

## **Title 5**

### **BUSINESS LICENSES AND REGULATIONS**

#### **Chapters:**

- 5.05 Business and Commercial Activities**
- 5.10 Business and Occupation Tax**
- 5.15 Peddlers**
- 5.20 Cable System Regulations**
- 5.25 Parades, Athletic Events, Block Parties and Other Special Events**



**Chapter 5.05**

**BUSINESS AND COMMERCIAL  
ACTIVITIES**

Sections:

- 5.05.010 Purpose.
- 5.05.020 Activities prohibited – Exceptions.
- 5.05.030 Advertising.
- 5.05.040 Violation – Penalty.
- 5.05.050 Violation – Public nuisance.

**5.05.010 Purpose.**

The purpose of this chapter is in furtherance of the goals addressed in the comprehensive plan of the town (Ordinance No. 57) in preserving the historical single-family characteristics of the town, reduce traffic flow and prevent the intrusion of business and commercial activities into the residential nature of the town. [Ord. 227 § 1, 1989]

**5.05.020 Activities prohibited –  
Exceptions.**

No business or commercial activity shall be carried on within the limits of the town of Hunts Point; unless:

- (1) The activity is carried on entirely within the confines of the applicant’s residence; and
- (2) The activity is customarily incidental and secondary to the use of a dwelling as a residence; and
- (3) The proposed activity will not increase traffic flow within the town or in any other way disturb the peace and tranquility of the neighborhood. [Ord. 227 § 2, 1989]

**5.05.030 Advertising.**

No advertising of any kind shall be permitted within the limits of the town of Hunts Point. [Ord. 227 § 3, 1989]

**5.05.040 Violation – Penalty.**

A violation of any of the provisions of this chapter shall be a misdemeanor and any person, corporation or other entity found guilty thereof shall be punished by a fine not to exceed \$5,000. It shall be a separate offense for each and every act in violation of any of the provisions of this chapter. [Ord. 227 § 4, 1989]

**5.05.050 Violation – Public nuisance.**

Any violation of the provisions of this chapter is hereby declared to be public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction. [Ord. 227 § 5, 1989]

## 5.10.010

### Chapter 5.10

#### BUSINESS AND OCCUPATION TAX

##### Sections:

- 5.10.010 Revenue licensing power.
- 5.10.020 Occupation license required.
- 5.10.030 Rate.
- 5.10.040 Payment.
- 5.10.050 Deductions – Computation.
- 5.10.060 Records required.
- 5.10.070 Delinquent payments – Penalty.
- 5.10.080 Refunds.
- 5.10.090 Violation – Penalty.
- 5.10.100 Regulations.

##### **5.10.010 Revenue licensing power.**

The provisions of this chapter shall be deemed to be an exercise of the power of the town of Hunts Point to license for revenue. [Ord. 159 § 1, 1980]

##### **5.10.020 Occupation license required.**

After February 1, 1981, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by HPMC 5.10.030 without first having obtained, and being the holder of, a license so to do, to be known as an occupation license. Each such person, firm or corporation shall promptly apply to the town clerk for such license upon such forms as the clerk shall prescribe, giving such information as the clerk shall deem reasonably necessary to enable the clerk's office to administer and enforce this chapter; and upon acceptance of such application by the clerk, the clerk shall thereupon issue such license to the applicant. Such occupation license shall be personal and nontransferable and shall be valid as long as the licensee shall continue in said business and shall comply with the terms and conditions of this chapter. [Ord. 159 § 2, 1980]

##### **5.10.030 Rate.**

From and after February 1, 1981, there is hereby levied upon, and there shall be collected from, every person, firm, or corporation engaged in carrying on the following business for hire or for sale of a commodity or a service

within the corporate limits of the town of Hunts Point a tax for the privilege of so doing business as hereinafter defined:

(1) Upon any telephone business there shall be levied a tax equal to six percent of the total gross subscriber station exchange revenues from business and residence telephone service (excluding message units) from business in the town of Hunts Point.

(2) Upon every person, firm or corporation engaged alone or in conjunction with another in the business of selling or leasing telephone or telegraph or related communication equipment at retail or to or for the public and thereafter installing, maintaining or repairing the same, a fee or tax equal to six and one-half percent of the total gross income from such business in the town of Hunts Point; provided further, that this fee or tax shall not be imposed on any business otherwise subject to fee or tax under this chapter nor on the business of selling or installing telephone or telegraph or related communication equipment to telephone companies taxed under this chapter.

(3) There is hereby levied a tax on the sale, delivery or distribution of electricity and electrical energy and for the privilege of carrying on said business, such tax to be equal to six percent of the total gross revenue derived from sales of such electricity to ultimate users within the town of Hunts Point; provided, however, that there shall not be any tax levied for the installation charges of electrical units.

(4) There is hereby levied a tax on the sale, delivery, distribution or furnishing of natural gas for domestic, business or industrial consumption and for the privilege of carrying on said business, such tax to be equal to six percent of the total gross income from such business in the town of Hunts Point; provided, however, that there shall not be any tax levied for installation charges of gas energy units.

(5) There is hereby levied a tax on the sale, distribution or furnishing of water within the town of Hunts Point, such tax to be equal to six and one-half percent of the total gross income from such sale of water within the town of Hunts Point; provided, however, that there shall be no tax levied for connection or installation charges.

(6) There is hereby levied a tax on the furnishing of sanitary sewer services within the town of Hunts Point, such tax to be equal to six and one-half percent of the total gross revenue derived from furnishing said sanitary sewer services within the town of Hunts Point; provided, however, that there shall not be any tax levied for installation or connection charges.

(7) There is hereby levied a tax equal to six and one-half percent of the total gross revenue derived from the business of collecting, handling, or transporting garbage and refuse within the town of Hunts Point. [Ord. 346 § 1, 1998; Ord. 201 § 1, 1986; Ord. 195 § 1, 1985; Ord. 188 § 1, 1984; Ord. 181 § 1, 1983; Ord. 173 § 1, 1982; Ord. 159 § 3, 1980]

**5.10.040 Payment.**

The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrues. Such quarterly periods are as follows:

First Quarter	January, February, March
Second Quarter	April, May, June
Third Quarter	July, August, September
Fourth Quarter	October, November, December

The first payment made hereunder shall be made by April 30, 1981, for the three-month period ending March 30, 1981. On or before said due date, the taxpayer shall file with the town clerk a written return, upon such form and setting forth such information as the clerk shall reasonably require, together with the payment of the amount of the tax. [Ord. 159 § 4, 1980]

**5.10.050 Deductions – Computation.**

In computing said tax, there shall be deducted from said gross operating revenues the following items:

- (1) The amount of credit losses and uncollectibles actually sustained by the taxpayer;
- (2) Amounts derived from transactions in interstate or foreign commerce or from any business which the town of Hunts Point is pro-

hibited from taxing under the Constitutions of the United States or the state of Washington. [Ord. 159 § 5, 1980]

