

Title 5
BUSINESS TAXES, LICENSES AND REGULATIONS

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Chapter 5.04
BUSINESS LICENSES

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5.04.010 Definitions.

The following definitions shall apply in construing the provisions of this chapter, except where otherwise declared or clearly apparent from the context:

A. "Amusement center" means any place operated principally for the use of amusement games or board games or a combination of businesses that includes more than one amusement game or board game.

B. "Amusement game" means any game played on a device or machine, table or board for entertainment in which:

1. No cash or merchandise prizes are awarded;
2. The outcome depends to a material degree on the skill of the contestants;
3. The contestant actively participates; and

4. The outcome is not under control of a third party.

"Amusement games" include, but are not limited to the following: pinball machines, flipper machines and video games. "Board or table-type games" include, but are not limited to, pool tables, billiard tables and shuffleboards.

C. "Business" means and includes all services and activities engaged in with the object of pecuniary gain, benefit or advantage to a person, or to another person or class, directly or indirectly, whether part-time or full-time, except those businesses or activities carried on by a religious, charitable, benevolent, fraternal or social organization; provided, however, the delivery only of goods made, manufactured or assembled outside the city shall not constitute a "business" as defined in this section.

D. "Employee" means:

1. In a sole proprietorship, any individual hired by the proprietor to work for and in the business in any capacity;

2. In a partnership, any individual engaged in the conduct of the business, except one partner;

3. In a corporation, all persons engaged in the course of business, including corporate officers and those hired by the corporation as workers of any kind.

E. "Home occupation" and "home business" means any business activity as defined in Title 17 of this code.

F. "Peddler" is:

1. Any person who goes from house to house or place to place within the city selling, making offers to sell or soliciting offers to buy any goods, wares, merchandise, service or things of value to persons not retailers in such commodities; or

2. Any person who, while offering for sale any goods, wares, merchandise, services, or things of value, stands or sits in a doorway, any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business.

G. "Person" includes one or more persons of either sex, corporations, partnerships, associations, or other entity capable of having an action at law brought against such entity, but does not include employees licensed pursuant to this chapter. (Ord. 55.E §1(part), 2002: Ord. 55.D §1, 1984)

5.04.020 License required.

A. It is unlawful for any person or persons, firm, corporation, partnership or other business category to either conduct, operate, peddle or engage in any business activity or perform any services within the city without first having secured a license to do so, and paying all fees prescribed in Chapter 3.04 as amended from time to time.

B. No license issued pursuant to this chapter should excuse such licensee from ongoing compliance with all other applicable city ordinances, including, specifically, Title 17 of this code. Compliance with Title 17 shall be demonstrated by an applicant prior to issuance or renewal of any license.

C. Each peddler's license shall specify articles, services or things to be peddled, and the time during which such items are to be peddled. No peddler's license shall be required to peddle newspapers of general circulation within the city or to peddle items for charity by persons representing a nonprofit church, school, or social organization. (Ord. 55.E §1(part), 2002: Ord. 55.D §2, 1984)

5.04.030 License application.

A. No license required by this chapter shall be issued except upon application therefor upon forms

provided by the city. The application shall state the nature and address or addresses of the business or businesses of the applicant, and shall provide such other information as requested by the city clerk.

B. If the applicant is a partnership, the application must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, partnership or nonresident individual, by the resident agent or local manager of the corporation, partnership or individual.

C. Each application shall be accompanied by the license fee. Upon approval of the application, the license shall be issued by the city clerk and delivered to the applicant. Upon denial of the application, the fee shall be returned to the applicant together with notice that the application has been denied. Exception: no refund shall be made where during the pendency of the application, the applicant has been engaged in the business activity for which the license is required. (Ord. 55.E §1(part), 2002: Ord. 55.D §6, 1984)

5.04.040 License investigations--Authority to deny or revoke licenses.

The city officials shall investigate each applicant within a reasonable time. The city clerk shall issue all licenses under this chapter following such investigation. No license shall be issued to any applicant who is discovered to have made a false material statement in the application or when public welfare and safety require that no such license be granted. The denial of any application may be appealed as provided in Section 5.04.050 of this chapter. The city council may revoke any license issued pursuant to this chapter, for good cause, after notice to the licensee and a hearing held before the council. (Ord. 55.E §1(part), 2002: Ord. 55.D §3.2, 1984)

5.04.050 Appeal upon denial of license.

Any applicant denied a license may appeal in accordance with the provisions set forth in Chapter 1.20 of this code. (Ord. 55.E §1(part), 2002: Ord. 55.D §8, 1984)

5.04.060 Separate licensing required.

A separate license shall be obtained for each separate business carried on in any one location and each license shall authorize the licensee to carry on, pursue or conduct only that business described in such license and only at the location or in the manner indicated therein, except as may otherwise be specifically provided in this chapter. (Ord. 55.E §1(part), 2002: Ord. 55.D §4.1, 1984)

5.04.070 Expiration of license.

Licenses required pursuant to this chapter shall be issued on a yearly basis and shall expire twelve months after they are issued. (Ord. 55.E §1(part), 2002: Ord. 55.D §3.5, 1984)

5.04.080 Display of license.

Each business or peddler as defined in this chapter is required to display their license at their place of business or carry the license upon his or her person and shall produce the same for inspection upon the demand of any city official or any customer. (Ord. 55.E §1(part), 2002: Ord. 55.D §7, 1984)

5.04.090 License revocation or suspension.

- A. The mayor may suspend any license issued pursuant to this chapter for any of the following reasons:
1. The license has not been issued in compliance with ordinances of the city;
 2. Whenever the licensee, officer, or partner of license has violated any ordinance of the city upon the business premises stated in the license or violated any condition of the business.
- B. The licensee may appeal suspension in accordance with the provisions set forth in Chapter 1.20 of this code. (Ord. 55.E §1(part), 2002: Ord. 55.D §9, 1984)

5.04.100 Inspections.

An inspection of a business premises may be required by the fire department, police department, health department, and/or the building department, for any reason related to enforcement of this chapter and also to insure compliance with Title 17 of this code. (Ord. 55.E §1(part), 2002: Ord. 55.D §4.3, 1984)

5.04.110 Notation of other license or bond requirements.

When other licenses and/or bonding are required by the state, the license type, identification, bonding agency and the amount thereof shall be noted on the Brier business license application. (Ord. 55.E §1(part), 2002: Ord. 55.D §4.4, 1984)

5.04.120 Nonresident temporary license.

A nonresident temporary business license may be issued which shall be valid for a sixty-day period or one year. (Ord. 55.E §1(part), 2002: Ord. 55.D §4.2, 1984)

5.04.130 Fees designated.

The business license fees are as shown in Chapter 3.04 of this code and amended from time to time. (Ord. 55.E §1(part), 2002: Ord. 55.D §3, 1984)

5.04.140 Prorating of fee.

Repealed by Ord. 55.E. (Ord. 55.D §3.3, 1984)

5.04.150 Additional per-employee fee.

All businesses except nonresident businesses shall, in addition to the fixed fee established in Chapter 3.04 of this code, pay an additional fee of two dollars for each employee. Any employee employed by a business as of the date of application or renewal for a business license shall be reported to the city clerk on the application for a license. (Ord. 55.E §1(part), 2002: Ord. 55.D §3.4, 1984)

5.04.160 Late-fee penalties.

All persons required to obtain or renew licenses under this chapter shall obtain the same and pay all fees required for each respective year. Any person that fails to obtain or renew and pay the license fees shall, in addition to any other penalties provided in this chapter, be assessed an amount equal to ten percent of the license fee as a penalty for such late application and/or payment. (Ord. 55.E §1(part), 2002: Ord.

55.D §5, 1984)

5.04.170 Scope of license.

Notwithstanding any provision in this chapter, a license required by this chapter may not be issued to any person who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the city or the statutes of the state. The granting of a license under this chapter shall in no way be construed as permission or acquiescence in a prohibited activity or other violation of the law. (Ord. 55.E §1(part), 2002: Ord. 55.D §10, 1984)

5.04.180 Violation--Penalty.

Any person, who owns, operates, or is employed by a business performing work in the city and is required to be licensed by this chapter or is in violation of any of the provisions of this chapter shall be subject to a nontraffic civil infraction, in the amount set forth in Chapter 1.28, General Penalty, and shall be punished in accordance with the current fine and penalty provisions for a Class A civil infraction. Failure to respond to a Class A civil infraction or a second violation for the same violation shall constitute a Class B civil infraction. Failure to respond and continued violation shall constitute a Class C civil infraction. Continued failure to respond or continued violation shall constitute a misdemeanor and shall be subject to the general fines and penalties for misdemeanors as stated in the Brier Municipal Code or under the laws of the state of Washington. Each day a violation is committed or continued shall constitute a separate offense and may be punished as such. (Ord. 55.E §1(part), 2002: Ord. 55.D §11, 1984)

**Chapter 5.08
CABLE COMMUNICATIONS SYSTEM**

Sections:

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- 5.08.020 Terms of franchise.**
- 5.08.030 Application.**
- 5.08.040 Franchise fee.**
- 5.08.050 Franchise issuance.**
- 5.08.060 Police power.**
- 5.08.070 Rules and regulations by the city.**
- 5.08.080 Technical standards.**
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5.08.010 Definitions.

The following definitions shall apply to the corresponding terms used in this chapter unless otherwise stated:

"Access channels" means any channel set aside for public use, educational use, or governmental use without a channel usage charge (commonly referred to as "PEG" channels).

