of its political subdivisions, and all articles and things received, purchased or left in pledge with the pawnbroker shall at all times be open to like inspection. Records on all business conducted shall be kept for a period of three (3) years following the date of the transaction.

**5.10.100 Seller or consignor to give true name and address.**

(A) Anyone who pledges, sells or consigns any property to or with a pawnbroker shall sign the records required to be kept by such pawnbroker with his true name and shall include his correct address, and shall provide for inspection one of the following containing a photograph of the individual:

(1) Driver's license, instruction permit or identification card of any state or province of Canada, or "identocard" issued by the Washington State Department of Licensing pursuant to RCW 46.20.117;

(2) United States active duty military identification;

(3) Passport.

(B) Anyone who violates this section shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars or both.

5.10.110 Transcript to be furnished.

~~+(a)+~~ (A) It is the duty of every pawnbroker to furnish to the [C]chief of [P]police or designee, on such forms or by electronic mail as the [P]police [D]department may provide therefore, a full, true and correct transcript of the record of all transactions occurring on a given day within 48 hours of close of business.

~~+(b)+~~ (B) It is also the duty of any pawnbroker having good cause to believe any property in his possession has been previously lost or stolen, to report such fact to the [P]police [D]department immediately, together with the name of the owner, if known, and the date and name of the person from whom the same was received by such pawnbroker.

5.10.120 Police seizures - Police holds.

~~+(a)+~~ (A) In addition to retention of property required by this chapter, any police officer having probable cause to believe that any item in the possession of a licensee is stolen, may seize such item at any time. In the event of such a seizure, the licensee shall be entitled to a written receipt for the item from the City of Redmond Police Department.

~~+(b)+~~ (B) In lieu of immediate seizure, a police officer may place a "hold" upon the property by making

an entry upon the permanent record required by Section 5.10.080, indicating that such item is stolen property. The licensee shall then:

(1) Tag or otherwise reasonably identify the item;

(2) Hold it in a place on the business premises of the dealer to which police officers shall have access at any time during the dealer's regular business hours;

(3) Keep the item safe from alteration, loss, damage, or commingling with other goods.

~~+(e)+~~ (C) No licensee shall dispose of any items subject to a police hold in any manner, provided, that items subject to a police hold shall be surrendered to the [E]chief of [P]police or his designee upon request or in compliance with a subpoena signed by the prosecutor or in compliance with an order of a court of competent jurisdiction or as directed in a written release signed by the [E]chief of [P]police or his designee. Property held shall not be released for one hundred twenty (120) days from the date of police notification unless released by written consent of the law enforcement agency or by order of a court of competent jurisdiction. In cases where the law enforcement agency has placed a verbal hold on an item, that agency must then give written notice within ten (10) business days. If such written notice is not received within that period of time, then the hold order will cease. The pawnbroker shall give a twenty (20) day written notice before the expiration of the one hundred twenty (120) day holding period to the law

enforcement agency about the stolen property. If notice is not given within twenty (20) days, then the hold on the property shall continue for an additional one hundred twenty (120) days. The law enforcement agency may renew the holding period for an additional one hundred twenty (120) day period as necessary. After the receipt of notification from a pawnbroker, if an additional holding period is required, the law enforcement agency shall give the pawnbroker written notice prior to the expiration of the existing hold order. A law enforcement agency shall not place on hold any item of personal property unless that agency reasonably suspects that the item of personal property is lost or stolen. Any hold that is placed on an item will be removed as soon as practicable after the item on hold is determined not to be stolen or lost.

**5.10.125 Pawnbroker sale of pledged property limited -  
Written document required for transactions.**

A pawnbroker shall not sell any property received and pledged until both the term of the loan and a grace period of a minimum of 60 days has expired. However if a pledged article is not redeemed within the 90-day period of both the term of the loan and the grace period, the pawnbroker shall have all rights, title and interest of that item of personal property. The pawnbroker shall not be required to account to the pledger for the proceeds received from the disposition of that item. Any provision of law relating to the foreclosures and the subsequent sale of forfeited pledged items shall not be applicable to any pledge as

defined under this chapter, the title to which is transferred in accordance with this section. Every transaction entered into by a pawnbroker shall be evidenced by a written document, a copy of which shall be furnished to the pledger. The document shall set forth the term of the loan, the date in which the loan is due and payable and shall inform the pledger of the pledger's right to redeem the pledge within 60 days after the expiration of the loan term.

**5.10.130 Penalty.**

(A) Every pawnbroker and every clerk, agent or employee of such pawnbroker, who shall:

~~+(a)+~~ (1) Fail to make an entry of any material matter in [~~HIS BOOK OR~~] the record kept as provided in this chapter; or

~~+(b)+~~ (2) Make any false entry therein; or

~~+(c)+~~ (3) Falsify, obliterate, destroy or remove from his place of business such book or record; or

~~+(d)+~~ (4) Refuse to allow the city prosecutor or the [~~C~~]chief of [~~P~~]police or his agent to inspect the same, or any goods in his possession, during the ordinary hours of business; or

~~+(e)+~~ (5) Report any material falsely to the [~~C~~]chief of [~~P~~]police; or

~~+(f)+~~ (6) Fail to furnish the [~~C~~]chief of [~~P~~]police or designee with a full, true and correct transcript of the record of all transactions occurring on a given day within forty-eight hours of the close of business; or

~~+(g)+~~ (7) Fail to report forthwith to the [E]chief of [P]police or designee the possession of any property which he may have good cause to believe has been lost or stolen, together with the name of the owner, if known, and the date when, and the name of the person from whom the same was received by him; or

~~+(h)+~~ (8) Remove, or allow to be removed from his place of business except upon redemption by the owner thereof, any property received within fifteen days after receipt thereof shall have been reported to the [E]chief of [P]police or designee; or

~~+(i)+~~ (9) Receive any property from any person under the age of eighteen years, any habitual user of narcotic drugs, any habitual criminal, any person in an intoxicated condition, any known thief or receiver of stolen property, or anyone acting on behalf of said individual; or

~~+(j)+~~ (10) Violate any provision of this chapter or RCW 19.60.066 by an act of either omission or commission shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment for not more than one year or by a fine of not more than \$5,000 or both. Any action brought by an owner to recover goods or by a pawnbroker to determine ownership or title of an item, that results in a prevailing party in the action, is entitled to reasonable attorney's fees and costs.

Chapter 5.12

DETECTIVE AGENCIES

Sections:

- 5.12.010 Definitions.
- 5.12.020 Additional business license requirement for private detective agencies.
- 5.12.030 Additional business license requirement for private security companies.
- 5.12.040 -
- 5.12.110 (Deleted by Ord. 1671.)

5.12.010 Definitions.

The words and phrases used herein, unless the context otherwise indicates, shall have the following meanings:

~~+(1)+~~ (A) "City" means the city of Redmond.

~~+(2)+~~ (B) "Person" means and includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

~~+(3)+~~ (C) "Private detective" means a person who is employed by a private detective agency for the purpose of investigation, escort or body guard services, or property loss prevention activities.

~~+(4)+~~ (D) "Private detective agency" means a person or entity engaged in the business of detecting, discovering, or revealing one or more of the following:

[(a)] (1) Crime, criminals, or related information;

[(b)] (2) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency,



loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person or thing;

~~+(e)+~~ (3) The location, disposition, or recovery of lost or stolen property;

~~+(d)+~~ (4) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property;

~~+(e)+~~ (5) Evidence to be used before a court, board, officer, or investigative committee;

~~+(f)+~~ (6) Detecting the presence of electronic eavesdropping devices; or

~~+(g)+~~ (7) The truth or falsity of a statement or representation.

~~+(5)+~~ (E) "Private security company" means a person or entity engaged in the business of providing the services of private security guards on a contractual basis.

~~+(6)+~~ (F) "Private security guard" means an individual who is principally employed as or typically referred to as one of the following:

~~+(a)+~~ (1) Security officer or guard;

~~+(b)+~~ (2) Patrol or merchant patrol service officer or guard;

~~+(c)+~~ (3) Armed escort or bodyguard;

~~+(d)+~~ (4) Armored vehicle guard;

~~+(e)+~~ (5) Burglar alarm response runner; or

~~+(f)+~~ (6) Crowd control officer or guard.

**5.12.020 Additional business license requirement for private detective agencies.**

Any person who applies for a business license for a private detective agency must, in addition to meeting the requirements of Chapter 5.04, provide the [~~CITY-CLERK~~] finance director with evidence that the person has a current state of Washington private detective agency license pursuant to RCW Chapter 18.165. Copies of state licenses for the private detective agency shall be filed with the [~~CITY-CLERK~~] finance director at the time of business license application.

**5.12.030 Additional business license requirement for private security companies.**

Any person who applies for a business license for a private security company must, in addition to meeting the requirements of Chapter 5.04, provide the [~~CITY-CLERK~~] finance director with evidence that the person has a current state of Washington private security company license pursuant to RCW Chapter 18.170. Additionally, any individual employed as a private security guard by a private security company must possess a current state of Washington private security guard license. Copies of state licenses for the private security company shall be filed with the [~~CITY-CLERK~~] finance director at the time of business license application.

**5.12.040 Private detective license - Fee.**

(Deleted by Ord. 1671.)

5.12.050 Application for private detective license.

(Deleted by Ord. 1671.)

5.12.060 Employees not to divulge information.

(Deleted by Ord. 1671.)

5.12.070 Unlawful acts.

(Deleted by Ord. 1671.)

5.12.080 Bond for detective agency license.

(Deleted by Ord. 1671.)

5.12.090 Private guard license - Fee.

(Deleted by Ord. 1671.)

5.12.100 Revocation - Suspension.

(Deleted by Ord. 1671.)

5.12.110 Penalty.

(Deleted by Ord. 1671.)

## Chapter 5.16

### TAXICABS

#### Sections:

5.16.010 King County regulations adopted by reference.

5.16.020 Business license required.

5.16.010 King County regulations adopted by reference.

Chapter 6.64 of the King County Code entitled "Taxis - Businesses and Drivers," including all future amendments, is adopted by reference as if set forth in full herein; provided, that any references to

unincorporated King County in Sections 6.64.010 and 6.64.020, as well as any other sections pertaining to the application of the ordinance codified in this chapter, shall be changed to refer to the city of Redmond.

**5.16.020 Business license required.**

In addition to any licenses required by Chapter 6.64 of the King County Code, a person shall also obtain a business license pursuant to Chapter 5.04 of this code when required to do so by the provisions of that chapter.

**Chapter 5.20**

**CABARET DANCES**

**Sections:**

- 5.20.010 Cabaret dance defined.
- 5.20.020 License required - Fees - Payment.
- 5.20.030 Application.
- 5.20.031 License - Criteria for approval - Reapplication - Appeals.
- 5.20.035 Renewals.
- 5.20.040 License regulations.
- 5.20.045 Criteria for suspension or revocation of license.
- 5.20.050 Conduct at dances.
- 5.20.060 Exceptions.
- 5.20.070 Penalty for violation.

**5.20.010 Cabaret dance defined.**

As used in this chapter, "cabaret dance" is construed to mean a dance held or permitted in connection with a business where intoxicating liquors are sold or consumed.

**5.20.020 License required - Fees - Payment.**

(A) It is unlawful for any person, firm or corporation to operate or conduct a cabaret dance within the city without first having obtained and being the holder of a valid and subsisting license to do so, to be known as a "Cabaret Dance License." The fee for any such cabaret dance license shall be set by council resolution. The entire annual license fee shall be payable for the applicable calendar year regardless of when the application for license is made and shall not be prorated for any part of the year. [~~PROVIDED, THAT THE ANNUAL LICENSE FEE FOR ORIGINAL APPLICATIONS ONLY MAY BE PRORATED ON A QUARTERLY BASIS, PAYABLE IN ADVANCE FOR THE REMAINING PART OF THE CALENDAR YEAR ACCORDING TO THE QUARTER OF THE YEAR IN WHICH THE APPLICATION IS MADE.~~] Annual license renewals shall be payable in full on [~~JANUARY~~] **February** 1st of each subsequent calendar year of operation.

(B) No license to conduct a cabaret dance shall be granted unless the applicant therefor is of good moral character.

#### 5.20.030 Application.

(A) Application for any such license shall be submitted by the applicant at least thirty (30) days prior to the first dance. The applicant shall submit an application in writing to the [~~CITY CLERK~~] finance director upon such forms as the [~~CLERK~~] **finance director** may prescribe. In addition to any other information requested on the form, the applicant shall state the name and place of residence of the

applicant, the address and description of the premises to be licensed, and the dates, times, and number of dances to be held.

(B) The finance director in conjunction with [ALL APPLICATIONS ~~SHALL BE REFERRED TO~~] the [P]police [CHIEF ~~WHO SHALL~~] department shall conduct an [INVESTIGATION] review as to the truth of the statements contained therein and [INVESTIGATE] review all other matters pertaining to the criteria for license approvals set forth in Section 5.20.031. The [P]police [CHIEF] department shall report the results of such [INVESTIGATION] review to the [CITY CLERK] finance director, as well as the [P]police [CHIEF'S] department's other findings as to whether the criteria for obtaining a cabaret license have been met.

5.20.031 License - Criteria for approval - Reapplication - Appeals.

(A) The [CLERK] finance director shall grant a license unless the [CLERK] finance director finds that one or more of the following conditions exist:

(1) The building, structure, equipment or location of the business for which the license is sought does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire and safety laws of the state, King County, and the [C]city, or other requirements of this [C]chapter;

(2) The applicant or any of the applicant's officers, directors, partners, operators, employees or any other person involved in the operation of the

dance or dance hall has been convicted within the last ten (10) years of:

(a) A felony involving a crime of violence as defined in RCW 9.41.012(2) as it now exists or is hereafter amended or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50, where such felony directly relates to the operation or conduct of a cabaret dance or an establishment offering cabaret dancing; or

(b) A crime involving prostitution, or promoting prostitution, prostitution loitering or lewd conduct, where such crime directly relates to the operation or conduct of a cabaret dance or an establishment offering cabaret dancing.

(3) The applicant or any of the applicant's officers, directors, partners, operators, employees or any other person involved in the operation of the dance or dance hall, or any combination thereof, have been cited for three (3) or more liquor license violations by Washington State Liquor Control personnel within the last year.

(B) Any applicant denied a license may reapply and be granted a license if the applicant can show that the basis for such denial no longer exists.

(C) An applicant may appeal the determination of the [~~CITY-CLERK~~] finance director to the [E]city [E]council by filing a written notice of appeal with the [~~CITY-CLERK~~] finance director within ten (10) days from the date of notice of denial. The notice of appeal shall contain a statement of the reasons for

the appeal. Failure to file a timely notice of appeal shall result in a waiver of any right to appeal.

**5.20.035 Renewals.**

Application for annual license renewals shall be made to the [~~CITY-CLERK~~]finance director upon such forms as the [~~CLERK~~]finance director may prescribe and shall be subject to the approval of the [E]chief of [P]police or designee who shall review the conduct of cabaret dances by the licensee for the preceding year or portion thereof in determining whether such license should be renewed; provided, that a decision not to renew may be appealed to the [E]city [E]council for its determination as in the case of original applications under Section 5.20.030.

**5.20.040 License regulations.**

The license granted under this chapter shall be personal to the applicant and shall not be transferable, nor shall the license fees paid hereunder be refundable except by action of the [E]city [E]council. Each license shall at all times be conspicuously displayed. Upon the revocation of a license for a violation of this chapter, the unearned portion of the license fee shall be forfeited to the city.

**5.20.045 Criteria for suspension or revocation of license.**

(A) The [~~CITY-CLERK~~]finance director may suspend or revoke any and all cabaret licenses whenever:



(1) Any of the conditions set forth in subsection 5.20.031(A) occurs or is found to exist during the term for which the license is issued; or

(2) The applicant or any of the applicant's officers, directors, partners, operators, employees or any other person involved in the operation of the licensed premises have obtained the license or permit by fraud, misrepresentation or concealment; or

(3) The applicant or any of the applicant's officers, directors, partners, operators, employees or any other person involved in the operation of the licensed premises [~~HAVE~~] has violated any provision of this chapter in connection with said operation.

(B) The procedure to be followed in revoking or suspending a cabaret license shall be that set forth in Chapter 5.04 of the Redmond Municipal Code for suspension or revocation of a business license.

**5.20.050 Conduct at dances.**

Each and every cabaret dance licensed hereunder shall at all times be conducted in an orderly manner, shall be policed to the satisfaction of the city authorities, without cost to the city, by the licensee and minors shall not be allowed therein. No dance shall continue later than two a.m.

**5.20.060 Exceptions.**

This chapter shall not apply to dances conducted for a public benefit or by a nonprofit organization.

**5.20.070 Penalty for violation.**

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in Section 1.01.110.

## Chapter 5.22

### PUBLIC DANCES AND DANCE HALLS

#### Sections:

- 5.22.010 Definitions.
- 5.22.020 License required - Fee - Renewals.
- 5.22.030 License - Exemption and waiver of payment.
- 5.22.040 License - Application.
- 5.22.050 License - Criteria for approval - Reapplications.
- 5.22.055 Conditions upon issuance of license - Review of operations.
- 5.22.060 Appeal from denial or conditions.
- 5.22.062 Security personnel required.
- 5.22.063 Litter control - Security for cleanup.
- 5.22.066 Loitering on premises prohibited.
- 5.22.070 Revocation or suspension of license.
- 5.22.072 Age restrictions.
- 5.22.073 Hours of operation.
- 5.22.074 Public dances - Readmission fee.
- 5.22.076 Access - By police and fire officers.
- 5.22.078 License limited to license and location.
- 5.22.080 Applicability.

5.22.010 Definitions.

For the purpose of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

~~+(1)+~~ (A) "Dance hall" means any place or premises where a public dance is conducted, including, but not limited to, all hallways, bathrooms and all adjoining enclosed areas accessible to the public during the dance.

~~+(2)+~~ (B) "Fire Marshal" means the City of Redmond Fire Marshal or his designee.

~~+(3)+~~ (C) "Person" includes one or more natural persons, corporations, partnerships or unincorporated associations or other forms of business organization.

~~+(4)+~~ (D) "Police Chief" means the City of Redmond Police Chief or his designee.

~~+(5)+~~ (E) "Public dance" means any dance that is open to the public and which: (A) is conducted for a profit, direct or indirect; or (B) requires a monetary payment or contribution from the persons admitted. The term public dance does not include a banquet, party or celebration conducted for invited guests which is not open to the public.

**5.22.020 License required - Fee - Renewals.**

~~+(a)+~~ (A) It is unlawful for any person to conduct a public dance within the city without first having obtained and being the holder of a valid and subsisting license for such activity, to be known as a public dance license; provided, however, that any holder of a valid and current cabaret license shall be exempt from the license provisions of this chapter.

The annual fee for a public dance license shall be set by council resolution.

~~+(b)+~~ (B) The entire annual license fee shall be paid for the applicable calendar year regardless of when the application for license is made, and shall not be prorated for any part of the year. ~~[EXCEPT THAT IF THE ORIGINAL APPLICATION FOR LICENSE IS MADE SUBSEQUENT TO JUNE 30<sup>TH</sup>, THE LICENSE FEE FOR THE REMAINDER OF THAT YEAR SHALL BE ONE HALF OF THE ANNUAL LICENSE FEE.]~~ Annual license renewals shall be obtained and paid in full by ~~[JANUARY]~~ February 1st of each calendar year.

~~+(e)+~~ (C) There shall be assessed and collected by the ~~[CLERK]~~ finance director an additional charge computed as a percentage of the license fee, on renewal applications not made, including payment of the required fee, on or before January 31st of each calendar year. The amount of said additional charge shall be set by council resolution.

**5.22.030 License - Exemption and waiver of payment.**

(A) A license is not required under this chapter if the dance is conducted by a public and/or private school licensed by the state, or by the ~~[C]~~city.

(B) The ~~[CITY-CLERK]~~ finance director shall have the right to waive the requirement of payment of the license fee in the case of any dance open to the public which, in the opinion of the ~~[CITY-CLERK]~~ finance director, is conducted for a charitable purpose or will otherwise result in substantial benefit to the community and which merits waiver of

the fee. Application for a fee waiver shall be made no less than thirty (30) days prior to the date of the dance for which the license is sought.

**5.22.040 License - Application.**

(A) Applications for any license pursuant to this chapter shall be submitted in writing to the [CITY CLERK] finance director upon such forms as the [CLERK] finance director may prescribe at least thirty (30) days prior to the first dance. In addition to other information requested, application forms shall contain the name and place of residence of the applicant, the address and description of the premises to be licensed and the time and date of the dance or dances to be held.

(B) All applications shall be referred to the [P]police [E]chief or designee who shall conduct an [INVESTIGATION] review as to the truth of the statements contained therein and [INVESTIGATE] review all other matters pertaining to the criteria for license approval set forth in Section 5.22.050. The [P]police [E]chief shall report the results of such [INVESTIGATION] review to the [CITY-CLERK] finance director, as well as the [P]police [E]chief's or designee's other findings as to whether the criteria for obtaining a public dance license have been met..

**5.22.050 License - Criteria for approval - Reapplications.**

(A) The [CITY-CLERK] finance director shall grant a license unless the [CLERK] finance director finds that one or more of the following conditions exist:

(1) The building, structure, equipment or location of the business or dance for which the license is sought does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire and safety laws and ordinances of the state, King County, and the [E]city, or the requirements of this chapter;

(2) The applicant or any of the applicant's officers, directors, partners, operators, employees or any other person involved in the operation of the dance or dance hall has been convicted within the last five (5) years of:

(a) A felony involving a crime of violence (as defined in RCW 9.41.010(2) as it now exists or as hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50; or

(b) A crime involving prostitution, promoting prostitution, prostitution loitering or lewd conduct, or assault on a juvenile.

(B) Any applicant denied a license may reapply and be granted a license if the applicant can show that the basis for such denial no longer exists.

(C) Applications for renewal of a license issued under this chapter shall be processed and considered according to the criteria for initial issuance of the license.

#### 5.22.055 Conditions upon issuance of license - Review of operations.

(A) At the time of granting a license or license renewal pursuant to this chapter, the [CITY CLERK]

finance director may impose such conditions as the [CLERK] finance director finds necessary to adequately protect the public health, safety and general welfare.

(B) The [CITY—CLERK] finance director shall review the operations of all public dance halls approximately six (6) months after commencement of business to determine whether additional or revised conditions are needed in order to prevent incompatibility with surrounding land uses or to protect the public welfare. The licensee shall be given notice of all proposed additional conditions and an opportunity to discuss the conditions with the [CITY—CLERK] finance director.

#### 5.22.060 Appeal from denial or conditions.

(A) When the [CITY—CLERK] finance director refuses to grant a license, or grants a license with conditions, the [CITY—CLERK] finance director shall notify the applicant in writing of the same and shall inform the applicant of his right to a hearing before the [C]city [C]council. The applicant shall exercise the right to a hearing by filing a written notice of appeal with the [CITY—CLERK] finance director within ten (10) days of the date of the notice of denial or conditions. The notice of appeal shall contain a statement of the reasons for the appeal.

(B) If the applicant timely files a notice of appeal, the applicant shall be afforded a hearing before the [C]city [C]council at which time the applicant shall be afforded an opportunity to show that the conditions imposed are without merit or that

the reasons for denial of the license do not justify the denial. After the hearing, the [E]city [E]council shall determine whether the applicant has shown reason to revise the conditions or to issue the license and shall make its final decision.

**5.22.062 Security personnel required.**

It shall be the obligation of every person licensed under this chapter to insure that an adequate number of qualified security personnel are employed and in attendance during and following each public dance as is necessary in order to maintain order and insure compliance with the laws of the state and ordinances of the city.

**5.22.063 Litter control - Security for cleanup.**

~~+(a)+~~ **(A)** Prior to issuance of any public dance license a cash security deposit in the amount of two hundred dollars shall be submitted to the [~~CITY CLERK~~] finance director as security for the cleanup of all litter resulting from any public dance authorized by the license. In the event the licensee fails to clean up all litter on any public or private property which results from any public dance conducted by the licensee within twenty-four hours of the end of the dance, the city may cause such litter to be cleaned up and pay the costs of the cleanup out of the security funds. In the event the cost of the cleanup exceeds the amount of funds on deposit, the licensee shall pay such excess costs.

~~+(b)+~~ **(B)** In the event funds are expended out of a security deposit required by this section, the



licensee shall, within five days of receipt of notice of such expenditure, submit the amount necessary to replenish the security fund to the amount of the full security deposit. No renewal license shall be issued unless the full amount of the security deposit for litter cleanup is on deposit with the city at the time of the application for renewal.

~~†(e)†~~ (C) Upon termination of all activities authorized by a public dance license and cleanup of all litter resulting from such activity, the remainder of all funds deposited as security for litter cleanup shall be refunded to the licensee, without interest.

**5.22.066 Loitering on premises prohibited.**

It shall be the obligation of each person issued a license under this chapter to prevent loitering of all persons on the premises of the dance hall, including all parking lot and driveway areas used by patrons of the dance hall. "Loitering" shall not include walking between the entrance to the public dance and parked vehicles, nor shall it include the act of waiting in line to gain admission to the dance.

**5.22.070 Revocation or suspension of license.**

~~†(a)†~~ (A) After giving notice to the licensee of the right to a hearing pursuant to the procedures set forth in Section 5.22.060, and conducting a hearing if a timely request is filed, the ~~[C]city [C]council~~ may suspend or revoke any license issued pursuant to this chapter where one or more of the following conditions exist:

(1) The license was procured by fraud or false representation of material fact in the application or in any report or record required to be filed with the [~~CLERK~~] finance director;

(2) The building, structure, equipment or location of the business or dance for which the license was issued does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire and safety laws and ordinances of the state, King County, and the city, or the requirements of this chapter;

(3) The applicant or any of the applicant's officers, directors, partners, operators, employees or any other person involved in the operation of the dance or dance hall has been convicted within the last five years of:

[~~(A)~~] (a) A felony involving a crime of violence (as defined in RCW 9.41.010(2) as it now exists or as hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50, or

[~~(B)~~] (b) A crime involving prostitution, promoting prostitution, prostitution loitering or lewd conduct, or assault on a juvenile;

(4) The licensee or his employee, agent, partner, director, officer or manager has knowingly allowed or permitted:

[~~(A)~~] (a) A felony involving a crime of violence (as defined in RCW 9.41.010(2) as it now exists or as hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50 to occur in or upon the dance hall premises, or

~~[(B)]~~ **(b)** A crime involving prostitution, promoting prostitution, prostitution loitering or lewd conduct, or assault on a juvenile to occur in or upon the dance hall premises, or

~~[(C)]~~ **(c)** Any unlawful act of sexual intercourse, sodomy, oral copulation, or masturbation to be committed in or upon the dance hall premises, or

~~[(D)]~~ **(d)** The dance hall premises to be used as a place in which unlawful solicitations for sexual intercourse, sodomy, oral copulation or masturbation occur, or

~~[(E)]~~ **(e)** The possession or consumption of liquor by persons under the age of twenty-one years, in or upon dance hall premises, or

~~[(F)]~~ **(f)** The giving or supplying of liquor to any person under the age of twenty-one years, or

~~[(G)]~~ **(g)** The use by any person in or upon the dance hall premises of marijuana, cocaine or any other controlled substance (as defined in RCW 69.50.101(d) as now exists or as hereafter amended) not prescribed by a licensed physician for use by the person possessing or using the substance, or

~~[(H)]~~ **(h)** Violation of any condition placed upon a license issued pursuant to this chapter, of the ordinance codified in this chapter, or of any other applicable law or ordinance, which the ~~[E]~~city ~~[E]~~council finds constitutes an unreasonable interference with surrounding land uses or is otherwise unreasonably detrimental to the public welfare.

~~+(b)+~~ **(B)** If the [C]city [C]ouncil finds that any of the conditions set forth in this section exists and that the existence of such condition constitutes a threat of immediate and serious injury or damage to person or property, and in the case of conditions which may be eliminated by the licensee, that notice of the conditions has been given to the licensee and at least twenty-four hours have expired without the elimination of such conditions, the [C]city [C]ouncil may immediately suspend any license issued under this chapter without prior opportunity to be heard, in which event the licensee shall be entitled to appeal the decision to the [C]city [C]ouncil in accordance with Section 5.22.060. The notice of immediate suspension of license given pursuant to this subsection shall include a statement of the conditions found to exist that constitute a threat of immediate and serious injury or damage to persons or property, and shall also inform the applicant of his right to appeal within ten days of the date of the notice by filing a written notice of appeal which contains a statement of the reasons for the appeal with the [CITY CLERK] finance director.

~~+(e)+~~ **(C)** Revocation of any license issued under this chapter shall be accomplished pursuant to this section.

#### **5.22.072 Age restrictions.**

~~+(a)+~~ **(A)** No person conducting a public dance or maintaining a public dance hall shall allow persons under the age of sixteen years to enter or remain in

the dance hall without a parent or legal guardian present.

~~+(b)+~~ (B) It is the responsibility of the person conducting and/or operating a public dance to require identification showing the age of each person admitted. A valid Washington State driver's license or photo identification card issued by the Washington State Department of Licensing shall be the only acceptable forms of proof of age.

~~+(e)+~~ (C) Every person who knowingly or recklessly allows a person to enter or remain in violation of this section shall be guilty of a misdemeanor.

~~+(d)+~~ (D) Any person who affirmatively misrepresents his or her age to obtain admission to or permission to remain in any public dance in violation of this chapter shall be guilty of a misdemeanor.

#### **5.22.073 Hours of operation.**

No public dance to which any person under the age of eighteen years may be admitted shall be conducted past the hour of twelve midnight on any school night, nor past the hour of two a.m. on any other day. For the purpose of this section, the term "school night" means any night preceding a day upon which public schools within the city are scheduled to operate as of the time of commencement of the dance.

#### **5.22.074 Public dances - Readmission fee.**

No person conducting or operating a public dance or public dance hall shall permit any person, other than an employee, to leave the dance or dance hall and

return unless that person pays a readmission fee equal to the original price of admission.

**5.22.076 Access – By police and fire officers.**

All police officers of the city and/or the [C]chief of [P]police and the [F]fire [M]marshal shall have free access to public dances and dance halls when a dance is being conducted, for the purpose of inspection and to enforce compliance with the provisions of this chapter and other applicable city, county and state health, zoning, building, fire and safety ordinances and laws.

**5.22.078 License limited to licensee and location.**

Any license issued under the provisions of this chapter shall apply to a single licensee and to a single location only and shall not be transferable to other locations or to other persons.

**5.22.080 Applicability.**

All public dances within the city shall be regulated by the provisions of this chapter, regardless of whether a public dance license or business license was obtained from the city prior to or after the effective date of the ordinance codified in this chapter.

**Chapter 5.28**

**CARNIVALS, CIRCUSES, AND AMUSEMENT ACTIVITIES<sup>1</sup>**

**Sections:**

**5.28.010 Definitions.**

- 5.28.020 Carnival, circus and amusement license required.
- 5.28.030 Business license required.
- 5.28.040 Additional food permit required.
- 5.28.050 License fees.
- 5.28.060 Clean-up deposit.
- 5.28.070 License application.
- 5.28.080 License review.
- 5.28.090 Conditions upon issuance of license -  
Review of operations.
- 5.28.100 Appeal of license denial.
- 5.28.110 Conditions of operation.
- 5.28.120 Inspection.
- 5.28.130 Insurance.
- 5.28.140 Indemnification.
- 5.28.150 Revocation or suspension.
- 5.28.160 Penalty for violation.

5.28.010 Definitions.

(A) "Amusement" means recreation or entertainment to which the general public is invited for an admission charge.

(B) "Applicant" means any person or organization seeking a license from the city to conduct an event governed by this chapter. The applicant, including the person seeking a permit on behalf of an organization, must be 18 years of age or older. The applicant shall be the company or person actually conducting the event. Sponsors of events shall not be considered the applicant.

(C) "Carnival" means any mobile enterprise or the temporary use of a device or devices for the purpose of providing entertainment, amusement, sport or merriment for patrons and includes, but is not limited to, roller coasters, merry-go-rounds, swings, ferris wheels, games of shooting, pitching and throwing, and phenomenal exhibitions.

(D) "Circus" means any institution featuring exhibits for the purpose of entertainment and includes, but is not limited to, exhibitions and performances by clowns, acrobats and/or animals; provided, that nothing in this chapter shall be construed as authorizing any display of wild or exotic animals otherwise prohibited by the Redmond Municipal Code.

(E) "Exhibition" means any display by an exhibitor(s) for public view and includes, but is not limited to, stationary exhibits; performances or presentations; and displays of crafts, trinkets, photographs, paintings or other art pieces.

(F) "Fraternity" means an association or society of persons formed for mutual aid and benefit, but not for profit.

(G) "Religious organization" means an organization engaged in the practice of a particular faith or central beliefs.

(H) "Transient" means temporary, short-lived, non-permanent or non-lasting.

5.28.020 Carnival, circus, and amusement license required.



It is unlawful for any person, organization, association, firm, partnership or corporation to conduct or engage in carnivals, circuses, amusements or exhibitions in the city without first obtaining a carnival, circus, and amusement license from the city to engage in such activity. [~~PROVIDED THAT,~~] [t] The grant of any such license in no way relieves any applicant from the duty to comply with all applicable city or state laws.

