

## Title 5

### BUSINESS TAXES, LICENSES AND REGULATIONS

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#### Chapter 5.04

### BUSINESS LICENSES GENERALLY

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5.04.010 Purpose. For the purpose of regulating the various businesses, trades and callings carried on in the limits of the city, and also for the purpose of producing revenue to carry on the public functions of the city, the license tax for each such business, trade or calling, is fixed as specified in this chapter, and it shall be unlawful to carry on such business in the city without paying the license tax. (Ord. 21 §1,1935)

5.04.020 Definitions. For the purposes of this chapter, the following words and phrases, when used in this chapter, shall have the meaning given to them in this section, unless otherwise specified. Words of the singular number shall include the plural number, and words used in the masculine gender shall include the female gender.

- A. "Person" means any person, firm or corporation.
- B. "Goods, wares and merchandise" mean stock in trade and personal property of every name and nature carried on hand or offered for sale.
- C. "Merchant" means any person selling goods, wares or merchandise at a fixed and permanent place of business.
- D. "Peddler," for the purpose of this chapter, means and includes every person who travels from place to place, or has a stand upon any public street, alley or other public place, doorway of any room or building, unenclosed vacant lot or parcel of land, who sells, or offers for sale, goods, wares or merchandise in his possession.
- E. "Permanent Business" means any business, trade, calling, profession or a vocation carried on by any person, who is permanently established in business in the city and has been continuously for over one year, or who comes into the city and acquires real property for a business site and conducts business thereon, or who leases business premises for a term of six months or more, or who otherwise produces evidence to the satisfaction of the city council that he is here to engage in business permanently.
- F. "Solicitor" for the purpose of this chapter, means any person who engages in the business of going from house to house, place to place, or in or along the streets of the city, selling or taking orders for goods, wares or merchandise or other things of value for future delivery, or for services to be performed in the future.
- G. "Transient business" means any business, trade, profession, or a vocation or calling carried on by any person who does not enter the city to engage in business permanently. (Ord. 21 §2, 1935)

5.04.030 License tax—Merchants.

- A.1. Every person doing a permanent business in the city, as a merchant, shall pay a license tax based on his average gross monthly sales, for the preceding year as follows:

Average Gross Sales Per Month	License Fee Per Year
Less than \$500.00	\$12.00
\$500.00 to \$1,500.00	\$20.00
\$1,500.00 to \$3,000.00	\$27.50
\$3,000.00 to \$5,000.00	\$35.00
\$5,000.00 to \$8,000.00	\$45.00
\$8,000.00 to \$13,000.00	\$60.00
\$13,000.00 to \$20,000.00	\$80.00

2. If the average gross sales exceed twenty thousand dollars per month, an additional license tax of five dollars shall be charged for each two thousand dollars in excess of twenty thousand dollars.

B. For the purpose of ascertaining the license tax of any merchant, the city clerk, before issuing the license, shall require such person to submit a yearly verified statement, setting forth his average monthly gross sales for the preceding year, on printed forms the city clerk shall have prepared for that purpose.

C. A newly started business of the merchant class shall pay twelve dollars, and shall be issued a license for the first year, and shall make a deposit of fifty dollars in cash, and if at the end of the first year, his average monthly sales exceed two hundred fifty dollars, he shall pay excess license tax, based on the above schedule; provided, however, if he desires to continue in business, he shall pay the license tax required for the succeeding year. In lieu of a cash deposit, he may file a bond approved by the city council, to secure such payments. (Ord. dated 7-10-61; Ord. 21 §3,1935 )

5.04.040 Twelve dollars a year class. Every person engaged in a business named in this section, in this city, shall pay an annual license fee of twelve dollars per year:

A. Every attorney, physician or surgeon, dentist, chiropractor, optometrist, pharmacist, veterinary, artist, architect, auctioneer, engineer, assayer, surveyor, public stenographer, public accountant, or any other profession;