"The Act" means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 and any subsequent amendments.

"Addressability" means the ability of a franchisee to electronically authorize customer terminals to receive, to change or to cancel any or all specified programming.

"Applicant" means any person or entity that applies for a franchise.

"Basic cable" is the lowest level of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.

"Cable communications 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 the cable service and other communications services to subscribers.

"Cable services" means (1) the one-way transmission to subscriber of video programming or other programming service, and (2) subscriber integration, if any, which is required for the selection by the subscriber of such video programming or other programming service.

"Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of carrying any type of transmission that a franchisee is authorized to provide to its subscribers.

"Character generator" means a device used to generate alpha numerical programming to be cablecast

on a cable channel.

"City" means the city of Brier, a municipal corporation of the state of Washington.

"Council" means the present governing body of the city or any future board constituting the legislative body of the city.

"Data transmission" means (1) the movement of encoded information by means of electrical or electronic transmission systems; (2) the transmission of data from one point to another over communications channels.

"Dwelling units" means residential living facilities as distinguished from temporary lodging facilities such as hotel and motel rooms and dormitories, and includes single-family residential units and individual apartments, condominium units, mobile homes within mobile home parks and other multiple-family residential units.

"FCC" means the Federal Communications Commission, a regulatory agency of the United States government.

"Franchise" means the initial authorization, or renewal thereof, issued by the franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the cable communications system for the purpose of offering cable service or other service to subscribers.

"Franchise area" means any, every and all of the roads, streets, avenues, alleys, highways and unrestricted utility easements of the city as now laid out, platted, dedicated or improved; and any, every and all roads, streets, avenues, alleys and highways that may hereafter be laid out, platted, dedicated or improved within the present limits of the city and as such limits may be hereafter extended.

"Franchisee" means the person, firm or corporation to whom or to which a franchise, as herein above defined, is granted by the council under this chapter and the lawful successor, transferee or assignee of said person, firm or corporation subject to such conditions as may be defined in city ordinance.

"Gross revenues" means any and all receipts and revenues received directly or indirectly from all sources related to the operation of the cable communications system in the franchise area other than transactions related to real property receipts by franchisee not including any taxes on services furnished by a franchisee, imposed on any subscriber or used by any governmental unit, agency or instrumentality and collected by a franchisee for such entity provided also that net uncollectible debts are not considered as revenue in this definition. The franchise fee payable by the franchisee to the city on gross annual receipts derived from any new, non-cable television related programming product or other communications services such as interactive, data, telephone transmission or other communication products or services, shall be at the same rate (but no greater than the franchise fee authorized by Section 5.08.040, Franchise fee, as the fee, tax, assessment or other revenue payable to the city by other providers of the same product or service within the franchisee's franchise service area. As used in the section, a non-programming product or service shall be considered new if franchisee was not already providing it as of the enactment of its franchise.

"High definition television (HDTV)" means a television system that will provide sharper picture definition than the current U.S. standards, 525 lines per frame.

"Insertion point(s)" means location(s) where institutional programming can be initiated for distribution throughout the secured portion of the subscriber network.

"Installation" means the connection of the system from feeder cable to subscribers' terminals.

"Institutional networks (I-Nets)" means a cable communications system designated principally for the provision of non-entertainment services to schools and public agencies separate and distinct from the subscriber network, or on secured channels of the subscriber network.

"Interactive services" means services provided to subscribers where the subscriber either (1) both receives information consisting of either television or other signals and transmits signals generated by the subscriber or equipment under his/her control for the purpose of selecting what information shall be transmitted to the subscriber or for any other purpose; or (2) transmits signals to any other location for any purpose.

"NCTA" means the National Cable Television Association.

"Operator" means the person, firm or corporation to whom a franchise is granted pursuant to the provisions of this chapter.

"Property of franchisee" means all property owned, installed or used by a franchisee in the conduct of its business in the city under the authority of a franchise granted pursuant to this chapter.

"Proposal" means the response, by an individual or organization, to a request by the city regarding the provision of cable services; or an unsolicited plan submitted by an individual or organization seeking to provide cable services in the city.

"Subscriber" means a person or entity or user of the cable communications system who lawfully receives cable services or other service therefrom with franchisees's express permission. (Ord. 78.A §1, 1995)

5.08.020 Terms of franchise.

A. Authority To Grant Franchise or Licenses for Cable Television. It is unlawful to engage in or commence construction, operation, or maintenance of a cable communications system without a franchise issued under this chapter. The council may, by ordinance, award a non-exclusive franchise to construct, operate and maintain a cable communications system which complies with the terms and conditions of this chapter.

Any franchise granted pursuant to this chapter shall be non- exclusive and shall not preclude the city from granting other or further franchises or permits or preclude the city from using any roads, rights-of-way, streets, or other public properties or affect its jurisdiction over them or any part of them, or limit the full power of the city to make such changes, as the City shall deem necessary, including the dedication, establishment, maintenance, and improvement of all new rights-of-way and thoroughfares and other public properties. However, any such changes shall not materially or substantially impair the rights granted a franchisee pursuant to this chapter. All franchises granted subsequent to the effective date of the Master Cable Ordinance codified in this chapter shall be granted consistent with the terms and conditions of this chapter.

B. Incorporation By Reference. The provisions of this chapter shall be incorporated by reference in any franchise ordinances or licenses approved hereunder. The provisions of any proposal submitted and accepted by the city may be incorporated by reference in the applicable franchise. However, in the event of any conflict between the proposal, this chapter and the franchise, the franchise shall be the prevailing document.

C. Nature and Extent of the Franchise. Any franchise granted hereunder by the city shall authorize a franchisee, subject to the provisions herein contained:

1. To engage in the business of operating and providing cable service and other services and the distribution and sale of such service to subscribers within the city;

2. To erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any street, such amplifiers and appliances, lines, cables, fiber, conductors, vaults,

manholes, pedestals, attachments, supporting structures, and other property as may be necessary and appurtenant to the cable communications system; and, in addition, so to use, operate and provide similar facilities, or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other franchisee franchised or permitted to do business in the city. No privilege or exemption shall be granted or conferred upon a franchisee by any franchise except those specifically prescribed therein, and any use of any street shall be consistent with any prior lawful occupancy of the street or any subsequent improvement or installation therein.

D. Term of the Franchise. The city may grant a franchise for a period of time appropriate to the circumstances of the particular grant. (Ord. 78.A §2, 1995)

5.08.030 Application.

An applicant for a franchise to construct, operate, and maintain a cable communications system within the city shall file an application in a form prescribed by the city. (Ord. 78.A §3, 1995)

5.08.040 Franchise fee.

A franchisee shall pay to the city quarterly, a sum equal to five percent of gross revenues, as defined in this chapter for the preceding three calendar months. Revenues that are derived as a portion of a national or regional service shall be computed on a per-subscriber basis if such determination cannot be achieved by other means. (Ord. 78.A §4, 1995)

5.08.050 Franchise issuance.

Prior to the granting of a franchise, the city council shall conduct a public hearing to determine the following:

A. Initial Franchise.

1. That the public will be benefitted by the granting of a franchise to the applicant;
2. That the applicant has requisite financial and technical resources and capabilities to build, operate and maintain a cable television system in the area;
3. That the applicant has no conflicting interests, either financial or commercial, which will be contrary to the interests of the city;
4. That the applicant will comply with all terms and conditions placed upon a franchisee by this chapter;
5. That the applicant is capable of complying with all relevant federal, state, and local regulations pertaining to the construction, operation and maintenance of the facilities and systems incorporated in its application for a franchise;
6. The capacity of public rights-of-way to accommodate the cable system;
7. The present and future use of the public rights-of-way to be used by the cable system;
8. The potential disruption of existing users of the public rights-of-way to be used by the cable system and the resultant inconvenience which may occur to the public; and
9. Any other condition that the city may deem appropriate.

B. Renewal Franchise.

1. Federal Requirements.

- a. A franchisee has substantially complied with the material terms of the existing franchise and with applicable law;
- b. The quality of a franchisee's service has been reasonable in light of community needs;
- c. A franchisee has the financial, legal, and technical ability to provide the services, facilities and equipment as set forth in a franchisee's proposal;
- d. A franchisee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests. (Ord. 78.A §5, 1995)

5.08.060 Police power.

In accepting any franchise, a franchisee acknowledges that its rights hereunder are subject to the legitimate rights of the police power of the city to adopt and enforce general ordinances necessary to protect the safety and welfare of the public and it agrees to comply with all applicable general laws enacted by the city pursuant to such power. (Ord. 78.A §6, 1995)

5.08.070 Rules and regulations by the city.

A. In addition to the inherent powers of the city to regulate and control any franchise it issues, the authority granted to it by the Act, and those powers expressly reserved by the city, or agreed to and provided for in a franchise, the right and power is reserved by the city to promulgate such additional regulations as it may find necessary in the exercise of its lawful police powers.

B. The city council reserves the right to delegate its authority for franchise administration to a designated agent. (Ord. 78.A §7, 1995)

5.08.080 Technical standards.

A. Subject to federal, state and local law, a franchisee shall comply with FCC rules, Part 76, Subpart K, Sections 76.601 through 76.610 as amended, hereafter, and, at the minimum, the following:

- 1. Applicable city, county, state and national/ federal codes and ordinances;
- 2. Applicable utility joint attachment practices;
- 3. The National Electric Safety Code, ANSI C2;
- 4. City public works policies and standards;
- 5. Local rights-of-way procedures;
- 6. Bell System Code of Pole Line Construction.