**5.28.030 Business license required.**

In addition to any licenses and fees required under Chapter 5.28 of the Redmond Municipal Code, every applicant shall also obtain a business license pursuant to Section 5.04.070 of this code. The applicant shall be required to obtain the license. The sponsor is unable to do so for the applicant.

**5.28.040 Additional food permit required.**

Every applicant for a carnival, circus and amusement license who makes food or beverages available to patrons must also obtain a permit from the Seattle King County Health Department. The applicant must obtain the permit. The sponsor is unable to do so for the applicant.

**5.28.050 License fees.**

(A) Every applicant, as defined in RMC Section 5.28.010 (B) must submit an advance payment of license fees for the carnival, circus or amusement license application. Both such payment and the application must be filed at least thirty (30) days prior to the

commencement of the activity, unless otherwise authorized by the city. It is the applicant who must file and submit the application, not the sponsor. Any application filed by a sponsor, will be deemed void. The fee for each day the business shall operate shall be set by Council resolution. Provided that nontransient, community based applicants (not sponsors) such as schools, churches, religious organizations or local fraternities shall be exempt from this fee upon submittal of proof that such school, church, religious organization or local fraternity operates as a nonprofit entity in the State of Washington. This exemption shall not apply to organizations that are regularly engaged in for profit intrastate or interstate commerce and are therefore transient in nature.

(B) Additional fees may be imposed for the actual costs of providing support services. In addition, the city may charge an administrative fee computed by charging up to ten (10) percent of the actual costs of providing support services. The services shall include, but not be limited to, services provided by the departments of [P]public [W]works, [F]fire and [P]police. These additional fees shall also apply to nonprofit applicants.

(C) Pursuant to RMC 3.28.040, a tax shall be levied and collected by the city for each charge of admission to the activity for which a permit is being sought.

**5.28.060 Clean-up deposit.**

Under Section 5.28.020 every applicant must also enclose with the carnival, circus and amusement license application a cash clean-up deposit in an amount to be set by Council resolution. Such deposit shall be refunded by the city upon expiration, suspension or revocation of the license if the area used by the applicant has been cleaned and restored to the same condition as existed prior to such use. If the area used is not cleaned and restored to original condition, the applicant shall be billed for the actual cost to the city for clean-up and restoration. The clean-up deposit shall be applied to the payment of the bill.

**5.28.070 License application.**

The application shall be upon a form furnished by the [~~CITY CLERK~~] finance director and shall contain:

(A) The names, addresses and telephone numbers of the business, individual applicant and contact person;

(B) The individual applicant's date of birth;

(C) A statement indicating whether the applicant is an individual, association, organization, firm, corporation or partnership and a list of all officers and partners, respectively;

(D) A complete description of the proposed event or activity for which the license is being sought;

(E) The location(s) of the proposed event or activity; a basic site map;

(F) The number of individual mechanical devices and amusement rides, a brief description of each, and a list of concession stands, game booths or exhibitions that will be in operation;

(G) Proof of liability insurance as required under Section 5.28.130;

(H) The date that the application was made and the date(s) of the proposed activity or event;

(I) A description and the location of public rest rooms to be provided by the applicant for the proposed event or activity as required under Section 5.28.110(F); and

(J) A statement indicating whether the proposed activity will require the use of any city street or right-of-way and, if so, the location and dimensions of the proposed use and the remaining unobstructed street or right-of-way along with a street use permit, if applicable, as defined in Redmond Municipal Code Section 12.08.010. Corresponding fees to this permit are not waived for any applicant;

(K) Such other data as the [~~CITY CLERK~~] finance director may reasonably require in the interest of public health, safety or welfare.

**5.28.080 License review.**

(A) No license to operate an activity or event under this chapter shall be issued without the prior written approval of the city [~~D~~] departments of [~~P~~]public [~~W~~]works, [~~P~~]planning, building, [~~P~~]police, [~~P~~]parks, [~~F~~]fire and [~~F~~]finance. A license may be

denied if, after review by the aforementioned [D]departments and the [CITY-CLERK] finance director, it is determined that the event or activity would:

[A-] (1) Significantly increase traffic volumes which may adversely affect vehicular and pedestrian safety;

[B-] (2) Create potential crowd control problems dangerous to the well-being of the public;

{C-} (3) Expose the public to harmful psychological and physiological effects and adverse impacts due to excessive noise;

[D-] (4) Be otherwise detrimental to the health, safety and welfare of the public; or

[E-] (5) When such proposed activity or event does not comply with any provision of this chapter, or with other laws and regulations of the city, or of the state of Washington.

(B) Upon denial of a carnival, circus and amusement license application, all fees and deposits submitted with the application shall be refunded to the applicant, less a non-refundable fee for processing the application, to be set by Council resolution.

**5.28.090 Conditions upon issuance of license - Review of operations.**

The [CITY-CLERK] finance director may review the operations of any activity operating under a carnival, circus and amusement license at any time after commencement of operation to determine whether additional or revised conditions are needed in order

to prevent incompatibility with surrounding land uses and to protect the public health, safety and general welfare.

**5.28.100 Appeal of license denial.**

All decisions with respect to the issuance, denial, revocation or suspension of any license issued under this chapter shall be final unless the applicant makes a written appeal to the [~~E~~]city [~~H~~]hearing [~~E~~]examiner within ten (10) days pursuant to Section 5.04.150.

**5.28.110 Conditions of operation.**

(A) Time of Operation. Any activity for which a license is issued under this chapter shall only operate in accordance with the times set forth below:

During months when schools are regularly in session -

9:00 a.m. - 11:00 p.m.

Sunday through Thursday

9:00 a.m. - 12:00 midnight

Friday, Saturday and holidays

During summer months when schools are not regularly in session -

9:00 a.m. - 12:00 midnight

(B) Distance from Schools and Churches. Any activity for which a license has been granted under this chapter shall not be conducted within one thousand (1,000) feet of any school or church, unless the school or church provides a written statement waiving such requirement.

(C) Conduct. Every applicant shall:

(1) Comply with all applicable city or state laws; and

(2) Refrain from engaging in any unlawful gambling.

(D) Alcohol. The sale, consumption or possession of any alcoholic beverages in conjunction with any activity permitted under this chapter is prohibited.

(E) Noise and Amplifying Equipment. Every applicant must comply with all noise and amplifying regulations as set forth in Redmond Municipal Code Chapter 9.42 and in the City of Redmond Community Development Guide (RCDG) 20C.20.120, unless specifically exempted under RCDG 20C.20.120.

(F) Provision of Public Rest Rooms. Every applicant must provide sufficient public rest rooms, such sufficiency to be determined by Appendix C of the Uniform Plumbing Code or as deemed by the authorizing building official during review of the applicant's application.

(G) Posting of Game Rules. The rules of any game, the cost of participating in such game, and the prizes to be awarded shall be clearly indicated and prominently displayed at the game site. The admission price to any game, ride or other amusement device shall also be clearly indicated and prominently displayed at the site of such game, ride or device.

#### 5.28.120 Inspection.

(A) The [F]fire [E]chief or designee shall determine whether the applicant has made sufficient provisions for:

(1) Adequate aisles, seats, platforms and poles; platforms and poles shall be jointly inspected by the [F]fire [D]department and the [B]building [D]department;

(2) Sufficient exits, well-marked and properly lighted;

(3) Properly lighted and unobstructed passageways to areas leading away from structure(s);

(4) Removal of all poles, ropes or other obstructions within the aisles or exits of a place of assembly;

(5) Sufficient "No Smoking" signs shall be visible at all times in those areas so designated;

(6) Proper safeguarding of any use of open flames or prohibition of such use;

(7) Safeguarding structures or other amusement devices from fire due to unsafe use of straw, dry grass, sawdust or other combustible materials;

(8) Proper facilities or devices to contact the [E]city [F]fire [D]department or other emergency response unit;

(9) Such fire equipment as the [F]fire [E]chief deems necessary for proper fire protection;

(10) Flameproof tents, cloth, canvas, rigging, ropes or other combustible materials;

(11) The attendance of sufficient police officers and firefighters as the [E]chiefs of [P]police and [F]fire deem necessary for crowd control and such other control required to protect the public health, safety and welfare;



(12) Location and number of fire extinguishers to be determined by the [F]fire [E]chief;

(13) Access for a [F]fire [D]department aid car to within fifty (50) feet of twenty-five (25) percent of the perimeter of any building;

(14) Access for a [F]fire [D]department pumper to within one hundred fifty (150) feet of all portions of the exterior of a building; and

(15) A fire flow of no less than one thousand five hundred (1,500) gallons per minute. Fire flow requirements may exceed this minimum.

(B) The [E]city [B]building [Ø]official or other appropriate city representative may, before the opening of an activity to the public licensed under this chapter, and periodically during its operation thereafter, inspect structures or mechanical devices to determine compliance with applicable codes and permit restrictions so as to ensure public safety.

#### 5.28.130 Insurance.

(A) Liability Coverage Required. Every applicant must possess or obtain public liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury or property damage arising from any activity. A certificate of insurance must be filed with the [CITY-CLERK] finance director thirty (30) days prior to the commencement of such activity, and must name the city, its officials, employees and agents as additional insureds. Insurance coverage must be maintained for the duration of the

activity and for thirty (30) days after the cessation of such activity.

(B) Minimum Limits Defined. Coverage must be under a comprehensive general liability insurance policy. Minimum limits required are one million dollars (\$1,000,000.00) per each occurrence (bodily injury and property damage) combined single limit. If food is sold or served at the activity, the policy must also include an endorsement for potential product liability claims. The city may require additional endorsements depending upon the proposed activity.

(C) Waiver or Reduction of Required Limits. The city may waive or reduce the insurance requirements set out in this section under the following conditions:

(1) The applicant signs a verified statement indicating the names and addresses of two insurance agents or other sources of insurance coverage contacted and stating that insurance coverage in the limits required is impossible to obtain; or

(2) The risk manager determines that the insurance limits are in excess of the reasonable risk presented by the proposed activity.

#### **5.28.140 Indemnification.**

Prior to the issuance of a license to conduct any activity authorized under this chapter, the applicant must sign an agreement to defend the city, and indemnify and hold harmless the city, its officers, employees and agents, against any claim which arises in whole or in part out of the activity for which the

license was issued. Provided that, the applicant shall not be obligated to defend the city, nor indemnify, nor hold harmless the city, its officers, employees and agents, against a claim arising solely out of the negligent acts or omissions of the city, its officers, employees or agents. The undersigned waives immunity under RCW Title 51, the Industrial Insurance Act, and similar statutes, for purposes of this agreement only and acknowledges that this waiver has been specifically negotiated.

**5.28.150 Revocation or suspension.**

All licenses issued under this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be immediately revoked or suspended by the [~~CITY CLERK~~] finance director as follows:

(A) The activity endangers or threatens persons or property, or otherwise jeopardizes the health, safety or welfare of persons or property; or

(B) The activity conducted is in violation of any of the terms or conditions of such license.

**5.28.160 Penalty for violation.**

Any person, association, firm, partnership or corporation that violates any of the provisions in this chapter shall be guilty of a misdemeanor and shall, upon conviction be punished by a fine not exceeding one thousand dollars (\$1,000.00) and by imprisonment not exceeding ninety (90) days. Each day or portion of a day during which a violation is committed constitutes a separate offense.

Chapter 5.32

TRANSITORY AMUSEMENT FRANCHISE FEE<sup>1</sup>

(Repealed by Ord. 1664)

Chapter 5.36

MUSIC BOXES

Sections:

- 5.36.010 Purpose.
- 5.36.020 Music box defined.
- 5.36.030 License required.
- 5.36.040 Application.
- 5.36.050 Issuance - Term.
- 5.36.060 Fees.
- 5.36.070 (Repealed by Ord. 1624.)
- 5.36.080 Operation of music boxes.
- 5.36.090 Revocation of license.
- 5.36.100 Penalty.

5.36.010 Purpose.

The provisions of this chapter shall be deemed an exercise of the police power and the power of the city to license for revenue and for regulation.

5.36.020 Music box defined.

"Music box", as used in this chapter means and includes a device, instrument or machine for the reproduction of music by records, tape or other means whereby the same is operated or activated by means of a coin or other token of value.

5.36.030 License required.

It is unlawful for any person, firm or corporation to place for operation, or any person, firm or corporation to operate within the city any music box, as herein defined, without first having obtained and being the holder of a valid and subsisting license [~~THEREFOR~~] in accordance with the provisions of this chapter.

#### 5.36.040 Application.

Any person, firm or corporation desiring to place for operation or maintain, keep or operate any music box shall make written application for license so to do and file the same with the [~~CITY CLERK~~] finance director [~~OR OTHER DESIGNATED OFFICER~~]. The application shall state the name of the applicant, his residence, the address and nature of business at which any music boxes shall be maintained and operated, a description and serial number of each music box, and the number of music boxes to be covered by the license.

#### 5.36.050 Issuance - Term.

Upon approval of the application by the [~~CITY CLERK~~] finance director [~~OR OTHER DESIGNATED OFFICER~~], the [~~CITY CLERK'S~~] finance director's office shall compute the license fee required under the provisions of this chapter and, upon payment thereof, shall issue to the applicant a license to maintain and operate music boxes for the calendar year in which issued. The license shall be known as a "Music Box License" and shall be of two kinds: (1) a "master" license to be required of the owner of the music box(es) and (2) an

"operator's" license to be required of the owner of the business establishment in which the music box is placed.

A copy of the operator's license shall be affixed to and conspicuously displayed upon each properly licensed music box maintained or operated within the city. No owner or operator of a properly licensed music box shall transfer said license from one music box to another, and no properly licensed music box shall be transferred from one location to another except with the consent of the [~~CITY CLERK'S~~] finance director [~~OFFICE~~].

Each license shall expire [~~AT THE END OF THE CALENDAR YEAR IN WHICH IT IS ISSUED,~~] January 31 and a new license shall be required for each ensuing calendar year. Any license issued under and by virtue of the provisions of this chapter shall be personal and nontransferable. Each license shall be numbered, and shall show the name of the licensee, business address and the kind of license issued.

#### **5.36.060 Fees.**

The fee for the master license and the fee for the operator's license required by this chapter shall be set by council resolution. The master license fee shall be payable in full at the time the license is issued and shall not be prorated for any part of the year. The operator's license fee shall be payable annually in advance in accordance with the number of music boxes to be covered by the license. Music boxes placed in operation during the year will not be

covered until the entire annual fee for such machine has been paid without prorating the same.

5.36.070 Repealed by Ord. 1624.

5.36.080 Operation of music boxes.

No music box licensed under the provisions of this chapter shall be operated in a loud or noisy manner so as to unduly annoy or disturb the occupants of adjoining property or as to create a public disturbance or nuisance.

5.36.090 Revocation of license.

The [E]city [E]council shall have the right to revoke any and all licenses issued hereunder when they deem the continuance of the license or licenses injurious to the public health and well being with or without notice to the licensee. In the event any license is revoked, the unearned portion of the license fee shall be forfeited to the city.

5.36.100 Penalty.

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 1.01.110.

#### Chapter 5.44

#### OCCUPATION TAX

##### Sections:

5.44.010 Purpose and effect.

5.44.020 Definitions.

- 5.44.030 Required - Violation.
- 5.44.040 Monthly periods.
- 5.44.050 Occupations subject - Rate.
- 5.44.060 Return required - Due dates and payment.
- 5.44.070 Payment procedure.
- 5.44.080 More than one business.
- 5.44.090 Failure to pay - Violation.
- 5.44.100 Exceptions and deductions.
- 5.44.105 Allocation of income - Cellular telephone service.
- 5.44.110 Books and records required - Returns confidential.
- 5.44.120 Investigation and audit regarding tax liability.
- 5.44.130 Overpayment or deficiency.
- 5.44.140 Failure to file return.
- 5.44.150 Sale of business.
- 5.44.160 Failure to comply, unlawful acts.
- 5.44.170 Not exclusive.
- 5.44.180 Penalty for late payment - Interest.
- 5.44.190 Debt to city when unpaid.
- 5.44.195 Rate change.
- 5.44.200 Rules and regulations.
- 5.44.210 Appeals.
- 5.44.220 Penalty.

5.44.010 Purpose and effect.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue and to levy a tax on utilities pursuant to the laws of the state of Washington.



5.44.020 Definitions.

Unless the context clearly indicates otherwise, the words, phrases and terms used in this chapter shall have the following meanings:

~~+(a)+~~ (A) "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of investment of capital in the business engaged in (including rentals, royalties, receipts, or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, cost of materials used, labor costs, taxes, interest or discount paid, or any expenses whatsoever, and without any deduction on account of losses. Further deductions and exceptions from gross income upon which the fee or tax described in this chapter is computed are set forth in Section 5.44.100.

~~+(b)+~~ (B) "Person or persons" means persons of either sex, firms, co-partnerships, corporations, public utility districts, municipal corporations or departments thereof, public or private utilities, and other associations, whether acting by themselves or by servants, agents or employees.

~~+(c)+~~ (C) "Taxpayer" means any person liable for the license fee or tax imposed by this chapter.

~~+(d)+~~ (D) "Tax year or taxable year" means the year commencing January 1st and ending on December

31st, of such year, or in lieu thereof, the taxpayer's fiscal year when permission is obtained from the [CITY CLERK] finance director to use the same as the tax period, or in lieu thereof, commencing December 15th and ending December 14th of the next following calendar year when permission is obtained from the [CITY-CLERK] finance director to use the period as the tax year.

~~+(e)+~~ (E) "Telephone business" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. It also includes the provision of transmission to and from the site of an internet provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. Telephone business does not include the providing of competitive telephone service, the providing of cable television service, the providing of broadcast services by radio or television stations, nor the provision of internet service as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the internet service provider.

~~+(f)+~~ (F) "Competitive telephone service" means the providing by any person of

telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

~~+(g)+~~ **(G)** "Cellular telephone service" means a two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications and which is not subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service.

#### **5.44.030 Required - Violation.**

On and after January 1, 1970, no person subject to the payment of the tax provided herein shall engage in any business, occupation or activity in the city without first having obtained a valid City of Redmond business license and submitting a completed occupation registration application [~~BEING THE HOLDER OF A VALID AND EXISTING LICENSE SO TO DO, TO BE KNOWN AS AN 'OCCUPATION LICENSE' FOR WHICH THE APPLICANT SHALL PAY THE SUM~~] and an occupation registration fee of ten dollars. Such [~~an~~]occupation [~~LICENSE~~] registration[~~an~~]

shall expire at the end of the calendar year in which it is issued and a new [LICENSE] occupation registration application and fee shall be required for each calendar year, unless the taxpayer is transacting his or its business on a fiscal year and not on a calendar year, and with the consent of the [CITY CLERK] finance director, obtains his or its license for the period of his or its current fiscal year which shall be deemed the tax year for such taxpayer.

Application for an [^]occupation [LICENSE] registration[^] shall be made to the [CITY CLERK] finance director who shall provide the forms therefor and shall issue the business license upon payment of the business license and occupation registration [LICENSE] fees. There shall be no prorati~~o~~n of the occupation registration [LICENSE] fee for an applicant who makes application for part of any year or period.

Any person engaging in or carrying on more than one such business, occupation, pursuit or privilege within the city shall make application for and procure an [^]occupation [LICENSE] registration[^] for each of the same.

~~[EACH "OCCUPATION LICENSE" SHALL BE NUMBERED, SHALL SHOW THE NAME, PLACE AND CHARACTER OF BUSINESS OF THE TAXPAYER, AND SUCH OTHER INFORMATION AS THE CITY CLERK SHALL DEEM NECESSARY, AND SHALL BE CONSPICUOUSLY POSTED IN THE PLACE OF BUSINESS FOR WHICH IT IS ISSUED AT ALL TIMES. SUCH LICENSE SHALL BE PERSONAL AND NONTRANSFERABLE.]~~

No person [TO WHOM] who has completed an [^]occupation registration [LICENSE][^] ~~[HAS BEEN ISSUED]~~

pursuant to this chapter shall suffer or allow any other person for whom a separate [~~LICENSE~~] registration is required to operate under [~~OR DISPLAY HIS LICENSE~~] his registration; nor shall such other person operate under [~~OR DISPLAY SUCH LICENSE~~] such registration.

Any taxpayer who engages in or carries on any business subject to tax hereunder without having completed an occupation [~~LICENSE~~] registration so to do shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on and the taxpayer who fails or refuses to pay the [~~LICENSE~~] registration fee or tax on any part thereof on or before the due date shall be deemed to be operating without having [~~HIS LICENSE~~] proper registration so to do.

#### 5.44.040 Monthly periods.

Except as provided in Section 5.44.050 [~~(d)~~] (A) (4), and after January 1, 1982, there is levied upon and shall be collected from, and paid by as hereinafter provided, every person on account of transacting, carrying on, or engaging in such business activities within the city limits as are described in Section 5.44.050, an occupation tax (sometimes herein referred to as "tax") against the gross monthly income of the business.

#### 5.44.050 Occupations subject - Rate.

(A) There are levied and shall be collected annual license fees and occupation taxes against the persons designated on account of the business

activities, and in the amounts to be determined by the application of the respective rates against gross income or sales income as follows:

~~†(a)†~~ (1) Telephone Business. Upon every person engaged in or carrying on any telephone business within the city, a fee or tax equal to six percent of the total gross income, including revenues from intrastate long distance toll service, from such business in the city during the current calendar year for which a license is required.

~~†(b)†~~ (2) Electric Light and Power. Upon every person engaged in or carrying on the business of furnishing electric light and power within the city, a fee or tax equal to six percent of the total gross income from such business in the city during the current calendar year for which a license is required.

~~†(c)†~~ (3) Natural or Manufactured Gas. Upon every person engaged in or carrying on the business of transmitting, distributing, selling and furnishing natural and/or manufactured gas, a tax equal to six percent of the total gross income from such business derived from the sale of gas within the city during the calendar year for which a license is required.

~~†(d)†~~ (4) Water. Upon the City of Redmond public utility, which engages in and carries on the business of furnishing water, a tax equal to 9.229 percent of the total income derived from the sale of water to properties located within the Redmond Service Area, as provided in RMC 13.16, during the calendar year in which service is furnished. The taxable income derived from the sale of water to

properties located within the Redmond Service Area includes revenues generated from all fixed monthly charges and volume charges imposed for water service and reportable to the Washington State Department of Revenue as Water Distribution Revenues under RCW 82.16.020. The taxable income does not include revenue derived from the sale of water for irrigation purposes, connection fees, accrued interest, or other sources not directly attributable to the quantity of water sold during the monthly period described in Section 5.44.040.

**5.44.060 Return required - Due dates and payment.**

The tax imposed by this chapter, except the annual [~~LICENSE~~] fee required to accompany the application for the occupation [~~LICENSE AND RENEWAL~~] registration, shall be due and payable in monthly installments. The remittance shall be made as hereinafter provided and shall be accompanied by a return on a form to be provided and prescribed by the [~~CITY CLERK~~] finance director. The return and remittance shall be in the [~~CITY CLERK'S~~] finance director's office by 5:00 p.m. Pacific time, on or before the last day of each month succeeding the end of the month in which the tax accrued. The taxpayer shall be required to swear or affirm in writing on the return that the information therein given is full and true and that the taxpayer knows it to be so. Whenever the total tax for which any person is liable under this chapter does not exceed the sum of \$15.00 for any monthly period, an annual return may be made upon

written request and subject to the approval of the [CITY-CLERK] finance director. Whenever a taxpayer commences to engage in business during any monthly period, his or her first return and tax shall be based upon and cover the portion of the month during which he or she engaged in business.

**5.44.070 Payment procedure.**

The tax shall be paid at the time the tax return is filed with the [CITY-CLERK] finance director. [~~TO THE CITY TREASURER BY BANK DRAFT, CERTIFIED CHECK, CASHIER'S CHECK, PERSONAL CHECK OR MONEY ORDER OR IN CASH.~~] If payment is made by [~~DRAFT OR~~] check, the tax shall not be deemed paid until the check [~~OR DRAFT~~] is honored in the usual course of business; nor shall the acceptance of any sum by the [~~TREASURER~~] finance director be an acquittance or discharge of the tax due unless the amount of payment is in full and is the actual amount due.

**5.44.080 More than one business.**

Any person engaged in, or carrying on more than one such business, occupation, pursuit, or privilege shall pay the tax so imposed separately for each of the same.

**5.44.090 Failure to pay - Violation.**

Any taxpayer who engages in, or carries on, any business subject to the tax hereunder, and fails or refuses to pay the tax or any part thereof on or before the due date shall be operating in violation of this chapter.



5.44.100 Exceptions and deductions.

(A) There shall be excepted and deducted from the total gross income or sales income upon which the license fee or tax is computed the following:

(1) That portion of the gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services.

(2) Charges by a taxpayer engaging in a telephone business or to a telecommunications company, as defined in RCW 80.04.010, for telephone service that the purchaser buys for the purpose of resale.

(3) Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of a customer.

(4) There shall be excepted and deducted from the total gross income or sales income upon which the tax is computed all cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

(5) So much thereof as is derived from the transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents in their official capacity, and any amount paid by the taxpayer to the United States, the state of Washington, as excise

taxes levied or imposed on the sale or distribution of property or service.

(B) There shall be excepted and deducted from the total gross income or sales income upon which the tax is computed all bad debts for services incurred, rendered or charged for during the tax year. Debts shall be deemed bad and uncollectible when they have been written off the books of the taxpayer. In the event debts are subsequently collected, the income shall be reported in the return for the quarter in which the debts are collected and at the rate prevailing in the tax year when collected.

(C) Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States or which would not be consistent with the Constitution or laws of the State of Washington.

**5.44.105 Allocation of income - Cellular telephone service.**

(A) Service Address. Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.

(B) Presumption. There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.

(C) Roaming Phones. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

(D) Dispute Resolution. If there is a dispute between or among the city and one or more other cities, as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the city and the other city or cities by submitting the issue for settlement to the Association of Washington Cities (AWC). Once the taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes on the disputed revenues so long as it changes its billing records for future revenues to comport with the settlement facilitated by AWC.

**5.44.110 Books and records required - Returns confidential.**

It shall be the duty of each taxpayer taxed upon his/her or its gross income or sales income to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of his/her or its gross income or sales income, which account shall always be open at the principal place of

business to the inspection of the [~~CITY CLERK~~] finance director [~~, OR THE CLERK'S DULY AUTHORIZED AGENT~~], and from which the [~~OFFICER OR AGENT~~] finance director may verify the return made by the taxpayer. Such records shall be preserved for a period of five years. The [~~CITY CLERK~~] finance director [~~, OR THE CLERK'S DULY AUTHORIZED AGENT,~~] shall not publicly reveal any facts or information contained in any return filed by any taxpayer or disclosed in any investigation or examination of the taxpayer's books and records, provided, the [~~CITY CLERK OR THE CLERK'S DULY AUTHORIZED AGENT, CAN~~] finance director can disclose such information pursuant to those exceptions authorized under state law, RCW 82.32.330 and 42.17.310(1)(C).

**5.44.120 Investigation and audit regarding tax liability.**

If any taxpayer fails to [~~APPLY FOR~~] submit an [<sup>u</sup>]occupation [~~LICENSE~~] registration[<sup>u</sup>] or make a return as required hereunder, or if the [~~CITY CLERK~~] finance director is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, the [~~CLERK~~] finance director [~~OR AUTHORIZED AGENT~~] may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting his or its books or records of account to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be, and may examine any person under oath administered by the [~~CLERK~~] finance director or the director's

designee [~~HIS~~—AGENT], touching the matters inquired into, or the [CLERK] finance director [~~OR HIS~~—AGENT] may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon such investigation and there testify under oath administered by the [CLERK] finance director or his [AGENT] designee, in regard to the matters inquired into and may, by subpoena, require him or any person, to bring with him such books, records and papers as may be necessary.

#### 5.44.130 Overpayment or deficiency.

If the [CITY—CLERK] finance director upon investigation or upon checking returns finds that the tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount by a treasurer's check upon the general fund; provided, that if the taxpayer in all probability will have a tax liability in the ensuing quarter, such overpayment may be held and applied by the [CLERK] finance director as a credit against the tax to become due. If the [CLERK] finance director finds that the tax is less than required, he shall mail a statement to the taxpayer showing the balance due, who shall pay the amount shown thereon to the [CITY—TREASURER] finance director within ten days of the date of the notice.

#### 5.44.140 Failure to file return.

If any taxpayer fails, neglects or refuses to make his return as and when required hereunder, the

[CITY—CLERK] finance director is authorized and directed to determine the amount of tax payable and by mail to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable unless the taxpayer shall file a true and correct return with full payment within seven days of the date such mail notification is sent.

**5.44.150 Sale of business.**

Upon the sale or transfer during a quarterly period of a business or account of which a tax is required, the purchaser or transferee shall, if the tax has not been paid in full for the quarterly period, be responsible for the payment of the tax for that portion of the quarterly period during which he or it carries on such business.

**5.44.160 Failure to comply, unlawful acts.**

It is unlawful for any person liable to tax hereunder to fail or refuse to [SECURE] submit the annual [OCCUPATION—LICENSE] occupation registration, to make the returns when required, or to pay the [LICENSE] occupation registration fee or tax when due, or for any person to make any false or fraudulent application or return or any false statement or return or any false statement or representation in, or in connection with, any such application or return, or to aid or abet another in an attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, or to testify falsely

upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter.

**5.44.170 Not exclusive.**

The license fee or tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the city.

**5.44.180 Penalty for late payment - Interest.**

(A) For each payment due, if such payment is not made by the due date and time thereof, there shall be added penalties and interest as follows:

~~(A.)~~ (1) For each month or portion thereof that the payment is overdue, a penalty of five percent of the tax due shall be imposed, provided, that the total penalty imposed shall not exceed a total of 25 percent.

~~(B.)~~ (2) In addition to the penalties imposed, interest on the amount due shall accrue at the rate of eight percent per annum from the date of the delinquency.

(B) The [F] finance [D] director is authorized to waive all or any portion of the penalties and interest provided herein in the event that the [D] director determines that late payment was the result of excusable neglect or extreme hardship.

**5.44.190 Debt to city when unpaid.**

Any license fee or tax due and unpaid under this chapter, and all penalties and interest thereon, shall

constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

**5.44.195 Rate change.**

No change in the rate of tax upon persons engaging in providing cellular telephone service shall apply to business activities occurring before the effective date of the change and, except for a change in the tax rate authorized by RCW 35.21.870, no change in the rate of the tax may take effect sooner than sixty (60) days following the enactment of the ordinance establishing the change. The city shall send to each cellular telephone service company at the address on its license, a copy of any ordinance changing the rate of tax upon cellular telephone service promptly upon its enactment.

**5.44.200 Rules and regulations.**

The [~~CITY CLERK~~] finance director shall have the power and authority, and it shall be his duty, from time to time to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions thereof, and it is unlawful for any person to violate or fail to comply with any such rule or regulation.

**5.44.210 Appeals.**

(A) Any taxpayer aggrieved by the amount of the fee or tax determined by the [~~CLERK~~] finance director to be due under the provisions of this chapter may



appeal such determination to the [C]city [H]hearing [E]examiner.

(B) The appeal shall be in writing and shall contain the following:

(1) The name and address of the taxpayer;

(2) A statement identifying the determination of the [CLERK] finance director from which the appeal is taken;

(3) A statement setting forth the grounds upon which the appeal is taken, and identifying the specific errors the [CLERK] finance director is alleged to have made in making his or her determination;

(4) A statement identifying the requested relief from the determination being appealed.

(C) The appeal must be filed with the [CLERK] finance director within ten (10) days from the date the taxpayer was mailed notice of the [CLERK'S] finance director's decision.

(D) The [H]hearing [E]examiner shall conduct an appeal hearing, at which the appellant taxpayer and the [CLERK] finance director shall have the opportunity to be heard and to introduce evidence relevant to the subject of the appeal. The [H]hearing [E]examiner shall establish rules for such hearings consistent with the provisions of this section, including rules relating to the issuance and reconsideration of decisions.

(E) The appellant taxpayer shall have the burden of proving by the preponderance of the evidence that

the determination of the [CLERK] finance director is erroneous.

(F) Appeal proceedings before the [H]hearing [E]examiner shall be tape recorded and all exhibits admitted by the [E]examiner shall be made part of the record.

(G) Following the hearing, the [H]hearing [E]examiner shall render a decision on the appeal and shall enter written findings and conclusions in support thereof. A copy of the findings, conclusions, and decision shall be mailed to the appellant taxpayer and the [CLERK] finance director. The decision shall state the correct amount of the tax owing as determined by the [H]hearing [E]examiner.

(H) The decision of the [H]hearing [E]examiner shall be final and conclusive unless the same is appealed to the [C]city [C]council. Any such appeal must be filed with the [CLERK] finance director within ten (10) working days of the decision appealed from or any final decision on reconsideration thereof. Any such appeal shall be based solely on the record of the appeal hearing conducted by the [H]hearing [E]examiner.

(I) Any and all actions seeking judicial review of a [C]city [C]council decision under this section must be filed in the King County Superior Court within ten (10) calendar days following the date of the decision. Any action not brought within this time limit is barred.

**5.44.220 Penalty.**

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Section 1.01.110.