B. Every abstractor of titles, or searcher of records, real estate agency or broker;

C. Every beauty shop, beauty parlor, tailor or tailor shop, photographer or art studio, shoe or harness repair shop, barber shop, florist or flower shop, cleaner or dyer or cleaning or dyeing shop, painter, paper hanger, sign painter, decorator, dressmaker where help is employed, golf course, boarding house with more than two regular boarders, hospital or convalescing home, taxi service, watch repair shop or general repair shop;

D. Every person conducting within the limits of the city a laundry where help is employed;

E. Every person in the business of conducting a blacksmith shop, welding shop, sheet metal shop, cabinet or carpentry shop, within the limits of this city;

F. Every person in the business of conducting a job printing shop, lithograph shop, mimeograph shop, multigraph shop or newspaper;

G. Every person in the business of conducting a restaurant, grill, coffee shop, cafe, lunch counter, automobile service, bakery, bottling works, cigar manufacturer, candy manufacturer, commission merchant, garage (storage or repair), service station, creamery, cheese factory, flour mill, plumbing shop, draying and trucking, telephone exchange, undertaking or mortuary, or contractor or contracting business. (Ord. 21 §4,1935 )

5.04.050 License tax—Hotels and lodging houses. Every person engaged in the business of conducting a hotel, lodging house or rooming house, within the limits of the city, shall pay a license tax of two dollars and fifty cents per year for a business with a capacity of from one to five sleeping rooms, and fifty cents per year for each additional room. (Ord. 21 §5,1935 )

5.04.060 License tax—Auto camps. Every person engaged in the business of conducting an auto camp, auto court or auto campground, within the limits of the city, shall pay a license tax of five dollars a year, and fifty cents a year additional, for each sleeping room available for rent therewith. (Ord. 21 §6,1935)

5.04.070 License tax—Theatres. Every person engaged in the theater business in the city shall pay a license tax of two dollars a month. (Ord. 21 §7,1935)

5.04.080 Five dollars a day class.

A. Every person entering within the limits of the city, pursuing therein the business of peddler or solicitor, as defined in this chapter, shall pay a license tax of five dollars a day, except as hereinafter specified.

B. Every person entering the city and carrying on therein the business or calling of telling fortunes, clairvoyant, phrenologist or palmist, shall pay a license tax of five dollars a day, provided that should such person desire to engage in business in the city permanently, the license tax shall be twenty four dollars a year, and such person may file a bond as provided for transients in Section 5.04.090 to secure the payment of the license tax in case such business or calling is not to be permanent. (Ord. 21 §8, 1935)

5.04.090 Selling form vehicles. Every person who sells or offers for sale upon the public streets or highways, from any vehicle commonly known as a rolling or traveling store, any goods, wares or merchandise, shall pay a license tax of five dollars per day, excepting however, persons who sell goods, wares or merchandise to merchants for the purpose of resale. (Ord. 21 §9,1935)

5.04.100 Itinerant or transient business. Every person who enters the city for the purpose of conducting a transient business, occupation or calling herein, shall be classified as carrying on a “transient business”, and must first obtain a license authorizing him to carry on such business,

and shall pay a license tax of five dollars per day in advance therefore, for each day he proposes to carry on such itinerant business in the city, and the chief of police, upon finding any such person carrying on such business in the city, shall require him to appear before the city clerk, and file a verified statement stating the nature of his business, its location, the length of time he intends to carry on the same, and the means of conducting the same, and the chief of police shall collect from such person the license tax required for the length of time he desires the same, and issue him a license therefore, to expire on the date named. If such person refuses to file such a statement, and pay the license tax, and if he opens up or carries on his business he shall be subject to arrest for violation of the ordinance codified in this chapter; provided, however, should such person declare his intent of engaging in business in the city permanently and does not come within the definition of a permanent business as defined in this chapter, he shall be required to make a deposit of one hundred dollars to secure payment of the itinerant license tax, and he shall be given a license for the permanent business of the class in which he falls, and the application shall be reported to the city council, and if the applicant satisfies them he is to engage in, or about to engage in a permanent business, his deposit shall be returned, but if he does not, his deposit shall increase to two hundred fifty dollars, until he does satisfy the city council, until he is here in business continuously for a period of six months; provided, however, if his business is of a permanent nature, but he is prevented from continuing the business by circumstances beyond his control, his deposit shall be returned to him, if for such causes he is required to discontinue his business. If, however, he is engaged in an itinerant business, a charge of five dollars per day, for each day he has been the city, shall be made against him as a license tax and shall be deducted from the deposit, and the remainder, if any, returned to him. Provided, he may, at his option, in lieu of a cash deposit, file a bond in the sum of five hundred dollars with a corporate surety, or two or more personal sureties, to be approved by the chief of police or mayor, conditioned upon his paying the itinerant license tax, in case he does not engage in a permanent business. (Ord. 21 §10,1935)