**5.10.060 Records required.**

Each taxpayer shall keep records reflecting the amount of his said gross operating revenues, and such records shall be open at all reasonable times to the inspection of the town clerk, or her duly authorized subordinates, for verification of said tax returns or for the fixing of the tax of a taxpayer who shall fail to make such returns. [Ord. 159 § 6, 1980]

**5.10.070 Delinquent payments – Penalty.**

If any person, firm or corporation subject to this chapter shall fail to pay any tax required by this chapter within 30 days after the due date thereof, there shall be added to such tax a penalty of 10 percent of the amount of such tax, and any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the town of Hunts Point and may be collected by court proceedings, which remedy shall be in addition to all other remedies. [Ord. 159 § 7, 1980]

**5.10.080 Refunds.**

Any money paid to the town of Hunts Point through error or otherwise not in payment of the tax imposed hereby or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer’s ceasing to do business in the town of Hunts Point, be refunded to the taxpayer. [Ord. 159 § 8, 1980]

**5.10.090 Violation – Penalty.**

Any said person, firm, corporation, municipality, agency or district subject to this chapter who shall fail or refuse to apply for an occupation license or to make said tax return or to pay said tax when due, or who shall make any false statement or representation in or in connection with any such application for an occupation license or such tax return, or shall otherwise violate or refuse or fail to comply with this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by

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a fine not to exceed \$500.00, or by imprisonment in the King County jail for a term of 180 or less days, or by both. [Ord. 159 § 9, 1980]

### 5.10.100 Regulations.

The clerk for the town of Hunts Point is hereby authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated hereunder. [Ord. 159 § 11, 1980]

## Chapter 5.15

### PEDDLERS<sup>1</sup>

#### Sections:

- 5.15.010 Definition of peddler.
- 5.15.020 Permit required – Exemptions.
- 5.15.030 Permit – Application.
- 5.15.040 Investigation of applicant – Issuance and denial of permit.
- 5.15.050 Permit – Exhibition.
- 5.15.060 Permit – Expiration.
- 5.15.070 Permit – Revocation.
- 5.15.080 Right of appeal.
- 5.15.090 Loud noises or speaking devices.
- 5.15.100 Use of streets.
- 5.15.110 Hours and notice.
- 5.15.120 Records.
- 5.15.130 Unlawful to peddle or solicit on posted premises.
- 5.15.140 Violation – Penalty.

#### 5.15.010 Definition of peddler.

A peddler is defined as follows:

(1) All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the town by going from house to house or from place to place or by indiscriminately approaching individuals.

(2) Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are embraced within subsection (1) of this section; provided, however, that this chapter is not applicable to any salesperson or canvasser who solicits trade from wholesale or retail dealers in the town.

(3) Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale, any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business. [Ord. 472 § 1, 2008]

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1. Prior legislation: Ord. 287.

**5.15.020 Permit required – Exemptions.**

(1) No person, corporation, partnership or other organization shall engage in the business of peddler within the town limits without first obtaining a permit therefor as provided in this chapter. If an individual is acting as an agent for or employed by an individual, corporation, partnership or other organization, both the individual and the employer or principal for whom the individual is peddling must obtain a permit as provided in this chapter.

(2) The following persons are eligible for an exemption to the permit requirements and fee provisions of this chapter:

(a) Farmers who peddle agricultural, horticultural or farm products which they have actually grown, harvested or produced;

(b) Any person who is specifically requested to call upon another for the purpose of displaying goods, literature or giving information about any article, service or product;

(c) Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 USC 501(c)(3) or other similar civic, charitable or nonprofit organizations;

(d) Newspaper carriers; provided, however, that any such person must first apply for an exemption on forms to be furnished by the town administrator. Upon determination by the town administrator that such person is exempt from the permit requirements of this chapter, a special permit shall be issued which must be carried by the person at all times the person is engaging in peddling in the town;

(e) Bona fide candidates, campaign workers, and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency;

(f) Pursuant to RCW 73.04.050, every honorably discharged soldier, sailor or marine of the military or naval service of the United States, who is a resident of this state, shall not have to pay a fee for the license. [Ord. 472 § 2, 2008]

**5.15.030 Permit – Application.**

(1) Applicants for a permit under this chapter must file with the town administrator a sworn application in writing on a form to be furnished by the town.

(2) Individuals who are employed by or acting as an agent for another individual, corporation, partnership or other organization shall provide the following information on the application:

(a) Name, date of birth and description of the applicant;

(b) Address and telephone number;

(c) A brief description of the nature of the business and the goods or services to be sold;

(d) If employed or acting as an agent, the name and address of the employer or principal, together with a description of the exact relationship with the principal or employer;

(e) If a vehicle is to be used, a description of the same, including the license number;

(f) A photograph of the applicant, taken within 60 days immediately prior to the date of filing the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

(g) A statement as to whether or not the applicant has been convicted of any crime within the past 10 years, including misdemeanors or violations of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor; and

(h) Such other information as may be required by the town.

(3) Any individual, corporation, partnership or other organization which acts as the principal or employer for individual peddlers shall provide the following information on the application:

(a) The applicant's name, address and telephone number, and the names and addresses of all individuals who are employed by or acting as an agent for the applicant;

(b) If a corporation, the names, addresses and telephone numbers of the corporation's board of directors, principal officers and registered agent; provided, however, that the town administrator may waive any portion

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of this requirement when disclosure would be unduly burdensome;

(c) If a partnership, the names, addresses and telephone numbers of the partners;

(d) A list of any criminal convictions during the past 10 years for the applicant, any owners of the business, and if a corporation, the board of directors and officers;

(e) The name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicant;

(f) A list of all other cities, towns and counties where the applicant has obtained a peddlers permit or similar permit within the past five years; and

(g) Such other information as may be required by the town.

(4) At the time of filing the application, the applicant shall pay a nonrefundable fee, in an amount set forth in the town permit fee resolution, to the town to cover the costs of investigation and the issuance of a permit. The permit fee resolution shall take into account the provisions of RCW 73.04.050. [Ord. 472 § 3, 2008]

### 5.15.040 Investigation of applicant – Issuance and denial of permit.

(1) The city administrator shall refer the application to the police department which shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant. Upon completion, the police department shall forward the results of the investigation, together with a recommendation for approval or denial, to the town administrator.

(2) If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the town administrator shall issue the permit to the applicant. The town administrator shall deny the applicant the permit if the applicant has:

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

(b) Committed any act which, if committed by a permit holder, would be grounds for suspension or revocation of a permit;

(c) Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

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

(e) Made any false or misleading statement in the application.