Chapter 5.48

GARBAGE COLLECTION

TAX\*

Sections:

- 5.48.010 Garbage collection tax imposed.
- 5.48.020 Conditions and records requirements for subject businesses.
- 5.48.030 Violations/appeals.

5.48.010 Garbage collection tax imposed.

There is levied and shall be collected upon every person engaged in or carrying on the business of garbage collection service within the city a tax equal to 6.0 percent of the total gross income derived from such business conducted within the city. This payment shall be made on a quarterly basis, and shall be due and payable on the date indicated by the statement.

5.48.020 Conditions and records requirements for subject businesses.

Every person or entity that engages in the garbage collection business within the city shall also be subject to the same provisions that have been applied to an occupation tax, that are listed in the following sections of the Redmond Municipal Code as they now appear or are hereafter amended:

- (1) 5.44.030;

- (2) 5.44.060;
- (3) 5.44.070;
- (4) 5.44.080;
- (5) 5.44.100;
- (6) 5.44.110;
- (7) 5.44.120;
- (8) 5.44.130;
- (9) 5.44.140;
- (10) 5.44.150;
- (11) 5.44.170;
- (12) 5.44.190; and
- (13) 5.44.200.

**5.48.030 Violations/appeals.**

Any person violating any provision of this chapter shall, upon conviction thereof, be punished as provided in Section 1.01.110.

Any taxpayer who engages in or carries on any business subject to the tax hereunder, and fails or refuses to pay the tax or any part thereof on or before the due date shall be operating in violation of this chapter.

For each payment due, when such payment is not made by the due date, it shall be subject to the provisions set out in Section 5.44.180.

Any taxpayer aggrieved by the amount of the tax found by the [~~CITY-CLERK~~] finance director to be required under this provision, or by any decision of the [~~CITY-CLERK~~] finance director in the enforcement and administration of this chapter, may appeal the

matter subject to the provisions set out in Section  
5.44.210.

Chapter 5.52

PUBLIC BATHHOUSES\*

Sections: .

- 5.52.010 Purpose and scope.
- 5.52.020 Definitions.
- 5.52.030 Exemptions.
- 5.52.040 License - Required.
- 5.52.050 License - Fees.
- 5.52.060 License - Display required.
- 5.52.070 License - Probationary.
- 5.52.080 License - Application.
- 5.52.090 License - Issuance and renewal.
- 5.52.100 Premises - Inspection.
- 5.52.110 Premises - Condition.
- 5.52.120 Employee - License required.
- 5.52.130 Employee - Age restriction.
- 5.52.140 Unlawful to admit certain persons.
- 5.52.150 Unlawful to advertise without license.
- 5.52.160 Consumption of liquor on premises -  
Unlawful.
- 5.52.170 Business hours.
- 5.52.180 List of services required.
- 5.52.190 Public bathhouse attendant license -  
Application.
- 5.52.200 Public bathhouse attendant license -  
Issuance and renewal.
- 5.52.210 License - Application fee nonrefundable.

- 5.52.220 License - Expiration.
- 5.52.230 License - Suspension or revocation.
- 5.52.240 License - Denial - Hearing.
- 5.52.250 Penalty for violation.

5.52.010 Purpose and scope.

The purpose of this chapter is to establish minimum standards for the regulation and licensing of public bathhouses, saunas and similar facilities, and the operators and employees thereof, in the interests of the public health and welfare of the citizens of the city; and to proscribe activities and practices which may be detrimental.

5.52.020 Definitions.

~~+(a)+~~ (A) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.

~~+(b)+~~ (B) "Public bathhouse" means any place within the city where baths or facilities for baths of any kind whatever are given or furnished for, or in expectation of, any fee, compensation or monetary consideration including, but not limited to: Finnish baths, Russian baths, sauna baths, Swedish baths, Turkish baths, baths by hot air, steam, vapor, water or electric cabinet.

~~+(c)+~~ (C) "Public bathhouse attendant" means any person who administers to, or provides services to, patrons of a public bathhouse or who supervises the work of such a person. The term does not include a person who performs only custodial or janitorial work.

~~+(d)+~~ (D) "License" means a certificate issued by the city authorizing a holder thereof to:

- (1) Act as a public bathhouse attendant; or
- (2) Operate a public bathhouse.

#### 5.52.030 Exemptions.

This chapter shall not apply to baths given in any hospital, or by physical therapists who treat patients referred by licensed physicians, or by any person licensed by the state of Washington to treat the sick, injured or infirm, or by any nurse under the direction of a person so licensed.

#### 5.52.040 License - Required.

~~+(a)+~~ (A) No person shall conduct, operate or maintain a public bathhouse without first obtaining a license [THEREFOR] as [HEREINAFTER] provided in this chapter.

~~+(b)+~~ (B) No person shall act as a public bathhouse attendant without first obtaining a license as [HEREINAFTER] provided in this chapter.

#### 5.52.050 License - Fees.

~~+(a)+~~ (A) The fee for a public bathhouse license shall be fixed by council resolution. In addition, a nonrefundable application fee which will include the costs of obtaining a criminal history conviction record from Washington State Patrol's Washington Access to Criminal History (WATCH) website and processing the application in an amount fixed by council resolution shall accompany each original application for such license.

~~[(b)]~~ (B) A nonrefundable application fee which will cover the costs of obtaining a criminal history conviction record from Washington State Patrol's Washington Access to Criminal History (WATCH) website and processing the application in an amount fixed by council resolution shall accompany each application for a license to serve as a public bathhouse attendant.

5.52.060 License - Display required.

The license required by this chapter must be prominently displayed for public inspection at the business establishment of the licensee.

5.52.070 License - Probationary.

The [~~CITY CLERK~~] finance director may, if deemed in the public interest, grant a probationary license for a period of six months which shall authorize limited operation on such terms and conditions as the [~~CITY CLERK~~] finance director deems necessary to provide reasonable safeguards for the public against misuse of such license.

5.52.080 License - Application.

(A) No license or renewal of license to conduct a public bathhouse shall be issued or renewed except upon written application to the [~~CITY CLERK~~] finance director which shall be signed and sworn to by the person who intends to conduct, operate or maintain a public bathhouse. Such application shall contain the following information:



~~+(a)+~~ (1) The full name, home address and telephone number of the applicant;

~~+(b)+~~ (2) The business name, business address and telephone number of the establishment or proposed establishments;

~~+(c)+~~ (3) Whether the applicant is a sole proprietorship, partnership or corporation. If partnership, giving names of all persons sharing in the profits of the business; if corporation, giving the names of its officers, directors and shareholders who possess a ten percent (10%) or more ownership interest, with the residence address and telephone number of each;

~~+(d)+~~ (4) How long applicant (or if corporation, its officers) have resided in King County or the state of Washington;

~~+(e)+~~ (5) If sole proprietorship or partnership, stating whether applicant is 18 years or older;

~~+(f)+~~ (6) Such other information as the ~~[CITY-CLERK]~~ finance director may reasonably require.

#### 5.52.090 License - Issuance and renewal.

Upon the filing of any application for issuance or renewal of license for a public bathhouse, the ~~[CITY-CLERK]~~ finance director shall refer the same to the [P]police [C]chief or designee, with a request to ~~[INVESTIGATE]~~ review the statements contained in the application, review any criminal history conviction report of the applicant, and to furnish a written ~~[REPORT-CONTAINING]~~ recommendation based on the

results of [~~HIS INVESTIGATION~~] the review and any other matters which might aid the [~~CITY CLERK~~] finance director in determining whether such license should be issued. The [~~CITY CLERK~~] finance director shall also refer the application to the [D]director of [P]public [W]works or designee and the [D]director of [P]planning or designee with a request to inspect the premises or proposed premises as to its sanitary and physical conditions and to [~~SUBMIT A WRITTEN REPORT THEREON~~] recommend approval or denial of the application based on the findings. If from the [REPORTS] recommendation and other information, the [~~CITY CLERK~~] finance director determines that the applicant and premises meet all requirements of this chapter and applicable health, safety, and land use regulations, then the [~~CITY CLERK~~] finance director shall issue or renew the license applied for.

#### 5.52.100 Premises - Inspection.

Any public bathhouse as licensed herein shall be at all times open to reasonable inspection as to sanitary and safety conditions by the city [B]building [D]department and public works department.

#### 5.52.110 Premises - Condition.

(A) The premises and equipment of all public bathhouses shall be maintained in a clean, safe and sanitary manner and it shall be the duty of the owner or operator of such establishment to meet the following requirements:

~~{(a)}~~ (1) Adequate lighting, heating and ventilating is to be installed and maintained in all

parts of the facility in full compliance with the city's applicable building, mechanical, plumbing, electrical and related codes.

~~+(b)+~~ (2) Each patron using such a facility shall be furnished with an individual clean towel or disposable paper mat by the operator thereof; towels shall not be reused until they are washed and sanitized. There shall be adequate facility for towel and mat storage.

~~+(e)+~~ (3) If any facility contains any swirling water pools where more than one person is immersed, such pools shall be maintained under the same restriction as any public or semipublic pool. Bacterial quality shall be such that not more than fifteen percent (15%) of any series of samples nor more than two consecutive samples in any series of samples collected at times when the pool is in use show the presence of coliform bacteria. Chlorine residual of four-tenths ppm. shall be maintained in all parts of pool water while in use to assure acceptable bacteriological standards.

~~+(d)+~~ (4) A chlorine and pH test kit shall be used routinely to check the chemical make-up of pool water with results recorded on a daily log sheet and kept current at all times.

~~+(e)+~~ (5) Any stools or benches in any bath facility shall be easily cleanable and soundly constructed. They shall be covered with single service towels when in use.

~~+(f)+~~ (6) All exercise equipment and appliances shall be routinely checked for possible

structural weaknesses and shall be maintained in a safe and sanitary manner at all times.

~~+(g)+~~ (7) All pools must be provided with recirculation and filtering equipment which equipment shall include a rate of flow indicator and a loss of head gauge for the backwash filter.

~~+(h)+~~ (8) All shower and dressing facilities shall be available outside the pool area. Such area must be well lighted and ventilated with nonslip floor finish provided on floors sloping to a floor drain.

~~+(i)+~~ (9) A safety bar or hand rail shall be installed in the pool easily accessible to users in every area of the pool.

~~+(j)+~~ (10) Any sauna bath or similar facility shall duly post a maximum exposure time table as suggested by the manufacturer thereof.

~~+(k)+~~ (11) Ceilings in the sauna area shall be designed, constructed and maintained to prevent dripping of hot water on users.

~~+(l)+~~ (12) Any facilities using ultra-violet exposure rooms in their establishment shall post maximum exposure time which shall not exceed three minutes for any individual.

**5.52.120 Employee - License required.**

It is unlawful for the owner, proprietor, manager or person in charge of any facility as herein defined, to employ in such establishment, any person who does not have a valid employee license issued pursuant to this chapter.

**5.52.130 Employee - Age restriction.**

It is unlawful for the owner, proprietor, manager or person in charge of any public bathhouse to employ in such establishment any person who is not eighteen (18) years of age.

**5.52.140 Unlawful to admit certain persons.**

It is unlawful for the owner, proprietor, manager or person in charge of any public bathhouse, or for any employee of the establishment, to knowingly harbor, admit, receive or permit to be or remain in or about such premises, any person under the influence of intoxicating liquor or narcotic drugs, or to knowingly permit any person to engage in any criminal offense thereon.

**5.52.150 Unlawful to advertise without license.**

It is unlawful to advertise the giving of public baths by a person or in an establishment not licensed or otherwise qualified pursuant to this chapter.

**5.52.160 Consumption of liquor on premises - Unlawful.**

Liquor, as defined in RCW 66.04.010, as now existing or hereafter amended, shall not be distributed or consumed on the premises of any public bathhouse, unless the premises are licensed to serve the same by the Washington Liquor Control Board.

**5.52.170 Business hours.**

No public bathhouse shall be allowed to conduct business after twelve midnight or prior to eight a.m.

**5.52.180 List of services required.**

A list of all services offered with a brief description of what the service entails, along with the cost of such service, must be posted in a prominent place on the premises licensed. All business transactions with customers must be conducted in accordance with the posted list of services.

**5.52.190 Public bathhouse attendant license - Application.**

(A) No license or renewal of license to act as a public bathhouse attendant shall be issued or renewed except upon written application filed with the [~~CITY CLERK~~] finance director upon forms furnished by the city, which shall be signed and sworn to by the applicant. Such application shall include the following:

~~+(a)+~~ (1) The full name, home address and telephone number of the applicant;

~~+(b)+~~ (2) At least three references as to the good character of the applicant;

~~+(c)+~~ (3) How long applicant has resided in King County and the state of Washington;

~~+(d)+~~ (4) All assumed names and aliases which have been or are used by the applicant;

~~+(e)+~~ (5) One two inch by two inch black and white photograph of the applicant, taken within six months of the date of the application, showing only the full face of such applicant. The one two inch by two inch black and white photograph shall be provided at the applicant's expense. The license, when issued, shall have affixed to it such photograph of the

applicant, and such license shall be posted and displayed in a conspicuous place in the establishment where such licensee is employed, at all times, and such license shall not be tampered with in any manner;

~~+(f)+~~ (6) The applicant's previous occupations and employers for the past five years;

~~+(g)+~~ (7) The applicant's previous experience, if any, as a public bathhouse attendant;

~~+(h)+~~ (8) Such other relevant and pertinent information as the [~~CITY CLERK~~] finance director may reasonably require in connection with such application.

#### 5.52.200 Public bathhouse attendant license - Issuance and renewal.

Upon the filing of an application for a license to act as a public bathhouse attendant, the [~~CITY CLERK~~] finance director shall refer the application to the [P]police [D]department or designee with the request to [~~INVESTIGATE~~] review the statements contained in the application, review any criminal history conviction report, and to furnish a written report within thirty days containing the results of the [~~INVESTIGATION~~] review, and any other matters pertinent to the application. If, from the reports and other information available, it appears that the applicant possesses the proper qualifications and has complied with all of the requirements of this chapter, and has not been convicted of soliciting for, or engaging in prostitution within the preceding five years, the [~~CITY CLERK~~] finance director shall issue

or renew the license; otherwise, the license application shall be denied.

**5.52.210 License - Application fee nonrefundable.**

Any application for issue or renewal of a license pursuant to this chapter shall not be accepted by the [~~CITY CLERK~~] finance director unless accompanied by the appropriate license fee. In the event an application for a license is refused, the amount tendered as the application fee shall not be returned to the applicant but shall go to the city to defray the cost of obtaining reports, examination and [~~INVESTIGATION~~] review.

**5.52.220 License - Expiration.**

All licenses issued or renewed pursuant to this chapter shall expire on [~~DECEMBER~~] January 31st of each calendar year.

**5.52.230 License - Suspension or revocation.**

~~+(a)+~~ (A) In addition to other penalties provided herein or by law, the [~~C~~]city [~~H~~]hearing [~~E~~]examiner, after providing the licensee with ten (10) days notice and conducting a hearing thereafter, shall have the right to suspend or revoke any license issued pursuant to this chapter upon a showing that any establishment or premises licensed hereunder has violated the provisions of this chapter, the provisions of a conditional license, or the provisions of state law.

~~+(b)+~~ (B) In addition to other penalties provided herein or by law, the [~~C~~]city [~~H~~]hearing [~~E~~]examiner, after providing the licensee with ten (10) days notice



and conducting a hearing thereafter, shall have the right to suspend or revoke any public bathhouse attendant's license issued pursuant to this chapter upon a showing that the attendant licensed hereunder has violated the provisions of this chapter, the provisions of a conditional license or has been convicted of engaging in or soliciting for prostitution within five years of the date of such suspension or revocation.

**5.52.240 License - Denial - Hearing.**

Any applicant whose application has been denied may, within ten days following notification of the denial, file a petition for a hearing with the [E]city [H]hearing [E]examiner. The [H]hearing [E]examiner shall set a hearing date within thirty days of receiving such request to determine whether the denial of a license is justified.

**5.52.250 Penalty for violation.**

Every person as principal, agent or otherwise, failing, neglecting or refusing to comply with any provision of this chapter, or violating the same, shall be guilty of a misdemeanor and shall be punished as provided by Redmond Municipal Code Section 1.01.110.

**Chapter 5.56**

**TOW TRUCKS**

**Sections:**

**5.56.010 Definitions.**

- 5.56.020 License - Required.
- 5.56.030 License - Application.
- 5.56.040 Registration certificate and inspection report required.
- 5.56.050 Proof of insurance and indemnification agreement.
- 5.56.060 License - Fee.
- 5.56.070 Ownership.
- 5.56.080 License - Approval.
- 5.56.090 Driver - Current list required.
- 5.56.100 Inspection.
- 5.56.110 Driver - Regulations.
- 5.56.120 Rates.
- 5.56.130 Location and base of operation.
- 5.56.140 Twenty-four hour service.
- 5.56.150 Impound and storage yards.
- 5.56.160 Charges - Preparation of towing bills.
- 5.56.170 License - Grounds for revocation.
- 5.56.180 Lifting and towing.
- 5.56.190 Emergency lighting.
- 5.56.200 Weight ratio.
- 5.56.210 Brakes - Performance ability.
- 5.56.220 Safety devices.
- 5.56.230 Enforcement.
- 5.56.240 Appeal.
- 5.56.250 Additional rules.
- 5.56.260 Other licenses required.
- 5.56.270 Penalty for violation.
  
- 5.56.010 Definitions.

(A) "Tow truck" means any vehicle designed or intended to tow vehicles, remove vehicles from the scene of an accident, disability or impounding pursuant to a request from the [P]police [D]department, and constructed and equipped as set forth hereinafter.

**5.56.020 License - Required.**

It is declared to be essential to the public interest that no person shall be authorized or permitted to operate a tow truck business within the city limits of Redmond unless such person shall be the holder of a valid license issued by the city.

**5.56.030 License - Application.**

Every person desiring to operate or have charge of a tow truck business within the city shall make written application to the [CITY—CLERK] finance director for a license to do so.

**5.56.040 Registration certificate and inspection report required.**

The application filed with the [CITY—CLERK] finance director shall be accompanied with a registration certificate from the Washington State Department of Licensing, an inspection report by the Washington State Patrol and a "Letter of Appointment" issued by the State Commission on Equipment pursuant to WAC 204-70.

**5.56.050 Proof of insurance required and indemnification agreement.**

(A) Every operator shall obtain and present a certificate of insurance to the [~~CITY CLERK~~] finance director for a policy or policies of public liability insurance, issued by an insurance company or companies authorized to do business in the state, providing indemnity for or protection to the city as well as providing public liability insurance coverage for each and every vehicle owned, operated and/or leased by the applicant, for injury to or death of persons, passengers or otherwise, in accidents resulting from any cause by which the owner and/or operator of the vehicle would be liable on account of any liability imposed upon him by law, regardless of whether the vehicle was being driven by the owner or his agent, and as against damage to the property of another, including personal property under like circumstances, in the minimum sums of five hundred thousand dollars for liability for bodily injury or property damage per occurrence. The policies shall name the city as an additional insured.

(B) A copy of such insurance policy shall be subject to approval as to both sufficiency and form by the [~~CITY ATTORNEY~~] finance director. Every such policy of insurance shall provide that the liability of the insured shall not be affected by the insolvency or bankruptcy of the insured. The policy shall be for the benefit of any and all judgment creditors and shall extend to the period to be covered by the license applied for and the insurer shall give not less than thirty days' written notice to the [~~CITY~~

CLERK] finance director in the event of material change, lapse or cancellation.

(C) In addition to the insurance requirements specified in subsections A and B of this section, every operator shall execute a hold harmless and indemnification agreement, approved by the [E]city [A]attorney's office, in which the operator agrees to protect, defend, hold harmless and indemnify the city, its officers, agents and employees from and against all claims, suits and actions for all damage or injury (including any claims or suits related to personal injury or property damage in any way connected to the use and operation of a vehicle) arising from the negligent and/or malicious acts or errors or omissions and any [WILFUL] willful, wanton, malicious or intentional tortious conduct on the part of the operator or its agents and/or employees. Operator further agrees to fully indemnify the city from and against any and all costs, including attorneys' fees, of defending any such claim or demand. Additionally, operator specifically waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its agents or employees and agrees that the obligation to indemnify the city extends to any claim, demand, or action brought by or on behalf of any agent or employee of operator, and includes any judgment, award, and cost thereof, including attorneys' fees, incurred. This subsection shall not apply to claims and damages arising from the sole negligence of the city, its officers, agents and employees.

5.56.060 License - Fee.

Every application shall be referred to the [P]olice [E]chief or the [P]olice [E]chief's designee who shall ~~[INVESTIGATE]~~ conduct an administrative review on the applicant, and if satisfied with his qualifications, ~~[ADVISE]~~ recommend to the ~~[CITY CLERK]~~ finance director that a license be issued. Upon the advice of the [P]olice [E]chief or designee, the ~~[CITY CLERK]~~ finance director shall, upon receipt of the annual license fee, issue an original license which shall expire on ~~[DECEMBER]~~ January 31 of the following year in which the original license ~~[IS]~~ was issued. ~~[AFTER THIS ORIGINAL LICENSE EXPIRES, THE POLICE CHIEF MAY, PROVIDED ALL OF THE APPLICANT'S QUALIFICATIONS REMAIN VALID, APPROVE ANNUAL RENEWAL LICENSES WHICH SHALL EXPIRE ON DECEMBER 31<sup>ST</sup> OF THE YEAR IN WHICH THE RENEWAL LICENSE IS ISSUED.]~~ An annual license fee shall be established by [E]ouncil [R]esolution for each vehicle to be operated, and a separate license shall be required for each vehicle, describing the specifically licensed vehicle.

5.56.070 Ownership.

The applicant shall furnish full information concerning ownership, number and classification of vehicles to be operated, the name under which the applicant intends to operate, and such other information as may be deemed by the [E]chief of [P]olice or designee to be necessary for proper supervision and regulation of such vehicles.

**5.56.080 License - Approval.**

If the [P]police [E]chief or designee shall find from his [INVESTIGATION] review and from the information obtained that the applicant is a financially responsible person, the bona fide owner of the vehicles for which the licenses are sought, has met all of the requirements of this [E]chapter, that the vehicles are safe and equipped with valid state licenses, that they are properly bonded for the protection of the public as required by the motor vehicle laws of the state, and that the convenience and necessity of the [E]city will be promoted by granting such applicant one or more licenses, then the [P]police [E]chief or designee shall [GRANT] recommend to the finance director that the license or licenses applied for be granted.

**5.56.090 Driver - Current list required.**

Each operator must submit to the [CITY-CLERK] finance director, with the application, a list of proposed drivers with each proposed driver's respective birthdate and Washington State Driver's License number. Each operator shall have the duty to keep this proposed list current.

**5.56.100 Inspection.**

(A) The Washington State Patrol shall have the primary duty to inspect vehicles operating under the authority of this chapter. However, all vehicles operated under the authority of this chapter shall be available for inspection at any reasonable time and place by the [E]chief of [P]police, or the [P]police

[E]chief's designee. The [E]chief of [P]police or [P]police [E]chief's designee shall inspect a vehicle to determine cleanliness, proper and safe equipment, good appearance, safe operating condition and shall in all cases be the sole judge in this determination. Further, the [E]chief of [P]police or [P]police [E]chief's designee shall at the time of this inspection ascertain that the vehicle is licensed pursuant to this chapter and properly bonded for public protection and that the applicant has obtained a "Letter of Appointment" pursuant to WAC 204-70.

(B) If the [E]chief of [P]police or [P]police [E]chief's designee determines during this inspection that the condition of any vehicle needs correction, then the [E]chief of [P]police or appropriate designee shall issue to the operator or driver thereof a notice in writing specifying such defects and the defects shall be remedied at a date to be fixed in such notice.

(C) The [E]chief of [P]police or designee, upon written notice, shall order any such tow vehicle for hire to cease operation immediately if in the [E]chief of [P]police's or designee's determination the vehicle is in an unsafe condition.

#### 5.56.110 Driver - Regulations.

It is unlawful for any operator to knowingly employ any driver who has been convicted of a felony and who has not, at the time of employment, had full civil rights restored and is no longer under



supervision of any parole or probation officer. All drivers must be at least twenty-one years of age.

**5.56.120 Rates.**

All rates charged by tow truck licensees shall be submitted to the [C]chief of [P]police or designee for approval based upon the prevailing rates charged in the area and all lists of rates shall be made a matter of public record.

**5.56.130 Location and base of operation.**

It is unlawful for a tow truck to be stored, parked or dispatched at any point other than that specifically named in the application for license, except that any vehicle may be parked at or dispatched from the residence of any driver whose name is on file with the [CITY-CLERK] finance director.

**5.56.140 Twenty-four hour service.**

Each license secured as provided in this chapter shall be granted upon the express condition that the person, firm or corporation securing the license shall provide service to the public on a twenty-four-hour basis and that:

(1) Suitable single-party telephone service be obtained and maintained; and

(2) Radio equipment be installed at the dispatching point and in each of the vehicles and maintained in good working order at all times.

**5.56.150 Impound and storage yards.**

Any licensee impounding or storing vehicles by public or private authority shall be required at all

times to provide an area for the safe and secure storage of such vehicles either in a locked building or within a suitably enclosed area, adequately fenced and lighted, which shall be located in an appropriately zoned area within the city limits, except for "in-place" impounds, and the release of any impounded vehicle shall be processed entirely within the city limits.

**5.56.160 Charges - Preparation of towing bills.**

Every operator, his agent, or employee, after towing a disabled vehicle away shall prepare a bill in duplicate, the original shall be given to the owner of such vehicle or his authorized representative, and the copy retained by the operator at his place of business for a period of six months, and shall be exhibited upon demand by the [E]chief of [P]police or [P]police [E]chief's duly authorized representative. The bill shall contain the following information:

- (1) Name, address and place of business and name of operator;
- (2) Name and address of person calling for and engaging the tow truck;
- (3) State license and description of disabled vehicle;
- (4) The company number of the wrecker or other vehicle used for towing purposes;
- (5) Total amount charged for towing and storage;
- (6) The time and place from which the towing commenced and terminated.

**5.56.170 License - Grounds for revocation.**

The grounds for the revocation of a license issued hereunder are as follows:

(A) The license was procured by fraudulent conduct or false statement of a material fact, or that a fact concerning the applicant was not disclosed at the time of his making application.

(B) The licensee, his agent, or representative has offered to pay or has paid directly or indirectly a gratuity or a reward to any person not a bona fide employee of the operator for furnishing information as to the location of a disabled vehicle.

(C) If any employee of the City of Redmond or any of its departments has any interest, whether as an owner or operator, partner, employee, or otherwise, directly or indirectly, in the business of an operator licensed under this [C]chapter.

(D) If any operator or employee fails to report to the [P]police [D]department any calls received to remove a vehicle from the scene of an accident without notification to the [P]police [D]department.

(E) Interception by the licensee or any employee thereof of police calls by short wave radio or otherwise, or monitoring of short wave messages not specifically directed to the operator or his employee for the purpose of going to the scene of accidents.

(F) Failure to keep records or issue receipts as required by this [C]chapter.

(G) Failure to maintain full service or any misrepresentation of availability of service, when called.

(H) The charging of rates in excess of those provided for in this [C]chapter.

**5.56.180 Lifting and towing.**

Any vehicle used to tow, for any fee, another vehicle shall be designed and constructed specifically for this purpose. Minimum lifting capacity per boom shall be six thousand pounds and no part of the mechanism, winches, booms, blocks, winch brakes and cable shall be rated less than six thousand pounds. No tow truck shall be used to lift any vehicle of such weight that the rated capacity is less than one and one-half times the lifted weight.

**5.56.190 Emergency lighting.**

Any tow truck at the scene of an accident or disabled vehicle or while towing a damaged or disabled vehicle, shall display flashing red lights visible three hundred sixty degrees from the tow truck and such other marker lamps and warning lamps as prescribed by the Commission on Equipment, state of Washington.

**5.56.200 Weight ratio.**

The tow truck and towed vehicle weight ratio shall not result in the towing vehicle being less than sixty percent of the total weight of the combination, except that when the towed vehicle exceeds forty percent of the total weight of the combination, the

towed vehicle must be equipped with brakes operable with the brakes of the towing vehicle, or be operated by a qualified person riding in the towed vehicle when such vehicle is flat-towed.

**5.56.210 Brakes - Performance ability.**

Braking systems on all combinations of vehicles (Classification C-4, RCW 46.37.351) shall have a deceleration ability of fourteen feet per second squared, and a maximum stopping distance of forty feet from a speed of twenty miles per hour, such distance to be measured from the point at which movement of the service brake pedal or control begins and on a flat (less than one percent grade), smooth, dry, hard surface, free from loose material.

**5.56.220 Safety devices.**

Towed vehicles may be towed by either slings and/or cables, but in addition must be secured to the tow truck by means of a draw-bar or other connection of sufficient strength to hold the towed vehicle on any grade where operated or under conditions of severe braking and shall effectively eliminate whipping or weaving of the towed vehicle. Effective boom locking devices shall be used, and in addition, in the event of a failure of a boom lock, safety chains shall be attached to the towed vehicle. On tow trucks equipped with double booms, both booms shall be secured to prevent side swing. When one boom is used for lifting the towed vehicle, the unused boom shall be secured to prevent movement while tow truck is in motion.

5.56.230 Enforcement.

The [~~CITY-CLERK~~] finance director shall enforce this chapter with the assistance of the [E]chief of [P]police or designee. If the [~~CITY-CLERK~~] finance director finds that any licensee has violated or failed to comply with any provisions of this chapter, then the [~~CITY-CLERK~~] finance director shall make a written record of such finding, specify therein the particulars and the [~~CITY-CLERK~~] finance director may revoke or suspend the license for a period to be fixed by the [~~CITY-CLERK~~] finance director in which event the license shall be surrendered and canceled by the [~~CITY-CLERK~~] finance director in case of revocation, or returned to the licensee on expiration of the period of suspension; provided, however, such revocation for violation of any provisions of this chapter shall not relieve the licensee of the penalties provided therein.

5.56.240 Appeal.

Any licensee whose license is revoked or suspended shall have the right to appeal to the [E]city [E]council from such revocation or suspension by filing with the [E]city [E]council a written notice thereof within five days after the notice of entry of the order of revocation or suspension. The notice of appeal shall specify an address at which the licensee may be given notice of hearing on the appeal. At the hearing, the licensee shall be entitled to appear in person and offer evidence pertinent to the revocation or suspension; and the [~~CITY-CLERK~~] finance director

~~[OR A DESIGNATED REPRESENTATIVE]~~ shall likewise be entitled to be heard at the hearing and to offer evidence in support of the order of revocation or suspension, and its action in that respect shall be final and conclusive. From the time of filing of the written notice of appeal until the hearing and action by the [C]city [C]council, the ~~[CITY CLERK'S]~~ finance director order of revocation or suspension shall be ineffective. Any suspended or revoked license shall be surrendered to the ~~[CITY CLERK'S]~~ finance director's office.

**5.56.250 Additional rules.**

The ~~[CITY CLERK]~~ finance director may make and enforce reasonable rules and regulations consistent with this chapter, including provisions for inspection by the [C]chief of [P]police or designee of vehicles used hereunder.

**5.56.260 Other licenses required.**

The operation of any tow truck business as defined in this chapter shall not be declared ancillary to the operation of any other business, and both or all such businesses shall be required to have valid business licenses, as prescribed by other city ordinances.

**5.56.270 Penalty for violation.**

Anyone violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be guilty of a misdemeanor offense and be punished by a fine not to exceed one thousand dollars,

and/or imprisonment in jail for a term not exceeding ninety days.

## Chapter 5.60

### CABLE COMMUNICATIONS SYSTEMS<sup>1</sup>

#### Sections:

- 5.60.010 Purpose and intent.
- 5.60.020 Defined terms and phrases.
- 5.60.030 Franchise required.
- 5.60.040 Franchise application required.
- 5.60.050 Initial franchise grants - Request for proposals.
- 5.60.060 Franchise processing costs.
- 5.60.070 Grant of franchise.
- 5.60.080 Term of franchise.
- 5.60.090 Franchise nontransferable.
- 5.60.100 Franchise area - Annexations.
- 5.60.110 Contents of franchise agreements - Relation to Chapter.
- 5.60.120 Rate regulation.
- 5.60.130 Franchise fees and fees in lieu of franchise fees.
- 5.60.140 Bundled services.
- 5.60.150 Technical standards.
- 5.60.160 Public, education and government access channels.
- 5.60.170 Public access channel.
- 5.60.180 General financial provisions.
- 5.60.190 Indemnification.
- 5.60.200 Insurance.



- 5.60.210 Required approvals - Submission of plans and reports.
- 5.60.220 Access to rights-of-way.
- 5.60.230 General conditions upon construction, operation and repair.
- 5.60.240 Maintenance of and inspection of records.
- 5.60.250 Reports.
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- 5.60.270 Copies of reports filed with other regulatory bodies.
- 5.60.280 Failure to report.
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- 5.60.300 Exemptions.
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- 5.60.380 Further remedies.
- 5.60.390 Protection of city and residents.
- 5.60.400 Cable franchise renewals - Procedure.
- 5.60.410 Franchise transfers, assignments or change in control - Applications.
- 5.60.420 Franchise transfers, assignments or change in control - Contents of application.
- 5.60.430 Franchise transfers, assignments or change in control - City's determination.