5.04.110 Permissive business license.

- A. The city council, believing that it is for the best interest of the city to retain control of the issuance of licenses for the following businesses and occupations within the limits of the city, requires any person who desires to engage in any such occupation or business in the city to make application to the city clerk therefore. He shall, however, have no authority to issue such license, but shall report the matter to the council at its next meeting, and the city council shall hear the applicant, and if the applicant is of good moral character, and in the opinion of the council, the issuance of the license will not be detrimental to the public peace, public health or public morals of the city, the council in its absolute discretion may direct the chief of police to issue the license, and collect the following tax therefore:

1. From every person conducting a bowling alley, ten dollars per year;
  2. From every person conducting a billiard parlor, soft drink parlor, poolroom, clubroom, where cards or other games are played, twenty five dollars per year;
  3. From every boxing exhibition, sparring exhibition or wrestling exhibition, five dollars per year;
  4. From every carnival, merry-go-round, circus, dog and pony show, or tent show, twenty five dollars per day;
  5. From every Chautauqua, ten dollars per day;
  6. From every skating rink, forty dollars per year, payable quarterly;
  7. Every public dance hall, twenty five dollars per year;
  8. a. From every person with a vending machine or other mechanical device operated by inserting coins, a license tax as follows:
    - i. For each machine operated by inserting of from one cent to five cents, inclusive, one dollar and sixty cents per month;
    - ii. For each machine operated by inserting of from six cents to ten cents, inclusive, two dollars and fifty cents per month;
    - iii. For each machine operated by inserting of from eleven cents to fifteen cents, inclusive, five dollars per month;
    - iv. For each machine operated by inserting of from sixteen cents to twenty five cents, inclusive, eight dollars and thirty four cents per month;
- b. This tax shall be collected whether the business owns its own machine, or rents it, or whether it is installed on a commission or percentage basis, and shall be paid monthly in advance, at the office of the chief of police, and if not paid, a ten per cent penalty shall be added.
- B. Should a license be issued for any of the above occupations or businesses in the section named, the city council reserves the right to revoke or suspend the license for any cause that would have impelled it to have refused such license in the first instance; such license may be suspended by order of the city council, pending a hearing of citation to show cause why the same should not be revoked. And in the case of such citation, the same shall be served five days before such hearing, and must be heard within ten days after service, unless such hearing is continued at the request of the licensee. (Ord. 21 §11,1935)