(3) The denial of a permit to an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers shall be a sufficient basis to deny a permit to the individual applicants who are employed by or acting as an agent for the applicant. [Ord. 472 § 4, 2008]

### 5.15.050 Permit – Exhibition.

Peddlers are required to exhibit their permit at the request of any citizen or police officer. [Ord. 472 § 5, 2008]

### 5.15.060 Permit – Expiration.

All permits issued pursuant to this chapter are nontransferable and shall be valid for the calendar year in which issued. License fees shall not be prorated for any portion of the year. [Ord. 472 § 6, 2008]

### 5.15.070 Permit – Revocation.

(1) Permits issued pursuant to this chapter may be revoked by the town administrator after notice and hearing for any of the following causes:

(a) Fraud, misrepresentation, or false statement contained in the application for permit;

(b) Fraud, misrepresentation, or false statement made in the course of carrying on the business as peddler;

(c) A violation of this chapter;

(d) Conviction after submission of the application for a peddler's permit of a felony or misdemeanor directly relating to the occupation of peddler, including, but not limited to,

those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation; or

(e) Conducting the business of peddling in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.

(2) The revocation of any permit held by an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers shall constitute a basis for revoking the permits issued to individual applicants who are employed by or acting as agents for such individual, corporation, partnership or organization.

(3) The revocation of a permit for three or more persons who are employees or agents of an individual, corporation, partnership or organization shall constitute a basis for revoking the permit issued to the employer or principal, as well as the permits issued to all other employees or agents of that employer or principal.

(4) Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. In addition, it shall state that the peddler's permit shall be suspended pending the outcome of said hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his or her last known address at least 10 days prior to the date set for hearing. If the permit holder is an individual, corporation, partnership or organization which employs or serves as the principal for individual permit holders, the notice shall also be mailed to the individual permit holders. [Ord. 472 § 7, 2008]

#### **5.15.080 Right of appeal.**

Any person aggrieved by the action of the town administrator in the denial of an application for permit or in the decision to revoke a permit as provided in this chapter shall have the right to appeal to the town hearing examiner in accordance with the procedures set out in HPMC 5.25.110. [Ord. 472 § 8, 2008]

#### **5.15.090 Loud noises or speaking devices.**

No peddler, nor any person on the peddler's behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such peddler proposes to sell. [Ord. 472 § 9, 2008]

#### **5.15.100 Use of streets.**

No peddler shall have any exclusive right to any location in the public streets, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced. [Ord. 472 § 10, 2008]

#### **5.15.110 Hours and notice.**

All peddlers shall notify the town administrator at least two hours before any peddling activities are to be conducted. If peddling activities will take place on a Friday, Saturday or Sunday the peddler shall notify the town administrator that such activities are going to occur by close of business on the Thursday prior.

No person shall engage in the business of peddler between the hours of:

(1) October 1st through April 30th, between 6:00 p.m. and 10:00 a.m. of any day.

(2) May 1st through September 30th, between 8:00 p.m. and 10:00 a.m. of any day. [Ord. 472 § 11, 2008]

#### **5.15.120 Records.**

The police department shall report to the town administrator all convictions for violations of this chapter, and the town administra-

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tor shall maintain a record for each permit issued and record the reports of violations therein. [Ord. 472 § 12, 2008]

**5.15.130 Unlawful to peddle or solicit on posted premises.**

It is unlawful for any uninvited peddler to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of peddling or soliciting at any residence or dwelling at which a sign bearing the words “No Peddlers or Solicitors” (or words of similar import indicating that peddlers or solicitors are not wanted on said premises) is painted, affixed, or otherwise exposed to public view. [Ord. 472 § 13, 2008]

**5.15.140 Violation – Penalty.**

(1) Criminal Penalties. Violation of any of the provisions of this chapter or failure to comply with any of the provisions of this chapter shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or by both. Any such violation of any provisions of this chapter shall also be grounds for revocation of a license previously approved.

(2) Civil Penalties. Any person who fails to comply with the provisions of this chapter is, in lieu of or in addition to any criminal penalties, subject to a maximum civil penalty of \$500.00 for each day or portion of the day that the violation continues.

(3) Other Legal Remedies. Nothing in this article limits the right of the town to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this article. [Ord. 472 § 14, 2008]

**Chapter 5.20**

**CABLE SYSTEM REGULATIONS**

Sections:

- 5.20.010 Short title.
- 5.20.020 Definitions.
- 5.20.030 Franchise grant.
- 5.20.040 Franchise purposes.
- 5.20.050 Nonexclusive franchise.
- 5.20.060 Application.
- 5.20.070 Duration.
- 5.20.080 Franchise territory.
- 5.20.090 Police powers.
- 5.20.100 Use of rights-of-way.
- 5.20.110 Pole or conduit agreements.
- 5.20.120 Franchise fees.
- 5.20.130 Taxes.
- 5.20.140 Customer service standards.
- 5.20.150 Other authorizations.
- 5.20.160 Rules and regulations of the town.
- 5.20.170 Delegation of powers.
- 5.20.180 Coverage.
- 5.20.190 Technical standards.
- 5.20.200 Construction standards.
- 5.20.210 Street repair.
- 5.20.220 Safety requirements.
- 5.20.230 Regulation of rates and charges.
- 5.20.240 Privacy.
- 5.20.250 Discriminatory practices prohibited.
- 5.20.260 Equal employment opportunity.
- 5.20.270 Reimbursement.
- 5.20.280 Franchise renewal.
- 5.20.290 Franchise revocation.
- 5.20.300 Acceptance.
- 5.20.310 Conflicts.
- 5.20.320 Miscellaneous provisions.

**5.20.010 Short title.**

This chapter shall constitute the “cable system regulations” of the town of Hunts Point and may be referred to as such. [Ord. 454 § 2, 2006]

**5.20.020 Definitions.**

For the purposes of this chapter, the following words, terms, phrases and their derivations have the meanings given herein. When not inconsistent with the context, words used in

the present tense include the future tense, words in the singular number include the plural number and words in the plural number include the singular number.

(1) “Applicant” means any person or entity that applies for an initial franchise.

(2) “Cable Act” means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as any of them may be amended.

(3) “Cable operator” means any person or group of persons, including a franchisee, who provide(s) cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a cable system.

(4) “Cable service” means the one-way transmission to customers of video programming or other programming service, and customer interaction, if any, which is required for the selection or use of such video programming or other programming service.

(5) “Cable system” means any facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple customers within a community, but such term does not include:

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

(b) A facility that serves customers without using any public right-of-way;

(c) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) (47 U.S.C. 541(c))) to the extent such facility is used in the transmission of video programming directly to customers, unless the extent of such

use is solely to provide interactive on-demand services;

(d) An open video system that complies with federal statutes and regulations; or

(e) Any facilities of any electric utility used solely for operating its electric utility systems.

(6) “Customer” means any person who or which elects to subscribe to, for any purpose, cable service provided by a franchisee by means of or in connection with the cable system and whose premises are physically wired and lawfully activated to receive cable service from the franchisee’s cable system.

(7) “Customer service representative” or “CSR” shall mean any person employed by the cable operator to assist or provide service to customers, whether by answering public telephone lines, answering customers’ questions or performing other customer service-related tasks.

(8) “Customer service standards” means those customer service standards set forth herein and as hereafter amended that are applicable to cable operators.

(9) “FCC” means the Federal Communications Commission.

(10) “Franchise” means an agreement that authorizes a person or entity to construct, operate, maintain or reconstruct a cable system. Upon the written acceptance by a franchisee, the agreement constitutes a contract between the town and franchisee.