B. Preventative Maintenance. A comprehensive routine preventive maintenance program shall be developed, effective, and sustained to ensure continued top quality cable communications operating standards in conformance with FCC Regulations, Part 76 or as may be amended. (Ord. 78.A §8, 1995)

5.08.090 Parental control devices.

In accordance with the Act a franchisee will make available at the cost specified by the FCC a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that

subscriber. (Ord. 78.A §9, 1995)

5.08.100 Construction standards.

All facilities constructed under this chapter shall be placed and maintained at such places and positions in or upon such streets, avenues, alleys and public places as shall not interfere with the passage of traffic or pedestrians and the use of adjoining property, and shall conform to the applicable section of the National Electrical Code, codes of the state of Washington, city regulations, and the city public works policies and standards. (Ord. 78.A §10, 1995)

5.08.110 Construction notification.

Upon application for a construction permit, if determined necessary by the public works director, a franchisee will submit to the city its plan for advance notification for the proposed construction project. In the event that an emergency situation arises which precludes such advance notification, a franchisee shall subsequently inform the city of the nature of the extraordinary event and the action taken. (Ord. 78.A §11, 1995)

5.08.120 Undergrounding.

In those areas and portions of the city where the transmission or distribution facilities of the public utility providing telephone service and those of the facility providing electric service are underground or hereafter may be placed underground, then a franchisee shall likewise construct, operate and maintain all of its transmission and distribution facilities in the same area underground upon city approval. Such activities shall be made in concurrence and cooperation with the other affected utilities. Amplifiers and associated equipment in a franchisee's transmission and distribution lines may be in appropriate housing upon the surface of the ground. (Ord. 78.A §12, 1995)

5.08.130 Relocation.

Whenever, any of a franchisee's facilities or equipment need to be relocated or altered due to a construction or repair project by the city in a public right-of- way, a franchisee shall move or relocate such facilities or equipment within thirty days from receiving written notice from the city. However, in the event such relocation is required due to emergency repairs deemed necessary by the city, such relocation or moving shall be accomplished within twenty-four hours. Any relocation or alteration of a franchisee's facilities or equipment required under this section shall be at the sole expense of a franchisee.

If a franchisee fails to do so within the thirty days' written notice, the city may have the facility moved and charge the costs and expenses of such to the franchisee. Such thirty-day notice shall be waived if any emergency shall arise. For purposes of this section, an emergency is defined as sudden unforeseen event potentially causing significant damage, destruction, or loss of life. (Ord. 78.A §13, 1995)

5.08.140 Safety requirements.

A. A franchisee, in accordance with applicable national, state and local safety requirements shall, at all times, employ ordinary care and shall install and maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.

B. All structures and all lines, equipment and connections in, over, under, and upon the streets, sidewalks, alleys, and public rights-of-way or places of a franchise area, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

C. The city reserves the general right to see that the system of a franchisee is constructed and maintained in a safe condition. If a violation of the National Electrical Safety Code or other applicable regulation is found to exist by the city, the city will notify the franchisee in writing, and after discussions with a franchisee, establish a reasonable time for a franchisee to make necessary repairs. If the repairs are not made within the established time frame, the city may make the repairs itself or have them made and collect all reasonable costs thereof from a franchisee. (Ord. 78.A §14, 1995)

5.08.150 Building moving.

Whenever any person shall have obtained permission from the city to use any street for the purpose of moving any building, a franchisee, upon fourteen days' written notice from the city, shall raise or remove, at the expense of the permittee desiring to move the building, any of a franchisee's wires which may obstruct the removal of such building; provided, that the moving of such building shall be done in accordance with regulations and general ordinances of the city. Where more than one street is available for the moving of such building, the building shall be moved on such street as shall cause the least interference with overall transportation and utility needs as determined by the city. It is further provided that the person or persons moving such building shall indemnify and save harmless said franchisee of and from any and all damages or claims of whatsoever kind or nature caused directly or indirectly for such temporary arrangement of the lines and poles of a franchisee. (Ord. 78.A §15, 1995)

5.08.160 Tree trimming.

A franchisee has the authority for maintenance and trimming of all trees and vegetation within the franchise area to prevent such trees and vegetation from becoming a hindrance or coming into contact with a franchisee's lines or other facilities. A franchisee is responsible for removing debris and for any damage caused. (Ord. 78.A §16, 1995)

5.08.170 Rates.

Within thirty days after the grant of any franchise hereunder, a franchisee shall file with the city a complete schedule of all present rates charged to all subscribers.

Prior to implementation of any change in rates or charges for any service or equipment provided by a franchisee, a franchisee shall provide the city a minimum of thirty days' and all subscribers a minimum of thirty days' prior written notice of such change.

Subject to the Act and resultant FCC regulations, the city may regulate the rates or charges for

providing cable service and other equipment and will establish rate regulation review procedures as delegated by federal law. The city will monitor those other rates within the benchmarks provided by the FCC. (Ord. 78.A §17, 1995)

5.08.180 Cable availability.

Subject to Section 5.08.280, cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. (Ord. 78.A §18, 1995)

5.08.190 Customer service.

A franchisee shall render repair service to restore the quality of the signal at approximately the same standards existing prior to the failure or damage of the component causing the failure and make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during a period of minimum use of the system.

Upon notification by the subscriber, no charge for the period of an outage shall be made to the subscriber if the subscriber was without service for a period exceeding twenty-four hours.

A log of all service interruptions shall be maintained and kept on file by a franchisee. The city, during normal business hours and after forty-eight hours' notice, may inspect such logs. The foregoing will comply with Section 631 of the Act.

A franchisee shall at all times be in compliance with FCC customer service obligations Section 76.309, Subpart II, or as may be amended. The city, however, reserves the right to impose more stringent requirements if it so deems necessary. (Ord. 78.A §19, 1995)

5.08.200 Telephone response.

A franchisee shall maintain an adequate force of customer service representatives, as well as incoming trunk lines so that telephone inquiries are met promptly and responsively. A franchisee shall have in place procedures for utilization of other manpower and/or recording devices for handling the flow of telephone calls at peak periods of large outages or other major causes of subscriber concern. A copy of such procedures and/or policies shall be made available to the city.

In order that the city may be informed of a franchisee's success in achieving satisfactory customer relations in its telephone answering functions, a franchisee shall, upon request by the city, provide the city with a summary for the previous quarter that will provide, at a minimum, the following:

- A. Number of calls received per day;
- B. Time taken to answer;
- C. Average talk time;
- D. Number of calls abandoned by the caller;
- E. Average hold time;
- F. Percentage of time all lines busy;
- G. An explanation of any abnormalities.

This data will be compared to minimum standards of the NCTA being incorporated herein by reference or any amendment thereto increasing such standards, and shall be monitored by the city.

Calls for service generated during the period of system outages due to emergency or exceptional circumstances surrounding the operation of the system may be excluded from the service response calculations. The city shall have the final determination as to what constitutes a system failure due to emergency and which calls shall be excluded from the service level calculations. (Ord. 78.A §20, 1995)

5.08.210 Failure to improve customer service.

The city or its designee shall review telephone response and customer service information with a franchisee. In cases where applicable standards have not been met it will be the franchisee's responsibility to pursue favorable improvements in a reasonable manner in the appropriate categories from the last reporting period. Failure to do so may result in the calling of a public hearing by the city council for the purpose of examining the reasons, if any, why such improvements were not achieved by a franchisee. (Ord. 78.A §21, 1995)

5.08.220 Emergency power.

A franchisee shall provide a standby power system to automatically activate equipment at the headend and hubs, if applicable, in event of a primary electrical failure. (Ord. 78.A §22, 1995)

5.08.230 Cable communications system evaluation.

In addition to periodic meetings, the city may require reasonable routine evaluation sessions at any time during the term of a franchise, but not to exceed one evaluation per year. The city shall maintain the confidentiality of any trade secrets or other proprietary or confidential information in the possession of a franchisee. However in the case of reoccurring problems, the city may conduct as many evaluations as are necessary.

To assist in the preliminary evaluation, the city may enlist an independent consultant to conduct an analysis of the cable communications system and its performance and to submit a report to such analysis to the city. It is intended that such evaluations cover areas such as customer service, response to the community's cable-related needs, and a franchisee's performance under the compliance with the terms of a franchise.

During an evaluation session, a franchisee shall fully cooperate with the city and shall provide within a reasonable time, without cost, such reasonable information and documents as the city may request to perform evaluations.

If, as a result of the evaluation session, or at any other time, the city determines that reasonable evidence exists of inadequate cable communications system performance, it may require a more detailed technical evaluation and analyses directed toward such suspected inadequacies. The report prepared by the consultant shall include at least:

- A. A description of the technical problem in cable communications system performance which precipitated the special tests;
- B. What cable communications system components were tested;

C. The equipment used and procedures employed in testing;

D. The method, if any, by which such cable communications system performance problem was resolved;

E. Any other information pertinent to said tests and analyses which may be required by the city, or determined when the test is performed.