#### 5.04.120 Exemptions.

- A. Not-for-Profit Organizations. The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage, or carry on any business, occupation or activity, or require the payment of any license from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes or from which profit is not derived, either directly or indirectly by any person, nor for the conducting of any entertainment, dance, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects whenever the receipts from the same are to be appropriated to any church or school, or to any religious or benevolent purpose within the limits of the city; or whenever the receipts from the same are appropriated for the purpose and objects for which such association or organization was formed, and from which profit is not derived, either directly or indirectly, by any person; provided, however, that nothing contained in this section shall be deemed to exempt any such institution or organization, unless such institution or organization applies to the city council or proper officer, for a permit to conduct, carry-on, or manage such trade, calling or occupation.
- B. Disabled Veterans. Disabled war veterans shall not be charged a license tax for peddling or soliciting, providing such persons shall first exhibit to the license collector satisfactory evidence of honorable discharge from United States service and of service-connected disability.
- C. Farmers and Poultry Men. The provisions of this chapter requiring a license, shall not be deemed to include or apply to farmers, poultry men or horticulturists who may sell exclusively their own produce. This exemption shall not apply to nurseries or other commercial establishments which buy goods for resale as well as selling their own goods.
- D. Other Exemptions. The provisions of this chapter requiring a license for solicitors shall not be deemed to include those soliciting orders to establish firms in the city, that pay a license, nor for soliciting subscriptions to newspapers and magazines.  
(Ord. 21 § 12,1935)

5.04.130 Miscellaneous provisions.

- A. Any person, before engaging in any business in the city, must make application to the city clerk, and the clerk shall report the same to the chief of police, and if the business does not require a license, the chief of police shall issue a certificate to that effect, and deliver the same to the person, and report the same to the city council. If a license is required, except in the cases mentioned where the council reserves the right to order issuance of the license, the chief of police shall collect the license tax and issue the license.
- B. Any licensed person engaged in business at the time the ordinance codified in this chapter takes effect, may continue under the old license, until the same expires, and renewals shall be governed by this chapter.
- C. Any person not actively conducting a business continuously for the full period of his license, shall in case he discontinues business and reopens, be required to take out a new license when he reopens, and shall not be entitled to a refund for the unexpired period, provided, if a business is transferred, the council may permit the license to be transferred, or if a business is discontinued by unavoidable circumstances over which the licensee has no control, or for removal to another location, the city council may allow the license to continue in force.
- D. Any person in the merchant class who conducts any other class of business (except those permissive businesses or occupations above mentioned, or a restaurant or lunch counter), at the same location, and under the same ownership, and as part of his business, may compute his gross receipts or gross sales from any such businesses, and pay as a merchant, provided also a person paying a license to carry on a plumbing business under the plumbing ordinance, if the same is carried on with his other business as a merchant, need not pay a merchant's license, but must report his gross sales from all his businesses, and if the same exceeds two thousand dollars, he shall pay the graduated merchant's license according to his gross sales. If he does not report his gross receipts, and sales, from all his businesses, he will be charged a separate license for each division or branch of his businesses.
- E. Two or more persons carrying on the same or different businesses or occupations at the same location, but under different ownership, or proprietorship, shall pay a separate license tax for the businesses at each location.



- F. If the chief of police or city clerk believes any person has not reported his gross sales correctly, or has failed to report the same, or has not included every receipt for all his different businesses, or has in any manner withheld, or is in any manner withholding necessary information to fix his license tax required by this chapter, they, or either of them, shall report the matter to the city council, and the city council shall cite such person to appear and show cause why his license tax should not be fixed by the city council, and the council may exercise all the rights and powers in hearing such matter set forth in Section 861 of the Municipal Corporation Act, and if the person so cited, after hearing, is found to be withholding such information, or to have filed a false report, shall be required to pay the license tax required by this chapter for such business and a ten percent penalty for his default. (Ord. 21 §13,1935)

5.04.140 Record to be kept. The city clerk and the chief of police shall each, in a suitable book, keep a record of all licenses collected, paid and issued showing the date of issuance, and the date of expiration, and the amount received; and not less than ten days before any license expires, the chief of police shall notify the licensee in writing, stating that his license will expire on a certain date named in the notice, and requiring the licensee to appear in his office and renew his business, trade or calling in the city; and in case the licensee continues in a business, trade or calling and fails to pay the license tax of such business, a penalty, which shall be in addition to all other penalties required in this chapter, of ten percent shall be added to the license tax for the business, trade or calling. (Ord. 21 §14,1935)