(11) “Franchise area” means the area within the jurisdictional boundaries of the town to be served by a franchisee as specified in the franchise.

(12) “Franchisee” means the person, firm, corporation or entity to whom or which a franchise, as hereinabove defined, is granted by the town council under this chapter and the lawful successor, transferee or assignee of said person, firm, corporation or entity.

(13) “Normal business hours” shall mean those hours during which most similar businesses in the town are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.

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(14) “Normal operating conditions” shall mean those service conditions that are within the control of the cable operator. Those conditions that are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

(15) “Right-of-way” or “rights-of-way” means all of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and are located within the town: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements and similar public property and areas.

(16) “Service interruption” shall mean the loss of picture or sound on one or more cable channels.

(17) “Town” means the town of Hunts Point, a municipal corporation of the state of Washington, and all of the area within its boundaries, as such may change from time to time.

(18) “Town council” means the Hunts Point town council, or its successor, the governing body of the town. [Ord. 454 § 3, 2006]

#### **5.20.030 Franchise grant.**

It is unlawful to engage in or commence construction, operation or maintenance of a cable system in the town without a franchise issued under this chapter. The town council may, by ordinance, issue a nonexclusive franchise to construct, operate and maintain a cable system within all or any portion of the town to any person or entity, whether operating under an existing franchise or not, who applies for authority to furnish cable service which complies with the terms and conditions of this chapter; and provided, that such person or entity also agrees to comply with all of the provisions of the franchise. However, this shall not be deemed to require the grant of a fran-

chise to any particular person or entity. The town council may restrict the number of franchisees should it determine such a restriction would be in the public interest. [Ord. 454 § 4, 2006]

#### **5.20.040 Franchise purposes.**

A franchise granted by the town under the provisions of this chapter shall:

(1) Permit the franchisee to engage in the business of operating a cable system and providing cable service within the town;

(2) Permit the franchisee to erect, install, construct, repair, reconstruct, replace and retain wires, cables, related electronic equipment, conduits and other property in connection with the operation of the cable system in, on, over, under, upon, along and across rights-of-way within the town; and

(3) Set forth the obligations of the franchisee under the franchise. [Ord. 454 § 5, 2006]

#### **5.20.050 Nonexclusive franchise.**

Any franchise granted pursuant to this chapter shall be nonexclusive and shall not preclude the town from granting additional franchises or permits. [Ord. 454 § 6, 2006]

#### **5.20.060 Application.**

(1) An applicant seeking a franchise shall submit to the town administrator a written application in a format provided by the town, accompanied by an application fee in the amount of \$20,000 to cover costs associated with processing the application, including, without limitation, costs of administrative review, financial, legal and technical evaluation of the applicant, the costs of consultants, notice and publication requirements, and document preparation expenses. In the event such costs exceed the application fee, the applicant shall pay the difference to the town within 30 days following receipt of an itemized statement of such costs. Conversely, if such costs are less than the application fee, the town shall refund the difference to the applicant.

(2) A cable system franchise application for an initial franchise shall contain, at a minimum:

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(a) A statement as to the proposed franchise and information relating to the characteristics and location of the proposed cable system;

(b) A resume of prior history of the applicant, including the expertise of the applicant in the cable system field;

(c) Information demonstrating the applicant's legal, technical, and financial ability to construct and operate the proposed cable system;

(d) A list of the partners, general and limited, of the applicant, if a partnership; members, if a limited liability company; or the percentage of stock owned or controlled by each stockholder having a five percent or greater interest, if a corporation;

(e) A list of officers, directors and key employees of the applicant, together with a description of the background and experience of all such persons;

(f) The names and addresses of any parent entity or subsidiary of the applicant or any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant;

(g) A proposed construction and service schedule; and

(h) Any other reasonable information that the town may request.

The town shall be allowed the opportunity to ask relevant follow-up questions and obtain further information from whatever source. A refusal by an applicant to cooperate or provide requested information is sufficient grounds for the town to deny an application.

(3) Upon receipt of an application for an initial franchise and after obtaining any additional requested information, the town shall schedule a hearing to receive public comment.

(4) Within 60 days after the close of the public hearing, the town council shall decide whether to grant a franchise and on what conditions. The town council's decision shall be based upon the application, any additional information submitted by the applicant or obtained by the town from any source, and from public comments. [Ord. 454 § 7, 2006]

## 5.20.070 Duration.

The term of any franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall be specified in the franchise. The effective date of any franchise shall be as specified in the franchise. [Ord. 454 § 8, 2006]

## 5.20.080 Franchise territory.

The franchise territory shall include all areas within the town or a lesser area as specified in the franchise. [Ord. 454 § 9, 2006]

## 5.20.090 Police powers.

In accepting any franchise, the franchisee acknowledges that its rights are subject to the police powers of the town to adopt and enforce general ordinances necessary for the health, safety, and welfare of the public, and it agrees to comply with all applicable laws enacted by the town pursuant to such power. [Ord. 454 § 10, 2006]

## 5.20.100 Use of rights-of-way.

For the purposes of operating and maintaining a cable system in the town, a franchisee may place and maintain within the rights-of-way such property and equipment as are necessary and appurtenant to the operation of the cable system. Prior to construction or alteration of the cable system in the rights-of-way, the franchisee shall procure all necessary permits, pay all applicable fees in connection therewith, and comply with all applicable laws, regulations, resolutions and ordinances, including, but not limited to, land use and zoning requirements. [Ord. 454 § 11, 2006]

## 5.20.110 Pole or conduit agreements.

No franchise shall relieve a franchisee of any of its obligations involved in obtaining pole or conduit agreements from any department of the town, any utility company, or from others maintaining facilities in the rights-of-way. [Ord. 454 § 12, 2006]

## 5.20.120 Franchise fees.

The franchisee shall pay the town franchise fees in accordance with the terms of the franchise. [Ord. 454 § 13, 2006]

**5.20.130 Taxes.**

Nothing in this chapter shall limit the franchisee's obligation to pay applicable local, state, and federal taxes. [Ord. 454 § 14, 2006]

**5.20.140 Customer service standards.**

(1) Policy. A cable operator shall make in good faith reasonable attempts to resolve customer inquiries and complaints without delay and without involvement of the town. Where a customer complaint is not addressed by the cable operator to the customer's satisfaction, the town may intervene.

These standards are intended to be of general application. A cable operator is free to exceed these standards for the benefit of its customers. However, the cable operator shall be relieved of obligations hereunder if it is unable to perform due to a force majeure event affecting a significant portion of the franchise area.

**(2) Customer Service.**

(a) Courtesy. All employees of the cable operator shall be courteous, knowledgeable, helpful, and shall provide effective and satisfactory service in all contacts with customers.