If the tests indicate that the system is not in substantial compliance with FCC standards or the requirements of the franchise, a franchisee shall reimburse the city for any costs involved in conducting such tests, such as consultant fees or other expenses. Such fees or expenses shall not exceed two thousand five hundred dollars for each evaluation. A franchisee will have an opportunity to refute findings and if franchisee is found to be in compliance, the city pays for the evaluation. (Ord. 78.A §23, 1995)

5.08.240 Periodic meetings.

Upon request, a franchisee shall meet with designated city officials and/or designated representative(s) to review the performance of a franchisee for the preceding period. The subject may include, but is not limited to, those items covered in the periodic reports and performance tests. (Ord. 78.A §24, 1995)

5.08.250 Record inspection.

Subject to statutory and constitutional limits and forty-eight hours' advance notice, the city may inspect the records of a franchisee relating to the operation of the cable communications system in the franchise area during normal business hours. The city shall maintain the confidentiality of any trade secrets or other proprietary or confidential information in the possession of a franchisee. Such documents shall include such information as financial records, subscriber records, appropriate information and plans pertaining to a franchisee's operation in the city subject to Section 631 of the Act. (Ord. 78.A §25, 1995)

5.08.260 Reports.

A franchisee shall furnish, upon request, a report of its activities as appropriate. Such report shall include:

A. Most recent annual report;

B. A copy of the 10-K Report, if required by the Securities and Exchange Commission;

C. The number of homes passed;

D. The number of subscribers with basic services;

E. The number of subscribers with premium services;

F. Total number of miles of cable in city;

G. Summary of complaints received by category, length of time taken to resolve and action taken to provide resolution;

H. A current copy of its subscriber service contract;

I. Report on Operations. Such other reports with respect to its local operation, affairs, transactions or property that may be appropriate. (Ord. 78.A §26, 1995)

5.08.270 Programming.

A franchisee shall file with the city a listing of its programming and the tiers in which they are placed. (Ord. 78.A §27, 1995)

5.08.280 Non-discrimination.

A franchise shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preferences or advantage to any person nor subject any person to any prejudice or disadvantage; provided, that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled, and provided further that connection and/or service charges may be waived or modified during promotional campaigns of a franchisee.

A franchisee may from time to time, for research purposes, provide unique experimental program packaging or interactive services to customers served by specific system nodes. The nodes will be selected on a non-discriminatory basis representing broad community demographics. (Ord. 78.A §28, 1995)

5.08.290 Continuity of service.

A franchisee shall continue to provide service to all subscribers so long as their financial and other obligations to a franchisee are fulfilled.

A. In this regard a franchisee shall act so far as it is within its control to ensure that all subscribers receive continuous uninterrupted service during the term of the franchise.

B. In the event a franchisee fails to operate a system for seventy-two continuous and consecutive hours without prior notification to and approval of the city council or without just cause such as an impossibility to operate the system because of the occurrence of an act of God or other circumstances reasonably beyond a franchisee's control, the city may, after notice and an opportunity for a franchisee to commence operations at its option, operate the system or designate someone to operate the system until such time as a franchisee restores service to conditions acceptable to the city council or replacement franchisee is selected. If the city is required to fulfill this obligation for a franchisee, a franchisee shall reimburse the city for all reasonable costs or damages in excess of revenues from the system received by the city that are the result of a franchisee's failure to perform. (Ord. 78.A §29, 1995)

5.08.300 Transfer of ownership.

Any franchise awarded by the city shall be based upon an evaluation by the city of each application, the qualifications, and other criteria as such pertain to each particular applicant. A franchise shall not be sold, transferred, leased, assigned, or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, unless approval is granted by the city council to ensure a review of unforeseen circumstances not present at the time of the original franchise. The city may not unreasonably withhold its approval.

A transfer shall be deemed to occur if there is an actual change in control or where ownership of fifty percent or more of the beneficial interests, singly or collectively, are obtained by other parties. The word

"control" as used herein is not limited to majority stock ownership only, but includes actual working control in whatever manner exercised.

A franchisee shall promptly notify the city prior to any proposed change in, or transfer of, or acquisition by any other party of control of a franchisee's company. Every change, transfer, or acquisition of control of a franchisee's company shall cause a review of the proposed transfer. In the event that the city adopts a resolution denying its consent and such change, transfer or acquisition of control has been effected, the city may cancel the franchise. Approval shall not be required for mortgaging purposes or if said transfer is from a franchisee to another person or entity controlling, controlled by, or under common control with a franchisee. Further the city will monitor the limitations or ownership, control utilization and restrictions on sale of systems in accordance with the Act.

Except as specifically addressed in a franchise agreement, unless the city reasonably determines the proposed transfer increases the risk of non-performance or partial performance of any franchise obligation, the city agrees that it will not seek modifications to the terms of the franchise agreement as a condition of approval of a transfer which occurs within two years of the effective date of this chapter. (Ord. 78.A §30, 1995)

5.08.310 Removal and abandonment of property of franchisee.

The city may direct a franchisee to temporarily disconnect or bypass any equipment of a franchisee in order to complete street construction or modification, install and remove underground utilities, or for other reasons of public safety and efficient operation of the city. Such removal, relocation or other requirement shall be at the sole expense of a franchisee.

In the event that the use of any part of the cable communications system is discontinued for any reason for a continuous period of twelve months, or in the event such system or property has been installed in any street or public place without complying with the requirements of the franchise or other city ordinances or the franchise has been terminated, canceled or has expired, a franchisee shall promptly, upon being given ten days' notice remove within one hundred eighty days from the streets or public places all such property and poles of such system other than any which the city may permit to be abandoned in place. In the event of such removal, a franchisee shall promptly restore the street or other areas from which such property has been removed to a reasonable condition. Any property of a franchisee remaining in place one hundred eighty days after the termination or expiration of the franchise shall be considered permanently abandoned. The city may extend such time not to exceed an additional one hundred eighty days.

Any property of a franchisee to be abandoned in place shall be abandoned in such a manner as the city shall prescribe. Upon permanent abandonment of the property of a franchisee in place, the property shall become that of the city, and a franchisee shall submit to the city clerk an instrument in writing, to be approved by the city attorney, transferring to the city the ownership of such property. None of the foregoing affects or limits franchisee's rights to compensation for an involuntary abandonment of its property under state, or federal law. In the event the city and a franchisee are unable to agree as to whether an abandonment is voluntary for the purposes of this section either party may invoke arbitration to resolve such question. (Ord. 78.A §31, 1995)

5.08.320 Revocation.

Any franchise granted by the city may be terminated during the period of such franchise for failure by a franchisee to comply with the material provisions of this chapter and/or the franchise.

The procedure to be followed resulting in termination unless by franchisee's request, shall be:

A. The city shall provide franchisee with a detailed written notice of such violation. Within thirty days thereafter, franchisee shall respond demonstrating that no violation occurred, that any problem has been corrected, or with a proposal to correct the problem within a specified period of time.

B. If said response is not satisfactory to city, city may declare a franchisee in default, with written notice to franchisee. Within ten business days after notice to franchisee, franchisee may deliver to city a request for a hearing before the city council. If no such request is received, city may declare the franchise terminated for cause.

C. If franchisee timely requests a hearing, such hearing shall be held within thirty days after city's receipt of the request therefor. Such hearing shall be open to the public, and franchisee and other interested parties may offer written and/or oral evidence explaining or mitigating such alleged non-compliance. Within ten days after the hearing, the city council, on the basis of the entire record, will make the determination as to whether there is cause for termination and whether the franchise will be terminated. The City Council may in its sole discretion fix an additional time period to cure violations. If the deficiency has not been cured at the expiration of any additional time period or if the council does not grant any additional period, the city council may by ordinance declare the franchise to be terminated and forfeited.

D. If a franchisee appeals revocation and termination, such revocation may be held in abeyance pending judicial review by a court of competent jurisdiction, provided a franchisee is otherwise in compliance with the franchise.

E. Nothing contained in the above subsections of this section shall prevent the issuance of a new franchise containing terms substantially the same or identical to a franchise which previously was revoked, upon satisfactory assurances made to the city council that the terms and conditions of this chapter can be met by the new franchisee. (Ord. 78.A §32, 1995)

5.08.330 Effect of termination for non-compliance.

Subject to state and federal law, if any franchise is terminated by the city by reason of a franchisee's non-compliance, that part of the system under such franchise located in the streets and public property, shall, at the election of the city, become the property of the city at a cost consistent with the provisions of the Act. If the city, or a third party, does not purchase the system within twelve months a franchisee shall, upon order of the city council, remove the system as required under Section 5.08.310, Removal and abandonment of property of franchisee, of this chapter. The city may at its discretion extend the period of time for the system to be purchased beyond the initial twelve-month period. (Ord. 78.A §33, 1995)

5.08.340 Insurance.

A franchisee shall, concurrently with the filing of an acceptance of award of any franchise granted hereunder, furnish to the city and file with the city clerk and at all times during the existence of any franchise granted hereunder, maintain in full force and effect, at its own cost and expense, a general comprehensive liability insurance policy, for the purpose of protecting the city and all persons against liability for loss or damage, for personal injury, death and property damage, and errors or omissions,

occasioned by the operations of a franchisee under such franchise, such policy to provide minimum limits of one million dollars for both personal injury and/or property damage.