- 5.60.440 Legal qualifications.
- 5.60.450 Continuity of service.
- 5.60.460 Compliance with state and federal laws.
- 5.60.470 Notices.
- 5.60.480 Remedies cumulative.
- 5.60.490 Severability.

5.60.010 Purpose and intent.

(A) The [€]city [€]council finds and determines as follows:

(1) The development of cable communications systems may provide significant benefits for, and have substantial impacts upon, the residents and businesses of the [€]city.

(2) The public streets, alleys, utility easements dedicated for compatible uses, and other rights-of-way within the [€]city used by cable communications systems: 1) are critical to travel and commerce; 2) are a unique and physically limited resource so that proper management by the [€]city is necessary to maximize the efficiency and to minimize the costs to the taxpayers, and to prevent harm to the community; and 3) are intended for public uses and must be managed and controlled consistent with that intent.

(3) Cable communications systems occupy and make use of scarce and valuable public rights-of-way, in a manner different from the way in which the general public uses them.

(4) Because of the complex and rapidly changing technology associated with cable

communications systems, the public convenience, safety and general welfare is best served by the [C]city's exercise of its regulatory powers to establish procedures through which cable systems may use and occupy public rights-of-way, and to establish general conditions to govern the construction, operation, maintenance and reconstruction of such systems.

(5) This [C]chapter is intended to establish provisions for the franchising and regulation of cable communications systems. This [C]chapter is further intended to ensure that all regulations are consistent with the Federal Cable Communications Policy Act of 1984 (47 U.S.C. Sec 521, et seq.), as amended by the Federal Cable Television Consumer Protection and Competition Act of 1992 and the Federal Telecommunications Act of 1996, applicable regulations of the Federal Communications Commission, and applicable Washington statutes and regulations.

(B) The purpose and intent of the ordinance codified in this [C]chapter is to provide for the attainment of the following objectives:

(1) To enable the [C]city to discharge its public trust in a manner consistent with rapidly evolving federal and state regulatory policies, industry competition, and technology development.

(2) To obtain fair and reasonable compensation for the use and occupancy of valuable public assets by cable communications systems to provide cable service.

(3) To foster and to promote competition in cable communications services, and to encourage the

delivery of advanced and competitive cable communications services on the broadest possible basis to businesses, residents, institutions and local government of the [C]city.

(4) To establish clear local guidelines, standards, and time frames for the exercise of local authority with respect to the regulation of cable communications systems, including the establishment and enforcement of customer service standards.

(5) To provide opportunities to the public to obtain access to cable communications facilities for the purpose of disseminating and receiving information; to promote competitive cable rates and services; to take advantage of opportunities presented by cable and open video systems to provide for more open government; to enhance educational opportunities throughout the community and provide opportunities for building a stronger community; and to allow flexibility to respond to changes in technology, subscriber interests, and competitive factors that will affect the health, welfare, and well-being of the community.

(6) To encourage the deployment of advanced cable communications systems that satisfy local cable-related needs and interests, and which enable the schools and the government to take advantage of cable technology to deliver enhanced services.

#### **5.60.020 Defined terms and phrases.**

For the purposes of this [C]chapter, the following terms, phrases, words and their derivations

shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

(A) "Access" includes educational access, governmental access and public access, collectively, and means the availability for noncommercial use by various government and educational agencies, institutions, organizations, groups and individuals in the community, including the [C]city and its designees, of particular channels on a cable communications system to receive and distribute video programming to subscribers, as permitted under applicable law, including, but not limited to:

(1) "Educational access" means access where schools are the primary users having editorial control over programming and services;

(2) "Governmental access" means access where governmental institutions or their designees are the primary users having editorial control over programming and services; and

(3) "Public access" means access where the public is the primary user.

(B) "Affiliated entity" or "affiliate" when used in connection with grantee means any corporation or person who owns or controls, is owned or controlled by, or is under common ownership or control with grantee.

(C) "Applicant" means any person who applies for an initial cable or Open Video System ("OVS") franchise.

(D) "Basic service" means any cable service tier, which includes, at a minimum, the retransmission of local television broadcast signals and access programming.

(E) "Broadcast signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and received by a cable communications system.

(F) "Bundled services" refers to two or more different services or service tiers, including cable services and noncable services, included in a single price structure.

(G) "Cable Acts" refers to the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and any amendments thereto.

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

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

(J) "Cable system" or "cable television system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is

designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. The term "cable system" does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any rights-of-way;

(3) A facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended (47 U.S.C. Section 201 et seq.), except that such facility will be considered a cable system (other than for purposes of Section 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) An open video system that complies with Section 653 of the Cable Act; or

(5) Any facilities of an electric utility that are used solely for operating its electric utility system.

(K) "Cable operator" means any person or group of persons, including grantee, who provides cable service over a cable communications system and directly or through one or more affiliates, owns a significant interest in such cable communications system, or who otherwise control(s) or is(are) responsible for, through any arrangement, the

management and operation of such a cable communications system.

(L) "Change of control" refers to a change in actual working control, in whatever manner exercised, over the affairs of a grantee or its direct or indirect parent. Without limiting the foregoing, a change of control of a franchise, grantee, or cable communications system will be deemed to have occurred whenever there is a change, acquisition or transfer of control of more than a ten percent (10%) ownership in the grantee or its direct or indirect parent to any person, or a group of persons acting in concert; or whenever there is any change in the general partners of a grantee, or a transfer of the grantee to any other entity.

(M) "Channel" means a portion of the frequency band capable of carrying a video programming service or combination of video programming services, whether by analog or digital signal, on a twenty-four (24) hour per day basis or a portion thereof.

(N) "City" or "grantor" means the [G]city of Redmond, Washington, a municipal corporation, of the State of Washington.

(O) "CFR" means the Code of Federal Regulations.

(P) "FCC" means the Federal Communications Commission or any lawful successor.

(Q) "Finance Director" shall be the person who is the Chief Financial Officer for the City or his or her designee.



(R) "Franchise" means the document or agreement that is executed between grantor and grantee, containing the specific provisions of the authorization granted and the contractual and regulatory agreement created thereby.

(S) "Franchise area" or "service area" means the area within the jurisdictional boundaries of the grantor including any areas annexed by grantor during the term of the franchise.

(T) "Franchise Manager" means the chief administrative official for the [C]city or his/her designee.

(U) "Grantee" means any person that is awarded a franchise in accordance with this [C]chapter, and that person's lawful and permitted successor, transferee, or assignee; or any person holding a cable or OVS franchise as of September 13, 2003.

(V) "Operator" or "cable operator" refers to a person:

(1) Who directly or through one (1) or more affiliates provides cable service over a cable communications system and who directly or through one (1) or more affiliates owns a significant interest in such system; or

(2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a system.

(W) "Person" means any natural person, sole proprietorship, partnership, joint venture, association, or limited liability entity or

corporation, or any other form of entity or organization.

(X) "Programming" means signals containing information intended for use by recipients, whether in the form of video signals or audio signals.

(Y) "Public, educational or government access facilities" or "PEG access facilities" means the total of the following:

(1) Channel capacity designated for public, educational, or government use; and

(2) Facilities and equipment for the use of that channel capacity.

(Z) "Public property" means any property owned or under the control of the [E]city, other than rights-of-way.

(AA) "Rights-of-way" means land acquired or dedicated to the public or that is hereafter dedicated to the public and maintained under public authority or by others, including, but not limited to, public streets or roads, highways, avenues, lanes, alleys, bridges, sidewalks, easements and similar public property located within the franchise area.

(BB) "School" means any accredited educational institution including, for example, primary and secondary schools (K-12), and excluding home schools.

(CC) "Subscriber" or "customer" or "consumer" means any person who lawfully receives cable services via a cable communications system with grantee's express permission.

(DD) "U.S.C." means the United States Code.

**5.60.030 Franchise required.**

No person may construct or operate a cable communications system within the rights-of-way of the [E]city without a properly granted franchise awarded pursuant to this [C]chapter, which franchise must be in full force and effect. To the extent permitted by law, all requirements herein with respect to or connected directly or indirectly a cable system shall also apply to an OVS franchise and OVS system and any process related thereto.

**5.60.040 Franchise application required.**

(A) An application must be filed for an initial cable system or OVS franchise. All applications required hereunder, except as provided for in Section 5.60.400, shall be in writing and shall be filed in the [Ø]office of the [~~CITY-CLERK~~] finance director.

(B) The [F]franchise [M]manager shall specify the information that must be provided in connection with an application, and the form in which the information shall be provided.

(C) At a minimum, but without limitation, each application must identify the applicant, show that the applicant is financially, technically and legally qualified to construct, maintain and operate the cable communications system, and show that the applicant is willing to comply unconditionally with this [C]chapter and its franchise obligations. A complete description of the applicant's corporate structure must be provided, including but not limited to a complete chain of the applicant's ownership. In addition, any

application for an initial franchise must include the following information: a detailed description of the cable system that the applicant proposes to build, a detailed description of where the cable system will be located, a system construction or rebuild schedule, and a demonstration that the applicant will provide adequate channels, facilities and other support for public, educational and government use (including institutional network use to the extent permitted by law) of the cable communications system. To be accepted for filing, an original and ten (10) copies of a complete application must be submitted. To the extent reasonably practicable, the application shall be filed in electronic format as well. All applications shall include the names and addresses of persons authorized to act on behalf of the applicant.

(D) The [E]city may request, and applicant shall provide, such supplementary, additional or other information, as reasonably necessary to determine whether the requested franchise should be granted.

(E) An application may be rejected if it is incomplete, or if the response to requests for information is not timely and complete.

**5.60.050 Initial franchise grants - Request for proposals.**

This [S]section establishes additional provisions that apply to an application for an initial franchise. Any person may apply for an initial franchise by submitting an application therefor on that person's own initiative, or in response to a request for

proposals issued by [E]city. If the [E]city receives an unsolicited application, it may choose to issue a request for additional proposals, and require the applicant to amend its proposal to respond thereto. The [E]city may conduct such investigations as are necessary to act on an application.

**5.60.060 Franchise processing costs.**

To the extent permitted by applicable law, any application for a new franchise shall include an application fee, based on amounts established by [E]city [E]council resolution, to cover the cost of all direct and indirect administrative expenses and staff efforts, including consultants and attorneys necessary to adequately analyze the application. In addition, the applicant shall reimburse the [E]city for all out-of-pocket processing costs, which shall include, but not be limited to, costs of publications of notices, development and publication of relevant franchise agreements and other agreements. The [E]city may require a deposit to be paid by the applicant in an amount determined by the [F]franchise [M]manager to cover estimated costs of the application. No payment of said processing fees shall be offset against any franchise or other fees payable to [E]city during the term of the franchise.

**5.60.070 Grant of franchise.**

(A) The [E]city may grant nonexclusive cable communications system franchises pursuant to this [C]chapter.

(B) Before taking final action on an application for a cable communications system franchise, the [E]city [E]council shall conduct public hearings in accordance with applicable state, federal or local law. In determining whether to grant a franchise, [E]city may consider:

(1) Whether the applicant's record in other communities indicates that it can be relied upon to provide high-quality service throughout a franchise term;

(2) Whether the applicant has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in the application, and to satisfy any minimum requirements established by [E]city;

(3) Whether the applicant's franchise proposal is reasonable to meet the future cable-related needs and interests of [E]city, taking into account the cost of meeting such needs and interests;

(4) Whether issuance of a franchise is in the public interest considering the immediate and future effect on rights-of-way, public property, and private property that will be used by the applicant's cable communications system;

(5) Whether the applicant has proposed to provide adequate facilities, equipment, channels and other support for PEG use of the cable system;

(6) Such other matters as the [E]city is authorized or required to consider.

(C) If the [E]city determines that issuance of a franchise would be in the public interest considering

the factors described in this [S]section, and the applicant is willing to enter into an appropriate franchise agreement, the [E]city shall award a franchise to the applicant.

(D) The grant of a franchise shall not be effective unless and until the franchise is unconditionally accepted by a grantee, and grantee enters into a franchise agreement setting forth the terms and conditions under which the franchise may be exercised, and the franchise has been approved by the [E]city [E]council.

(E) A franchise granted pursuant to this [C]chapter shall authorize and permit a grantee to construct, operate, maintain and repair a cable communications system for the purpose of providing cable service in the grantee's franchise area.

(F) A franchise shall not convey rights other than as expressly specified in this [C]chapter or in the franchise; no rights shall pass by implication.

(G) A franchise shall not preclude or be a substitute for:

(1) Complying with requirements of general applicability for the privilege of transacting and carrying on a business within the [E]city;

(2) Complying with lawfully enacted requirements for the privilege of using or occupying the rights-of-way to construct, operate or repair facilities in connection with the provision of noncable services;

(3) Any permits or other authorizations lawfully required under the [E]city code in connection

with activities on or in rights-of-way or other property;

(4) Any permits or agreements for occupying any other property of the [E]city or private entities to which access is not specifically granted by the franchise.

(H) The franchise agreement does not relieve a grantee of its duty to comply with all lawfully enacted and applicable [E]city ordinances, resolutions, written policies, and regulations, and every grantee must comply with the same. The grantee's exercise of the rights under the same is subject to the exercise of police and other powers the [E]city now has or may later obtain, including but not limited to the power of eminent domain. In the event of a conflict between a franchise and this [C]chapter, the franchise shall control.

(I) A franchise does not convey title, equitable or legal, in the rights-of-way or public property.

(J) Every franchise shall be nonexclusive.

#### **5.60.080 Term of franchise.**

A franchise granted pursuant to this [C]chapter shall be for the term specified in the franchise agreement, commencing upon the effective date, as set forth in the ordinance or resolution adopted by the [E]city [E]council that authorizes the franchise.

#### **5.60.090 Franchise nontransferable.**

(A) A grantee may not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, by forced or involuntary sale, or by ordinary sale,



contract, consolidation, or otherwise, the cable communications system, the franchise or any of the rights or privileges therein granted; nor may a change of control occur without the prior consent of the [E]city [E]council by resolution which consent may not be unreasonably denied or delayed.

(B) Prior consent is not required for grants of a security interest or mortgage of any assets of the grantee to secure the construction, operation or repair of the cable communications system; provided, that such pledge of assets will not impair or mitigate grantee's responsibilities and capabilities to meet all of its obligations under the franchise.

(C) Grantee must notify the [E]city in writing of any foreclosure or judicial sale of all or a substantial part of the grantee's franchise property, or upon the termination of any lease or other interest covering all or a substantial part of that franchise property. That notification will be considered by the [E]city as a notice that a change in control of ownership of the franchise has taken place, and the provisions of this paragraph that required the prior consent of the [E]city [E]council to that change in control of ownership will apply.

(D) A sale of a portion of the cable communications system in the ordinary course of business where the portion sold is removed (such as the sale of old electronics) will not be deemed a transfer for the purposes of this subsection.

(E) Any financial institution holding a pledge of the grantee's assets to secure the advance of money

for the construction or operation of the franchise property has the right to notify the [E]city that it, or a designee satisfactory to the [E]city, will take control of and operate the cable television system upon grantee's default in its financial obligations. Further, that financial institution must also submit a plan for such operation within ninety (90) days after assuming control. The plan must ensure continued service and compliance with all franchise requirements during the period that the financial institution will exercise control over the system. The financial institution may not exercise control over the system for a period exceeding eighteen (18) months unless specifically authorized by the [E]city, in its sole discretion and during that period of time it will have the right to petition the [E]city to transfer the franchise to another grantee.

(F) Any change of control or other transfer of ownership by the grantee without prior written [E]city approval shall constitute a material breach of the franchise.

(G) Approval by the [E]city of a transfer or change in control of a franchise does not constitute a waiver or release of any of the rights of the [E]city or the cable operator, whether arising before or after the date of the transfer or change in control.

#### **5.60.100 Franchise area - Annexations.**

Territory annexed to the [E]city that is already served by a franchise or license issued by another public entity may continue to be served by the

grantee; however, within 30 days after such annexation, to the extent permitted by law, the grantee's existing franchise with the [E]city shall govern the terms and conditions of its operations.

**5.60.110 Contents of franchise agreements - Relation to Chapter.**

If there is any conflict or inconsistency between the provisions of a franchise agreement authorized by the [E]city [E]council and provisions of this [C]chapter as of the effective date of the franchise agreement, the provisions of the franchise shall control.

**5.60.120 Rate regulation.**

(A) The [E]city may regulate a cable operator's rates and charges to the full extent permitted by law.

(B) Rate Nondiscrimination. A grantee may not discriminate in rates, charges or service conditions among subscribers to cable services on the basis of race, color, religion, gender, disability, age, national origin, ancestry, marital status, medical condition, or sexual orientation.

**5.60.130 Franchise fees and fees in lieu of franchise fees.**

(A) Each cable communications system grantee shall pay the [E]city a franchise fee in an amount equal to five percent (5%) of gross revenues derived by the grantee from the operation of the cable communications system to provide cable communications services, or such other percentage amount as

authorized by law. Each bill remitted to subscribers shall specifically indicate the amount of the franchise fee charged pursuant to this [S]section.

(B) Except as a franchise may otherwise specifically provide, where a grantee sells cable services and noncable services as bundled services, for purposes of franchise fee calculations the cable services will be presumed to generate the same revenues as would have been generated had the subscriber purchased cable services only.

(C) If a grantee or any affiliated entity, during the term of the franchise, bundles, ties or combines the sale of some or all of its services, whether authorized or not by the franchise, and if it is necessary to separately determine gross revenues attributable to particular services in order to determine fees owed to the [E]city, the following proportional methodology shall be applied: The combined, bundled revenues derived from a subscriber shall be allocated to each of the bundled, tied or combined services in the proportions that the standard published rate for each of the services, as realistically offered by grantee or an affiliated entity to, and paid by, subscribers who receive only the individual service, bears to the sum of such rates for all of the bundled, tied or combined services; except that a grantee may use an alternative methodology if the results of such alternative allocation are reasonably equivalent to the results which would be derived from the proportional methodology specified in this provision. Grantee shall

bear any burden of proof regarding whether the actual methodology used is reasonably equivalent to the proportional methodology. For purposes of this paragraph, "reasonably equivalent" shall mean the revenue associated with any particular service resulting from the alternative allocation is within five percent (5%) of the amount resulting from the proportional methodology. If a particular service is not realistically offered on a stand alone basis, and, thus, it may be impracticable to apply the methodology for a particular service, the standard published rate of a competitor offering a comparable stand alone service may be used in the allocation subject to the approval of the [€]city. Furthermore, for purposes of this paragraph, "realistically offered" shall mean at least five percent (5%) of subscribers for a particular service receive only that service and pay the standard published rate for that service. If a grantee offers bundled cable services and noncable services to subscribers, a grantee shall fairly and reasonably allocate revenue with regard to cable services. If a dispute arises between the parties regarding this matter, the [€]city and a grantee will meet and discuss such matters in good faith in an attempt to reach a reasonable compromise thereof. In the event that the [€]city believes that a grantee has unlawfully or unfairly allocated revenues between cable services and noncable services for the purpose of calculating franchise fee payments, the [€]city and a grantee shall meet upon 15 days' advance notice from the [€]city to discuss the allocation methodology. If

the [E]city and a grantee cannot agree on the matter within a reasonable period of time, the [E]city and grantee shall submit the matter to a mutually agreeable third party for mediation. The cost of the mediation shall be shared equally between the [E]city and a grantee. If the mediation is unsuccessful or if the [E]city and a grantee are unable to mutually agree on a mediator, then either the [E]city or a grantee can bring the matter in King County Superior Court, or pursue any other remedies available to them at law or in equity.

(D) Each person required by this [C]chapter to remit a [E]city tax or other in lieu fee shall file a return with the [F]finance [D]director on forms approved by the [F]finance [D]director on or before the due date. The [F]finance [D]director is authorized to require such further information as the director [SHE] deems necessary to properly determine if the tax is being levied and collected in accordance with this [E]chapter.

(E) To prevent evasion of franchise fees, [E]city tax, or in lieu fees, revenues of affiliates derived from the operation of the cable communications system to provide cable communications service will be treated as the revenue of the operator; but nothing herein shall be read to permit the [E]city to charge a fee on affiliate revenues where the revenues were also included in the calculation of the revenues of a grantee.

(F) Persons who provide cable services or other cable communications services to subscribers for a fee

via a cable communications system and whose revenues are not included in the franchise fees specified above may be charged a fee by the [E]city equal to five percent (5%) of the gross revenues of such person derived from the provision of such other service over the cable communications system, unless prohibited by state or federal law.

(G) The fact that a fee is paid based on revenues derived from one type of service provided over a cable communications system, does not excuse an operator from its duty to pay fees and taxes imposed by the [E]city on other types of services provided over that facility. As an example, and not as a limitation of the foregoing, a cable communications operator who pays a franchise fee on revenues derived from the provision of cable communications services must pay the fees imposed upon noncable service providers to the extent that it provides such services and consistent with applicable law.

(H) General Rules for Payment of Fees.

(1) Unless otherwise specified in a franchise agreement, franchise fees shall be paid to the [E]city and delivered to the [F]finance [D]director quarterly, and not later than thirty (30) calendar days after the end of each calendar quarter.

(2) Each payment shall be accompanied by an explanation of the method of computation showing (i) gross revenues by category (e.g., basic, pay, pay-per-view, advertising, installation, equipment, late charges, collections, miscellaneous and others, etc.) with specific listings of new revenue sources, etc.;

and (ii) deductions; and (iii) revenues allocated to cable communications systems cable offerings.

(3) No acceptance by the [€]city of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such payment be construed as a release of any claim the [€]city may have for additional sums payable.

(4) The franchise fee or in lieu fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this [C]chapter, or as required by the Municipal Code or other applicable law.

(5) In the event any payment is not received within thirty (30) days from the end of the calendar quarter, grantee shall pay, in addition to the payment or sum due, interest from the due date at the prime rate as listed in the Wall Street Journal on the date the payment was due, compounded daily, until the date the [€]city receives the payment or as otherwise provided in the franchise.

(6) Revenue records shall be maintained for at least six (6) years.

(7) Notwithstanding the foregoing, in the event a person obligated to pay a fee ceases to provide service for any reason (including as a result of a transfer), such person shall make a final payment of any amounts owed to the [€]city within ninety (90) calendar days of the date its operations in the [€]city cease, and shall provide a statement of gross revenues for the calendar year through the date



operations ceased, which statement shall contain the information and certification required by this section.

**5.60.140 Bundled services.**

If the grantee offers subscribers cable video or OVS service in conjunction with other telecommunications or other services in bundled packages, then if it may be mandated by law, it shall also offer subscribers the various individual services in an unbundled format.

**5.60.150 Technical standards.**

Except insofar as this requirement is preempted by federal law, any cable system within the [C]city will meet or exceed the technical standards set forth in 47 C.F.R. Section 76 Subpart K and prevailing applicable technical standards.

**5.60.160 Public, education and government access channels.**

(A) The grantee shall provide separate channel capacity for public, educational and governmental (PEG) programming, which shall be exclusive to the [C]city for local origination programming, as specified in the franchise agreement. The channels shall be included in all basic subscriber packages.

(B) The grantee shall not exercise any editorial control over the PEG channels provided pursuant to this [C]chapter.

(C) The grantee shall provide contributions to the cost of providing equipment for the education-

government channels in a manner prescribed in the franchise agreement.

**5.60.170 Public access channel.**

The [€]city may place requirements for public access as shall be negotiated with a grantee and included in the franchise agreement.

**5.60.180 General financial provisions.**

(A) Prior to exercising any of the rights granted under a franchise or undertaking any of the work, installation, improvements, construction, repair, relocation or maintenance authorized by a franchise, the grantee shall furnish a performance bond reasonably acceptable to the [€]city in an aggregate amount sufficient to assure the grantee's performance of all covenants, terms, conditions and obligations under the franchise. The performance bond shall be issued by a corporate surety authorized to do surety business in the State of Washington. The performance bond shall be maintained during the term of the franchise (including any extension thereof) and for a one-year period thereafter. The amount of the performance bond shall be established based upon the legal, financial, and technical qualifications of the grantee; provided, however, that the [€]city may from time to time review the amount of surety and determine an appropriate level based upon the grantee's performance of the covenants, terms, conditions and obligations under the franchise. In the event that the [€]city elects to raise the amount of surety required,

written notice shall be provided to the grantee setting forth the reasons for doing so.

(B) The performance bond required by this [S]section shall be in addition to any other bonds, which may be required by specific provisions of the Redmond Municipal Code, including, but not limited to, construction bonds for work or construction activities within rights-of-way.

(C) The [E]city may, at its discretion, require in a franchise that a grantee obtain a letter of credit. When and if the [E]city should so require, the grantee shall deposit with the [E]city a letter of credit from a financial institution chosen by the grantee and approved by the [E]city in the amount of \$50,000. The letter of credit may not be revoked or terminated during the term of the franchise plus an additional sixty days except with written approval of the [E]city. The form and content of such letter of credit shall be approved by the [E]city [A]attorney. The letter of credit shall be used to insure the faithful performance by the grantee of all provisions of the franchise and this [C]chapter, compliance with all orders, permits, and directions of any agency, commission, board, department, division, or office of the [E]city having jurisdiction over its acts or defaults under the franchise, and the payment by the grantee of any costs, claims, liens, liquidated damages, and taxes due the [E]city which arise by reason of the construction, operation, or maintenance of the cable system, or breach or termination of the franchise.

(D) The letter of credit shall be maintained by the grantee at \$50,000 even if funds are drawn against it pursuant to this [C]chapter or the franchise.

(E) At the [E]city's option, it may draw against the letter of credit for any unpaid liquidated damages, franchise fees or other amounts owing to it under the franchise. The rights reserved to the [E]city with respect to the letter of credit are in addition to all other rights of the [E]city, whether reserved by this [E]chapter or related documents or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the [E]city may have.

#### 5.60.190 Indemnification.

(A) No franchise shall be valid or effective until and unless the [E]city obtains an adequate indemnity from the grantee. To the extent permitted by law, the indemnity must:

(1) Release [E]city from and against any and all liability and responsibility in or arising out of the construction, operation, repair, replacement, or maintenance of the cable communications system; and

(2) Indemnify and hold harmless the [E]city, its elected and appointed officials, agents, and employees from and against any and all claims, demands, or causes of action of any kind and the resulting losses, costs, expenses, reasonable attorneys' fees, damages, orders, judgments, or decrees sustained by the [E]city or any indemnified

party arising out of, or by reason of, or resulting from or arising out of the acts, errors, or omissions of the cable communications system operator, or its agents, independent contractors or employees related to the construction, operation, repair, upgrade or maintenance of the cable communications system.

(B) To the extent allowed by law, the [E]city shall indemnify, save and hold harmless the grantee from and against any and all liability resulting from the [E]city's use of the PEG access channels.

#### **5.60.200 Insurance.**

Upon acceptance of a franchise granted pursuant to this [C]chapter, and prior to commencement of any work, construction, maintenance, or operations within the [E]city, a grantee shall furnish the [E]city with certificates of insurance and an endorsement reflecting blanket additional insureds status or a certified copy or original of a comprehensive liability insurance policy naming the [E]city as an additional insured. The amount of such policy shall be as deemed appropriate by the [E]city. This insurance shall be maintained in full force at the grantee's expense throughout the entire period of the franchise. The [E]city may delineate more specific details concerning such insurance prior to the award of any given franchise.

#### **5.60.210 Required approvals - Submission of plans and reports.**

The Redmond Municipal Code shall govern all construction within the rights-of-way.

5.60.220 Access to rights-of-way.

Grantee shall be subject to and shall comply with all provisions of the [E]city's [M]municipal [E]code regarding access to rights-of-way.

5.60.230 General conditions upon construction, operation and repair.

(A) Grantee, and other persons engaged in the construction, operation, replacement, repair, upgrade or maintenance of a cable communications system shall satisfy all lawfully enacted applicable laws, ordinances, resolutions, departmental rules and all lawfully enacted regulations that affect the use of private and public property by the cable communications system, including by way of example and not limitation, the [E]city's building and zoning codes, as well as satisfying the requirements of this [C]chapter and any additional requirements that may be included in a franchise agreement.

(B) A franchise is required before a permit may be issued for work associated with the construction, operation or repair of a cable communications system. Any permit issued for such work to a person who does not hold a franchise shall vest no rights in the permittee and shall be void as if never issued, at the sole option of [E]city. Any such putative permittee shall remove all facilities installed under the permit upon and in full compliance with [E]city's demand.

(C) Each grantee shall locate and maintain the portions of its cable communications system on rights-of-way and other public property, in such manner as to

cause no unreasonable interference with the use of said property by any person and in accordance with the Redmond Municipal Code.

(D) Each grantee shall use existing poles and conduit where possible.

(E) Any damage caused to the rights-of-way or public or private property by grantee or those performing work on a grantee's behalf shall be promptly repaired or replaced by grantee to the satisfaction of the property owner or to the [E]city. Each grantee will restore public property and rights-of-way by a time and in a manner directed by the [E]city.

(F) Grantee, at its sole expense, shall remove and/or relocate the cable communications system in connection with public projects as identified by the City[~~s~~] of Redmond's Capital Improvement Program or approved [E]city plans and constructed by the [E]city or as directed by the [E]city, under the direction of the [E]city [E]engineer, including relocating to an underground location. The [E]city shall provide written notice describing where the public work is to be performed and a deadline for completing the work at least thirty (30) days prior whenever possible, but not fewer than fifteen (15) days prior to the deadline by which a cable communications system operator must protect, support, temporarily disconnect, relocate or remove its facilities. The cable communications system operator may seek an extension of the time to perform the work and such request for an extension will not be unreasonably denied. If the [E]city requires grantee

to relocate its facilities located within the rights-of-way, the [E]city shall make a reasonable effort to provide grantee with an alternate location within the rights-of-way. If funds are generally made available to users of the rights-of-way for such relocation, grantee shall be entitled to its pro rata share of such funds. In an emergency, or where a cable communications system creates or is contributing to an imminent danger to health, safety, or property, the [E]city may protect, support, temporarily disconnect, remove, or relocate any or all parts of the cable communications system without prior notice, and charge the cable communications system operator for reasonable costs incurred.

(G) Installation of Systems by Others Authorized To Use Rights-of-Way or Public Property.

(1) To accommodate the construction, operation, or repair of the facilities of another person authorized to use the rights-of-way or public property, a grantee shall, by a time specified by such person, protect, support, temporarily disconnect, relocate or remove its facilities. The grantee shall be given written notice describing where the construction, operation or repair is to be performed at least thirty (30) days prior whenever possible, but not fewer than fifteen (15) days prior to the time by which its work must be completed. Unless the matter is governed by a valid contract or a state or federal law or regulation, or unless the cable communications system that is being requested to move was not properly installed, the reasonable cost of the same



shall be borne by the person requesting the protection, support, temporary disconnection, removal, or relocation. In cases where the requesting person is required under state law or this [S]section to bear the cost of relaying, relocation or temporary removal, a grantee may require the person to agree, before the work is performed, to pay the reasonable actual cost of the work, and grantee may require a reasonable deposit of the estimated payment in advance.

(H) At the request of any person holding a valid permit issued by a governmental authority, a cable communications system operator shall temporarily raise or lower its wires by a time specified to permit the moving of buildings or other objects. A cable communications system operator shall be given not less than thirty (30) days prior whenever possible, but not fewer than fifteen (15) days' advance notice to arrange for such temporary wire changes. The cable communications system operator, as a condition of complying with such request, may require the requesting person to pay the reasonable materials and labor expense of such temporary removal or raising or lowering of wires, and the operator may require payment of the estimated expense in advance.

(I) Abandonment.

(1) A cable communications system operator may abandon any property in place in the rights-of-way or upon public property upon written notice to [E]city and separate notice to the [E]city [E]engineer. However, if, within ninety (90) days of the receipt of written notice of abandonment, [E]city determines,

that the safety, appearance, functioning or use of the rights-of-way or public property and facilities in the rights-of-way or on public property will be adversely affected, the property must be removed by a date reasonably specified by [E]city in light of the amount of work to be performed.

(2) A cable communications system operator that abandons its property must, upon request, transfer ownership of the property to [E]city at no cost, and execute necessary quitclaim deeds; provided, that nothing in the preceding sentence prevents a cable communications system operator from bringing an action in a court of competent jurisdiction if it believes that the cable communications system was not abandoned.

(J) If a cable communications system operator fails to perform work on public property or the rights-of-way (including restoration work) required by this [C]chapter, a franchise agreement or any other provision of law by the time it is required to be performed, the [E]city may perform the work and bill the cable communications operator for the costs incurred by [E]city.

(K) Any amount billed to a cable communications operator pursuant to this [S]section must be paid within 30 days of the date of the bill.

#### **5.60.240 Maintenance of and inspection of records.**

(A) The [E]city shall have the right to inspect and copy all books and records that are necessary for the enforcement of the franchise. Each cable

communications system operator is responsible for producing these records upon thirty (30) days' written request by the [E]city. The records that grantee may be required to produce shall include, but are not limited to financial records, and other records related to compliance with any provision of this [C]chapter or franchise. If the requested books and records are too voluminous or for security reasons cannot be copied and moved, or if the requested books and records contain trade secrets, then grantee may request that the [E]city inspect the books and records at the grantee's local offices. If any books and records are not kept locally by the grantee and they cannot be made available to the [E]city upon written request, then the grantee shall pay all travel expenses necessary for the review of these records.