(b) Availability and Accessibility – In Person. The cable operator shall maintain, at a minimum, one customer service center located in the east side of King County, Washington. This customer service location shall at all times allow customers to make payments, return equipment, or obtain assistance from knowledgeable staff. The customer service center shall be open Monday through Saturday, excluding legal holidays, with sufficient hours necessary to meet customer demand. The foregoing requirement will be met if the cable operator provides at least (i) one full-service customer service center, as described above, or (ii) two co-location customer service locations conveniently located on the east side, staffed to meet all customer needs with on-site customer service representatives offering the following services to customers: payments (including the ability to provide change and transaction receipts), equipment exchange, processing of change of service requests and response to customer inquiries and requests. If, however, a customer service location is

required to relocate, the cable operator shall be allowed a reasonable period of time to establish a new location.

(c) Availability and Accessibility – On the Telephone. A CSR will be available to respond to customer inquiries during normal business hours. The cable operator shall maintain local or toll-free telephone access lines that shall be available during normal business hours for service/repair requests and billing inquiries.

The cable operator shall retain sufficient CSRs and telephone lines to ensure that, during normal operating conditions, telephone calls to service/repair and billing inquiry lines are answered within 30 seconds or less, and that any transfers are made within 30 seconds. This standard shall be met no less than 90 percent of the time, measured on a quarterly basis under normal operating conditions. Under normal operating conditions, the total number of calls receiving busy signals shall not exceed three percent of the total telephone calls.

The cable operator shall not be required to acquire equipment or perform surveys to measure compliance with any of the telephone answering standards above unless requested by the town based on a historical record of customer complaints indicating a clear failure to comply.

**(3) Responsiveness.**

(a) The cable operator shall complete all standard installations within seven business days after an order has been placed, unless otherwise requested by the customer. "Standard" installations shall include those that are located within 125 aerial feet of the cable operator's distribution system. This standard must be met 95 percent of the time under normal operating conditions as measured on a quarterly basis. If the customer requests a non-standard installation or the cable operator determines that a nonstandard installation is required, the cable operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

(b) Under normal operating conditions, and subject to permit availability (if such is required), all temporary cable drops on public

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property or in the town's rights-of-way shall be converted to a permanent drop within no more than three calendar weeks from the initial installation or at a time mutually agreed upon between the cable operator and the town.

(c) Customers requesting installation of cable service or repair service to an existing installation may choose any available four-hour block of time for the appointment during normal business hours.

(d) The cable operator shall be deemed to have responded to a request for service under the provisions of this subsection when a technician arrives within the agreed-upon time. If the customer is absent when the technician arrives, the technician shall leave written notification of timely arrival. A record that notice was provided shall be kept by the cable operator.

(e) If a cable operator representative fails to keep an installation or service appointment for any reason, the cable operator shall contact the customer before the end of the scheduled appointment and reschedule the appointment at a time convenient for the customer.

(f) The cable operator shall respond to a customer's letter in writing within one week of receipt of the letter. The cable operator shall respond to a customer's inquiry, complaint, general question or comment made by telephone or e-mail within 48 hours.

(g) Any difficulties that cannot be resolved by the CSR shall be referred to the appropriate supervisor who shall use his/her best efforts to contact the customer within eight hours of initial contact and resolve the problem within a mutually agreeable time-frame.

### (4) Repairs and Outages.

(a) The cable operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions that the cable operator anticipates will last more than four hours shall occur during periods of minimum use of the system as reasonably determined by the cable operator.

(b) If a customer calls to report poor signal quality or interruptions attributable to the

cable operator's equipment, the cable operator shall begin working on the problem no later than the next day following the customer's call; provided, that the customer is available or at such later time as is convenient to the customer. If an appointment is necessary, the customer may choose a four-hour block of time during normal business hours or such other time that is convenient for the customer.

(c) Upon discovery of an outage affecting three or more customers, the cable operator shall initiate its outage repair process within two hours, under normal operating conditions.

(d) A cable operator shall initiate repairs to customer-reported service interruptions, for any cause beyond the control of the cable operator, within 24 hours after the conditions beyond its control have been corrected.

(e) Under normal operating conditions, if after 24 hours service is not restored to a customer, a cable operator shall, upon a customer's request, provide a refund or credit or other compensation of equal or greater value.

(f) The cable operator will track and record all outages and service interruptions that occur within the franchise area.

(g) The cable operator shall endeavor to notify the town on the next business day of any outage of at least one continuous hour that affects 100 or more of its customers.

### (5) Bills, Credits, Refunds and Deposits.

(a) The cable operator shall provide the customer with a clear and concise bill on a monthly basis.

(b) If a customer requests disconnection of any or all services, billing for affected services shall end on the same day as the request, or on the future date for which the disconnect is ordered. However, the customer may continue to be billed for equipment until returned to the cable operator. The cable operator shall issue a credit or refund to a customer within 30 business days after the close of the billing cycle following the return of the equipment and request for disconnection. If a customer was required to provide a deposit, that deposit must be returned with any interest accrued on the deposit.

(6) Treatment of Property.

(a) Removal or trimming of trees and shrubs in the right-of-way by the cable operator shall be subject to the regulations of the town.

(b) The cable operator shall repair any damage or restore any property to as good a condition as before the work causing such damage or disturbance was initiated. The cable operator shall repair, replace or compensate all property owners for damages resulting from the cable operator's installation, construction, service, or repair activities.

(c) Except in the case of an emergency involving public safety or service interruption to a large number of customers, the cable operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided, that in the case of planned construction operations, such notice shall be delivered or provided at least 24 hours prior to entry. All work done in the right-of-way shall be subject to time requirements of the permit.

(d) Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

(e) For the installation of pedestals or other major construction or installation projects, the cable operator shall notify by mail or door hanger the adjacent property owners/legal tenants in advance of the right-of-way work. In the case of an emergency, the cable operator shall attempt to contact the property owner or legal tenant in person, and in the event personal contact is not made, the cable operator shall leave a door hanger notice.

(f) The cable operator shall clean all areas surrounding any work site of debris caused by the cable operator's activities and ensure that all cable materials are disposed of properly.

(7) Services for Customers with Disabilities.

(a) For any customer with a disability, the cable operator shall at no charge deliver and pick up converters at the customer's home.

In the case of malfunctioning equipment, the cable operator's service technician shall provide and install substitute equipment, ensure that it is working properly and recover the defective equipment for the cable operator at that time.

(b) The cable operator shall provide TDD/TYY service with trained operators who can provide every type of assistance for any hearing-impaired customer at no charge.

(c) The cable operator shall provide free use of a remote control unit to mobility-impaired customers.

(d) Any customer with a disability may request the remote control unit or special services described above by providing the cable operator with a letter from the customer's physician stating the need, any other official certification of disability or by making the request to the cable operator's installer or service technician, where the need for the special equipment or services can be visually confirmed.

(8) Customer Information.

(a) The cable operator shall provide to customers an accurate, comprehensive service agreement and customer installation packet for use in establishing customer service. The installation packet shall also be provided during any reconnection or cable service upgrade requiring a home visit by the cable operator (excluding reconnections to the same customer within 12 months). Upon installation and annually thereafter or at any time the customer requests, the cable operator shall provide the following information, in clear, concise written form:

(i) Products and services offered by the cable operator, including channel positions of programming carried on the cable system.