The policies mentioned in the foregoing paragraph shall name the city as additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of such policy shall be delivered to the city thirty days in advance of the effective date thereof. If such insurance is provided by a policy which also covers a franchisee or any other entity or person other than those above named, then such policy shall contain the standard cross-liability endorsement. (Ord. 78.A §34, 1995)

5.08.350 Inconsistency.

If any portion of this chapter should be inconsistent or conflict with any rule or regulation now or hereafter adopted by federal or state laws, then to the extent of the inconsistency or conflict, the rule or regulation of the federal or state law shall control for so long, but only for so long, as such rule, regulation, or law shall remain in effect. The remaining provisions of this chapter shall not be affected thereby. (Ord. 78.A §35, 1995)

5.08.360 Severability.

Each section, subsection or other portion of this chapter shall be severable and the invalidity of any section, subsection, or other portion shall not invalidate the remainder. (Ord. 78.A §36, 1995)

**Chapter 5.12
MALT LIQUOR SALES**

Sections:

- 5.12.010 Seller's duties.**
- 5.12.020 Purchaser's duties.**
- 5.12.030 Declaration and receipt forms.**
- 5.12.040 Violation--Penalty.**

5.12.010 Seller's duties.

Any person who sells or offers for sale the contents of kegs or other containers containing six gallons or more of malt liquor, or leases kegs or other containers which will hold six gallons of malt liquor, to consumers who are not licensed under RCW Ch. 66.24, shall do the following for any transaction involving said container:

- A. Require the purchaser of the malt liquor to sign a declaration and receipt for the keg or other container and/or beverage in substantially the form provided in this chapter;
- B. Require the purchaser to provide two pieces of identification, one of which is a motor vehicle operator's license, Washington state identification card, or military identification card;
- C. Require the purchaser to sign a sworn statement, under penalty of perjury, that:
 - 1. The purchaser is of legal age to purchase, possess or use malt liquor,

2. That the purchaser will not allow any person under the age of twenty-one to consume the beverage except as provided in RCW 66.44.270,

3. That the purchaser will not remove, obliterate, or allow to be removed or obliterated, the identification number affixed to the container;

D. Require the purchaser to state the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located;

E. Affix to each keg or container a numbered label, hereafter referred to as the "identification number";

F. Record the identification number, and any other number appearing on the keg or container, on any declaration or receipt of purchase;

G. Retain the original copy of the declaration and receipt for a period of one year for inspection by any law enforcement agency. Such inspection shall be allowed upon request of a law enforcement officer having a reasonable belief that a violation of this chapter or related alcohol enforcement laws has or will occur;

H. Provide a copy of the declaration and receipt to the purchaser;

I. Require the purchaser to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than five feet, and visible without physical barrier from such keg, during the time that the keg or other container is in the purchaser's possession and/or control. (Ord. 173 §1, 1986)

5.12.020 Purchaser's duties.

Any person who purchases the contents of kegs or other containers containing six gallons or more of malt liquor, or purchases or leases the container shall:

A. Be of legal age to purchase, possess or use malt liquor;

B. Not allow any person under the age of twenty-one to consume the beverage except as provided by RCW 66.44.270;

C. Not remove, obliterate, or allow to be removed or obliterated, the numbered label affixed to the container;

D. Not move, keep or store keg or its contents, except for transporting to and from distributor, at any place other than that particular address declared on the receipt and declaration;

E. Maintain a copy of the declaration and receipt next to or adjacent to the keg or other container. In no event a distance greater than five feet, and visible without physical barrier from such keg, during the time that the keg or other container is in the purchaser's possession and/or control. (Ord. 173 §2, 1986)

5.12.030 Declaration and receipt forms.

The form of the declaration and receipt required in this chapter shall be substantially in the following form and shall require the information contained in the following form:

RECEIPT FOR SALE OF MALT LIQUOR IN KEGS OR CONTAINERS TO UNLICENSED PERSONS

Date of Sale _____ Invoice Number _____
Keg Identification Number(s) _____

Brand _____ Keg Capacity _____
No. of Kegs _____ Total Gallons _____
Name of Purchaser _____
Address _____
Address or location where keg will be located _____

Motor Vehicle Operator's License Number _____
Washington State Identification Card _____
Other Identification _____

I declare under penalty of perjury the information provided in this receipt is true and correct and that I am over the legal age to purchase, possess or use malt liquor, that I will not allow the malt liquor purchased and identified by this receipt to be consumed by any person who is under the age of twenty-one except as provided by RCW 66.44.270, and that I will not remove or obliterate the numbered identification label affixed to the container.

Signature of Purchaser
Identity of Seller _____
Address of Licensed Premises _____

NOTICE It is unlawful for any person under the age of twenty-one years to acquire in any manner, consume or have in his or her possession, any intoxicating liquor, provided that the foregoing shall not apply in the case of liquor given or permitted to be given to such person under the age of twenty-one years by his parent or guardian for beverage or medicinal purposes in the home or administered to him by his physician or dentist for medicinal purposes. A person who signs this receipt with knowledge that any information in the receipt is false commits perjury. Violations of any of the provisions of the Snohomish County Ordinance which requires this statement and these terms is a misdemeanor punishable by a fine of not more than \$500.00, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

(Ord. 173 §3, 1986)

5.12.040 Violation--Penalty.

The violation of any provision of this chapter is a misdemeanor punishable by a fine of not more than five hundred dollars or by imprisonment not to exceed six months, or both such fine and imprisonment. (Ord. 173 §4, 1986)

**Chapter 5.16
OIL AND GAS EXPLORATION**

Sections:

5.16.010 Purpose--Findings.
5.16.020 Definitions.

- 5.16.030 Prohibitions--Exceptions.**
- 5.16.040 Previously issued permits--Expiration.**
- 5.16.050 Controlled drill sites--Application.**
- 5.16.060 Easements and right of entry--Compliance with other jurisdictions.**
- 5.16.070 Exploratory area--Application.**
- 5.16.080 Exploratory area--Boundary determinations--Pooled areas.**
- 5.16.090 Developed areas of less than forty acres.**
- 5.16.100 Unauthorized drilling or production deemed nuisance.**
- 5.16.110 City council permit--Application.**
- 5.16.120 City council permit--Application fee.**
- 5.16.130 City council permit--Processing.**
- 5.16.140 City council permit--Issuance conditions.**
- 5.16.150 City council permit--Fee.**
- 5.16.160 Testing and observation.**
- 5.16.170 Abandonment of wells.**
- 5.16.180 Violation--Actions to abate.**
- 5.16.190 Violation--Penalty.**

5.16.010 Purpose--Findings.

A. The purpose of this chapter is to control the drilling either on the surface or in the subsurface of the city for oil and gas, to control the production of oil and gas, and to control the storing and transportation of oil and gas in the city as permitted by this chapter.

B. The city council declares that the purpose of this chapter is to establish reasonable and uniform limitations, safeguards and controls for the drilling for and production of oil, gas and other hydrocarbon substances within and under the city. Such limitations, safeguards and controls are found and declared to be necessary in order to protect the citizens, their property rights and the general public of the city and to put into effect practices which will provide a plan for the orderly drilling for, and production of, oil and gas. Such orderly development is necessary to protect the surface uses and the value and character of residential, commercial and other real property in the city as such uses are set forth in and regulated by city ordinances. The council recognizes that many of its citizens and property owners have made substantial investments in real property both with and without having acquired mineral rights. Therefore, in order to protect all citizens and their property rights, to protect the owners of mineral rights and to provide for the orderly exploration, development and production of oil and gas, it is necessary to regulate the drilling for and production of oil and gas in the manner set forth in this chapter.

C. The council finds and determines that the uncontrolled drilling on the surface or in the subsurface for oil and gas and the uncontrolled production thereof in the city would be detrimental to the general welfare of the citizens and residents of the city, and detrimental to the general public peace, health, safety, comfort, convenience and prosperity. The council finds and determines that subsurface areas within the city may be explored for oil and gas and if said substances are found, the same may be produced by directional or slant drilling methods from surface locations outside the city and from approved locations within the city. Such operations when conducted from surface locations in the city must be limited to drill sites approved in the manner provided for in this chapter. Such operations, when conducted from surface locations outside the city, must comply with the regulations of the city or county having local control of the

drill site area. Such controlled drill sites and the limitations and regulations set forth in this chapter are necessary in order to protect the citizens and residents of the city from oil odors, noise, dust, the spreading of oil, dirt and debris upon the public streets of the city and to protect buildings and structures from vibration, sinking or other damage caused by the drilling for and production of oil and gas in an unrestricted location and manner. (Ord. 44 (part), §1, 1972)

5.16.020 Definitions.

As used in this chapter:

A. "Applicant" means any person who seeks a permit pursuant to this chapter.

B. "Application" means the particular request to the city under discussion in the section under consideration. There are three types of applications related to the development of oil resources, each of which requires approval by the city council:

1. Application for establishing an exploratory area;
2. Application for establishing a controlled drill site;

3. Application for a city council permit, which authorizes the conduct of drilling and related activities.

C. "Controlled drill site" means the council-approved surface location in the city upon which surface operations incident to oil well drilling or deepening and the production of oil and gas and other hydrocarbon substances from beneath the surface of real property, within or outside the city, may be permitted under the terms and conditions of this chapter.

D. "Developed area" as used in this chapter, means that subsurface area under real property in the city in or under which there are proven oil and/or gas reserves and on which and from which real property there is a producing well being operated under and by virtue of an oil and gas lease in full force and effect. Such area must contain not less than one acre.

E. "Directional drilling" means the whipstocking or slant drilling of an oil and gas well more than five degrees off vertical.