(B) Any proprietary information received by [E]city from a grantee must be clearly marked as proprietary information that the grantee asserts is not required to be disclosed pursuant to an applicable open records act. If a third party seeks release of a privileged document held by [E]city, the [E]city will notify the grantee so that the grantee may seek court protection against the release of the document.

#### 5.60.250 Reports.

(A) The [F]franchise [M]manager may from time to time direct a grantee to prepare reports regarding its cable communications system and its operations within or affecting the [E]city, and to submit those reports by a date certain, in a format prescribed by the

[F]franchise [M]manager as provided by this [E]chapter or a franchise agreement.

(B) Unless an exemption is granted by the [F]franchise [M]manager, no later than ninety (90) days after the end of its fiscal year, a grantee shall submit the following information at a meeting with the [E]city called on 10 days' written notice, except that the information on grantee's officers, members of its boards of directors, other principals, stockholders or equity investors holding five percent (5%) or more of the voting interest, need only be provided where there has been a change from the preceding year:

(1) A summary of the previous year's (or in the case of the initial report year, the initial year's) activities in development of the cable communications system, including but not limited to, services begun or discontinued during the reporting year, and the number of subscribers for each class of service.

(2) A fully audited report by an independent, certified public accountant, or certified by grantee's Chief Financial Officer, of gross revenues from the previous calendar year for the cable communications systems attributable to the franchise area, and a certified statement setting forth the computation of gross revenues used to calculate the franchise fee for the preceding year and a detailed explanation of the method of computation and deductions taken for the period showing (i) gross revenues by category (e.g., basic, premium, pay-per-view, advertising, installation, equipment, late

charges, franchise fees, miscellaneous), with specific listings of new revenue sources added during the year; and (ii) what, if any, deductions were made from gross revenues in calculating the franchise fee (e.g., bad debt, credits and refunds), and the amount of each deduction; and (iii) revenues allocated to the cable communications system, the total revenues, the allocation methodology used, and the resulting revenues allocated to the cable communications system.

(C) Unless an exemption is granted by the [F]franchise [M]manager, within thirty (30) days of the end of each year (or as otherwise provided in the franchise), a grantee shall submit a report to [C]city containing the following information:

(1) The number of service calls (calls requiring a truck roll) received by type, by quarter, and the percentage of service calls compared to the subscriber base by type of complaint.

(2) The number and type of outages which are known by the grantee by quarter, identifying separately the following:

(a) Each planned outage, the time it occurred, its duration, and the estimated area and number of subscribers affected;

(b) Each known unplanned outage, the time it occurred, its estimated duration and the estimated area and the number of subscribers affected, and if known, the cause and the credits given to customers in connection therewith;

(c) The total estimated hours of known outages as a percentage of total hours of system

operation by quarter. The term "outage" means any event lasting three (3) hours or more and affecting one or more subscribers and resulting in a loss of sound or video, or a substantial deterioration of the signal on any channel.

(3) A report showing, for each applicable customer service standard, the grantee's performance with respect to that standard for each quarter of the preceding year. In each case where grantee concludes it did not comply fully, the grantee will describe the corrective actions it is taking to assure future compliance. In addition, the report should identify the number and nature of the customer service complaints received from all sources (including but not limited to any office of grantee or communicated to any employee of grantee or from the grantor) and an explanation of their dispositions.

(D) On an annual basis or upon request or as otherwise provided in the franchise, annual proof of performance tests, in sufficient detail to enable the [E]city to ascertain that the technical standards of the franchise are achieved and maintained.

(E) Within ten (10) days of their receipt or (in the case of documents created by the cable communications system operator or a person acting on its behalf) filing, a grantee shall provide [E]city:

(1) Notices of deficiency or forfeiture from a state or federal agency or court of competent jurisdiction related to the operation of the cable communications system with respect to the franchise

area, other than notices of deficiency or forfeiture from the [E]city; and

(2) Any request for protection by a grantee under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the grantee or by any partnership or corporation that owns or controls the grantee directly or indirectly.

(F) Grantees shall submit to the [E]city such other information or reports in such forms and at such times as the [E]city may reasonably request or require provided such information or reports are reasonably related to a grantee's compliance with its obligations under the franchise.

(G) All reports and records required under this or any other [S]section shall be furnished at the sole expense of a grantee.

**5.60.260 Inspection and testing of cable communications systems.**

(A) Except to the extent prohibited by law or as otherwise provided in the franchise, every cable communications system shall be subject to inspection and testing by [E]city after thirty (30) days' written notice to grantee. Except in emergencies, the [E]city will provide reasonable advance written notice to a grantee when a [E]city inspection will require the grantee's cable communications system to be moved or when a device is attached to any portion of the grantee's cable communications system located more than twelve (12) inches outside a subscriber's premises. Inspections will be conducted to not

unreasonably interfere with cable communications system operations. Each operator must timely and fully respond to requests for information regarding its system and plans for the system as [E]city may from time to time issue, including requests for information regarding its plans for construction, operation, repair, maintenance and upgrade and the purposes for which the plant is being constructed, operated, repaired, maintained or upgraded.

(B) Except as provided in a franchise, or insofar as federal law preempts this requirement, upon request of the [E]city, a grantee shall perform all tests necessary to demonstrate compliance with the requirements of the franchise agreement and other technical and performance standards established by applicable law. Unless a franchise agreement or applicable law provides otherwise, all tests shall be conducted in accordance with federal rules and in accordance with the most recent edition of National Cable Television Association's "Recommended Practices for Measurements on Cable Television Systems," or such other manual as may be directed under FCC regulations. Upon request of the [E]city, a written report of any test results shall be filed with the [E]city within seven (7) calendar days of completion of the tests. If a location fails to meet technical or performance specifications, the grantee, without requirement of additional notice or request from [E]city, shall promptly take corrective action, and retest the locations.



**5.60.270 Copies of reports filed with other regulatory bodies.**

In addition to other requirements herein, upon request and if so provided in the franchise, a grantee, as hereinafter provided, will file with the [E]city any and all reports filed with the FCC or any other regulatory body having jurisdiction over any aspects of the operations of the grantee or its direct and indirect parent related in any way to the enforcement of the franchise with respect to the cable communications system in the franchise area, or a group of systems of which the cable communications system in the [E]city is a part. Copies of all reports materially adversely affecting the franchise that are submitted by the grantee to the FCC or any other federal or state agency shall be submitted to the [E]city simultaneously with the filing of such reports with said agencies. Grantee's routine public correspondence to said agencies need not be automatically submitted to [E]city, but shall be made available to [E]city upon request. This [S]section does not waive the [E]city's right to service or filing under federal or state laws or regulations, and each grantee must provide copies of documents as required under the same.

**5.60.280 Failure to report.**

(A) The refusal, failure, or neglect of a grantee to file any of the reports, perform the tests or to provide access to books and records or to its system as required under this [C]chapter where such refusal,

failure or neglect is not remedied following due notice and an opportunity to cure; or the repeated refusal, failure or neglect to comply, even if individual failures are corrected after notice and opportunity to cure; or the inclusion of any materially false or misleading statement or representation in any report, shall be deemed a material breach of the franchise.

(B) For purposes of this [S]section, notice is sufficient if the [F]franchise [M]manager (or the [F]finance [D]director with respect to financial reports) notifies the grantee in writing that grantee has failed to provide a requested report, perform a test, or provide access to books and records or to its plant. A grantee will be deemed to have failed to cure unless it provides the requested reports, performs the tests or provides the access to books and records and to its plant as provided in the franchise.

#### 5.60.290 Other records required.

Unless the [F]franchise [M]manager specifically waives the requirement in writing, a grantee shall at all times maintain:

(A) Records of all written complaints including those electronically received within the prior four (4) years and records of all other complaints for one (1) year, their nature and resolution. The term "complaints" refers to complaints about any aspect of the grantee's construction, operation (including but not limited to customer

service), replacement, maintenance, upgrade or repair activities;

(B) Records of outages known to the grantee, their cause and duration;

(C) Records of service calls for repair and maintenance indicating the nature of the call for service, the date and time service was requested and (if different) the date and time the problem was solved;

(D) Records of installation/reconnection and requests for service extension, indicating date of request and the date and time service was extended.

#### 5.60.300 Exemptions.

At the sole discretion of the [F]franchise [M]manager, the [F]franchise [M]manager may temporarily exempt any grantee from its obligations under Sections 5.60.260, 5.60.270 and 5.60.290 if the [F]franchise [M]manager determines that the requirement would be unduly burdensome or unnecessary, and that [E]city and subscriber interests may be adequately protected in some other manner.

#### 5.60.310 Production of documents - Due diligence.

A grantee shall take all reasonable steps required so that it is able to provide reports, books and records to [E]city. Each grantee shall be responsible for redacting data that applicable law prevents it from providing to [E]city. Nothing in this [S]section shall be read to require a grantee to violate state or federal subscriber privacy laws.

5.60.320 Liquidated damages for noncompliance.

(A) The purpose of this [S]section is to authorize the imposition of liquidated damages for the violation of a franchise as provided in the franchise.

(B) The [F]franchise [M]manager is authorized to administer this [S]section. Decisions by the [E]city to assess liquidated damages against the grantee must be in writing and must contain findings supporting the decision. Decisions by the [E]city are final, unless appealed to the [E]city [E]council. The fee established by the [E]city [E]council for processing the appeal must accompany the appeal letter. The [E]city [E]council may affirm, modify, or reverse the decisions of the [F]franchise [M]manager.

(1) If the grantee or any interested person is aggrieved by a decision of the [E]city, the aggrieved party may, within ten (10) business days of the written decision, appeal that decision in writing to the [E]city [E]council through the [~~CITY CLERK'S~~] finance director.

(2) In the event that the [E]city elects to impose liquidated damages upon a grantee for failure to comply with the material provisions of the franchise, said liquidated damages shall be assessed as provided in the franchise.

5.60.330 Enforcement and remedies - Revocation.

(A) The [E]city [E]council may revoke a franchise, or if so provided in a franchise, reduce the term of a franchise if it finds, after a hearing, that a cable communications system operator has

violated any material provision of this [C]chapter or applicable law, committed a substantial breach of material terms of its franchise, or repeatedly failed to comply with material terms of its franchise; has defrauded or attempted to defraud the [E]city or its subscribers or has attempted to evade the requirements of this [C]chapter or its franchise. Such a breach includes, but is not be limited to (after failure to cure as provided in the franchise):

(1) If the grantee becomes insolvent, unable or unwilling to pay its debts, or upon listing of an order for relief in favor of grantee in a bankruptcy proceeding.

(2) If the grantee materially fails to meet the customer service standards established in the franchise consistently over a calendar quarter.

(3) If the grantee fails to provide or maintain in full force and effect, the liability and indemnification coverage, letter of credit, cash security fund or bonds required by the franchise.

(4) If the grantee willfully violates any orders or rulings of any regulatory body having jurisdiction over the grantee relative to the franchise; provided, that the grantee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the franchise shall be deemed to have occurred if the notice of violation is overturned.

(5) If the grantee ceases to provide all cable communications and terminates service over all or a substantial portion of its cable system for a

period of five (5) days or more, for any reason within the control of the grantee.

(6) If the grantee willfully fails to make any payments required under the franchise and/or refuses to provide [E]city with required information, reports and/or test results in a timely manner as provided in the franchise, or in the [E]city [E]code.

(7) If the grantee fails to initiate scheduled cable communications system construction or reconstruction as required under the franchise more than one year after construction is to be begin for any reason within the control of the grantee.

(8) Delays in completion of scheduled cable communications system construction or reconstruction as required under the franchise for any reason within the control of the grantee.

(9) Any other act or omission by the grantee which materially violates the terms, conditions or requirements of the franchise which is not corrected or remedied within the time set forth in the written notice of the violation or, if the grantee cannot reasonably correct or remedy the breach within the time set forth in such notice, if the grantee should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

(B) Before conducting a hearing to consider revocation of a franchise: (1) the [F]franchise [M]anager must have given written notice of a claimed breach, default or failure; and (2) the grantee must

have been given thirty (30) days to cure the claimed default.

(C) The cable communications system or a part thereof will be deemed abandoned if (i) the cable communications system operator notifies the [E]city of its intent to abandon; or (ii) the cable communications system operator willfully ceases providing cable service in accordance with its franchise; or (iii) the cable communications system operator does not provide cable service over the cable communications system for six (6) months and is not restoring service with all due diligence.

(D) A franchise will terminate automatically by operation of law one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the grantee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. However, the franchise may be reinstated within that one hundred twenty (120) day period, if: (1) such assignment, receivership or trusteeship has been vacated; or (2) such assignee, receiver or trustee has fully complied with the terms and conditions of this [C]chapter and the franchise, and has executed an agreement, approved by any court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the franchise.

(E) In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a grantee, the [E]city may revoke the franchise by

serving notice upon the grantee and the successful bidder at the sale, in which event the franchise and all rights and privileges thereunder will be revoked and will terminate thirty (30) calendar days after serving such notice, unless: (1) [E]city has approved the transfer of the franchise to the successful bidder; and (2) the successful bidder has covenanted and agreed with the [E]city to assume and be bound by the terms and conditions of the franchise.

**5.60.340 Effect of termination or forfeiture.**

(A) Upon termination or forfeiture of a franchise, whether by action of [E]city as provided above, or by passage of time, the [E]city may, subject to applicable law:

(1) Allow grantee to continue providing service pursuant to the terms of its franchise agreement for such reasonable period as may be necessary to arrange for another cable communications system to provide service.

(2) Require the former grantee to remove all or a portion of its facilities and equipment at the former grantee's expense, subject to grantee's right to abandon property in place. In removing its cable communications system, grantee shall restore affected property to comply with all applicable codes, and to as good or better condition as existed prior to removal. If the former grantee fails to do so within a reasonable period of time, the [E]city may have the removal done at the former grantee's and/or surety's expense.



(3) Submit a written offer to purchase all or a portion of the cable communications system at an equitable price if termination or forfeiture is for cause, or if termination or forfeiture is not for cause, at fair market value, not including the value of the franchise.

(4) Subsection (A)(3) of this section does not apply to an abandonment. If a cable communications system or any part thereof is abandoned by grantee, the [E]city may require the grantee to transfer title to all or some of the abandoned portions to it, as [E]city may direct, at no charge, free and clear of encumbrances, and the same will become [E]city's property. The cable communications system or a part thereof, will be deemed abandoned if:

(a) The cable communications system operator notifies the [E]city of its intent to abandon; or

(b) The cable communications system operator willfully ceases providing cable service in accordance with its franchise; or

(c) The cable communications system operator does not provide cable service over the cable communications system for six (6) months, and is not restoring service with all due diligence.

(B) Notwithstanding the foregoing, [E]city may not, pursuant to this section, issue an order that violates 47 U.S.C. Section 541(b)(3)(c).

**5.60.350 Customer service standards - Generally.**

Each cable communications system operator shall comply with lawfully enacted customer service standards that are adopted by the [E]city by ordinance; FCC customer service standards; and any customer service standards that may be specified in a franchise agreement. Each cable operator shall comply with state consumer protection laws and regulations. These are minimum standards, and the cable operator is able to exceed these standards. To the extent permitted by law, all consumer protection and customer service standards and requirements in this [C]chapter shall apply to Open Video System operators as well. In the event of a conflict among standards, the standards dictated by the franchise shall govern. For good cause shown, the [F]franchise [M]manager may grant a temporary waiver of any [E]city customer service standard where the [F]franchise [M]manager determines:

(1) Because of particular circumstances involved, enforcement of the standard is not necessary to protect consumers; and

(2) Granting the waiver is in the public interest, considering the potential benefits to the grantee and consumers.

#### 5.60.360 Customer service standards - Operations.

(A) The failure of the grantee to hire sufficient staff or to properly train its staff will not justify a grantee's failure to comply with any provision of this [S]section.

(B) Office Availability.

(1) Each cable communications system operator will maintain customer service location(s) as provided in the franchise.

(2) Each office must be accessible to all persons, including the elderly and persons with disabilities. Parking must be provided in a manner consistent with Redmond Municipal Code.

(3) The [E]city may waive a cable communications system operator's obligation to allow drop-off and pick-up of equipment if the cable communications system operator offers free pick-up and delivery of equipment in a manner and at times convenient to customers.

(C) Service Call Hours. Each cable communications system operator will perform service calls, installations, and disconnects in accordance with FCC regulations and the franchise. In addition, a cable communications system operator must respond to outages affecting three (3) or more subscribers served from the same node or service interruptions to any subscriber within twenty-four (24) hours, seven (7) days a week.

(D) Telephones.

(1) Each cable communications system operator must have a local or toll-free telephone number which will be available to its subscribers 24 hours a day, seven days a week under the name by which cable communications system operator is doing business in the [E]city. Customer service representatives must answer the phone during normal business hours. After normal business hours, the access line may be answered

by a service or an automated response system, including an answering machine.

(2) Telephone Answering Time.

(a) Under normal operating conditions, telephone answering time will not exceed thirty (30) seconds when the connection is made; and

(b) The time to transfer the call to a customer service employee (including hold time) will not exceed an additional thirty (30) seconds; and

(c) Under normal operating conditions, the standards set out in this subsection (D)(2) of this section must be met ninety (90) percent of the time, measured quarterly.

(3) Under normal operating conditions, customers will receive a busy signal less than three percent (3%) of the time.

(E) Scheduling Work.

(1) A cable communications system operator may schedule appointments for service, installation, or disconnection for either a specific time, or a time block during normal business hours. A cable communications system operator may also, upon request, schedule appointments outside normal business hours, for the express convenience of the customer. These options shall be clearly explained to the customer at the time of scheduling.

(2) If an installer or technician anticipates that he or she will be late for an appointment, an attempt to contact the customer will be made immediately and the appointment will be

rescheduled at a time convenient to the customer, if rescheduling is necessary.

(3) A cable communications system operator may not reschedule or cancel a service or installation appointment with a customer after the close of business on the business day preceding the scheduled appointment.

(4) Under normal operating conditions, an operator must satisfy each of the standards set forth in this subsection (E)(1) through (4) of this section at least 95 percent (95%) of the time, measured quarterly. The phrase "of the time" refers to the number of appointments.

(5) If the cable communications system operator misses an appointment, it will provide the installation and service call free of charge if the appointment was for an installation or service call for which a fee was to be charged or; one (1) month of the service subscribed to free of charge.

(F) Service Standards.

(1) Inquiries received after normal business hours must be responded to by a trained customer service representative before the end of the next business day.

(2) A cable communications system operator will respond to all other inquiries (including billing inquiries) within five (5) business days of the receipt of the inquiry or complaint.

(3) Repairs and maintenance for routine service interruptions and/or substandard reception quality must be completed within twenty-four (24)

hours after the outage or interruption becomes known to a cable communications system operator where the cable communications system operator has adequate access to facilities to which it must have access in order to remedy the problem, and system outages shall be responded to within twenty-four (24) hours.

(4) Work to correct all other service problems must be begun by the next business day after notification of the service problem, and must be completed if due diligence permits within five (5) business days from the date of the initial request or later if at the customer's convenience.

(5) Except as a franchise agreement may otherwise provide through density provisions, service must be extended upon request to any prospective subscriber in a cable communications system operator's franchise area.

(G) With regard to subscribers with disabilities, upon subscriber request, each cable communications system operator will arrange for pickup and/or replacement of converters or other cable communications system operator equipment at the subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer), without a special charge.

(H) Disconnection and Downgrades -- Voluntary.

(1) A subscriber may terminate or downgrade service at any time.

(2) A cable communications system operator will disconnect from the cable communications system or downgrade any subscriber who so requests within

seven (7) business days. No period of notice before voluntary termination or downgrade of service may be required of subscribers by any cable communications system operator and the customer shall not be required to pay for the time which elapses from notification to actual disconnection. There will be no charge for disconnection, and any downgrade charges will conform to applicable law. This [S]ection does not apply to promotional contracts where a subscriber received an actual discount from standard service rates for a multi-month contract.

(3) Any security deposit and/or other funds due a subscriber that disconnects or downgrades service will be returned to the subscriber within thirty (30) days from the date disconnection or downgrade was requested except in cases where the subscriber does not permit the cable communications system operator to recover its equipment, in which case the amounts owed will be paid to subscribers within thirty (30) days of the date the equipment was recovered or in the next billing cycle.

(I) Involuntary Disconnection for Nonpayment.

(1) If a customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, a cable communications system operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the cable operator may disconnect the customer's service,

provided that two (2) weeks' written notice was provided.

(2) If payment in full, including late charges, is received by the cable communications system operator, Monday through Friday, at least twenty-four (24) hours before the time scheduled for disconnection, the cable communications system operator shall not disconnect service.

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

(J) Immediate Disconnection.

(1) A cable communications system operator may immediately disconnect a subscriber if:

(a) The subscriber is damaging, destroying, or unlawfully tampering with or has damaged or destroyed or unlawfully tampered with the cable communications system operator's cable system;

(b) The subscriber is not authorized to receive a service and is receiving it and/or is facilitating, aiding or abetting the unauthorized receipt of service by others; or

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

(2) After disconnection, the cable communications system operator will restore service after the subscriber provides adequate assurance that it has ceased the practices that led to disconnection,



and paid all proper fees and charges, including any reconnect fees and fines, if any, and all amounts owed the cable communications system operator for damage to its cable communications system.

(K) Each cable communications system operator must have sufficient trucks, tools, testing equipment, monitoring devices and other equipment and facilities and the trained and skilled personnel required so that the cable communications system operator complies with each and every requirement of applicable law, including applicable customer service requirements, technical standards, maintenance standards and requirements for responding to system outages. This includes the facilities, equipment and staff required to:

(1) Properly test the system and conduct an ongoing and active program of preventive maintenance and quality control;

(2) Quickly respond to customer complaints and resolve system problems.

(L) Each cable communications system operator must install and maintain equipment necessary to measure its performance with applicable customer services standards. A cable communications system operator may obtain relief temporarily from this requirement if it shows that (i) it has a high level of subscriber satisfaction; (ii) there are alternative, adequate ways to review its performance; or (iii) for other good cause shown.

(M) Knowledgeable, qualified representatives shall be available to respond to customer telephone

inquiries during the hours the office is required to be open. After hours, if the cable communications system operator uses persons to answer the phone, it will use reasonable efforts to provide multi-lingual alternatives. When service calls are scheduled by a non-English speaking customer, cable communications system operator will make a reasonable effort to have the service call made by a multi-lingual representative.

(N) The term "normal operating conditions" means those service conditions that are within the control of grantee. Those conditions that are not within the control of the grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, and maintenance, regular peak or seasonal demand periods or upgrade of a cable communications system; provided, that in the event that a cable communications system operator provides customer service via a center that serves multiple communities, and a controllable event occurs in the other communities but not in the city of Redmond, conditions will be deemed to be "normal operating conditions" for purposes of determining compliance with this [C]chapter, unless the cable communications system operator has used reasonable efforts to mitigate circumstances within its control and has been unable to correct such circumstances.

(O) The term "service interruption" means the loss of picture or sound or any other significant part of a signal on one or more cable channels.

(P) Changes in Service. Except as otherwise provided by federal law, subscribers shall not be required to pay any additional fee or charge, other than the regular service fee, in order to receive the services selected (such as upgrade or downgrade charges). Charges may only be imposed for any service or product that the subscriber has affirmatively selected.

(Q) Deposits. The grantee may require a reasonable, nondiscriminatory deposit on equipment provided to subscribers. Unless otherwise provided in subsection (H)(3) of this section, the deposit must be issued to the subscriber, within thirty (30) days after the equipment is returned to the grantee, or the subscriber's next regular billing cycle, whichever is sooner.

(R) Parental Control Option. The grantee must provide parental control devices to all subscribers who desire to block the video or audio portion of any programming that the subscriber finds objectionable. Such devices will be provided at no charge to the subscriber, unless otherwise provided by federal law or unless a converter box is required to be installed for the purpose of providing the parental control device.

(S) Web Site. Subject to force majeure, grantee is encouraged to maintain a web site so that subscribers can request credits, service and changes

thereto as well as receiving notification of planned outages and upgrades with respect to the cable communications system.

**5.60.370 Customer service standards -Notices and billing.**

(A) Identification of Employees and Work.

(1) Each grantee shall require any person working on its behalf to wear a picture identification badge indicating that they are working on behalf of grantee. This badge shall be clearly visible to the public. All company vehicles shall prominently display the name under which the grantee is doing business, and logo, if any, in a manner clearly visible to the public. Contractor vehicles shall prominently display the contractor name, contractor license number, if applicable, and prominently display the grantee's name. There must be a listed telephone number for the names displayed.

(2) The telephone number listed and posted must be a local or toll-free number. The phone must connect to persons trained to receive, and respond to, calls regarding employees; construction and problems (including repair problems) associated with construction.

(B) General Subscriber Notices. A grantee will provide each subscriber at the time service is installed, at least once annually thereafter, and at any time upon request, clear and accurate written information regarding:

(1) How to use cable communications system service;

(2) How to place a service call, file a complaint, or check a web site regarding subscriber information;

(3) The telephone number of the [E]city office responsible for administering the cable franchise;

(4) A schedule of rates and charges, channel positions, services provided, a copy of the service contract, delinquent subscriber disconnect and reconnect procedures; notifying subscribers of the availability of parental control devices, and the conditions under which they will be provided and the cost (if any) charged;

(5) Any discounts offered (other than discounts offered under bulk contracts), and description of conditions that must be met to qualify for discounts;

(6) Where and how payments can be made, and description of late charge practices;

(7) Any other grantee policies in connection with its subscribers, including but not limited to its privacy policies; and

(8) A description of any services or specialized equipment available to subscribers with disabilities; explaining how to obtain and use them.

(C) Notices in Bills.

(1) Each bill shall prominently display the telephone number to be called for billing and for other complaints, and for refunds and rebates, and

must identify the address to which bills should be mailed and a reference to further information for locations where payments can be made in person.

(2) Each bill shall prominently display the name of the [E]city office responsible for regulating cable on the bill. The information shall be placed and described so as to clearly distinguish it from information regarding the grantee.

(D) Each grantee will provide the [E]city and its subscribers at least thirty (30) days' written notice of any material changes in the information required to be provided under subsection B of this section. Notwithstanding any other provision to the contrary, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal, state or local authority.

(E) A grantee shall notify the [F]franchise [M]manager if a planned service interruption is going to affect fifty or more subscribers for a time period greater than three (3) hours. The [F]franchise [M]manager may establish appropriate methods for the notification required herein, including any procedures for notification after normal business hours.

(F) Upon request, a grantee shall provide the [E]city with copies of all notices provided to its subscribers. A grantee must take appropriate steps to ensure that all written grantee promotional materials, announcements, and advertising of cable communications service to subscribers and the general public, where

price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, a grantee will take appropriate steps to ensure that price terms are clearly and accurately disclosed to potential customers in advance of taking the order.

(G) Each grantee will maintain a file in the local service region that is available for public inspection during normal business hours at its office containing all information required under FCC regulations.

(H) Billing Credits.

(1) All first billing statements after a new installation or service change will be prorated as appropriate and will reflect any security deposit.

(2) All billing statements must be clear, concise, and understandable; must itemize each category of service and equipment provided to the subscriber; and must state clearly the charges therefor.

(I) A grantee shall allow at least a commercially reasonable number of days from the beginning date of the applicable service period for payment of a customer's service bill for that period.

(J) A late fee or administrative fee (collectively referred to below as a "late fee") may not be imposed for payments earlier than thirty (30) days after the due date specified in the bill unless directed by law.

(K) A grantee must provide subscribers the ability to remit payment by mail or in person at the

grantee's customer service location(s) in the [E]city. Subscribers may not be charged a late fee or otherwise penalized for any failure by a grantee, including failure to timely or correctly bill the subscriber, or failure to properly credit the subscriber for a payment timely made.

(L) Credit for Service Impairment.

(1) At a minimum, a subscriber's account will be credited for one day of service credit upon request if a subscriber is without service or if service is substantially impaired for any reason that is not the fault of the subscriber or due to force majeure for a period equal to or exceeding three (3) hours during any twenty-four (24) hour period; or automatically if the loss of service or impairment is due to a planned outage for twelve (12) hours or longer.

(2) A subscriber shall be deemed to be entitled to a credit where the subscriber requests a credit or experienced the planned outage for twelve (12) hours or longer.

(3) A grantee need not credit subscriber where it establishes that a subscriber would obtain a credit for a loss of service or impairment caused by the subscriber or by subscriber-owned equipment (not including, for purposes of this [S]section, in-home wiring installed by the grantee). The grantee bears the burden of proving that the subscriber caused the service loss or impairment.

(4) Refunds and/or credits for service will be issued no later than the next billing cycle of the



customer following the determination that a credit is warranted.

**5.60.380 Further remedies.**

(A) Grantee must provide the following to subscribers affected by the grantee's failure to comply with the following customer service standards:

(1) One Month Service Credit. The grantee will provide one month of service credit to each subscriber affected by the failure of the grantee to timely and satisfactorily comply with any of the following requirements:

(a) Failure to respond to a request from a subscriber for service on or replacement of a malfunctioning converter within fourteen (14) days.

(b) Initiate resolution of cable communications system-related problems within three (3) business days and resolve such problems within ten (10) business days after receipt of all necessary governmental permits and authorizations, provided that grantee applies for and expeditiously pursues same until completion.

(c) Planned disruption in service that is not the fault of the subscriber or due to force majeure (12 hours or more without any notice being given to the subscriber).

(2) Definition of Service Credit. The service credit required by this [S]section relates to the service tier subscribed to by the affected subscriber at the time of the failure to comply.

**5.60.390 Protection of city and residents.**

(A) Privacy Rights of Subscribers.

(1) As used in this [S]section, "valid authorization" means written approval from the subscriber.

(2) Each grantee shall strictly observe and protect the rights of privacy and of property of subscribers and users at all times in accordance with applicable law.

(3) A grantee may obtain and/or maintain only such information relating to subscribers as is necessary to conduct legitimate business activity.

(4) A subscriber may, at any time, revoke any valid authorization previously made, by delivering to the grantee in writing, by mail or otherwise, his/her decision to so revoke. Any such revocation shall be effective upon receipt by grantee.

(5) Notwithstanding anything to the contrary and subject to applicable law, nothing herein shall prohibit a grantee from using its cable communications system to collect and disclose such information necessary to render, or conduct a legitimate business activity related to cable service provided by the operator to the subscriber.

(6) A grantee shall not tabulate any test results, nor permit the use of the cable communications system for such tabulation, in a manner that would reveal the commercial product preferences or opinions of individual subscribers without valid authorization.

(B) No Exclusivity - Tenant Rights.

(1) A grantee may not require a subscriber or a building owner or manager to enter into an exclusive contract as a condition of providing or continuing service.

(2) It is the [E]city's intent that tenants not be discriminated against in the ability to subscribe to cable communications services. Each grantee shall be required to provide service to tenants in individual units of a multiple housing facility with all services offered to other dwelling units within the franchise area, subject to an executed right of entry and service agreement.

(C) Discrimination Prohibited. A cable communications system operator shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, and hiring practices, as the same may be amended from time to time.

**5.60.400 Cable franchise renewals - Procedure.**

(A) If the provisions of 47 U.S.C. Section 546(a) - (g) are properly invoked, the [E]city may:

(1) Conduct to its conclusion a proceeding to review past performance and identify future cable-related community needs and interests;

(2) Issue a Request for Proposal ("RFP");

(3) Provide public notice and opportunity to comment on the franchise proposal;

(4) Seek additional information related to the [E]city's evaluation of the proposal given the

standards for review of that proposal under applicable law;

(5) After receiving the application responding to the RFP, and any additional information required, the [E]city [E]council may determine, by resolution, that the cable franchise should be renewed, or make a preliminary assessment that the cable franchise should not be renewed.

(B) If the [E]city [E]council preliminarily decides that the cable franchise should not be renewed, and the grantee notifies the [E]city within thirty (30) business days of the preliminary decision, that it wishes to pursue any rights to an administrative proceeding it has under the Cable Act, then the [E]city will commence an administrative proceeding after providing prompt public notice thereof, in accordance with the Cable Act.

(C) If the [E]city [E]council preliminarily decides to grant renewal:

(1) The [E]city will prepare a proposed cable franchise agreement that incorporates, as appropriate, the commitments made in the application.

(2) If there is concurrence in the proposed agreement, it will be scheduled for additional [E]city Council action. If adopted by the [E]city [E]council, the cable franchise will be renewed and approved by Council Resolution.

(3) If the cable franchise grant is not accepted and ratified within the time limits established by 47 U.S.C. Section 546(c)(1), then renewal is deemed preliminarily denied, and an

administrative proceeding will be commenced if requested within thirty (30) business days of the expiration of the time limit established by 47 U.S.C. Section 546(c)(1), unless the time limit is extended by mutual agreement.

(D) If an administrative hearing is commenced pursuant to 47 U.S.C. Section 546(c), the application will be evaluated in a manner consistent with applicable law.