(ii) The cable operator's complete range of service options and the prices for those services and conditions of subscription to programming and other services.

(iii) Installation and service maintenance policies, including the customer's and cable operator's responsibilities for equipment.

(iv) Billing and complaint procedures for investigation and resolution of customer service complaints, including the

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address and telephone number of the cable operator's office(s), the cable operator's policies on deposits, credit balances and returned check charges.

(v) Policies concerning protection of customer privacy.

(vi) The availability of a parental control/lock out device and the procedures for channel blocking.

(vii) Days, hours of operation, and customer service location(s).

(viii) Information on how to contact the person who is responsible for administering the franchise for the town, including the address, telephone number and e-mail address.

(ix) Service termination procedure.

(x) A description of the manner that will be used to provide notice of changes in rates, services or service terms and conditions.

(xi) The address and phone number of the customer service department that is responsible for handling cable questions and complaints for the cable operator. This information shall be prominently displayed in the installation packet.

(b) Upon request by the town, a sample of the required notices provided to the customer shall be provided to the town.

(c) The cable operator shall provide customers with written notification of any changes in rates, programming, services or channel positions as soon as possible in writing. Customers shall be given a description of the changes, their options for changing services they receive, phone number for questions and the effective date. Notice must be given to customers a minimum of 30 days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify customers 30 days in advance of any significant changes in the other information required by the preceding list. Within 30 days following material policy changes, information regarding the changes will be provided to customers.

(d) All officers, agents and employees of the cable operator, its contractors and subcontractors who are in personal contact with customers shall have visible identification cards bearing their name and photograph.

(e) Every vehicle of the cable operator used for providing services to customers shall be clearly identified to the public as working for the cable operator.

(9) Safety.

(a) The cable operator shall install and locate its facilities, cable system and equipment in compliance with all federal, state, local and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property.

(b) Whenever the cable operator receives notice that an unsafe condition exists with respect to its equipment, the cable operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

(10) Complaint Procedure.

(a) The cable operator shall establish written procedures for receiving, acting upon and resolving customer complaints, and crediting customer accounts in accordance with company policies, and shall publicize such procedures through printed documents at the cable operator's sole expense.

(b) The written procedures shall describe a simple process by which any customer may submit a complaint in person or by telephone, electronic mail or by letter to the cable operator regarding an alleged violation of any provision of these customer service standards, any terms or conditions of the customer's contract with the cable operator or reasonable business practices.

(c) The cable operator shall use its best efforts to resolve customer concerns or complaints at the first contact.

(d) The cable operator shall also notify the customer of the customer's right to file a complaint with the town in the event the customer is dissatisfied with the cable operator's decision.

(e) Any customer shall be entitled to lodge a complaint directly with the town. Customers may call or submit a written complaint, by letter or in electronic form.

If the town decides that further action is warranted, the town may intercede and attempt to help reach a resolution and/or require the

cable operator to address the inquiry within 24 hours. Upon request by the town, the cable operator shall notify the town of the status of the inquiry within 48 hours and any subsequent resolution.

(f) The cable operator shall maintain, in a manner consistent with the privacy rights of customers, an accurate and comprehensive file of complaints regarding the cable system or the cable operator's operation of the cable system, by number and type and their disposition; service requests, identifying the number and nature of the requests and their disposition; outages, service interruptions and their disposition; and customer privacy information.

(g) The town may evaluate the overall quality of customer service provided by the cable operator to customers in the town, at its sole discretion, based on the number of customer complaints received directly by the town or reported by the cable operator in its quarterly reports.

(11) Verification of Compliance. Upon written request by the town, the cable operator shall document its compliance with all of the standards required through quarterly reports that demonstrate said compliance.

(12) Noncompliance with Standards. Noncompliance with any provision of these standards may result in a violation of the franchise.

(13) Remediating Violations. If the town has reason to believe that the cable operator has failed to comply with any of these standards, or has failed to perform in a timely manner, or if similar complaints repetitively arise, the town may require in writing that the cable operator remedy the alleged noncompliance. If the alleged noncompliance is denied or not remedied to the satisfaction of the town, the town may opt to follow the liquidated damages procedures or seek other remedies set forth in the franchise, or pursue any other remedies at law or in equity. [Ord. 454 § 15, 2006]

#### **5.20.150 Other authorizations.**

The franchisee shall comply with and obtain, at its own expense, all permits, licenses and other authorizations required by federal, state and local laws, rules, regulations and

applicable resolutions and ordinances which are now existing or hereafter lawfully adopted. [Ord. 454 § 16, 2006]

#### **5.20.160 Rules and regulations of the town.**

In addition to the inherent powers of the town to regulate and control any franchise it issues, the authority granted to it by the Cable Act, applicable FCC rules and regulations, and those powers expressly reserved by the town, or agreed to and provided for in a franchise, the right and power is reserved by the town to promulgate such additional rules and regulations as it may find necessary in the exercise of its lawful powers and in furtherance of the terms and conditions of a franchise and this chapter, and as permitted by applicable state and federal law. [Ord. 454 § 17, 2006]

#### **5.20.170 Delegation of powers.**

Any right or power of the town may be delegated by the town to any officer, employee, department or board of the town, or to such other person or entity as the town may designate to act on its behalf. [Ord. 454 § 18, 2006]

#### **5.20.180 Coverage.**

The franchisee shall design, construct and maintain its cable system to pass every residential dwelling unit in the franchise area, subject to any density requirements contained within the franchise. [Ord. 454 § 19, 2006]

#### **5.20.190 Technical standards.**

The franchisee shall construct, install, operate and maintain its cable system in a manner consistent with all applicable federal, state and local laws and regulations, FCC technical standards and any other applicable standards set forth in the franchise. [Ord. 454 § 20, 2006]

#### **5.20.200 Construction standards.**

(1) All facilities constructed or operated under this chapter shall be installed and maintained at such places in or upon such rights-of-way and public places as shall not interfere with the free passage of traffic and the free use

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of adjoining property, and shall conform to federal standards, state of Washington requirements, and town regulations.

(2) The franchisee shall be subject to any and all requirements established by the town with regard to the placement and screening of franchisee's facilities and equipment located in the rights-of-way and on other public property. Such requirements may include, but are not limited to, the use of landscaping to screen pedestals and cabinets and a requirement that construction be flush with the natural grade of the surrounding area.

(3) The franchisee shall comply with any applicable ordinances, resolutions and regulations of the town regarding geographic information systems mapping for users of the rights-of-way; provided, that all similarly situated users of the rights-of-way must also accordingly comply. [Ord. 454 § 21, 2006]

### 5.20.210 Street repair.

The franchisee shall guarantee the durability and structural integrity of any street repair made by it or its agents which is necessary for the construction, installation, operation, repair or maintenance of the franchisee's facilities for the life of the street; provided, that no action by an unrelated third party materially affects the integrity of the franchisee's street repair. The franchisee shall repair or replace, at no expense to the town, any failed street repair which was completed by the franchisee or franchisee's agent(s), as determined by the town. All street repairs conducted by the franchisee or its agents shall be done pursuant to local ordinances and regulations. [Ord. 454 § 22, 2006]

### 5.20.220 Safety requirements.

The franchisee shall, at all times, employ professional care and install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. In furtherance thereof, the franchisee must comply with the town's traffic control requirements, including, for example, but without limitation, the use of signal devices, warning signs and flaggers when appropriate.