F. "Drilling equipment" means all temporary structures, tanks, equipment and facilities necessary or convenient for the drilling of a well or well hole, including but not limited to wood or steel derricks, portable masts, engines, pumps, temporary fuel and water tanks and other like facilities ordinarily used in connection with the drilling of an oil and/or gas well.

G. "Exploratory area," as used in this chapter means a described area established by the council containing not less than forty acres, the boundaries of which shall follow property lines, public streets, highways or alleys, so far as practicable, in which subsurface area the drilling for oil and/or gas and their production are allowed only by the permittee. It shall be the subsurface portion of real property in which there is likely to be found deposits of oil and gas or oil or gas in which drilling and production operations may be carried on and oil and/or gas wells bottomed for the production of such substances.

H. "Permittee" means any person who receives a permit pursuant to this chapter, or his successor in interest.

I. "Person" means a private individual and/or legally recognized company, corporation, business, or its representative.

J. "Well" means any well or hole already drilled, being drilled or to be drilled from the surface into the earth which is used or intended to be used in connection with the drilling for, prospecting for or production of oil, natural gas, or other hydrocarbon substances. It also includes a well or hole used for the subsurface

injection into the earth of oil field waste, gases, water, or liquid substances, including any well or hole which has not been abandoned and is now in existence. (Ord. 44 §2, 1972)

5.16.030 Prohibitions--Exceptions.

A. The council finds and determines that it is, and it is declared to be, unlawful and a public nuisance for any person, except in the manner authorized by this chapter to:

1. Install, maintain, or operate any derrick or drilling equipment;
2. Drill a well from surface drill sites or locations within the city;
3. Drill or produce a well by directional or slant drilling methods from surface locations or sites outside the city which said wells pass through or bottom in the subsurface of any property located within the city;
4. Produce oil and/or gas from surface drill sites or locations within the city;
5. Produce oil and/or gas from surface locations or drill sites outside the city.

B. Subject to the approval of the exploratory area as required by Section 5.16.070 of this chapter, and the issuance of a city council permit as required by Section 5.16.100 of this chapter, the drilling of a well and the production of oil, gas and other hydrocarbon substances may be had or carried on from controlled drill sites, which real property is within the city limits of the city and from which controlled drill sites, drilling and production operations may be had in accordance with the requirements of this chapter within the city. No drilling or production operations for oil and gas may be conducted within the city on other than from within controlled drill sites.

C. The use of controlled drill sites need not be exclusive to any one applicant or permittee and may be used jointly as provided for by city council permit. (Ord. 44 §4, 1972)

5.16.040 Previously issued permits--Expiration.

All applications for a permit to drill any well filed prior to the effective date of the ordinance codified in this chapter shall be processed in accordance with the procedures in effect on the date of filing such application, but no such well may be drilled without complying with all of the terms and conditions of this chapter. Any permit granted pursuant to an application filed prior to the effective date of the ordinance codified in this chapter shall expire and be of no further virtue, force or effect unless such well shall have been spudded in within ninety days from the effective date of the permit and thereafter prosecuted diligently to completion. If a producing well is not secured within one year from the effective date of the permit, the well shall be abandoned. The council, for good cause, may allow additional time for completion of the well. (Ord. 44 §3, 1972)

5.16.050 Controlled drill sites--Application.

A. Controlled drill sites shall be established by the city council upon the satisfactory accomplishment of the following:

1. Prior receipt and approval of corresponding application for establishing an exploratory area;
2. Receipt of an application for establishing a controlled drill site which:
 - a. Describes a surface area of not less than five acres,

b. Provides a map and layout of proposed temporary and permanent facilities,
c. Lists the operational restrictions and design requirement criteria planned for implementation,
d. Lists other assurances, guarantees, and benefits to enhance the community and/or to guard against nuisances;

3. Review by the planning commission in accordance with the criteria prescribed for conditional use permit under the zoning ordinance, but specifically:

- a. Potential impact upon comprehensive plans,
 - b. Potential impact upon surrounding residential community,
 - c. Necessary restrictions or conditions required to protect the zoning and environment;
4. Public hearing conducted by the city council, or by a committee appointed by the council;
5. Receipt of reports and recommendations of city engineer and such professional advisors who may be engaged by the city to inspect and evaluate said application.

B. The council finds and determines that the location of drill sites on real property within the city, other than the real property approved as above described, and designated as a controlled drill site, would be contrary to the best interests of the citizens and residents of the city and the public health, safety and general welfare of the citizens and inhabitants of the city. Drilling from or on the surface of real property within the city, except from or upon such controlled drill sites, is prohibited and the drilling of a well from any drilling site in the city except from or on controlled drill sites as described in this section, shall constitute a public nuisance and shall be abated as provided in Section 5.16.180 of this chapter. (Ord. 44 §5, 1972)

5.16.060 Easements and right of entry--Compliance with other jurisdictions.

No well may be drilled unless the applicant holds and presents to the council evidence that said applicant has the right to enter or pass through each parcel of property such drilling will take the well through, between the drill site and the well bottom, including the right to take oil and gas from the property in which the well will be bottomed. Slant drilling or whipstocking of any well into, out of, or through the city is prohibited unless the applicant for any such permit meets and fully complies with all the requirements of every city, or in the case of unincorporated territory, of every county in which said well or any part thereof is or will be located, and meets and fully complies with all applicable state and federal laws and regulations. (Ord. 44 §6, 1972)

5.16.070 Exploratory area--Application.

A. No city council permit shall be granted or considered by the council or set for hearing until the council has approved the boundaries of the exploratory area into which such a well or wells may be drilled. An application for approval of the boundaries of the proposed exploratory area shall be required and in such application the applicant shall set forth and describe with a proper legal description, the real property in the city which applicant proposes to explore for oil and gas purposes. A map shall also be attached to the application which shall clearly show and outline the proposed "exploratory area." Such area shall be known and designated as the exploratory area. Such exploratory area shall contain not less than forty acres. The exploratory area may include property within and property outside of the city. Each such application shall have attached thereto, geological information and the opinion of a geologist or petroleum engineer,

indicating that the boundaries proposed for the exploratory area include the subsurface portion of real property in which there is likely to be found deposits of oil and gas.

B. Each application for approval of the boundaries of an exploratory area shall be accompanied by an application fee of five thousand dollars. The application fee is to defray the costs to the city of study, investigation and hearings by the administrative officer, other officers and employees of the city, and by consultants employed by the council, and by the council concerning the proposed exploratory area set forth in the application. (Ord. 44 §7, 1972)

5.16.080 Exploratory area--Boundary determinations--Pooled areas.

A. Each applicant requesting approval of an exploratory area must have the contractual or proprietary right and authority to drill for oil and gas under the surface of at least sixty percent of the area of the real property in the city, described and included in any exploratory area. The council may require the applicant to prove any such authority by submitting a lease agreement or evidence of ownership thereof.

B. In order to determine the proper boundaries of any exploratory area, the council may employ such engineers or consultants as it deems necessary to advise the council in such matters and the cost of such services shall be paid by the city.

C. The council, in consultation with the applicant, shall determine the nature and probable extent of the exploratory area. Having determined the probable extent of the exploratory area, the council shall delineate and describe the approved exploratory area.

D. The council as a condition to granting its approval, may require each applicant or permittee to pool all real property which it controls within the exploratory area as approved. After such pool is created, the property included therein, shall thereafter be referred to as the "pooled area" or the "community lease." The applicant shall not be required to obtain leases or contractual rights to explore all of the real property within said exploratory area, but applicant must agree, in writing, that the owners of any oil and gas rights within the exploratory area may join in any leasing arrangements covering the pooled area or any community lease for the production of oil and gas from the exploratory area. The owners of oil and gas rights within the exploratory area shall have the right to join in any such lease and to share in the rental or royalty payments for oil and gas produced from the approved exploratory area. The shares of royalty to be paid shall be computed on the same basis as that of the average of real property owners, by surface area, who have be lease or other document agreed to the drilling for and production of oil and gas by the applicant from the subsurface of the exploratory area.

E. The owner of any oil and gas rights within the exploratory area shall be granted the right to join in any such pooled area or community lease on the basis set forth in this section. The permittee or lessee shall accept the owner of such rights into the pooled area or community lease as provided in this section, upon receiving written notice that such owner will join in and become a part of such pooled area or community lease covering the exploratory area and upon execution of the same form of lease or agreement executed by other owners; provided, however, that the oil and gas rights are appurtenant to real property included in the exploratory area. The owner of oil and gas rights within the exploratory area may join such pooled area or community lease and be included in the right to receive his pro rata share of oil and gas royalty the same as if he joined said lease by giving notice to the permittee at any time after the exploratory area is approved; provided, however, that such owner waives any right to oil and gas royalties, rentals or proceeds on or for any and all production from the exploratory area up to the first day of the following month after the time such notice is given to the permittee unless such notice is given to the permittee within five years of the

effective date of the first city council permit issued in the exploratory area. The permittee shall be required to impound the oil and gas royalty for all property within the exploratory area (in which the permittee does not have a contractual or proprietary right to drill for oil and gas beneath the surface) for a period of five years from and after the effective date of the said first city council permit and to, during said five-year period, pay such royalty, as they are entitled, to the owners of oil and gas rights who give written notice and execute the same form of lease or agreement executed by other owners. Upon the expiration of five years from the effective date of the said first city council permit, the permittee shall distribute the remainder of the funds impounded to the owners of oil and gas rights who have executed the lease in the same manner as shares of royalty are apportioned. No such owner of oil and gas rights shall be entitled to a city council permit or the right to drill an oil and gas well because he has failed to join any community lease or pooled area or because he does not participate in oil and gas royalty from real property located within the exploratory area.