(E) A grantee is not prohibited from submitting an informal renewal proposal pursuant to 47 U.S.C. Section 546(h), which proposal may be granted or denied in accordance with the provisions of 47 U.S.C. Section 546(h).

**5.60.410 Franchise transfers, assignments or change in control - Applications.**

(A) Grantee will promptly notify the [E]city of any proposed transfer, assignment or change in control.

(B) At least one hundred twenty (120) calendar days before the contemplated effective date of a transfer, assignment or change in control, the grantee will submit to the [E]city an application for approving the transaction. Such application will include all information required by FCC Form 394.

**5.60.420 Franchise transfers, assignments or change in control - Contents of application.**

The proposed transferee, assignee or new controlling entity shall include the following information in the application:

(1) All information required by FCC Form 394;

(2) Any information regarding previous convictions involving deceit or violation of federal, state or local law, or information regarding pending indictments, investigations, or complaints of such acts;

(3) A detailed statement of the corporate or other business entity organization and management structure of the proposed transferee, assignee or new controlling entity;

(4) Any contracts or other documents that relate to the proposed transaction, including all documents, schedules, exhibits, or the like referred to therein which are not confidential or proprietary;

(5) Information regarding its financial solvency;

(6) Information related to pending material legal claims, lawsuits or administrative proceedings involving a cable communications system;

To the extent permitted by law, the grantee, transferee, assignee or new controlling entity shall pay all reasonable costs incurred by the [E]city in reviewing and evaluating the application.

**5.60.430 Franchise transfers, assignments or change in control - [E]city's determination.**

(A) A cable communications system shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor

shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest to any person, nor may there be any actual or proposed change in, or transfer of, or acquisition of control of, a grantee by any other person without the prior written consent of the [E]city. Notwithstanding anything to the contrary in the foregoing sentence or this [C]chapter, the prior approval of the [E]city shall not be required for any sale, assignment or transfer or change in control of the franchise or the cable communications system to an affiliate of grantee; provided, that the proposed assignee or transferee or new controlling entity must show financial responsibility as may be determined necessary by the [E]city and must agree in writing to comply with all of the provisions of the franchise. To the extent that a sale, transfer, assignment or change in control involves an entity, which was not an affiliate prior to the contemplated transaction, the [E]city's consent shall be required for such sale, transfer, assignment or change in control. In determining whether to grant, deny, or grant subject to conditions an application for a transfer, assignment or change in control of a franchise, the [E]city may consider:

(1) The legal, financial, and technical qualifications of the transferee, assignee or new controlling entity to operate the cable communications system;

(2) Whether the incumbent grantee is in compliance with its franchise (regarding a transfer or

assignment) and applicable law and, if not, the proposed transferee's or assignee's or existing grantee's commitment to cure such noncompliance; and

(3) To the extent permitted by law, whether the transferee, assignee or new controlling entity owns or controls any other cable communications system in the [E]city, and whether operation by the transferee, assignee or new controlling entity may eliminate or reduce competition in the delivery of cable communications system service in the [E]city.

(B) Requests for approval of a transfer, assignment or change in control will not be unreasonably denied.

(C) No application shall be granted unless the transferee, or assignee agrees in writing that the transferee or assignee will abide by and accept all terms of this [C]chapter and the franchise agreement, and that the transferee or assignee will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous grantee for all purposes.

#### **5.60.440 Legal qualifications.**

(A) The [E]city shall review, as part of its consideration of a transfer, assignment or change in control, the legal qualifications of the transferee, assignee or new controlling entity. In order to be legally qualified, transferee, assignee or new controlling entity:

(1) Shall not be issued a franchise if, at any time during the ten (10) years preceding the



submission of the application, it was convicted of fraud, racketeering, anti-competitive actions, unfair trade practices or other conduct of such character that it cannot be relied upon to deal truthfully with [C]city and the subscribers, or to substantially comply with its obligations.

(2) Must have any requisite authority under Washington and federal law to operate a cable communications system, or show that it is in a position to obtain that authority.

(3) Shall not be issued a franchise if it files materially misleading information in its application or intentionally withholds information that it is lawfully required to provide.

(B) Notwithstanding subsection A above, a transferee, assignee or new controlling entity shall be provided a reasonable opportunity to show that a franchise should be issued even if the requirements of subsection A of this section are not satisfied, by virtue of the circumstances surrounding the matter and the steps taken by it to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of its principals, or the remoteness of the matter from the operation of a cable communications system.

#### **5.60.450 Continuity of service.**

Each cable communications franchise grant, during the term of the cable communications franchise, will ensure that subscribers are able to receive continuous service contingent upon their fulfillment of financial

obligations, if any, and that, in the event the cable communications franchise is revoked or terminated, the grantee may be obligated to continue to provide service for a reasonable period to assure an orderly transition of service from the grantee to another entity.

**5.60.460 Compliance with state and federal laws.**

Each grantee shall comply with all applicable laws and regulations of the state and federal government or any administrative agencies thereof.

**5.60.470 Notices.**

Grantee shall maintain an address for service of notices by mail through the term of the franchise, and as shall be more specifically indicated in the franchise agreement.

**5.60.480 Remedies cumulative.**

Subject to applicable law, all remedies provided for under this [C]chapter, or under a franchise, shall be cumulative and are in addition to all other remedies that may be available at law or equity; provided, however, that [E]city is not entitled to recover damages for the same act or omission under multiple remedies where doing so would result in a double recovery of damages by [E]city for the same harm. Recovery by [E]city of any amounts under insurance, the performance bond, the security fund or letter of credit, or otherwise does not limit in any way a grantee's duty to indemnify [E]city nor shall such recovery relieve a grantee of its franchise

obligations, limit the amounts owed to [E]city, or in any respect prevent [E]city from exercising any other right or remedy it may have.

**5.60.490 Severability.**

If any provision of this [C]chapter is determined by any court of competent jurisdiction, or by any federal or state agency having jurisdiction over its subject matter, to be invalid and in conflict with any federal or state law or regulation now or hereafter in effect, or is determined by that court or agency to require modification in order to conform to the requirements of that law or regulation, then that part of this [C]chapter will be ineffective, and such determination will not affect the validity and enforceability of any other provisions. If that federal or state law or regulation is subsequently repealed or amended so that the provision of this [C]chapter determined to be invalid or subject to modification is no longer in conflict with that law or regulation, that provision will again become effective and will thereafter be binding on any affected grantee.

**Chapter 5.64**

**COMMUTE TRIP REDUCTION PLAN**

**(Repealed by Ord. 2420)**

Chapter 5.65

COMMUTE TRIP REDUCTION PROGRAM

Sections:

- 5.65.010 Definitions.
- 5.65.020 City of Redmond Commute Trip Reduction Plan.
- 5.65.030 Commute Trip Reduction Goals.
- 5.65.040 Commute Trip Reduction Goals for Affected Employers.
- 5.65.050 Responsible Agency.
- 5.65.060 Applicability.
- 5.65.070 Requirements for Employers.
- 5.65.080 Transportation Management Associations (TMA).
- 5.65.090 Biennial Measure of Employee Commute Behavior.
- 5.65.100 Schedule and Process for CTR Program Description and Report.
- 5.65.110 Exemptions and Goal Modifications.
- 5.65.120 Enforcement.
- 5.65.130 Appeals.

5.65.010 Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

(A) "Affected employee" means a full-time employee (see definition of Full-Time Employee), who is scheduled to begin or who regularly begins his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays

per week for at least twelve continuous months, who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

(B) "Affected employer" means an employer that employs 100 or more full-time employees at a single worksite covered by the Commute Trip Reduction Plan who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months, even if the identity of the employees varies over time. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (See definition of Employer.)

(C) "Alternative mode" means any type of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work weeks if they result in reducing commute trips.

(D) "Alternate work schedules" means programs such as compressed work weeks that eliminate work trips for affected employees.

(E) "Base year" means the twelve-month period which commences when a major employer is determined by the jurisdiction to be participating within the CTR program. The city uses this twelve-month period as the basis upon which it develops commute trip reduction goals.

(F) "Base year survey" or "baseline measurement" means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the city.

(G) "Carpool" means a motor vehicle occupied by two (2) to six (6) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

(H) "City" means the city of Redmond.

(I) "City-sponsored commute program" means any commute incentive program sponsored by the city to help reduce vehicle trips.

(J) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(K) "Commute trips" means trips made from an employee's home to a worksite to deliver the employee to begin his or her regularly scheduled workday between 6:00 a.m. and 9:00 a.m. (inclusive) on weekdays.

(L) "Commuter matching service" means a system that assists in matching commuters for the purpose of commuting together.

(M) "Compressed work week" means an employer-approved work schedule that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.

(N) "CTR" is the abbreviation of Commute Trip Reduction.

(O) "CTR plan" means the city's plan as set forth in this chapter to regulate and administer the CTR programs of affected employers within its jurisdiction.

(P) "CTR program" means an employer's strategies to reduce affected employees' SOV use and VMT per employee.

(Q) "Custom bus/buspool" means a commuter bus service arranged specifically to transport employees to work.

(R) "Days" means calendar days, unless otherwise qualified by the text.

(S) "Dominant mode" means the mode of travel used for the greatest distance of the trip.

(T) "Drive alone" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

(U) "Drive-alone trips" means commute trips made by employees in single-occupant vehicles.

(V) "Employee" means anyone who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer.

(W) "Employee transportation coordinator (ETC)" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.

(X) "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit, or private, that employs workers.

(Y) "Exemption" means a waiver from any or all CTR program requirements granted to an employer by the city based on unique conditions that apply to the employer or employment site.

(Z) "Flexible work schedules (flex-time)" is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their daily working hours to facilitate the use of alternative transportation modes.

(AA) "Full-time employee" means a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two (52) weeks per year for an average of at least thirty-five (35) hours per week.

(BB) "Good faith effort" means that an employer has met the minimum requirements identified



in RCW 70.94.531 and this chapter, and is working collaboratively with the city to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

(CC) "GTEC" refers to the City of Redmond[~~r~~] Overlake Growth and Transportation Efficiency Center. The GTEC program is a collection of jurisdiction-adopted goals and policies, facility and service improvements and marketing strategies about how the city will help make progress for reducing drive-alone trips and vehicle miles traveled for the GTEC. The program also specifies a financial plan and organizational structure for implementing the program strategies and services.

(DD) "High-occupancy vehicle (HOV)" means any motor vehicle occupied by two (2) or more people for commuting purposes.

(EE) "Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.551 and this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to this chapter and their CTR program and schedule.

(FF) "Major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their

regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months.

(GG) "Major employer worksite" or "affected employer worksite" or "worksite" means the physical location occupied by a major employer, as determined by the local jurisdiction.

(HH) "Mode" means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommuting.

(II) "Notice" means written communication delivered via the United States Postal Service with receipt, deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday, in which case the notice is deemed accepted the day after the weekend or legal holiday.

(JJ) "Peak period" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

(KK) "Peak period trip" means any employee trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

(LL) "Proportion of drive-alone trips," "drive-alone rate/SOV rate" means the number of commute trips over a set period made by employees in single-occupancy vehicles divided by the number of

potential trips taken by employees working during that period.

(MM) "Ride matching service" means a system which assists in matching commuters for the purpose of commuting together.

(NN) "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

(OO) "Single-occupant vehicle (SOV) trips" means trips made by affected employees in SOVs.

(PP) "Single worksite" means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way, occupied by one or more affected employers.

(QQ) "Teleworking" or "telecommuting" means the use of telephones, computers, or other means to permit an employee to work at home, eliminating a work trip; or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

(RR) "Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero (0) vehicle trips.

(SS) "Transportation demand management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

(TT) "Transportation information center" means an ongoing, on-site display of information explaining alternative modes available for the worksite. A transportation information center must be available in an area of high employee traffic.

(UU) "Transportation management association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA must have a formal agreement in existence specifying its purpose, must provide a common service for its members, and must have an administrator. A TMA may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

(VV) "Vanpool" means a vehicle occupied by seven (7) to fifteen (15) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero (0) vehicle trips.

(WW) "Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period divided by the number of affected employees during that period.

(XX) "Week" means a seven-day calendar period, starting on Monday and continuing through Sunday.

(YY) "Weekday" means any day of the week except Saturday or Sunday.

(ZZ) "Work trip" means any trip made, at any time, by an employee from his or her home to a

worksite for the purpose of beginning his or her regular workday.

(AAA) "Writing," "written," or "in writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

**5.65.020 City of Redmond Commute Trip Reduction Plan.**

The goals established for the jurisdiction and affected employers in the [e]City of Redmond Commute Trip Reduction Plan prepared by the city and dated October 1, 2007, are herein incorporated by reference.

**5.65.030 Commute Trip Reduction Goals.**

(A) The city's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the city's jurisdiction, major employment installations, GTECs, and other areas designated by the city are hereby established by the city of Redmond's CTR Plan incorporated by RMC 5.65.020. These goals establish the desired level of performance for the CTR program in its entirety in the city of Redmond.

(B) The city will set the individual worksite goals for affected employers based on how the worksite can contribute to the city's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in RMC 5.65.060.

**5.65.040 Commute Trip Reduction Goals for Affected Employers.**

(A) The drive-alone and VMT goals for affected employers in the city are hereby established as set forth in the CTR Plan incorporated by RMC 5.65.020.

(B) The goals for an affected employer or newly affected employer are listed in the CTR Plan, and established by the city at a level designed to achieve the city's overall goals for the jurisdiction and other areas as designated. The city shall provide written notification of the goals for each affected employer worksite by providing the information when the city reviews the employer's proposed program and incorporating the goals into the program approval issued by the city.

**5.65.050 Responsible Agency.**

The [e]City of Redmond Planning Department shall be responsible for implementing this chapter, the CTR Plan, and the city's CTR program for its own employees. The city council shall have the authority to issue such rules and administrative guidelines as are necessary to implement this chapter. Any administrative guidelines which are issued for this chapter shall be reviewed by the [P]planning [D]department, or as needed to ensure their applicability. The CTR program should be identified together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

**5.65.060 Applicability.**

The provisions of this chapter shall apply to any affected employer at any single worksite within the geographic limits of the CTR Plan adopted in the city of Redmond CTR Plan, RMC 5.65.020. Employees will only be counted at their primary worksite. The following classifications of employees are excluded from the counts of employees used to determine "affected employer" status: (1) seasonal agricultural employees, including seasonal employees of processors of agricultural products and (2) employees of construction worksites when the expected duration of the construction is less than two years.

(A) Notification of Applicability.

(1) In addition to the City of Redmond's established public notification for adoption of an ordinance, a notice of availability of a summary of the ordinance codified in this chapter, a notice of the requirements and criteria for affected employers to comply with the ordinance, and subsequent revisions shall be published at least once in the city's official newspaper within thirty (30) days after passage of the ordinance codified in this chapter or revisions.

(2) Affected employers located in the City of Redmond will receive written notification by certified mail that they are subject to this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, CTR program manager, or registered agent at the worksite. Such notification shall provide 90 days for the affected employer to perform a baseline measurement consistent

with the measurement requirements specified by the city.

(3) Affected employers that, for whatever reason, do not receive notice within thirty (30) days of passage of the ordinance codified in this chapter and are either notified or identify themselves to the city within 90 days of the passage of the ordinance codified in this chapter will be granted an extension to assure up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by the city.

(4) Affected employers that have not been identified or do not identify themselves within 90 days of the passage of the ordinance codified in this chapter and do not perform a baseline measurement consistent with the measurement requirements specified by the city within 90 days from the passage of the ordinance codified in this chapter are in violation of this chapter.

(5) If an affected employer has already performed a baseline measurement, or an alternative acceptable to the city, under previous iterations of this chapter, the employer is not required to perform another baseline measurement.

(B) Newly Affected Employers.

(1) Employers meeting the definition of "affected employer" in this chapter must identify themselves to the city within ninety (90) days of either moving into the boundaries of the city of Redmond outlined in the CTR Plan adopted in RMC 5.64.020 or growing in employment at a worksite to one



hundred (100) or more affected employees. Employers who do not identify themselves within 90 days are in violation of this chapter.

(2) Newly affected employers identified as such shall be given 90 days to perform a baseline measurement consistent with the measurement requirements specified by the city. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to this chapter are in violation of this chapter.

(3) Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR program to the city. The program will be developed in consultation with the city to be consistent with the goals of the CTR Plan adopted in RMC 5.65.020. The program shall be implemented not more than 90 days after approval by the city. Employers who do not implement an approved CTR program according to this schedule are in violation of this chapter and subject to the penalties outlined in RMC 5.65.120.

(C) Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR program requirements:

(1) If an employer initially designated as an affected employer no longer employs one hundred (100) or more affected employees and expects not to employ one hundred (100) or more affected employees for the next twelve (12) months, that employer is no

longer an affected employer. It is the responsibility of the employer to provide documentation to the city that it is no longer an affected employer. The burden of proof lies with the employer.

(2) If the same employer returns to the level of one hundred (100) or more affected employees within the same twelve (12) months, that employer will be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other affected employers.

(3) If the same employer returns to the level of one hundred (100) or more affected employees twelve (12) or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.

(4) This only applies when the CTR Plan as approved in RMC 5.65.020 designates the employer as affected based on location within the geographic limits of the plan. If the CTR Plan affects the employer based on a location within a Growth and Transportation Efficiency Center, and the employer meets the criteria laid out for that Center, then the Center's requirements will apply.

#### **5.65.070 Requirements for Employers.**

Every affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per

employee and drive-alone commute trips. The employer shall submit a description of its program to the city of Redmond and provide an annual progress report to the city on employee commuting and progress toward meeting the goals. The CTR program must include the elements described below in subsections A and B of this section.

(A) The CTR Program Description. Affected employers shall review their program and file a regular annual progress report with the city in accordance with the format provided by the city. Strategies may be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR programs. At a minimum, the employer's description must include:

(1) General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;

(2) Number of employees affected by the CTR program; and total number of employees per site;

(3) Documentation of compliance with the mandatory CTR program elements (as described in subsection B of this section);

(4) Description of the additional elements included in the CTR program (as described in subsection B of this section); and

(5) A statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

(B) Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

(1) Employee Transportation Coordinator (ETC). The employer shall designate an ETC to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city of Redmond. An affected employer with multiple sites may have one transportation coordinator for all sites. A transportation coordinator does not need to be an employee of the affected employer.

(2) Information Distribution. Information about alternatives to drive-alone commuting shall be provided to employees at least once a year. This shall consist of, at a minimum, a summary of the employer's program, including ETC name and phone number. Employers must also provide a summary of their program to all new employees at the time of

hire. Employers shall also provide for continuous information distribution through a transportation information center to be maintained in each worksite building used by fifty (50) or more affected employees. Each employer's program description and annual report must describe what information is to be distributed by the employer and the method of distribution. The summary of the employer's CTR program shall also be submitted to the city with the employer's program description and regular report annually.

(3) Annual Progress Report. The CTR program must include an annual review of employee commuting, progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file an annual progress report to the city by November 1st of each year. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, propose modifications to achieve the CTR goals. Survey information or approved alternative information must be provided in the data from the State of Washington Commute Trip Reduction Employee Questionnaire with a minimum seventy (70) percent response rate, or approved alternative information shall be required. The format of the reports shall be provided by the city.

(4) Record Keeping. Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionnaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to the city for a minimum of 48 months. The city and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

(5) Transportation Demand Management Elements. In addition to the specific program elements described above, the employer's CTR program shall include sufficient additional elements as needed to meet CTR goals. Elements may include, but are not limited to, the following:

(a) Provision of preferential parking for high-occupancy vehicles which is signed, monitored, and enforced;

(b) Reduced parking charges for high-occupancy vehicles;

(c) Instituting or increasing parking charges for drive-alone commuters;

(d) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;

(e) Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;

(f) Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;

(g) Provision of incentives for employees that do not drive alone to work;

(h) Permitting the use of the employer's vehicles for carpooling or vanpooling;

(i) Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

(j) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(k) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

(l) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(m) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

(n) Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;

(o) Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;

(p) Establishment of a program of telecommuting which permits affected employees to work at home or at an alternative worksite closer to their home;

(q) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities, emergency taxi services, or guaranteed ride home programs;

(r) Charging employees for parking, and/or the elimination of free parking;

(s) Other measures that the employer believes will reduce the number and length of commute trips made to the site;

(t) Participation in a Transportation Management Association (TMA); and

(u) Participation in a city-sponsored Commute Program.

#### **5.65.080 Transportation Management Associations (TMA).**

TMA's, or other business partnerships, may provide a single program that describes the common program elements committed to be implemented by the TMA or business partnership members. Each employer shall remain accountable for the success of its own program and its own compliance with the jurisdictional requirements.

#### **5.65.090 Biennial Measure of Employee Commute Behavior.**

(A) In addition to the baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) at



least once every two years, and strive to achieve at least a 70 percent response rate from employees at the worksite.

(B) Employers also have the option of using a sample rather than surveying all of the affected employees or all of the employees at the worksite. Sampling is the process of taking a portion of a population and using statistical methods to ensure that it is representative of the entire population. Validated statistical procedures must be used to ensure that the sample represents the population adequately. All sample survey requests must be approved by the city and the Washington State Department of Transportation.

#### 5.65.100 Schedule and Process for CTR Program Description and Report.

(A) CTR Program Submittal and Implementation. Not more than one hundred and eighty (180) days after the adoption of the ordinance codified in this chapter, or within one hundred and eighty (180) days after an employer qualifies under the provisions of this chapter, the employer shall develop a CTR program and shall submit to the city for review a description of that program as provided in RMC 5.65.070 of this chapter. The employer shall implement a CTR program not more than one hundred and eighty (180) days after the initial program submittal to the city. Implementation of the approved program modifications will occur within thirty (30) days of the final administrative decision on such modifications, or

within one hundred and eighty (180) days of the initial program submittal, whichever is greater.

(B) Employer Annual Reporting Date Schedule. Upon review of an employer's initial CTR program, the city shall establish the employer's annual reporting date, which shall not be less than twelve (12) months from the day the program is submitted. Each year on the employer's reporting date, the employer shall submit the annual CTR report to the city. November 1st of each year is the current submittal date to the city for most employers.

(C) Extensions. An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least thirty (30) days before the due date for which the extension is being requested. Extensions not to exceed ninety (90) days shall be considered for reasonable causes. The city shall grant or deny the employer's extension request by written notice within ten (10) working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for thirty (30) days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at

the discretion of the [P]lanning [D]irector or designee.

(D) Schedule for Review of Programs, Annual Reports, and Required Program Modifications. The city shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within ninety (90) days of submission, the employer's program or annual report is deemed accepted. The city may extend the review period up to ninety (90) days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

(E) Modification of CTR Program Elements. Any affected employer may submit a request to the city for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

(1) The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or

(2) The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

(F) The city may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

#### 5.65.110 Exemptions and Goal Modifications.

(A) Worksite Exemptions. An affected employer may request the city to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive-alone trips and VMT per employee. Exemptions may be granted by the city at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The city shall grant or deny the request within thirty (30) days of receipt of the request. The city shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

(B) Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests.

The city shall grant or deny the request within thirty (30) days of receipt of the request. The city shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

(C) Modification of CTR Program Goals.

(1) An affected employer may request that the city modify its CTR program goals. Such requests shall be filed in writing at least sixty (60) days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

(2) The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

(3) An employer may not request a modification of the applicable goals until one year after city/county approval of its initial program description or annual report.

(D) Implementation of Employer's CTR Program. Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than ninety (90) days after receiving written notice from the city that the program has been approved or with the expiration of

the program review period without receiving notice from the city.

**5.65.120 Enforcement.**

(A) Compliance. For purposes of this section, compliance shall mean:

(1) Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;

(2) Providing a complete CTR Program Description and Report on the regular reporting date; and

(3) Distributing and collecting the CTR Program Employee Questionnaire during the scheduled survey time period.

(B) Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of drive-alone trips shall be applied in determining requirements for employer CTR program modifications:

(1) If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;

(2) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met the applicable drive-alone or vehicle miles traveled goal, no additional modifications are required.

(3) If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this

chapter, and fails to meet the applicable drive-alone or VMT reduction goal, the city shall direct the employer to revise its program within thirty (30) days to come into compliance with the measures defined by RCW 70.94.534(2), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within thirty (30) days of receiving written notice to revise its program. The city shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the city will send written notice to that effect to the employer within thirty (30) days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the city within 10 working days of the conference.

(C) Violations. The following constitute violations if the deadlines established in this chapter are not met:

(1) Failure to self-identify as an affected employer within the timeframes indicated in RMC 5.65.060;

(2) Failure to perform a baseline measurement, including:

(a) Employers notified or that have identified themselves to the city within ninety (90) days of the ordinance codified in this chapter being

adopted and that do not perform a baseline measurement consistent with the requirements specified by the city within ninety (90) days from the notification or self-identification;

(b) Employers not identified or self-identified within ninety (90) days of the ordinance codified in this chapter being adopted and that do not perform a baseline measurement consistent with the requirements specified by the city within ninety (90) days from the adoption of the ordinance codified in this chapter;

(3) Failure to develop, submit, and/or submit on time a complete CTR program within the deadlines of this chapter;

(4) Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive-alone goals as specified in this chapter;

(5) Submission of false or fraudulent data in response to survey requirements;

(6) Failure to make a good faith effort, as defined in RCW 70.94.534; or

(7) Failure to revise a CTR program as defined in RCW 70.94.534(4).

(D) Penalties. Each city business day during which an employer fails to (1) implement a commute trip reduction program, or (2) modify a commute trip reduction program that does not meet the goals, shall constitute a separate violation of this chapter. No affected employer with an approved CTR program may be



held liable for failure to reach the applicable SOV or VMT goals. This chapter shall be enforced by the Code Compliance Officer as provided in Chapter 1.14 RMC; provided, that:

(1) No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive-alone or VMT goal;

(2) Each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in Chapter 7.80 RCW;

(3) An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

(a) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

(b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with state law RCW 70.94.531;

(4) In any hearing on the matter the City of Redmond Code Compliance [H]hearing [E]examiner shall consider as evidence:

(a) Documented contacts between the city and the employer;

(b) Documented program activities undertaken by the employer; and

(c) Any other evidence submitted by the city or the employer which can demonstrate compliance with this chapter and the CTR law RCW 70.94.521 through 70.94.551, or lack thereof; and

(5) The maximum civil penalty that may be imposed by the City of Redmond Code Compliance Hearing Examiner for each separate violation shall be \$250 per day per violation.

(6) Failure to obey any order of the City of Redmond Code Compliance Hearing Examiner, and failure to comply with any administrative decision or sanction imposed under this chapter shall constitute a class I civil infraction pursuant to RCW 7.80.120 and shall be punishable by a maximum civil penalty of \$250 per day per violation. In addition to the institution of any such civil infraction proceedings, the city may authorize the city attorney to collect the fees by appropriate legal action against the employer.

(7) An employer shall not be deemed to be in violation of this chapter if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

(a) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

(b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the city of Redmond and advise the union that the proposal being made is necessary for compliance with state law RCW 70.94.531.

#### 5.65.130 Appeals.

(A) Reconsideration of Decisions - Conference. Any affected employer wishing to appeal a decision regarding program approval, program exemption credit, goal modifications, adjustments, program amendments, or exemptions must request a conference with the [P]lanning [D]irector, or his or her designee, to request a reconsideration of the decision. Such a conference must be requested within ten (10) city business days of the decision, and shall be scheduled within thirty (30) days of the decision. When requesting a conference, an employer may indicate an intention to seek a recommendation from the Peer Review Board, and request that the conference be scheduled or continued after such a recommendation has been issued. The city shall issue a decision on the reconsideration request within ten (10) city business days of the completion of the conference.

(B) Review of Decisions. After having initiated a conference as described in RMC 5.65.130(A), an employer may seek a review of administrative decisions

on program approval, program exemption credit, goal modifications, adjustments, program amendments, or exemptions from the Peer Review Board. This Board shall be created through interlocal agreement with other jurisdictions. This Board shall include private sector members appointed by the city and shall provide equitable representation of affected employers. The procedures and rules for this Board shall be defined in the Administrative Guidelines to this chapter. This Board shall have advisory power, and evidence of its findings may be presented in decision reconsideration conferences as described in RMC 5.65.130(A), or in appeals before the city council as provided in subsection (D) of this section. The provisions of this subsection, and of subsection (A) of this section, as it relates to the Peer Review Board, shall take effect only after the Peer Review Board has been created and established through interlocal agreement with other jurisdictions.

(C) Appeal of Administrative Decisions. Any person adversely affected by an administrative decision under this chapter may appeal that decision to the city council within fourteen (14) days of the decision.

(D) City Council Appeals. The city council shall render a final decision in all appeals filed under subsections (B) and (C) of this section. Appellants shall be notified at least ten (10) days in advance of the date, time, and place at which the Council will consider the appeal. Administrative decisions shall be upheld if it is determined that they were consistent

with this chapter, the CTR law RCW 70.94.521 through 70.94.551 and the CTR Guidelines. Appeals may be granted if the employer can show the administrative decision is not consistent with this chapter.

(E) Appeals of City Council Decisions. All actions seeking judicial review of any final decision of the city council under this chapter must be filed within fourteen (14) days from the date the decision is rendered.

#### Chapter 5.68

#### LICENSING AND OPERATION OF ADULT ENTERTAINMENT FACILITIES

#### Sections:

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- 5.68.190 Regulations applicable to all adult entertainment facilities.
- 5.68.200 Regulations specifically applicable to adult cabarets.
- 5.68.210 Regulations specifically applicable to adult arcades.

PART A: GENERALLY

5.68.010 Purpose.

It is the intended purpose of this chapter to recognize the importance and benefits of freedom of expression to a democratic society. Experience has shown, however, that adult entertainment facilities, as defined herein, are detrimental to the public health, safety and welfare. Adult entertainment facilities are historically linked with organized crime, prostitution, narcotics, and other unlawful and criminal activity. These activities often lead to the

development of public nuisances, including moral nuisances. Therefore, the licensing and operation of adult entertainment facilities should be regulated and monitored through the system of licensing and operating regulations contained in this chapter.

**5.68.020 Scope.**

This chapter governs the licensing and operation of all adult entertainment facilities within the city. The location and siting of adult entertainment facilities is governed by the zoning regulations contained in the Redmond Community Development Guide. All adult entertainment facilities shall satisfy the requirements of both this chapter and the Redmond Community Development Guide.

**5.68.030 Definitions.**

For the purposes of this chapter, certain terms and words are defined as follows:

(A) "Adult arcade" means a commercial establishment containing individual viewing areas or booths where, for any form of consideration, including a membership fee, one (1) or more still or motion picture projectors, slide projectors, or other similar image producing machines are used to show films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

(B) "Adult business license" means a license issued by the [~~CITY CLERK~~] finance director under this

chapter to the owner or operator of an adult entertainment facility.

(C) "Adult cabaret" means a nightclub, bar, restaurant, tavern, or other similar commercial establishment, whether or not alcoholic beverages are served, that regularly features:

(1) Persons who appear nude or semi-nude; or

(2) Live performances which are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified anatomical areas or any specified sexual activities.

(D) "Adult drive-in theater" means a drive-in theater used for presenting motion picture films, video cassettes, cable television, or any other such visual media distinguished or characterized by an emphasis on matters depicting, describing or simulating any specified sexual activities or any specified anatomical areas.

(E) "Adult entertainment" means:

(1) Any exhibition, performance or dance conducted in an adult entertainment facility where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

(2) Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in an adult entertainment facility where



such exhibition, performance or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

(F) "Adult entertainment facility" means a commercial establishment defined herein as an adult arcade, adult cabaret, adult drive-in theater, adult motel, adult motion picture theater, adult retail store, adult sauna parlor, escort agency, nude or semi-nude model studio, or other adult entertainment facility.

(G) "Adult motel" means a hotel, motel, or similar commercial establishment which:

(1) Offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas, and that has a sign visible from the public right-of-way that advertises the availability of this type of sexually oriented materials; or

(2) Offers a sleeping room for rent for a rental fee period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(H) "Adult motion picture theater" means an enclosed commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, or other similar visual media are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

(I) "Adult retail store" means a commercial establishment such as a bookstore, video store, or novelty shop which as its principal business purpose offers for sale or rent, for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed materials, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

(2) Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

(3) For the purpose of this definition, the term "principal business purpose" shall mean the business purpose that constitutes fifty percent (50%) or more of the stock in trade of a particular business establishment. The stock in trade of a particular business establishment shall be determined by examining either: (i) the retail dollar value of all sexually oriented materials compared to the retail dollar value of all non-sexually oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; or (ii) the total volume of shelf space and display area reserved for sexually oriented materials compared to the total volume of shelf space and display area reserved for non-sexually oriented materials.

(J) "Adult sauna parlor" means a commercial sauna parlor which excludes any person by virtue of age from all or any portion of the premises.

(K) "Applicant" means a person or persons applying for a license under this chapter.

(L) "City" means the city of Redmond, Washington.

(M) "Employee" means any person, including a manager, entertainer, escort, or nude model, who works in or renders any services directly related to the operation of any adult entertainment facility, whether or not such person is paid compensation by the owner or operator of the adult entertainment facility.

(N) "Entertainer" means any person who provides live adult entertainment in an adult entertainment facility during which the person exposes any specified anatomical areas or performs any specified sexual activities, whether or not the person is an employee of the adult entertainment facility, and whether or not a fee is charged or accepted for such entertainment.