All of the franchisee's structures, cables, lines, equipment and connections in, over, under and upon the rights-of-way and public ways or other places in the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe condition. [Ord. 454 § 23, 2006]

### 5.20.230 Regulation of rates and charges.

The town may regulate the franchisee's rates and charges to the full extent permitted by law. [Ord. 454 § 24, 2006]

### 5.20.240 Privacy.

The franchisee will be bound by all of the provisions of applicable federal, state and local privacy laws. [Ord. 454 § 25, 2006]

### 5.20.250 Discriminatory practices prohibited.

(1) The franchisee shall not deny cable service or otherwise discriminate against customers or others on the basis of race, color, religion, national origin, sex, age, disability or other protected classes.

(2) Access to cable service shall not be denied to any group of potential residential customers because of the income of the residents of the local area in which such group resides. [Ord. 454 § 26, 2006]

### 5.20.260 Equal employment opportunity.

The franchisee shall strictly adhere to and comply with the equal employment opportunity requirements of federal, state and local laws. [Ord. 454 § 27, 2006]

### 5.20.270 Reimbursement.

To the extent allowed by applicable law, the town may require a franchisee to reimburse the town for the town's reasonable processing and review expenses, such costs not to exceed \$20,000, in connection with a sale or transfer of a franchise or a change in control of a franchise or franchisee, including, without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee or controlling party, costs of consultants, notice and publication costs, and document preparation expenses. In connection

with the foregoing, the town will send the franchisee an itemized description of all such charges, and the franchisee shall pay such amount within 30 days after the receipt of such description. [Ord. 454 § 28, 2006]

#### **5.20.280 Franchise renewal.**

Franchise renewals shall be conducted in accordance with applicable law. The town and franchisee, by mutual consent, may enter into renewal negotiations at any time during the term of a franchise. [Ord. 454 § 29, 2006]

#### **5.20.290 Franchise revocation.**

Any franchise granted by the town may be revoked during the period of such franchise, as provided in the franchise, subject to the procedural requirements provided for therein. A failure by the franchisee to comply with any of the material provisions of this chapter shall be deemed a material violation of a franchise. [Ord. 454 § 30, 2006]

#### **5.20.300 Acceptance.**

No franchise granted pursuant to the provisions of this chapter shall become effective unless and until the ordinance granting the same has become effective. Within 45 days after the adoption by the town council of the ordinance awarding a franchise, or within such extended period of time as the town council in its discretion or franchise may authorize, the franchisee shall file with the town clerk its written and unconditional acceptance of the franchise. [Ord. 454 § 31, 2006]

#### **5.20.310 Conflicts.**

Where a franchise and this chapter conflict, both shall be liberally interpreted to achieve a common meaning or requirement. In the event that this is not possible within reasonable limits, the franchise shall prevail. [Ord. 454 § 32, 2006]

#### **5.20.320 Miscellaneous provisions.**

(1) This chapter shall be construed in a manner consistent with all applicable federal, state and local laws, and shall apply to any franchise hereafter accepted by a franchisee.

(2) The captions throughout this chapter are intended to facilitate the reading hereof. Such captions shall not affect the meaning or interpretation of any part of this chapter.

(3) A franchisee shall not be relieved of its obligations to comply with any or all of the provisions of this chapter by reason of any failure of the town to demand prompt compliance.

(4) The provisions of this chapter shall apply to all cable operators and cable systems to the greatest extent permissible under applicable law. [Ord. 454 § 33, 2006]

**Chapter 5.25**

**PARADES, ATHLETIC EVENTS,  
BLOCK PARTIES AND OTHER  
SPECIAL EVENTS**

Sections:

- 5.25.010 Definitions.
- 5.25.020 Permit required.
- 5.25.030 Permit fee.
- 5.25.040 Permit application.
- 5.25.050 Permit issuance.
- 5.25.060 Denial of application.
- 5.25.070 Permit conditions.
- 5.25.080 Indemnification.
- 5.25.090 Insurance required.
- 5.25.100 Revocation or suspension of permit.
- 5.25.110 Appeals to hearing examiner.
- 5.25.120 Violations – Penalties.

**5.25.010 Definitions.**

As used in this chapter, the following terms shall have the meanings set forth below:

(1) “Applicant” shall mean any person or organization who seeks a special event permit from the town administrator to conduct or sponsor an event governed by this chapter.

(2) “Athletic event” shall mean an occasion in which a group of persons collect to engage in or watch a sport or form of physical exercise on a town street, sidewalk, alley or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls. Athletic events include bicycle and foot races.

(3) “Block party” shall mean a festive gathering on a street requiring a closure of a street, or a portion thereof, to vehicular traffic, and use of the street for the festivity, including barbecues, picnics, music or games.

(4) “Town administrator” shall mean the Hunts Point town administrator or his/her appointed designee.

(5) “Other special event” shall mean a street fair, arts and crafts show, carnival, rally, dance, or other events that occur on a town street, sidewalk, alley or other street right-of-way, which obstructs, delays or interferes with

the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.

(6) “Parade” shall mean a march or procession consisting of any number of persons, animals, or vehicles, or a combination thereof, on any town street, sidewalk, alley or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.

(7) “Permit application fee” shall mean the fee to be paid by the special event permit applicant at the time the application is filed with the town administrator. The fee shall cover the actual full costs of processing special event applications and administering the provisions of this chapter.

(8) “Permittee” shall mean any person or organization who or which has been issued a special events permit by the town administrator.

(9) “Refundable deposit” shall mean the amount of money required of a permittee by the town administrator in order to assure adequate clean-up of the special event site. The deposit shall be returned to the permittee upon the completion of the event and approval by the town administrator that adequate clean-up did occur, less any portion of the deposit necessary to effect such clean-up.

(10) “Special event permit” shall mean the permit issued by the town administrator after the applicant has met all applicable reviews and requirements as set forth in this chapter. [Ord. 392 § 1, 2001]

**5.25.020 Permit required.**

Any person desiring to conduct or sponsor a parade, athletic event, block party, or other special event in the town of Hunts Point which will necessitate the use of public rights-of-way or any other public property shall first obtain a special event permit from the town administrator. [Ord. 392 § 2, 2001]

**5.25.030 Permit fee.**

The fee for issuance of a special event permit shall be \$500.00. [Ord. 392 § 3, 2001]

**5.25.040 Permit application.**

(1) Any person or organization desiring to sponsor a parade, athletic event, block party, or other special event shall apply for a special event permit by filing a complete application with the town administrator, on the form as supplied by the town administrator, at least 10 calendar days prior to the date on which the event is to occur.