F. The pooling or unitizing of oil and gas rights within the exploratory area as between owners, lessees or others having rights therein may be a condition to the approval of the exploratory area.

G. The council may modify the restrictions and conditions required in Section 5.16.070 of this chapter and this section and impose such other conditions as it may deem necessary to carry out the purpose and intention of these sections and to fairly and equitably protect the oil and gas rights of the owners in any exploratory area.

H. Upon receipt of an application for approval of an exploratory area the council shall set the same for hearing not sooner than sixty and not later than ninety days after the filing of such application and shall refer such application to the administrative officer of the city for study and investigation. The administrative officer shall, not later than ten days before the hearing by the council, file a report upon his study and investigation with the council and with the city clerk. The council may, at the request of the administrative officer, or on its own motion retain engineers, geologists or other persons to assist the administrative officer in his study and investigation. Notice of the hearing shall be given by publication in the official newspaper by two publications not more than thirty nor less than ten days prior to the date of said hearing and by mailing a written notice of such hearing to the applicant. Any such hearing may be continued from time to time within nine months of receipt thereof.

I. In its action upon the application, if the council shall find that the boundaries of the proposed exploratory area include the subsurface portion of real property in which there is likely to be found deposits of oil and gas from a probable single pool, they shall approve the boundaries of the proposed exploratory area or, if said boundaries can be modified to justify such a finding, they shall approve the boundaries of the exploratory area as modified. In all other cases, they shall disapprove the boundaries. (Ord. 44 §8, 1972)

5.16.090 Developed areas of less than forty acres.

Notwithstanding the provisions of this chapter requiring that the exploratory area contain not less than forty acres, the holder of a valid city council permit, as hereinafter required, may drill and produce a well where such well is bottomed and produced from a developed area as defined in Section 5.16.020 of this chapter; provided, however, that in no event shall any person hereinafter erect any derrick or drilling equipment or drill a well from surface drilling sites or locations within the city other than a controlled drill site. (Ord. 44 §9, 1972)

5.16.100 Unauthorized drilling or production deemed nuisance.

It is unlawful and a nuisance for any person hereafter to conduct any drilling operations for a well or hereafter to drill and produce any well in the surface or subsurface of the city from any drill site without first having applied for and obtained from the city council a permit to do so. The permit shall be designated and thereafter referred to as the city council permit, and each permit shall pertain to a single well. (Ord. 44 §10, 1972)

5.16.110 City council permit--Application.

A. Each application for a city council permit shall be made in writing and shall include:

1. The legal description of the proposed drill site;
2. The legal description of all properties, both within and outside the city through which such well is proposed to pass;
3. A statement that the applicant has the right by reason of ownership or the permission of the owner, to pass through and enter all property through which said well is proposed to pass;
4. The proposed location, type, kind, size, amount of equipment and method of operation of the proposed well;
5. The proposed method of handling and using any product proposed to be developed; and
6. In all cases where the well is proposed to be bottomed in the city, a statement that the applicant has the contractual or proprietary right and authority to drill for oil and gas under the surface of at least sixty percent of the real property described and included in the approved exploratory area in accordance with the requirements of Sections 5.16.070 and 5.16.080 of this chapter, or a statement bringing the application within the requirements of Section 5.16.090 of this chapter; and
7. In all cases where the well is proposed to be drilled from a controlled drill site within the city, a statement that the applicant has complied or will comply before spudding in the well with all requirements of the city (or, in the case of unincorporated territory, of the county) in which the well is to be bottomed.

B. At the time such application for a permit is made, the application fee hereinafter required shall be paid to the city clerk.

C. Each application for a city council permit shall be accompanied by a detailed written report of a geologist or other person experienced in the field of subsidence as a result of petroleum extraction, indicating the nature and extent of the subsidence, if any, that can reasonably be expected to occur as a result of the proposed drilling and production or drilling or production, as the case may be, and indicating the nature and extent of the damage to property, if any, that could reasonably be expected to occur as a result of the drilling and production or drilling or production, as the case may be, and setting forth the qualifications and experience of the person making the report in the field of land subsidence as a result of petroleum extraction. (Ord. 44 §11, 1972)

5.16.120 City council permit--Application fee.

The filing of each application for a city council permit, as referred to in Section 5.16.110 of this chapter, shall be accompanied by an application fee of one thousand dollars for each well. The application

fee is to defray the cost to the city of study and investigation by the administrative officer, other staff members, consultants employed by the council, and the council, concerning the proposal set forth in the application. (Ord. 44 §12, 1972)

5.16.130 City council permit--Processing.

Upon receipt of any such application, the council shall refer such application to the administrative officer of the city for study and investigation. The administrative officer shall, not later than thirty days after the filing of the application, file a report upon his study and investigation with the council and with the city clerk. The council may, at the request of the administrative officer or on its own motion, retain engineers or other persons to assist the administrative officer in his investigation of the application. The application shall be acted upon by the council within nine months of the filing thereof. In its action upon the application, if the council finds that the terms and conditions of this chapter have been complied with and that the persons and property within the city will not be adversely affected by the granting of the application, and that there is no reasonable probability or danger of damage to any real or personal property or injury to any person within the city by reason of subsidence of the surface of the earth or other reason due to the extraction of oil and/or gas and, if in a case where the proposed drill site is located within the city, the city council shall find that there is no reasonable probability of danger or damage to any real or person property or injury to any person by reason of the production or extraction of oil and/or gas or other hydrocarbon substances, they shall grant the application and the city council permit upon such terms and conditions as the council may set and fix in granting such permit in order to protect persons and property within the city from injury or damage by hazard of injury or damage and when the drill site is in the city such further conditions as the council may impose in order to eliminate or minimize the adverse effect of such drill site on persons and property in the vicinity. In all other cases the council shall deny the application. No permit shall be granted without the following standard conditions being required and made a part and condition of such permit:

A. Drilling operations for any well shall commence within ninety days from the effective date of the permit and thereafter be prosecuted diligently to completion and if a producing well in not secured within one year from the effective date of the permit, the well shall be abandoned. The council, for good cause, may allow additional time for the commencement of the well.

B. The permittee shall comply with all ordinances, rules and regulations of the city and of any other city through which the well or any part thereof is located or to be drilled and the permittee shall comply with all laws of Snohomish and/or King County when the well or any part thereof is located or is to be drilled partly within the unincorporated territory of said counties. The permittee shall comply with all rules and regulations of the appropriate air pollution control district.

C. A copy of the complete record of any such well furnished to the appropriate department of the state shall be concurrently filed by the permittee with the city clerk. The permittee shall, within thirty days after any well is placed on production, file with the city clerk a plat showing the location of the producing interval and the route of the well hole between the producing interval and the drill site. All records submitted pursuant to this subsection shall be confidential and privileged.

D. All wells passing through or bottomed in or under any real property in the city, which wells are drilled from drilling sites outside the city, shall be below a depth of five hundred feet upon entering any real property within the city.

E. All wells bottomed in the city shall be bottomed in an exploratory area approved pursuant to Section

5.16.080 or in a controlled drill site area approved pursuant to Section 5.16.050 of this chapter.

F. The mayor, members of the city council, city engineer and their authorized assistants or deputies and other officers, employees, agents and independent contractors designated from time to time by the council, shall be permitted at all reasonable times to review and inspect the drill site and any operations or methods used in the drilling for and producing of oil and gas.

G. The permittee shall hold the city and its officers and employees harmless from any claims by third parties arising out of or resulting from the permittee's operation under any city council permit. The permittee must at all times during the existence of any city council permit be insured for not less than one million dollars against liability in tort arising from the drilling or production activities or operations incident to the drilling and production of an oil and gas well pursuant to any city council permit, and such policy shall name as additional insureds the city, its mayor, members of its city council, members of its boards and commissions and its officers, agents and employees, while acting as such, for liability arising out of the permittee's operation pursuant to such permit. Such policy of insurance shall be issued by a good and reasonable insurance company and shall be subject to the approval of the city attorney. A certificate of such insurance shall be filed with the city clerk before drilling is commenced. Drilling and production shall be suspended at any time when the required insurance is not in full force and effect.

H. The city council permit shall become null and void unless the city council permit is accepted by the applicant in its entirety in writing, filed with the city clerk within thirty days from the effective date thereof, together with the payment of the permit fee required by Section 5.16.150 of this chapter, and no work on said drill site shall be commenced until such permit is accepted and issued.

I. The operation of any oil and gas well and production therefrom drilled pursuant to a city council permit shall be in accordance with the rules and regulations of the state and its agencies.

J. The well drilled pursuant to any city council permit shall be drilled only within the properties which the permittee set forth in its application as the properties through which such well was proposed to pass unless the permittee secures approval of the council to cause the well to pass through other properties.

K. No permittee shall drill, operate or maintain any well except in conformity with the terms and conditions of the permit pursuant to which the well is being drilled. After a city council permit has been granted, the council may alter, amend or add to the conditions of the permit in order to protect the citizens and property rights within the city. Such new, amended, or added conditions shall be made only after ten days' notice to the applicant or permittee and after hearing before the council.