(O) "Entertainer's license" means a license issued by the [~~CITY CLERK~~] finance director under this chapter to an entertainer, escort, or nude or semi-nude model.

(P) "Escort" means a person employed by an escort agency, and who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(Q) "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as its principal business purpose for a fee, tip, or other consideration. The term "escort agency" shall not include any escort service offered by a charity or non-profit organization for medical assistance or assistance to the elderly or infirm.

(R) "Licensee" means a person or persons in whose name a license to operate an adult entertainment facility has been issued under this chapter, as well as the individual listed as an applicant on the application for a license, and in the case of a

manager, entertainer, escort, or nude or semi-nude model, a person in whose name a license has been issued authorizing employment or entertainment in an adult entertainment facility.

(S) "Manager" means any person who manages, directs, or administers the affairs or conduct of a portion of the activity within an adult entertainment facility, including assistant managers working with or under the direction of a manager to carry out such purposes.

(T) "Manager's license" means a license issued by the [~~CITY CLERK~~] finance director under this chapter to a manager or assistant manager of an adult entertainment facility.

(U) "Nude" means the appearance of less than complete and opaque covering of the human anus, human male genitals, human female genitals, or the areola or nipple of the human female breast. The opaque covering shall be made of material or fabric, but shall not include any liquid substance, including mud, water, lotion, whipping cream, or other similar substances that are easily broken down or removed and do not offer the covering intended for an opaque covering.

(V) "Nude or semi-nude model" means a person who, for any form of consideration, agrees or offers to appear nude or semi-nude in a nude or semi-nude model studio.

(W) "Nude or semi-nude model studio" means any place where a person appears nude or semi-nude for money or any other form of consideration, to be observed, sketched, drawn, painted, sculptured,

photographed, or similarly depicted by another person. The following uses are exceptions to the definition of a "nude or semi-nude model studio":

(1) A proprietary school licensed by the State of Washington;

(2) A junior college, college, or university supported partly or entirely by public funds;

(3) A private college or university that maintains and operates educational programs in which credits are transferable to a junior college, college, or university supported partly or entirely by public funds; and

(4) A place housed in a structure: (a) that has no advertising visible from the exterior of the structure that indicates a nude or semi-nude model is available for viewing; and (b) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

(X) "Other adult entertainment facility" means any commercial establishment not defined herein where adult entertainment or sexually oriented materials is regularly conducted, displayed, or available in any form, for any type of consideration. Provided however, that a public library, and a school, university, or similar educational or scientific facility shall not be considered an adult entertainment facility. In addition, a commercial establishment that offers access to telecommunications networks as its principal business purpose shall not be considered an adult entertainment facility unless

the access it provides is for the primary purpose of displaying or presenting visual images that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

(Y) "Owner or operator" means any person who owns, operates, or has a significant interest in an adult entertainment facility, with significant interest being based on responsibility for management of the business. Where an adult entertainment facility is owned or operated by a partnership, then each partner shall be deemed an owner or operator of the business. Where an adult entertainment facility is owned or operated by a corporation, including a limited liability organization, then each officer, director and principal stockholder shall be deemed an owner or operator of the business. For the purposes of this chapter, a principal stockholder is a person who owns or controls twenty percent (20%) or greater interest in an adult entertainment facility.

(Z) "Person" means an individual, association, corporation, estate, firm, joint venture, partnership, proprietorship, trust, or other legal entity.

(AA) "Semi-nude" means a state of dress in which the clothing completely and opaquely covers no more than the genitals, pubic region, and areola and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(BB) "Sexually oriented materials" means any books, magazines, periodicals or other printed materials, or any photographs, films, motion pictures, video cassettes, slides, or other visual representations, that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas. The term "sexually oriented materials" includes any instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

(CC) "Specified anatomical areas" means and includes any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola; or

(2) The human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(DD) "Specified criminal offense" means an offense for prostitution or promotion of prostitution, sale or distribution of obscenity, sale or display of materials harmful to minors, public lewdness, indecent exposure, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) for which:

(1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever



is later, if the conviction is of a misdemeanor offense; or

(2) Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a felony offense; or

(3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is later, if the convictions are of two or more misdemeanor offenses occurring within a twenty-four month period.

(EE) "Specified sexual activities" means and includes any of the following:

(1) The caressing, fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

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

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of, or in connection with, any of the sexual activities specified in this definition.

#### 5.68.040 Penalties.

(A) Criminal Penalty. In addition to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor. Any person convicted of such

a violation shall be punished by a fine of not more than \$1,000 or by a jail term of not more than ninety (90) days, or by both such fine and imprisonment.

(B) Separate Offense. Any person who violates any provision of this chapter or failing to comply with any of the mandatory requirements of this chapter is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued, or permitted by any such person.

**5.68.050 Nuisance.**

(A) Public Nuisance. Any adult entertainment facility operated, conducted, or maintained in violation of this chapter or any law of the city of Redmond shall be deemed a public nuisance, and all remedies given by law for the prevention and abatement of public nuisances shall apply regardless of any other remedy.

(B) Moral Nuisance. Any adult entertainment facility operated, conducted, or maintained contrary to the provisions of Chapter 7.48A RCW shall be deemed a moral nuisance, and all remedies given by law for the prevention and abatement of moral nuisances shall apply regardless of any other remedy.

**5.68.060 Activities not prohibited.**

(A) This chapter shall not be construed to restrict or prohibit the following activities or products: (a) plays, operas, musicals or other dramatic works that are not obscene; (b) classes, seminars, or lectures which are held for a serious scientific or educational purpose and that are not

obscene; and (c) exhibitions, performances, expressions or dances that are not obscene.

(B) The provisions of this chapter are not intended to and do not prohibit the simulation of sex acts which are part of non-obscene expression.

(C) Whether or not activity is obscene shall be judged by consideration of the following factors:

(1) Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to the prurient interest in sex; and

(2) Whether the activity depicts or describes sexual conduct in a patently offensive way, as measured against community standards, and as described in RCW 7.48A.010(2)(b); and

(3) Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.

#### **PART B: LICENSING REQUIREMENTS**

##### **5.68.070 License required.**

(A) It is unlawful for any person to operate an adult entertainment facility unless that person is the holder of a valid adult business license issued by the [~~CITY CLERK~~] finance director under this chapter.

(B) It is unlawful for any person to work as a manager in an adult entertainment facility unless that person is the holder of a valid manager's license issued by the [~~CITY CLERK~~] finance director under this chapter.

(C) It is unlawful for any person to work or perform as an entertainer in an adult entertainment facility unless that person is the holder of a valid entertainer's license issued by the [~~CITY~~—~~CLERK~~] finance director under this chapter.

(D) It is unlawful for any person to work or perform as an escort unless that person is the holder of a valid entertainer's license issued by the [~~CITY~~ ~~CLERK~~] finance director under this chapter.

(E) It is unlawful for any person to work or perform as a nude or semi-nude model in an adult entertainment facility unless that person is the holder of a valid entertainer's license issued by the [~~CITY~~—~~CLERK~~] finance director under this chapter.

(F) It is unlawful for the owner or operator of an adult entertainment facility to employ a person to work as a manager at the adult entertainment facility unless that person is licensed as a manager under this chapter.

(G) It is unlawful for the owner or operator of an adult entertainment facility to employ a person to work or perform as an entertainer at the adult entertainment facility unless that person is licensed as an entertainer under this chapter.

(H) It is unlawful for the owner or operator of an adult entertainment facility to employ a person to work or perform as an escort unless that person is licensed as an escort under this chapter.

(I) It is unlawful for the owner or operator of an adult entertainment facility to employ a person to work or perform as a nude or semi-nude model unless

that person is licensed as a nude or semi-nude model under this chapter.

**5.68.080 Application for adult business license.**

(A) No person shall own or operate an adult entertainment facility within the [C]city of Redmond without a valid adult business license issued by the [CITY—CLERK] finance director. A [C]city of Redmond business license is required in addition to the adult business license.

(B) Each person qualifying as an owner or operator of the proposed adult entertainment facility shall submit a separate application. Each applicant shall be separately qualified under this chapter.

(C) All applications shall be submitted to the [CITY—CLERK] finance director on a form supplied by the [C]city and shall contain or be accompanied by all of the following information and documents:

(1) The date of the application.

(2) The legal name, any previous names, any aliases, any driver's license number, any social security number, and the date of birth of the applicant.

(3) If the applicant is a partner in a partnership, the applicant shall state the complete name of the partnership, state whether the partnership is general or limited, and state the legal names of all partners.

(4) If the applicant is an officer, director, or principal stockholder of a corporation, including a limited liability organization, the

applicant shall state the complete name of the corporation, state the date of its incorporation, state the name of the registered corporate agent, state the address of the registered office for service of process, and provide evidence that the corporation is in good standing under the laws of the State of Washington.

(5) A description of the principal activities and services to be offered by the proposed adult entertainment facility, including a summary of the types of adult entertainment and sexually-oriented materials to be offered for sale or rent by the proposed adult entertainment facility.

(6) A description of the principal activities and services to be rendered by the applicant with respect to the proposed adult entertainment facility.

(7) A statement whether the applicant has been convicted of a specified criminal offense, and if so, the date, place, and jurisdiction of each specified criminal offense.

(8) A statement whether the applicant holds any license issued under this chapter or under a similar ordinance from another city or county, and if so, the operating names and locations of the other licensed businesses.

(9) A statement whether the applicant has had a previous license issued under this chapter denied, suspended, or revoked, and if so, the name and location of the adult entertainment facility for which

the license was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation.

(10) A statement whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that has had a previous license under this chapter denied, suspended, or revoked, and if so, the name and location of the adult entertainment facility for which the license was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation.

(11) The proposed location of the adult entertainment facility, including a legal description of the property, street address, and telephone numbers, if any.

(12) The present mailing and residential address of the applicant.

(13) Two (2) two-inch by two-inch color photographs of the applicant, taken within six (6) months of the date of the application, showing the full face of the applicant. The photographs shall be provided at the expense of the applicant.

(14) A complete set of fingerprints of the applicant, taken by a designated [G]city official, on a form adopted and approved by the City of Redmond Police Department.

(15) A sketch or diagram showing the configuration of the premises, including a statement of total floor space to be occupied by the adult entertainment facility. The sketch or diagram shall be drawn to a designated scale to an accuracy of plus or minus six (6) inches.

(16) Authorization for the [G]city, its agents, and employees to seek information to confirm any statements or other information set forth in the application.

[E-] (D) An application shall be deemed complete upon receipt of all the information and documents requested by this section. Where necessary to determine compliance with this chapter, the [CITY CLERK] finance director may request information or clarification in addition to that provided in a complete application.

[F-] (E) If any person or entity acquires, subsequent to the issuance of an adult business license, a significant interest in the licensed adult entertainment facility, notice of such acquisition shall be provided in writing to the [CITY CLERK] finance director within twenty-one (21) calendar days following such acquisition and the person acquiring the interest shall submit a complete application to the [CITY CLERK] finance director pursuant to RMC 5.68.080 within forty-five (45) calendar days of acquiring such interest. For the purpose of this section, "significant interest" means principal responsibility for management or operation of an adult entertainment facility.

[G-] (F) Each adult business license application shall be accompanied by a non-refundable application fee, the amount of which shall be established by resolution and which will cover the cost of obtaining a criminal history conviction records from Washington



State Patrol's Washington Access to Criminal History  
(WATCH) website.

[H-] (G) In addition to the requirements of this chapter, an applicant for an adult business license must also obtain any other permits or licenses required by state or local laws or regulations.

**5.68.090 Application for manager's or entertainer's license.**

(A) No person shall work or perform as a manager, entertainer, escort, or nude or semi-nude model at an adult entertainment facility without a valid manager's or entertainer's license issued by the [~~CITY CLERK~~] finance director

(B) All applications shall be submitted to the [~~CITY CLERK~~] finance director on a form supplied by the [C]city and shall contain or be accompanied by all of the following information and documents:

(1) The date of the application.

(2) The legal name, any previous names, any aliases, any driver's license number, any social security number, and the date of birth of the applicant.

(3) Documentation that the applicant has attained the age of eighteen years. Any of the following shall be accepted as documentation of age:

(a) A valid driver's license issued by any state bearing the applicant's photograph and date of birth;

(b) A valid identification card issued by any state bearing the applicant's photograph and date of birth;

(c) An official passport issued by the United States of America;

(d) An immigration card issued by the United States of America; or

(e) Any other form of identification that the [CITY-CLERK] finance director determines to be acceptable.

(4) The height, weight, hair and eye color of the applicant.

(5) The present mailing and residential address of the applicant.

(6) The name and address of the adult entertainment facility at which the applicant will work or perform.

(7) A description of the principal activities or services to be rendered by the applicant at the adult entertainment facility.

(8) Two (2) two-inch by two-inch color photographs of the applicant, taken within six (6) months of the date of the application, showing the full face of the applicant. The photographs shall be provided at the expense of the applicant.

(9) A complete set of fingerprints of the applicant, taken by a designated [C]city official, on a form adopted and approved by the City of Redmond Police Department.

(10) A statement whether the applicant has been convicted of a specified criminal offense, and if

so, the date, place, and jurisdiction of each specified criminal offense.

(11) A statement whether the applicant holds any license issued under this chapter or under a similar ordinance from another city or county, and if so, the operating names and locations of the other licensed businesses.

(12) A statement whether the applicant has had a previous license issued under this chapter denied, suspended, or revoked, and if so, the name and location of the adult entertainment facility for which the license was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation.

(13) Authorization for the [€]city, its agents, and employees to seek information to confirm any statements or other information set forth in the application.

(C) The applicant shall verify under penalty of perjury that the information contained in the application is true to the best of his or her knowledge.

(D) An application shall be deemed complete upon receipt of all the information and documents requested by this section. Where necessary to determine compliance with this chapter, the [~~CITY CLERK~~] finance director may request information or clarification in addition to that provided in a complete application.

(E) Each manager's and entertainer's license application shall be accompanied by a non-refundable application fee which will include the cost of obtaining a criminal history conviction records from

Washington State Patrol's Washington Access to Criminal History (WATCH) website, the amount of which shall be established by resolution.

(F) In addition to the requirements of this chapter, an applicant for a manager's or entertainer's license must also obtain any other permits or licenses required by state or local laws or regulations.

**5.68.100 Initial investigation.**

(A) Upon receipt of a complete adult business license application, the [~~CITY-CLERK~~] finance director shall stamp the application as received and shall send photocopies of the application to the departments or agencies responsible for the enforcement of public safety, police, health, fire, and building codes and laws. Each interested department or agency shall conduct a [~~N-INVESTIGATION~~] review of the application and the proposed adult entertainment facility within twenty (20) calendar days of receipt of the application by the [~~CITY-CLERK~~] finance director, unless circumstances support extending the [~~INVESTIGATION~~] review. If the [~~INVESTIGATION~~] review is extended, the [~~CITY-CLERK~~] finance director shall inform the applicant of the extension and the reasons therefor. The extension shall not exceed ten (10) additional calendar days from the original expiration of the twenty (20) day time period stated above. At the conclusion of its investigation, each interested department or agency shall recommend approval or disapproval of the application by so indicating on the photocopy of the application. After indicating its

approval or disapproval, each interested department or agency shall immediately return the photocopy of the application to the [~~CITY-CLERK~~] finance director. In the event the proposed adult entertainment facility is in a state of construction at the time of the inspection, then each interested department or agency shall make a preliminary determination of approval or disapproval based on the drawings submitted in the application. Any adult business license approved prior to final construction of the adult entertainment facility shall contain a condition that the adult entertainment facility shall not open for business until the facility has been inspected and determined to be in compliance with applicable laws and regulations and substantially conforms with the drawings submitted with the application.

(B) In the event an interested department or agency recommends disapproval, the department or agency recommending disapproval shall state the basis for the disapproval in writing. A department or agency shall recommend disapproval of an application if it finds that the proposed adult entertainment facility will violate any provision of any statute, code, ordinance, regulation, or other law in effect in the city.

#### 5.68.110 Issuance and denial of licenses.

(A) Issuance of Adult Business License.

(1) The [~~CITY-CLERK~~] finance director shall grant or deny an application for an adult business license within thirty-five (35) calendar days from the

date a complete application is filed unless a ten (10) day extension is granted as provided in RMC 5.68.100(A) in which case the [~~CITY CLERK~~] finance director shall grant or deny an application for an adult business license within forty-five (45) calendar days from the date a complete application is filed.

(2) The [~~CITY CLERK~~] finance director shall issue an adult business license unless one or more of the criteria set forth in RMC 5.68.110(C)(1) is present.

(3) An adult business license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the name and address of the adult entertainment facility. An adult business license shall be posted in a conspicuous place, at or near the entrance to the adult entertainment facility.

(4) Each adult business license shall expire annually on [~~DECEMBER 31<sup>ST</sup>~~] January 31.

(B) Issuance of Manager's or Entertainer's License.

(1) The [~~CITY CLERK~~] finance director shall grant or deny an application for a manager's or entertainer's license within thirty-five (35) calendar days from the date a complete application is filed.

(2) An applicant for a manager's or entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license shall automatically expire on the fifteenth day following the filing of a complete application and fee, unless the [~~CITY CLERK~~]

finance director has failed to approve or deny the license application, in which case the temporary license shall be valid until the [~~CITY CLERK~~] finance director approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the [~~CITY CLERK~~] finance director extend the application review time for more than an additional twenty (20) days.

(3) The [~~CITY CLERK~~] finance director shall issue a manager's or entertainer's license unless one or more of the criteria set forth in RMC 5.68.110(C)(1) is present.

(4) A manager's or entertainer's license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the name and address of the adult entertainment facility at which the manager, entertainer, escort or nude or semi-nude model will work or perform. Each manager, entertainer, and nude or semi-nude model shall ensure that his or her license is posted in a conspicuous place, at or near the entrance to the adult entertainment facility, at all times he or she is working or performing in the adult entertainment facility. Each escort shall carry his or her license at all times he or she is working within the [€]city of Redmond as an escort.

(5) Each manager's or entertainer's license shall expire annually on [~~DECEMBER 31~~] January 31.

(C) Denial of License Application.

(1) The [~~CITY CLERK~~] finance director shall deny a license application if it is demonstrated by a

preponderance of the evidence that one or more of the following findings is true:

(a) The premises to be used for the proposed adult entertainment facility are not in compliance with applicable laws and ordinances.

(b) An applicant is under eighteen (18) years of age.

(c) An applicant has failed to provide information required by this chapter or has falsely answered a question or request for information on the application form.

(d) An applicant has failed to comply with any provision or requirement of this chapter.

(e) An application fee required by this chapter has not been paid.

(f) An applicant has been convicted of a specified criminal offense committed on the premises of the adult entertainment facility for which he or she is licensed within the time periods provided in RMC 5.68.030[+GG+] (DD).

(2) In the event the [CITY—CLERK] finance director denies an application, the [CITY—CLERK] finance director shall do so in writing, and shall state the specific reasons therefor, including applicable laws.

(3) Denial of a license application is subject to appeal as set forth in RMC 5.68.150.

#### **5.68.120 Renewal of licenses.**

(A) A licensee may apply for renewal of an adult business license issued under this chapter. An



application for renewal shall contain the information and documents required in RMC 5.68.080 and shall be accompanied by a nonrefundable application fee, the amount of which shall be established by resolution.

(B) A licensee may apply for renewal of a manager's or entertainer's license issued under this chapter. An application for renewal shall contain the information and documents required in RMC 5.68.090 and shall be accompanied by a nonrefundable application fee, the amount of which shall be established by resolution.

(C) Application for renewal of an adult business license shall be made within forty (40) calendar days before the expiration date of the currently valid license.

(D) Application for renewal of a manager's or entertainer's license shall be made within fifteen (15) calendar days before the expiration date of the currently valid license.

(E) An application for a renewal license shall be issued or denied according to the requirements of RMC 5.68.110.

(F) Denial of a renewal license is subject to appeal as set forth in RMC 5.68.150.

~~[G. Denial of a renewal license is subject to appeal as set forth in RMC 5.68.150.]~~

#### **5.68.130 Nontransferability of licenses.**

(A) Adult Business License. The holder of an adult business license issued pursuant to this chapter shall not assign or transfer the license to another

person, except that a transfer may be made to the surviving spouse of a deceased licensee if the transferor and transferee were maintaining a marital community and the license was issued in the name of one or both of them.

(B) Manager's or Entertainer's License. The holder of a manager's or entertainer's license issued pursuant to this chapter shall not assign or transfer the license to another person.

#### 5.68.140 Suspension and revocation of licenses.

(A) The [~~CITY CLERK~~] finance director may, subject to this chapter, suspend or revoke any license issued pursuant to this chapter. In the event a license is suspended or revoked, all rights of the licensee under this chapter are then suspended or terminated, as the case may be.

(B) Upon receipt of notice of the suspension or revocation of an adult business license or manager's license or entertainer's license, the licensee shall without delay deliver such license to the [~~CITY CLERK~~] finance director. In the case of a suspension, the [~~CITY CLERK~~] finance director shall return the license to the licensee at the expiration of the suspension period.

(C) Suspension of License. The [~~CITY CLERK~~] finance director shall suspend a license for a period not to exceed thirty (30) calendar days if the [~~CITY CLERK~~] finance director determines that:

(1) The licensee has refused to allow an inspection of the adult entertainment facility as required by RMC 5.68.160; or

(2) The licensee has not submitted a timely monthly report as required by RMC 5.68.170(B); or

(3) The licensee has been convicted of a specified criminal offense committed on the premises of the adult entertainment facility for which he or she is licensed within the time periods provided in RMC 5.68.030(DD); or

(4) The licensee has violated any applicable requirement of this chapter.

(D) Revocation of License.

(1) The [~~CITY CLERK~~] finance director shall revoke a license if the [~~CITY CLERK~~] finance director determines that:

(a) The licensee has given false information in the material submitted during the application process; or

(b) The licensee has knowingly operated an adult entertainment facility during a period of time when the adult business license of the adult entertainment facility was suspended; or

(c) The licensee has knowingly acted as a manager of an adult entertainment facility during a period of time when the licensee's manager's license was suspended; or

(d) The licensee has knowingly acted as an entertainer at an adult entertainment facility during a period of time when the licensee's entertainer's license was suspended; or

(e) The licensee has knowingly acted as an escort within the [C]city of Redmond during a period of time when the licensee's entertainer's license was suspended; or

(f) The licensee has knowingly acted as a nude or semi-nude model at an adult entertainment facility during a period of time when the licensee's entertainer's license was suspended; or

(g) A cause of suspension in RMC 5.68.140(C) occurs and the license has been suspended within the preceding twelve months.

(2) In the event the [CITY-CLERK] finance director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued an adult business license, manager's license, or entertainer's license for one (1) year from the date the revocation becomes effective. If, after revocation, the [CITY-CLERK] finance director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) calendar days have elapsed since the date of revocation became effective.

**5.68.150 Appeal of denial, suspension, or revocation of license.**

(A) In the event the [CITY-CLERK] finance director denies, suspends or revokes a license issued under this chapter, the [CITY-CLERK] finance director shall notify the applicant or licensee in writing of the decision at least ten (10) calendar days prior to the effective date of any such denial, suspension, or

revocation. The notice shall describe the grounds for such denial, suspension, or revocation and shall inform the applicant or licensee of his or her right to appeal to the [E]city [H]hearing [E]examiner within ten (10) calendar days of the date of the written decision by filing a written notice of appeal with the [CITY-CLERK] finance director containing a statement of the specific reasons for the appeal and a statement of the relief requested. The notice shall be served either in person or by mailing a copy of the notice by certified mail, postage prepaid, return receipt requested, to the applicant or licensee at his or her last known address.

(B) If a licensee timely appeals a decision of the [CITY-CLERK] finance director, then the licensee may continue to engage in the activity for which the license was issued pending the decision of the [E]city [H]hearing [E]examiner, unless the license was suspended or revoked based on a threat of immediate serious injury to public health or safety pursuant to RMC 5.68.160(B).

(C) Within ten (10) calendar days of receiving a timely appeal, the [CITY-CLERK] finance director shall forward the administrative record of the licensing decision to the [E]city [H]hearing [E]examiner.

(D) In the event an applicant or licensee timely appeals the denial, suspension, or revocation of a license issued under this chapter, the [E]city [H]hearing [E]examiner shall hold a hearing on the appeal within twenty (20) calendar days from receipt of the appeal. Written notice of the date, time, and

place of the scheduled hearing shall be given to the applicant by the [~~CITY~~—CLERK] finance director at least five (5) calendar days prior to the hearing.

(E) The [C]city [H]hearing [E]examiner shall uphold the decision of the [~~CITY~~—CLERK] finance director unless it finds the decision is not supported by evidence in the administrative record.

(F) The [E]city [H]hearing [E]examiner shall issue a written decision within ten (10) calendar days of hearing the appeal. The decision shall be served either in person or by mailing a copy of the decision by certified mail, postage prepaid, return receipt requested, to the applicant or licensee at his or her last known address. The decision of the [E]city [H]hearing [E]examiner shall constitute the final administrative decision of the [E]city and may be appealed to superior court within ten (10) calendar days. The applicant or licensee shall be responsible for the costs of preparing the administrative record for judicial review.

(G) If a licensee timely appeals a decision of the [E]city [H]hearing [E]examiner, then the licensee may continue to engage in the activity for which the license was issued pending the decision of the court, unless the license was suspended or revoked based on a threat of immediate serious injury to public health or safety.

**5.68.160 Inspections and public health and safety suspensions.**

(A) An applicant or licensee shall permit representatives of the police department, health department, and other state and local government agencies to inspect the premises an adult entertainment facility, at any time the adult entertainment facility is open for business, for the purpose of insuring compliance with all applicable statutes, codes, ordinances, regulations, and laws.

(B) Where a condition exists upon the premises of an adult entertainment facility that constitutes a threat of immediate serious injury to public health or safety, the [~~CITY CLERK~~] finance director or any other [E]city official may immediately suspend any license issued under this chapter by issuing a notice setting forth the facts that constitute a threat of immediate serious injury to public health or safety, and informing the licensee of the right to appeal the suspension to the [E]city [H]hearing [E]examiner under the appeal provisions set forth in this chapter.

**5.68.170 Recordkeeping requirements and monthly reports.**

(A) Each adult entertainment facility licensed under this chapter shall maintain and retain for a period of two (2) years from the date of termination of employment, the names, addresses, and ages of all persons employed or otherwise retained as managers, entertainers, escorts, and nude and semi-nude models.

(B) Each adult entertainment facility licensed under this chapter shall file a monthly report with the [~~CITY CLERK~~] finance director including the names,

addresses, and ages of all persons employed or otherwise retained as managers, entertainers, escorts, and nude or semi-nude models.

**5.68.180 License requirement for existing adult entertainment facilities.**

Any adult entertainment facility in existence prior to the effective date of this ordinance shall be deemed to be operating under a temporary adult business license. Within forty-five (45) calendar days of the effective date of the ordinance codified in this chapter, each owner and operator of the adult entertainment facility shall submit a complete adult business license application pursuant to RMC 5.68.080 to the [~~CITY CLERK~~] finance director. The license application shall be issued or denied in accordance with the requirements of this chapter. The adult entertainment facility shall be permitted to continue to engage in the activities specified in the adult business license application pursuant to RMC 5.68.080(C)(6) pending the decision of the [~~CITY CLERK~~] finance director.

**PART C: OPERATIONAL REQUIREMENTS**

**5.68.190 Regulations applicable to all adult entertainment facilities.**

All adult entertainment facilities shall comply with the following regulations:

(A) Manager on Premises. A licensed manager shall be on duty at the adult entertainment facility at all times the adult entertainment facility is open



for business. The manager shall be stationed at a location within the adult entertainment facility where he or she shall have an unobstructed view of all public portions of the adult entertainment facility.

(B) Hours of Operation. It is unlawful for an adult entertainment facility, except adult motel, to be conducted, operated, or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.

(C) Admission to Minors Prohibited. Admission to adult entertainment facilities, except adult motels, shall be restricted to persons of the age of eighteen (18) years or more. The age of all patrons shall be verified at the time of entry by an employee of the adult entertainment facility.

(D) Warning Devices. No person may operate or maintain any warning system or device, of any nature or kind, for the purpose of warning the employees, managers, entertainers, or patrons of an adult entertainment facility that police officers or other government agents are approaching or have entered the adult entertainment facility.

(E) Rental or Sale of Obscene Material Prohibited. The rental or sale of obscene material, as defined in RMC 5.68.030~~[-(Y)]~~ (I), shall be considered a moral nuisance and shall be subject to abatement pursuant to this chapter and RCW 7.48.058.

**5.68.200 Regulations specifically applicable to adult cabarets.**

(A) General. An adult cabaret shall satisfy the zoning requirements contained in the City of Redmond

Land Use Code, the general requirements in Part A of this chapter, the licensing requirements in Part B of this chapter, the general operational requirements in RMC 5.68.190, and the specific operational requirements applicable to adult cabarets contained in this section.

(B) Separation of Entertainers From Patrons. No entertainer shall appear nude or semi-nude except on a stage or platform at least twenty-four (24) inches in elevation above the level of the patron seating areas. The stage shall be separated by a distance of at least six (6) feet from all areas of the premises to which patrons have access. A continuous fixed-barrier railing, of sufficient construction to prevent encroachment by patrons onto the stage, at least three (3) feet in height and located at least six (6) feet from all points of the stage, shall separate the stage from all patron areas.

(C) Managers. The licensed manager on duty shall not be an entertainer. There shall be one (1) manager on duty for every stage operating on the premises. No manager shall knowingly permit an employee or entertainer to violate any provision of this section.

(D) Tips. No entertainer shall solicit, accept, or receive a tip or gratuity offered by any patron.

(E) Maintenance. All public areas shall be maintained in a clean and sanitary condition.

(F) Lighting. A minimum lighting level of thirty (30) lux semi-cylindrical measured at thirty (30) inches from the floor or ten (10) foot centers shall be provided and equally distributed in and about the

public portions of the adult cabaret, including the patron seating areas, so that all objects are plainly visible at all times.

(G) Visibility From Outside the Adult Cabaret. No activity or entertainment occurring at or in an adult cabaret, nor any photograph, drawing, sketch or other pictorial or graphic representation of any specified sexual activities or specified anatomical areas, shall be visible at any time from outside the adult cabaret.

(H) Prohibited Activities.

(1) No manager, entertainer or employee shall be permitted to caress, fondle, or erotically touch any patron. No manager, entertainer or employee shall encourage or permit any patron to caress, fondle, or erotically touch any employee or entertainer.

(2) No manager, entertainer or employee shall perform or simulate any specified sexual activities, nor perform or simulate any act that constitutes a moral nuisance as defined in RCW 7.48.050 and 7.48A.010.

(3) No manager, entertainer or employee shall expose to view any specified anatomical areas except upon a stage or platform as set forth in RMC 5.68.200(B).

(I) Sign. A sign at least two (2) feet by two (2) feet, with letters at least one (1) inch high, shall be conspicuously and permanently posted at or near the entrance to the adult cabaret which states the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF REDMOND. ENTERTAINERS ARE NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONTACT AND ARE NOT PERMITTED TO APPEAR NUDE OR SEMI-NUDE EXCEPT ON STAGE. ENTERTAINERS ARE NOT ALLOWED TO SOLICIT, ACCEPT, OR RECEIVE ANY TIP OR GRATUITY.

**5.68.210 Regulations specifically applicable to adult arcades.**

(A) General. An adult arcade shall satisfy the zoning requirements contained in the City of Redmond Land Use Code, the general requirements in Part A of this chapter, the licensing requirements in Part B of this chapter, the general operational requirements in RMC 5.68.190, and the specific operational requirements applicable to adult arcades contained in this section.

(B) Physical Layout.

(1) Each viewing booth shall be visible from a manager's station and shall not be obscured by any curtain, door, wall or other enclosure. As used in this section "viewing booth" means the area where a patron or customer would be positioned while watching a film, video or other photographic reproduction.

(2) No steps or risers shall be allowed in any viewing booth.

(3) No viewing booth shall have more than one (1) stool or seat. In order to prevent obscuring the occupant of a viewing booth from view, no stool

for seating within a viewing booth shall have any seat back or sides.

(4) No viewing booth shall have any holes or openings in its walls other than ventilation holes. All ventilation holes shall be located one (1) foot from the top of the booth walls or one (1) foot from the bottom of the booth walls. All ventilation holes shall be covered with a permanently affixed ventilation cover.

(C) Maintenance. All viewing booths shall be maintained in a clean and sanitary condition.

(D) Lighting. A minimum lighting level of 30 lux semi-cylindrical measured at thirty (30) inches from the floor or ten (10) foot centers shall be provided and equally distributed in and about the public portions of the adult arcade, including the viewing booths, so that all objects are plainly visible at all times.

(E) Limit on Number of Persons Within a Viewing Booth. No licensee, manager or employee shall knowingly permit more than one person to occupy a viewing booth at any given time.

(F) Prohibited Activities. No licensee, manager, or employee shall knowingly permit a patron to perform any specified sexual activities within a viewing booth.