(2) A complete application for an individual shall include the applicant's full name, street address, telephone number, and date of birth. An individual applicant shall also disclose all criminal convictions within the preceding five years, and the name or location of the court in which the conviction was entered.

(3) A complete application for an organization, whether formal or informal, shall include the organization's full name, street address, telephone number (including home or cellular phone numbers for all officers, directors, or persons exerting significant management authority) and, if applicable, the state or location of incorporation or other legal creation. The organization shall also designate in the application at least two "contact persons" for purposes of the proposed special event. All such "contact persons" shall also provide the information required of individuals in subsection (2) of this section.

(4) A complete application for any applicant shall further include specific details regarding the date, time, duration, and route or other location of the proposed special event. The application shall further include reasonable estimates regarding the number of expected participants or spectators, reasonable information regarding the criteria set forth in HPMC 5.25.070, and any other information required in the reasonable discretion of the town administrator necessary or useful to the administrator's decision to grant, condition, or deny any special event permit.

(5) The town administrator shall issue the special event permit as set forth in HPMC 5.25.050 only after a complete application has been submitted and approved, after review by appropriate town departments to include

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police, fire, town engineer, and others as determined by the town administrator. [Ord. 392 § 4, 2001]

#### **5.25.050 Permit issuance.**

The town administrator shall approve, conditionally approve, or deny an application based on the recommendations of town departments involved in the review process of the application, and the criteria set forth in this chapter. If the application is denied or conditionally approved, the town administrator shall inform the applicant of the grounds for denial, or the reason for any change in the date, time, route or location of the event as proposed by the applicant. [Ord. 392 § 5, 2001]

#### **5.25.060 Denial of application.**

A special event permit shall be denied based upon the determination that:

(1) The proposed event would unreasonably prevent or block the provision of emergency services within the town, including access by emergency vehicles to or from residences. In no event shall a special event permit be issued for any activity on a dead end or cul-de-sac street; or

(2) The conduct of the event is reasonably likely to cause substantial injury to persons or property; or

(3) The event would unduly disturb the use by the public of the public streets and/or sidewalks; or

(4) The applicant fails to complete the application form after having been notified of any required additional information or documents; or

(5) Information contained in the application, or supplemental information received from the applicant, is found to be false in any material detail. [Ord. 392 § 6, 2001]

#### **5.25.070 Permit conditions.**

The town administrator may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event. Any such conditions shall be designed to protect the safety and rights of persons and property, control

traffic, and otherwise address issues of public safety and order. Such conditions include but are not necessarily limited to:

(1) Alteration of the date, time, route or location of the event proposed on the event application;

(2) Conditions concerning the area of assembly and disassembly of an event;

(3) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street or to any other specified public property;

(4) Requirements for the use of traffic cones or barricades;

(5) Requirements for the provision of and payment for additional police services, medical aid services, or sanitary facilities;

(6) Requirements for use of and payment for event staff and provision of notice of permit conditions to event participants;

(7) Restrictions on the number and type of vehicles, animals, equipment, or structures at the event;

(8) Compliance with animal protection ordinances and laws;

(9) Requirements for use of and payment for garbage containers, clean-up, and restoration of town property or other impacted private property;

(10) Restrictions on the use of amplified sound; and

(11) Advance written notice to residents and/or businesses regarding any special event which would require a street closure. [Ord. 392 § 7, 2001]

#### **5.25.080 Indemnification.**

(1) Prior to and as a condition of the issuance of a special event permit, the permit applicant, and an authorized officer of any sponsoring organization, must agree to reimburse the town of Hunts Point for any costs incurred by the town in repairing damage to town or private property occurring in connection with the permitted event.

(2) Prior to and as a condition of the issuance of a special event permit, permittee shall agree to defend, indemnify and save harmless the town, its appointed and elective officers and employees, from and against all loss or

## 5.25.090

expense, including but not limited to judgments, settlements, attorney's fees, expert witness fees, and costs by reason of any and all claims and demands upon the town, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom sustained by any person or persons, and on account of damage to property including loss of use therefrom, arising out of any activity under or in connection with this event, except only such injury as shall have been occasioned by the sole negligence of the town, its appointed or elected officers or employees. Any concurrent negligence or fault between the permittee and the town shall be apportioned ratably.

(3) The town administrator shall require a refundable deposit relating to reimbursement of costs for clean up services. The amount of such deposit shall be within the reasonable discretion of the town administrator, and shall be further based on the information provided in the application and in the recommendation of other town departments included in the review of the application. [Ord. 392 § 8, 2001]

### 5.25.090 Insurance required.

Permittee shall provide the town administrator with proof of commercial general liability insurance in the amount of \$1,000,000 combined single limits per occurrence, and an endorsement naming the town of Hunts Point as an additional insured must be provided. [Ord. 392 § 9, 2001]

### 5.25.100 Revocation or suspension of permit.

All permits issued pursuant to this chapter shall be temporary, shall vest no permanent rights in the applicant or permittee, and may be revoked by the town administrator as follows:

(1) The permit may be immediately revoked by the town administrator or his designee in the event of a violation of any of the terms or conditions of the permit; or

(2) The permit may be immediately revoked by the town administrator or his designee in the event the permitted special event shall become, for any reason, unreasonably

dangerous to persons or property, or if any structure or obstruction permitted becomes unreasonably insecure or unsafe. Nonexhaustive examples of "unreasonably dangerous" behavior or occurrences include the commission of any criminal act or, in the judgment of a police officer, probable cause to believe that any criminal act has been committed; or

(3) If any event for which the permit has been revoked is not immediately discontinued, the town administrator or his designee may remove any structure or obstruction, or cause to be made, without obligation to do so, such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, or terminate any special event. The cost and expense of such removal, repair or termination shall be assessed against the permittee, including all professional fees associated with enforcement of the collection of the same. [Ord. 392 § 10, 2001]

### 5.25.110 Appeals to hearing examiner.

The decision of the town administrator under this chapter to issue, condition, or deny a special event permit may be appealed to the hearing examiner. Such appeal must be in writing and filed with the town administrator within five days from the date of the town administrator's decision. Any such appeal must specifically identify the claimed error or errors in the administrator's decision, set forth the specific relief requested to be granted with supporting rationale, and be accompanied by a \$250.00 filing fee. Incomplete appeals shall be rejected. The hearing examiner shall, as soon as practicable, fix a time and place for the hearing of such appeal. Following hearing on the appeal, the examiner may affirm, reverse and/or modify the administrator's decision, or remand the decision to the administrator for further consideration. [Ord. 392 § 11, 2001]

### 5.25.120 Violations – Penalties.

Any person who violates any of the provisions of this chapter shall be guilty of a gross misdemeanor and shall, upon conviction thereof, be punished by a fine in a sum not to exceed \$5,000, or by imprisonment for a term not to exceed one year, or by both such fine

and imprisonment. In addition, each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any person constitutes a separate offense. Any violation may further be abated as a nuisance, or otherwise at law or equity. [Ord. 392 § 12, 2001]