L. Any city council permit may be suspended or revoked by the council for any material violation of the conditions of the permit by the permittee or for persistent violation of any law by the permittee in the operation of any such well. The city council shall not revoke any city council permit without first giving the permittee ten days' written notice of the nature of the violations and the city council's intention to revoke the permit. If, within such ten-day period, the permittee requests a hearing before the council, the city council shall grant such a hearing within fifteen days of the date of such request. At the hearing, evidence shall be presented to establish to the satisfaction of the council the extent and nature of the violation which constitutes grounds for the revocation, and the permittee shall be given an opportunity to cross-examine all witnesses testifying at the hearing. The permittee shall thereafter be permitted at that hearing, or at a continued hearing (if a continuance is requested by the permittee) to present evidence to disprove or explain such alleged violations. The city council shall thereupon, after hearing all of the evidence, determine whether or not the permit should be revoked, and the city council determination thereon shall be final. If the city council determines that the permit should be revoked, they shall order the revocation and the permittee shall thereafter abandon the well in strict conformity with the requirements of law. (Ord. 44 §13, 1972)

5.16.140 City council permit--Issuance conditions.

No city council permit shall be issued where all or any part of the proposed drill site is located within the city without the following additional conditions being required and made a part and condition of such permit:

A. All drilling shall be done by means of a steel derrick enclosed with fireproofed and soundproofed material and operations shall be carried on diligently from the commencement of the drilling until the completion of the well or until such well is abandoned.

B. All drilling and production equipment shall be operated by either electric or muffled internal combustion engines. All engines shall be equipped with Maxim Silencers or such other types of mufflers as may be satisfactory to the council.

C. No sump holes shall be permitted, and rotary mud, drill cuttings and other waste material from drilling operations shall be discharged into a steel tank. Such tank, drill cuttings, rotary mud and waste material shall be removed from the controlled drill site upon completion of drilling operations.

D. During all drilling or production operations, except in the case of emergency, all equipment or supplies to be delivered to the drill site shall be transported, trucked or conveyed to the drill site and unloaded only on Monday through Saturday between the hours of eight a.m. and six p.m. As soon as commercial production has been established in any new well, acquisition of a right-of-way or the construction of a pipeline shall be started within ten days and work thereon diligently prosecuted until such pipeline is completed in order to eliminate the trucking of oil. Except in cases of emergency, all oil and gas shall be shipped and transported through pipelines when completed. All pipelines outside of said drill site shall be laid to a depth of at least three feet below the surface of the ground.

E. Private roads for ingress and egress to and from the drill site shall be surfaced with gravel, oiled and maintained in good condition at all times during drilling and production operations. No signs shall be erected on the drill site except those required by law or permitted by this chapter.

F. Within ninety days after the completion of drilling operations or abandonment of further drilling, the derrick and all drilling equipment, including temporary tanks, shall be removed from the drill site. Well abandonment shall be in accordance with requirements of the state. Upon such well abandonment, the permittee shall restore the property as nearly as possible to its original condition and shall remove all concrete foundations, oil-soaked soil and debris. All holes or depressions shall be filled to the natural surface.

G. When required by the council, the applicant or permittee shall designate a competent representative who shall be responsible for the supervision of drilling operations and the carrying out of the conditions of any permit. Such representative shall be available at all times during drilling operations and shall be the responsible contact agent of the applicant or the permittee whom the council may require to carry out the provisions of the permit.

H. Within thirty days after commercial production has been established, there shall be commenced and prosecuted diligently to completion on each controlled drill site adequate landscaping and screening either with shrubbery, masonry or concrete wall or their equal so that the same shall not be unsightly or hazardous. All tanks shall be depressed so that the top of any tank and other equipment and appurtenances shall not extend more than five feet above the surface of any controlled drill site unless otherwise permitted by the council.

I. Oil produced from said wells may be stored in steel tanks on the site. Unless otherwise permitted by

the council, the total amount of storage for production, recycling and all storage and operational purposes shall not exceed two thousand barrels and no tank shall exceed one thousand barrels' capacity.

J. All drilling and production equipment installed or operated upon any controlled drill site shall be so constructed, operated and maintained that no noise, vibration, odor or other harmful or annoying substances or effect therefrom which can be eliminated or diminished by the use of modern and approved types of equipment silencers or greater care shall ever be permitted to result from operations on any controlled drill site to the injury or annoyance of persons in the vicinity of such controlled drill site. Proven technological and mechanical improvements in methods of drilling and production and in the type of equipment used therefor shall be adopted from time to time as the same become available, if the use of such equipment, improvements and methods will reduce noise, vibration, odors, or the harmful effects of annoying substances. The use of equipment in any controlled drill site which causes noise or vibration shall at all times be subject to the approval of the council and the council may amend any permit and require the permittee to abate any noise or vibration which constitutes a nuisance and is detrimental to persons or property in the vicinity where such equipment is being operated.

K. All of the operations at the drill site shall be conducted in a careful and orderly manner, and the premises shall at all times be maintained in a neat, clean and orderly manner.

L. All firefighting equipment as required and approved by the city shall be installed and maintained on the controlled drill site at all times during the drilling and production operations.

M. No earthen sump shall be used or maintained on any controlled drill site and all wastewater, mud, oil or other waste products from drilling and producing operations shall be accumulated in steel tanks and such tanks shall not be permitted to overflow at any time.

N. The council may restrict the use of certain streets, alleys or roadways in connection with the permittee's operations which shall be named in any permit granted. In the event any street, alley or roadway is damaged by permittee's operations, then such damage shall be paid for by the permittee upon demand by the city and the failure to pay such damage, being the reasonable cost of the repair of any such damaged portions, shall be grounds for the revocation of the permit and the collection of such damage at law by the city.

O. No permanent derrick shall be installed or maintained on any controlled drill site or used for the drilling or production of any oil or gas well.

P. After a well is placed on production, all equipment with moving parts in use at such well shall be securely enclosed in a building or by an adequate type of fence or approved wire screen or housing, sufficient to prevent the entry of unauthorized persons to such moving parts. Such protections shall be subject to the approval of the city engineer. Any gates thereto shall be securely fastened at all times, except when authorized personnel are in attendance at such well. (Ord. 44 §14, 1972)

5.16.150 City council permit--Fee.

A. When the council has granted any such city council permit, the city council permit shall be of no virtue, force or effect until it is signed by the mayor of the city. The mayor shall issue a city council permit granted by the council, in the form contemplated by this chapter, upon receipt of written acceptance of the permit by the permittee and payment to the city of a permit fee for each well or well hole in the sum of one thousand dollars.

B. Said permit fee shall be in addition to the application fee required by Section 5.16.120 of this chapter. The permit fee is to defray the costs to the city of ensuring that the permittee complies with the

requirements of this chapter and his city council permit and to defray the expense of enforcing the provisions of Sections 5.16.170 and 5.16.180 of this chapter. The permit, when issued by the mayor, shall show the effective date as the date upon which the council granted the permit and the date of issue as the date when the permit was actually issued by the mayor. (Ord. 44 §15, 1972)

5.16.160 Testing and observation.

A. The city engineer shall, from time to time, as he deems appropriate, make such tests and observations as he deems appropriate to determine if any adverse effect upon the surface of the city is occasioned or is in danger of being occasioned by reason of the removal of oil, gas or other hydrocarbon substances from the subsurface of the city pursuant to a well regulated by this chapter or pursuant to a well, no part of which is located within the city but which drains a subterranean oil or gas pool, part of which is in the city.

B. In the event the city engineer observes any such adverse effect or danger, the may order the immediate suspension of further production from such well or wells as may be located entirely or partly within the city and in the case of such an order, production on such well shall be suspended by the permittee or other operator immediately upon receiving notice of such order. The permittee or other person lawfully producing oil or gas or oil and gas or any other hydrocarbon substances from any such well may appeal to the council. The council may, upon good cause being shown by the permittee or such other person, vacate or modify the order of the city engineer or if no part of the well is in the city, the council may direct the city attorney to immediately commence such actions or proceedings as may be necessary for the abatement, removal or enjoining of further drilling operations which adversely affect property within the city in the manner provided by law and to take such other action and to apply to any court having jurisdiction to grant such relief as will restrain or enjoin any person from drilling or producing any such well. (Ord. 44 §17, 1972)

5.16.170 Abandonment of wells.

Any well which has not been produced, or has not been used for subsurface injection into the earth of oil, gas, oilfield wastewater or liquid substances for a period of one year preceding the effective date of the ordinance codified in this chapter, shall be permanently and finally abandoned in strict compliance with the rules and regulations of the state, or any regulatory authority having jurisdiction thereof. (Ord. 44 §16, 1972)

5.16.180 Violation--Actions to abate.

Any well drilled or produced and any building or structure erected, operated or maintained or any use of property contrary to the provisions of this chapter, shall be and the same is declared to be unlawful and a public nuisance, and the city attorney shall, upon order of the city council, immediately commence action and proceedings for the abatement, removal and enjoinder thereof in the manner provided by law; and shall take such other action, and shall apply to any court having jurisdiction to grant such relief as will restrain and enjoin any person from drilling or producing any such well or from erecting, operating, or maintaining such building or structure, or using any property contrary to the provisions of this chapter.

(Ord. 44 §18, 1972)

5.16.190 Violation--Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than three hundred dollars or by imprisonment for a period of not more than ninety days or by both such fine and imprisonment, and that each day that any person knowingly continues to violate or fails to comply with this chapter shall be a separate offense, and the penalties shall be cumulative. (Ord. 44 §19, 1972)