(G) Sign. A sign at least two (2) feet by two (2) feet, with letters at least one (1) inch high, shall be conspicuously and permanently posted at or near the entrance to the adult arcade which states the following:

THIS ADULT ARCADE IS REGULATED BY THE CITY OF REDMOND. IT IS UNLAWFUL TO PERFORM SEXUAL ACTS WITHIN A VIEWING BOOTH, AND IT IS UNLAWFUL FOR MORE THAN ONE PERSON TO OCCUPY A VIEWING BOOTH AT ANY GIVEN TIME. VIOLATORS ARE SUBJECT TO CRIMINAL PROSECUTION.

(H) Visibility From Outside the Adult Arcade. No activity or entertainment occurring at or in an adult arcade, nor any photograph, drawing, sketch or other pictorial or graphic representation of any specified sexual activities or specified anatomical areas, shall be visible at any time from outside the adult arcade.

#### Chapter 5.75

### BUSINESS LICENSE [~~REGISTRATION~~—OF] FOR TELECOMMUNICATIONS CARRIERS AND PROVIDERS

#### Sections:

- 5.75.010 Purpose of telecommunications business license registration.
  - 5.75.020 Definitions.
  - 5.75.030 Telecommunications business license registration required.
  - 5.75.040 Business license [~~REGISTRATION~~] fee.
  - 5.75.050 General penalties.
  - 5.75.060 Other remedies.
  - 5.75.070 Fees and compensation not a tax.
- 
- 5.75.010 Purpose of telecommunications business license registration.

The purpose of telecommunications business registration is to:

(A) Provide the [E]city with accurate and current information concerning the cable operators and telecommunications carriers and providers who offer or provide services within the [E]city, or who own or operate facilities within the [E]city;

(B) Assist the [E]city in enforcement of Chapter 12.14 RMC;

(C) Assist the [E]city in the collection and enforcement of any municipal taxes, fees or charges that may be due the [E]city; and

(D) Assist the [E]city in monitoring compliance with local, state and federal laws.

#### 5.75.020 Definitions.

For the purpose of this chapter, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

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

(B) "Cable facilities" means equipment and wiring used to transmit audio and video signals to subscribers;

(C) "Cable operator" means a telecommunications carrier providing or offering to

provide "cable service" within the [E]city as that term is defined in the Cable Act;

(D) "Cable service" for the purpose of this chapter shall have the same meaning provided by the Cable Act;

(E) "City" means the [E]city of Redmond, Washington;

(F) "Operator" means the person, firm or corporation to whom a franchise is granted pursuant to the provisions of Chapters 12.14 and/or 5.60 RMC;

(G) "Person" means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers;

(H) "Telecommunications carrier" means and includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the [E]city, used or to be used for the purpose of offering telecommunications service;

(I) "Telecommunications facilities" means the plant, equipment and property, including but not limited to cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services;

(J) "Telecommunications provider" means and includes every person who provides telecommunications services over telecommunications facilities without any ownership or management control of the facilities; and



(K) "Telecommunications service" means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

5.75.030 Telecommunications business [REGISTRATION] license required.

All cable operators, telecommunications carriers, and telecommunications providers who offer or provide any cable service or telecommunications service for a fee directly to the public, either within the [E]city, or outside the corporate limits, from cable or telecommunications facilities within the [E]city shall, on an annual basis, apply for and obtain a telecommunications business license and occupation registration from the [E]city pursuant to this chapter on forms to be provided by the [E]city, which shall include the following:

(A) The identity and legal status of the applicant, including any affiliates;

(B) The name, address, telephone number, and title of the officer, agent or employee responsible for the accuracy of the telecommunications business registration application statement;

(C) A description of applicant's existing or proposed facilities within the [E]city;

(D) A description of the service that the applicant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the [E]city, or to those outside the [E]city limits using facilities located within the [E]city;

(E) Information sufficient to determine whether the applicant is subject to the public way permitting and/or franchising requirements imposed by Chapters 5.60 and 12.14 RMC;

(F) Information sufficient to determine whether the transmission, origination or receipt of the services provided or to be provided by the applicant constitutes an occupation or privilege subject to any municipal telecommunications tax, utility tax or other occupation tax imposed by the [E]city;

(G) Information sufficient to determine that the applicant has applied for and received any certificate of authority required by any federal or state agency to provide telecommunications services or facilities within the [E]city; and

(H) Information sufficient to determine that the applicant has applied for and received any construction permit, operating license or other approvals required by the Federal Communications Commission to provide services or construct facilities within the [E]city.

**5.75.040 Business [REGISTRATION] license fee.**

Each initial and all subsequent annual applications for a telecommunications business ~~[REGISTRATION]~~ license shall be accompanied by ~~[AN]~~ a ~~[APPLICATION]~~ license fee to be set by resolution of the ~~[C]city [C]council.~~ ~~[FOR THE PURPOSE OF REIMBURSING THE CITY FOR ADMINISTRATIVE EXPENSES ASSOCIATED WITH PROCESSING THE APPLICATION.]~~ All telecommunication companies shall also submit an occupation registration application and occupation registration fee of \$10.00 annually to the finance director as provided in Section 5.44.030.

5.75.050 General penalties.

(A) Civil Penalty.

(1) Any person, and the officers, directors, managing agents, or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any of the provisions of this chapter shall be subject to a penalty in an amount not less than \$100.00 nor more than \$1,000 per day for each violation from the date set for compliance until compliance with the order is achieved.

(2) The penalty imposed by this section shall be collected by civil action brought by the ~~[C]city.~~ The ~~[M]mayor~~ or designee shall notify the ~~[C]city~~ [A]attorney in writing of the name of any person subject to the penalty, and the ~~[C]city~~ [A]attorney shall, with the assistance of the ~~[M]mayor~~ or designee, take appropriate action to collect the penalty.

(3) The violator may show as full or partial mitigation of liability:

(a) That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or

(b) That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by factors or circumstances beyond the control of the reasonable violator.

(B) Criminal Penalties.

(1) Any person, and the officers, directors, managing agents, or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any of the applicable provisions of this chapter and who has had a judgment entered against him or her pursuant to RMC 5.75.050 (A) or its predecessors within the past five (5) years shall be subject to criminal prosecution and upon conviction of such subsequent violation shall be fined in a sum not exceeding \$5,000 or be imprisoned for a term not exceeding one (1) year or be both fined and imprisoned. Each day of noncompliance with any of the applicable provisions of the chapter shall constitute a separate offense.

(2) The above criminal penalty may also be imposed:

(a) For any other violation of this chapter for which corrective action is not possible;

(b) For any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this chapter; and

(c) For any violation of a stop work or other order issued pursuant to this chapter.

(C) Additional Relief. The [E]city may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the applicable provisions of this chapter when civil or criminal penalties are inadequate to effect compliance. Furthermore, violation of the terms of this chapter shall be grounds for revocation of any authorization, approval, franchise, or lease issued or granted pursuant to Chapter 12.14 RMC.

#### **5.75.060 Other remedies.**

Nothing in this chapter shall be construed as limiting any judicial remedies that the [E]city may have, at law or in equity, for enforcement of this chapter.

#### **5.75.070 Fees and compensation not a tax.**

The fees, charges and fines provided for in this chapter are separate from, and additional to, any and all federal, state, local, and [E]city taxes as may be levied, imposed or due from a telecommunications carrier or provider, its customers or subscribers or on account of the lease, sale, delivery or transmission of telecommunications services.

Chapter 5.80

SHOOTING SPORTS FACILITIES

Sections:

- 5.80.020 Definitions.
- 5.80.030 License required.
- 5.80.040 Operating without a license prohibited.
- 5.80.050 Denial, suspension or revocation of license.
- 5.80.060 Operating license fee.
- 5.80.065 License amendment.
- 5.80.070 License renewal.
- 5.80.080 Operating standards and specifications.
- 5.80.090 Liability.
- 5.80.100 Complaint process.
- 5.80.110 Hiring consultants and investigators.
- 5.80.120 Appeals.
- 5.80.130 Penalty.
- 5.80.200 Severability.

5.80.020 Definitions.

[\*] (A) "Administrator" means the Finance Director of the City of Redmond, or his or her successor. The [F]finance [D]director may delegate his or her duties under this chapter to another official of the City of Redmond.

[\*] (B) "Operator" means the operating license applicant, and any of its officers, directors, partners, or owners.

[\*] (C) "Person in Charge" or "PIC" means a person or persons trained and appointed by the operators of a shooting sports facility to oversee the

safe discharge of shotguns, rifles, or handguns in accordance with the safety specifications of this chapter, and any additional safety specifications that may be adopted by the operators of the shooting sports facility, as certified through a process consistent with that of a Washington State Law Enforcement Firearms Instructors Association "Range Safety Officer" and accepted by the City of Redmond Police Department.

[•] (D) "Public safety authority" means the City of Redmond Police Department and Fire Department or delegate agencies as named by the City of Redmond Chief of Police or the City of Redmond Fire Chief, respectively.

[•] (E) "Range" means any individual or group of firing positions for a specific shooting type.

[•] (F) "Shooting sports facility" means an indoor or outdoor facility designed and specifically delineated for safe shooting practice with firearms, whether open to the public, open only to private membership, open to organizational training such as law enforcement, or any combination of the above. Archery ranges are specifically excluded from this definition. The term "shooting sports facility" also does not include any portion of a private residence or private residential property that is used by the residents thereof for shooting practice.

[•] (G) "Shooting types" means rifle, handgun, airgun, or shotgun shooting.

#### 5.80.030 License required.

(1) The operators of all existing shooting sports facilities shall apply for an operating license no later than three months from the effective date of this chapter. If an operating shooting facility is annexed to the [E]city of Redmond, the shooting facility operator shall apply for an operating license no later than three months from the effective date of the annexation.

(2) The operator of each new shooting sports facility shall apply for an operating license at the time of application for building permits or land use permits necessary for the new facility. The application shall be made on a form prescribed by the [A]administrator and shall include all of the following information:

(a) The name, address, and telephone number of the person completing the application;

(b) The name, address, and telephone number of the facility;

(c) The names, addresses, and telephone numbers of all owners of the facility. If the owner is a partnership, the names, addresses and telephone numbers of all partners. If the owner is a corporation, the names, addresses and telephone numbers of all corporate officers;

(d) The name, address, and telephone number of a designated contact person to whom all licensing correspondence, including any notices and complaints provided for in this chapter, shall be sent. It is the responsibility of the shooting sports facility to keep this contact information updated in writing throughout



the duration of any license and the owners and operators agree, by submitting an application and obtaining a license, that notice to the contact person at the last address provided to the [A] administrator in writing is proper notice to the owners and operators of the facility;

(e) The shooting types allowed or proposed to be allowed at the facility;

(f) *Repealed by Ord. 2485;*

(g) *Repealed by Ord. 2485;*

(h) Whether use of the facility will be open to the public, open only to private membership, open to organizational training such as law enforcement, or any combination of the above;

(i) The site plan required by RMC 5.80.080(A)(3) showing the location of all buildings, parking areas, and access points; safety features of the facility; elevations of any outdoor range showing target areas, backstops or butts; and the approximate location of buildings on adjacent properties;

(j) The notarized certification required by subsection (3) of this section;

(k) The operations plan required by RMC 5.80.080(A)(4);

(l) The applicant shall pay the non-refundable application fee and license fee established by this chapter at the time of application; and

(m) Proof of liability insurance coverage in the amount required by RMC 5.80.080(A)(20) shall be submitted with the license application.

(3) Every application for a shooting sports facility operating license shall be accompanied by a notarized certification by the shooting sports facility operator that the facility complies with this chapter, meets commonly accepted shooting facility safety and design practices, and will be operated in a manner that protects the safety of the general public.

(4) After receipt of an application for a shooting sports facility operating license, the [A]administrator will make a determination as to whether or not such application is complete. If the application is not complete, the applicant shall be so notified and the application shall not be processed further until such time as the applicant completes it. When the application is complete, the [A]administrator will forward copies of the same to the [P]public [S]safety [A]authority, the City of Redmond Planning and Community Development Department, and any other [E]city department or [E]city personnel deemed appropriate by the [A]administrator in order to determine whether the shooting sports facility meets the requirements of this chapter and any other applicable [E]city ordinance or regulation. Each consulted department or staff member shall review the application for compliance with regulations administered by that department or staff member and shall forward a report to the [A]administrator containing the results of that review. The [A]administrator may request additional information from the license applicant as necessary to review the license application; provided, that such additional

information is solely of a type required for clarification of responses to subsections (2)(a) through (2)(m) and (3) of this section.

(5) By applying for and as a condition of issuance of a shooting sports facility operating license, the shooting sports facility operator agrees to permit representatives of the [P]public [S]safety [A]authority and any other appropriate [C]city personnel to enter the facility at all reasonable times in order to perform site inspections in regard to licensure or any public safety concerns. Prior notification of such inspections will be given to the operator when reasonably possible.

(6) The [A]administrator shall issue a shooting sports facility operating license upon determining that the facility meets the requirements of this chapter and other applicable [C]city ordinances and regulations. The [A]administrator shall make that determination after receiving the reports of the [P]public [S]safety [A]authority and other consulted [C]city departments and [C]city personnel and only if the [P]public [S]safety [A]authority and such consulted departments and personnel determine that the application and the facility are in full compliance with this chapter and any other applicable [C]city ordinances or regulations. The license shall ordinarily be issued within thirty days of the filing of a complete application. Failure to issue the license within the thirty-day period shall not, however, mean that the license is approved. In the event that the [A]administrator is unable to issue the

license within the thirty-day time period, the [A]administrator shall provide a report to the license applicant stating the reasons why the license will not or has not been issued within the prescribed time. The report shall also provide an estimate of time for completion of the licensing process.

(7) The shooting sports facility operating license issued under this chapter shall authorize only those shooting types that have been specifically applied for and that are identified in the license. The addition of new shooting types or the addition of a new range or ranges for existing shooting types at a shooting sports facility shall require amendment of the existing license before any such new shooting type is allowed. This section shall not relieve the applicant of any obligation to obtain any other required business license, land use, fire safety, or building permits or approvals, except shooting sports facilities in operation prior to the effective date of this chapter shall not be required to seek new land use, fire safety or building permits solely for issuance of a license. All facilities licensed under this subsection must conform to or abide by the City of Redmond's business license requirements as described in Chapter 5.04 RMC.

(8) This chapter shall not apply to shooting sports facilities owned or operated by any instrumentality of the United States, State of Washington, or a political subdivision of the State of Washington.

**5.80.040 Operating without a license prohibited.**

(1) No shooting sports facility shall operate without a license issued pursuant to this chapter; provided, that shooting sports facilities operating on the effective date of this chapter that have submitted required license applications before this same date may continue to operate without a City of Redmond shooting sports facility license pending approval or denial of the license application under RMC 5.80.030. All such operation shall be conducted in compliance with RMC 5.80.080, Operating standards and specifications. Such operation shall cease upon denial of the license application and exhaustion of any administrative or judicial appeals.

(2) If a shooting sports facility operating under a valid King County shooting sports facility permit or license is annexed to the [C]city of Redmond, it may continue to operate until the [A]administrator decides on the application as provided in RMC 5.80.030. Once annexed, the shooting sports facility shall operate in compliance with RMC 5.80.080, Operating standards and specifications. A King County shooting sports facility permit or license that is in a suspended or revoked status at the time of annexation shall not be considered a valid license for purposes of this subsection and the shooting sports facility that is the subject of such a suspended or revoked permit or license shall be required to apply for and obtain a shooting sports facility license from the City of Redmond prior to operating within the [C]city.

**5.80.050 Denial, suspension or revocation of license.**

(1) The [A]administrator may deny, suspend or revoke any license issued under this chapter if the applicant, any of its officers, directors, partners, or members have violated any of the provisions of this chapter as determined through a documented investigation, or if the information supplied by any applicant in connection with any license issuance, inspection, or renewal under this chapter is determined to be false or to have been a misrepresentation. Whenever the [A]administrator denies, suspends, or revokes any license under this chapter, written notice of the same shall be provided to the designated contact person for the shooting sports facility by regular mail. The notice shall specify the grounds for the denial, suspension, or revocation, and include a copy of the documented investigation, above. The notice shall be deemed received three days after the same is deposited in the United States mail, postage prepaid, correctly addressed to the contact person.

(2) If the City of Redmond Police Department, or its successor, determines through a documented investigation that any participant, spectator, neighboring property or member of the public has been injured or endangered as a result of range design, operation or management of shooting activities or that rounds shot at the facility have escaped the property on which the shooting sports facility is located, the [A]administrator may immediately suspend or revoke any shooting sports facility license issued pursuant to

this chapter. Reinstatement or reissuance of any license suspended or revoked pursuant to the provisions of this chapter will be contingent on review and determination by the [A]administrator and the City of Redmond Chief of Police or his or her designee that the shooting sports facility operator has made sufficient and appropriate modifications to the design or operation of the facility to reasonably address the specific deficiencies found to have contributed to the injury, endangerment, or escaped rounds.

**5.80.060 Operating license fee.**

A non-refundable application and license fee of \$100.00 shall be charged for review and processing of the initial application for the shooting sports facility operating license and for each renewal application.

**5.80.065 License amendment.**

(1) New shooting types and new ranges for existing shooting types shall not be permitted until authorized by an amended license.

(2) The application for a license amendment shall be made on a form prescribed by the [A]administrator and shall include only information relevant to the amendment.

(3) After receipt of an application for an amendment to a shooting sports facility operating license, the [A]administrator will make a determination as to whether or not such application is complete. If the application is not complete, the

applicant shall be so notified and the application shall not be processed further until such time as the applicant completes it. When the application is complete, the [A]administrator will forward copies of the same to the [P]public [S]safety [A]authority, the City of Redmond Planning and Community Development Department, and any other [C]city department or [C]city personnel deemed appropriate by the [A]administrator in order to determine whether the shooting sports facility meets the requirements of this chapter and any other applicable [C]city ordinance or regulation. Each consulted department or staff member shall review the application for compliance with regulations administered by that department or staff member and shall forward a report to the [A]administrator containing the results of that review. The [A]administrator may request additional information from the license applicant as necessary to review the license amendment.

(4) By applying for and as a condition of issuance of an amendment to a shooting sports facility operating license, the shooting sports facility operator agrees to permit representatives of the [P]public [S]safety [A]authority and any other appropriate [C]city personnel to enter the facility at all reasonable times in order to perform site inspections in regard to licensure, or any public safety concerns. Prior notification of such inspections will be to the operator when reasonably possible.



(5) The [A]administrator shall issue an amendment to a shooting sports facility operating license upon determining that the facility meets the requirements of this chapter and other applicable [E]city ordinances and regulations. The [A]administrator shall make that determination after receiving the reports of the [P]public [S]safety [A]authority and other consulted [E]city departments and [E]city personnel and only if the [P]public [S]safety [A]authority and such consulted departments and personnel determine that the application and the facility are in full compliance with this chapter and any other applicable [E]city ordinances or regulations. The amended license shall ordinarily be issued within thirty days of the filing of a complete application. Failure to issue the amended license within the thirty-day period shall not, however, mean that the license is approved. In the event that the [A]administrator is unable to issue the license within the thirty-day time period, the [A]administrator shall provide a report to the license applicant stating the reasons why the license will not or has not been issued within the prescribed time. The report shall also provide an estimate of time for completion of the licensing process.

(6) An amendment to a license shall not alter the expiration date of the license established upon issuance.

#### 5.80.070 License renewal.

An initial shooting sports facility operating license shall be valid upon issuance and shall

continue in effect for a period of five years from the date on which it is issued, unless suspended or revoked as provided in this [C]chapter.

(A) Applications for renewal shall be made at least thirty days prior to the expiration of the existing license. The process for renewal of a shooting sports facility operating license shall be the same as for initial application. The renewed license shall be valid for a period of five years from the date the previous license expires, unless suspended or revoked as provided in this chapter.

(B) Applications for license renewal shall be made in writing on forms prescribed by the [A]administrator and shall include the information required by this chapter for an initial license. Renewal applications shall be accompanied by the non-refundable application and license fee established by this [C]chapter. Included with the renewal application shall be an affirmative written statement that the existing operations plan of the shooting sports facility (which has been approved by the [P]public [S]safety [A]authority) is still in force and effect, or a copy of a modified operations plan with changes highlighted.

#### **5.80.080 Operating standards and specifications.**

(A) All shooting sports facilities licensed under this chapter shall comply with the following operating standards and specifications:

(1) All structures, installations, operations, and activities shall be located at such a

distance from property lines as will protect off-site properties from hazards, when the ranges are used in accordance with range safety rules and practices.

(2) Range site design features and safety procedures shall be installed and maintained to prevent errant rounds from escaping all shooting positions, when such positions are used in accordance with range safety rules and practices.

(3) A site plan shall be submitted with the license application which shows the location of all buildings, parking areas and access points; safety features of the firing range; elevations of the range showing target area, backstops or butts; and approximate location of buildings on adjoining properties. The site plan shall also include the location of all hazardous material storage and use locations. Such locations shall be keyed to inventories identified in a Hazardous Materials Inventory Statement or Hazardous Materials Management Plan, whichever is called for by the City of Redmond Fire Code based upon the quantities identified by the [F]fire [E]code permit application.

(4) An Operations Plan shall be submitted that includes the rules for each range, sign-in procedures, and restrictions on activities in the use of ranges. The Operations Plan shall define the means by which the facility will be operated in a safe manner.

(5) *Repealed by Ord. 2485.*

(6) The shooting sports facility, its plans, its rules, its procedures, and its management plan

shall be designed under the guidance of the applicable safety guidelines and provisions in the latest edition of "The Range Source Book" (National Rifle Association of America: Fairfax, Virginia) or its successor, as appropriate to the type of facility involved.

(7) All shooting sports facilities shall have a designated Person in Charge (PIC). A designated PIC must be present whenever the shooting sports facility is open for shooting activities and may oversee as many as three simultaneous events within a shooting sports facility. The PIC shall be trained in safe operation of the shooting sports facility and the emergency response procedures of the facility.

(8) Warning signs shall be installed and maintained along the shooting sports facility property lines. Such signs shall be posted a minimum of every 100 feet along the property lines.

(9) Shooting sports facilities shall be used for the shooting activities they were designed to accommodate unless redesigned to safely accommodate new shooting activities.

(10) The shooting sports facility operator shall report in writing to the City of Redmond Police Department all known on-site and off-site gunshot wounds resulting from activity at the shooting sports facility and any measures that are proposed to address any deficiencies that may have contributed to the wounds. The report shall be made within forty-eight hours after the existence of the gunshot wound or wounds becomes known to the operator. The City of Redmond Police Department will forward such

information to the [A]administrator for consideration in connection with any licensing action.

(11) The shooting sports facility operator shall report in writing to the City of Redmond Police Department all known rounds that escape from the property on which the shooting sports facility is located and any measures that are proposed to address any deficiencies that may have contributed to the errant rounds. The report shall be made within forty-eight hours of the time the existence of an escaped round or rounds becomes known to the operator. The City of Redmond Police Department will forward such information to the [A]administrator for consideration in connection with any licensing action.

(12) All shooting sports facilities shall provide an operating telephone available to range participants and spectators for the purpose of contacting emergency medical services.

(13) A first-aid kit containing the items recommended by a certified expert in emergency medical treatment shall be readily available at each shooting sports facility for emergency treatment or care of minor injuries.

(14) Storage and handling of explosive materials, including ammunition when applicable, shall be in accordance with the City of Redmond Fire Code (Chapter 15.06 RMC). Unless exempt, storage and handling shall be by permit issued per Chapter 15.06 RMC and the International Fire Code, Section 105.6.

(15) All shooting sports facilities shall comply with and abide by the City of Redmond's [N]oise [S]tandards per CDG 20D.100.

(16) No alcohol, non-prescription narcotics, or other non-prescription controlled substances shall be permitted on or in use at any shooting sports facility during any time that the facility is open for shooting.

(17) *Repealed by Ord. 2485.*

(18) No fully automatic weapons may be used at a shooting sports facility unless under the control and use of a legally authorized official of the United States, State of Washington, or a political subdivision of the State of Washington in an official capacity.

(19) All shooting sports facilities are required to have fencing surrounding the entire property a minimum of six feet in height. This does not apply to indoor ranges.

(20) Every operator of a shooting sports facility must possess comprehensive general liability insurance against liability for damages on account of bodily injury or property damage arising out of the activities authorized by any license issued under this [C]hapter. The comprehensive general liability insurance must be maintained in full force and effect throughout the duration of the license. The minimum coverage amount required is one million dollars for each occurrence (bodily injury and property damage) combined single limit. This specified insurance amount is the minimum deemed necessary by the [C]ity to

justify issuance of a license for a shooting sports facility and in no way represents a determination by the [C]city that this amount of insurance is adequate to protect the owners and operators of shooting sports facilities from claims or to protect members of the public who may be harmed by the activities authorized by the license. Operators of shooting sports facilities are encouraged to assess their own risk and to obtain additional liability insurance if they deem it warranted.

(21) The use of steel targets at a shooting sports facility is permitted when the design, composition and placement of such targets will prevent the escape from the facility of bounced or secondary projectiles.

(22) Changes in the following information shall be provided to the [A]administrator in writing within thirty days of a change:

(a) The name, address, and telephone number of the facility;

(b) The names, addresses, and telephone numbers of all owners of the facility. If the owner is a partnership, the names, addresses and telephone numbers of all partners. If the owner is a corporation, the names, addresses and telephone numbers of all corporate officers; and

(c) The name, address, and telephone number of a designated contact person to whom all licensing correspondence, including any notices and complaints provided for in this chapter, shall be sent.

#### **5.80.090 Liability.**

The express intent of the City of Redmond City Council is that responsibility for complete and accurate preparation of applications, plans and specifications, for compliance with applicable laws, including but not limited to those set forth in this chapter, and for safe design, construction, use and operation of facilities regulated herein shall rest exclusively with applicants and their agents. This chapter and the codes adopted herein are intended to protect the health, safety and welfare of the general public and are not intended to protect any particular class of individuals or organizations. This chapter shall not be construed as placing responsibility for code compliance or enforcement upon the City of Redmond or any officer, employee or agent of the City of Redmond. Application review and inspections conducted pursuant to this chapter are intended to determine whether a shooting sports facility is in compliance with the requirements of this chapter. However, those inspections and reviews that are done do not guarantee or assure either that any design, construction, use or operation complies with applicable laws or that the facility is safely designed, constructed, used or operated. Nothing in this chapter is intended to create any private right of action based upon noncompliance with any of the requirements of this chapter.

#### **5.80.100 Complaint process.**



(1) Upon receiving a written complaint to the effect that any shooting sports facility is in violation of any provision of this [C]chapter, the [A]administrator shall:

(a) Issue a notice of complaint to the shooting sports facility operator advising such person of the allegation(s) made in the complaint. The notice shall be sent to the designated contact person by regular mail, as well as by email and by telephone, when possible. The notice shall be deemed received three days after the same is deposited in the United States mail, postage prepaid, correctly addressed to the contact person;

(b) Request the shooting sports facility operator to respond, in writing, to the allegation(s) in the notice of complaint within thirty days of receipt of the notice of complaint;

(c) Investigate, through the use of the [A]administrator's staff, the [P]public [S]safety [A]authority, any other appropriate [C]city department or personnel, and/or consultants or investigators, the allegation(s) in the written complaint and the response submitted by the shooting sports facility operator;

(d) Make a finding as to the validity of the allegation(s) in the written complaint, based upon information received from those conducting the investigation of the complaint. If it is found that violation of any of the shooting sports facility operating standards or any other provision of this chapter has occurred, the [A]administrator shall issue

a written notice and order requiring that the operator suggest and implement measures or procedures to correct any violations of this chapter and to bring the shooting sports facility into full compliance. If a notice and order is issued, the [A]administrator shall provide the shooting sports facility with a copy of any and all final written reports prepared by [E]city personnel, consultants, and/or investigators concerning the investigation of the complaint, except as any portion thereof may be exempt from public disclosure under RCW 42.56.210(1).

(2) The notice and order issued under subsection (1) may suspend or revoke the license of the shooting sports facility if the requirements of RMC 5.80.050(2), Denial, suspension or revocation of license, are met.

(3) Failure to comply with the notice and order issued as a result of the above process will result in the suspension and/or revocation of the license involved. Such suspension/revocation will last until such time as the Facility is compliant with this chapter.

(4) If the [A]administrator and City of Redmond Chief of Police or his or her designee conclude that the complaint is accurate, that it discloses a violation of this chapter, and that the operator has not proposed or effectively implemented measures or procedures to correct any violations of this chapter, the [A]administrator may suspend or revoke a license issued under this chapter.

(5) Nothing in this section shall be construed to limit the [A]administrator's authority to issue a notice and order or take such enforcement or investigative actions needed to protect the public's health and safety.

5.80.110 Hiring consultants and investigators.

(1) The [A]administrator may hire consultant(s) or investigators to:

(a) Review license applications and license renewals under this chapter;

(b) Inspect properties on which applications for licenses and license renewals have been made under this chapter;

(c) Inspect facilities licensed under this chapter to determine if they comply with this chapter and approved licenses and plans;

(d) Investigate, in cooperation with the City of Redmond Police Department, complaints, incidents, and reports of injury or endangerment of persons or property, or of rounds escaping the facility;

(e) Review and investigate proposals to bring facilities into compliance with this chapter.

(2) *Repealed by Ord. 2485.*

(3) *Repealed by Ord. 2485.*

(4) *Repealed by Ord. 2485.*

(5) Notwithstanding the participation of other [E]city departments and [E]city personnel, and notwithstanding any information or advice received from any consultant, the [P]public [S]safety

[A]uthority shall retain full authority for determining whether a shooting sports facility is in compliance with this chapter and any other applicable [E]city ordinance or regulation. In exercising that authority, the [P]ublic [S]safety [A]uthority may consider expert consultant advice, professional knowledge, and any or all other information available regarding shooting ranges and shooting sports facilities, but shall not be bound by any such advice, knowledge or information in any specific case.

#### 5.80.120 Appeals.

(1) Any person aggrieved by the [A]administrator's decision to approve, condition, or deny an application required by this chapter or to suspend or revoke an application under this chapter may file an appeal of such decision. Any such appeal must be filed in writing with the [A]administrator within thirty (30) days from the date the [A]administrator's decision is received or deemed received by the designated contact person.

(2) Upon receipt of an appeal, the [A]administrator shall forward the same to the [H]earing [E]aminer. The [H]earing [E]aminer shall schedule and hold a hearing on the appeal within thirty (30) days following the [A]administrator's receipt of the appeal. During the pendency of the hearing and until final action is taken by the [E]city [E]council as provided herein, the [A]administrator's decision shall be stayed; provided, that the [H]earing [E]aminer may, at the request of the

[A]administrator and following a hearing provided for this purpose, order the shooting sports facility to cease operations pending the appeal hearing if the [H]hearing [E]examiner determines that ceasing operations is necessary to prevent an imminent danger to the public health or safety. At the appeal hearing, both the applicant or licensee and the [A]administrator shall be entitled to be represented and to present evidence. Upon completion of the hearing, the [H]hearing [E]examiner shall make written findings and conclusions and shall issue a recommendation to the [C]city [C]council on the appeal. At a public meeting, the [C]city [C]council, upon considering the recommendation of the [H]hearing [E]examiner, shall, without taking additional evidence:

(a) Accept the [H]hearing [E]examiner's recommendation as presented and thereby uphold the decision of the [E]examiner; or

(b) Overturn the decision of the [H]hearing [E]examiner and either issue its own decision based upon the record or remand the matter to the [H]hearing [E]examiner for the taking of additional evidence; or

(c) Modify the [H]hearing [E]examiner's decision based upon the record made before the [E]examiner.

(3) Appeal from a decision of the [C]city [C]council under this section shall be to the King County Superior Court and must be filed and served within thirty (30) days after the decision of the [C]city [C]council.

(4) In the event that the applicant or licensee fails to appeal the [A]administrator's decision within the time periods provided in this section, the decision shall be final.

(5) Whenever any license issued under this chapter is suspended or revoked, the shooting sports facility operator shall immediately return said license to the [A]administrator.

**5.80.130 Penalty.**

Any person violating or failing to comply with any provision of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in RMC 1.01.110, or its successor.

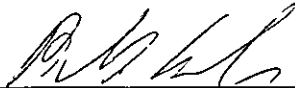
**5.80.200 Severability.**

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter.

Section 4.      Effective Date.      This ordinance shall take effect five (5) days after passage and publication of an approved summary consisting of the title.

ADOPTED by the Redmond City Council this 1<sup>st</sup> day of  
November, 2010.

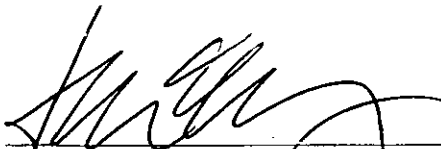
CITY OF REDMOND

  
RICHARD COLE, MAYOR PRO TEM

ATTEST:

  
MICHELLE M. MCGEHEE, CMC, CITY CLERK (SEAL)

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

  
JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK: October 27, 2010  
PASSED BY THE CITY COUNCIL: November 1, 2010  
SIGNED BY THE MAYOR: November 1, 2010  
PUBLISHED: November 8, 2010  
EFFECTIVE DATE: November 13, 2010  
ORDINANCE NO. 2546

ADOPTED 7-0: Allen, Carson, Cole, Margeson, Myers, Stilin and Vache