5.04.150 Revocation or suspension of license. The city council may, in its discretion, revoke or suspend for a period of not exceeding three months, any license granted under this chapter, on proof of the violation by the licensee, or his agents, or employees, of any municipal or county ordinance, or statute of the United States or the state of California. In the event of such revocation or suspension, no part of the license tax heretofore paid shall be refunded to the licensee. (Ord. 21 §15,1935)

5.04.160 Violation—Penalty. Any person violating any provision 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 in the city jail, or county jail of Siskiyou County, for a period of not more than three months, or by both such fine and imprisonment, and the conviction and punishment of any person transacting any business, trade, calling, show, exhibition or game, without a license, shall not excuse or exempt such person from the payment of any license due or unpaid from such person, at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution for any other or further violation of any provision of this chapter. (Ord. 21 §17,1935)

5.04.160 Additional Remedies. In addition to all other penalties provided for by this chapter, the city council may order and direct the city attorney to institute a civil action against any person for the collection of any license tax, or any portion of any license tax or penalty due and unpaid, and said suit may be instituted in any civil court of competent jurisdiction. (Ord. 21 §17, 1935)

## Chapter 5.08

### CATV SYSTEMS

#### Sections:

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<u>5.08.050</u>	<u>Limitation of license.</u>
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<u>5.08.220</u>	<u>Records of applications.</u>

5.08.010 Definitions. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section:

- A. "Basic service" means not less than five television channels that are received for the minimum monthly service charge but does not include those premium or auxiliary services for which an additional charge is made.
- B. "City" means the city of Fort Jones, a municipal corporation of the state of California, in its present incorporated form or in any later recognized, consolidated, enlarged or reincorporated form.
- C. "Community antenna television system," hereinafter in this chapter referred to as "CATV," means any facilities which receives, modifies or originates television, FM radio or other electrical signals for the purpose of transmitting or distributing such signals by wire, cable or other means to subscribing members of the public or to selected customers.
- D. "Council" means the present governing body of the city or any future council constituting the legislative body of the city.
- E. 1. "Gross annual receipts" means any and all compensation or other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly from subscribers or users in payment for television signals received within the city.  
2. Gross annual receipts does not include any taxes on the services furnished by the licensee imposed directly or indirectly on any user or subscriber by any city, state or other government unit and collected by the licensee for such governmental unit.

- F. "Licensee" means the person or corporation to whom or which a license under this chapter is granted by the city council or the lawful successor or assignee of the person or corporation.
- G. "Local television" means a television broadcasting station whose transmitter is within fifteen miles of the post office of the city.
- H. "Street" means the surface of, and the space above and below any public street, road, highway, freeway, lane alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the city.
- I. "Subscriber" means any person or entity receiving for any purpose the CATV service of the licensee.
- J. "TV" means television. (Ord. 32-1979 §1, 1979)

#### 5.08.020 License to operate.

- A. A non-exclusive license to construct, operate and maintain a community antenna television system in the city may be granted by the city council to any person, firm or corporation offering to furnish and provide such system under and pursuant to the terms and provisions of the ordinance codified in this chapter.
- B. No provision in this chapter may be construed to require the granting of a license when in the opinion of the council, it is in the public interest to restrict the number of licenses to one or more. (Ord. 32-1979 §1, 1979)

#### 5.08.030 Application for license.

- A. Application for a license under this chapter shall be filed with the city clerk in a form approved by the city and shall contain the following information:
  - 1. The name and address of the applicant;
  - 2. A general description of the applicant's proposed CATV operation, including a map of areas to be served;
  - 3. A statement or schedule in a form approved by the city of proposed rates and charges to subscribers for installation and services, and a copy of the proposed service agreement between the licensee and its subscribers shall accompany the application;
  - 4. A copy of any contract or contracts, if existing, between the applicant and any public utility providing for use of facilities of such public utility, such as poles, lines or conduits;
  - 5. A statement of the corporate organization of the applicant, including the names and addresses of its officers, directors and associates, and also including the names of subsidiary companies with a listing of other areas being served by CATV or similar systems;
  - 6. The applicant shall also furnish a financial statement prepared by a certified public accountant as to the company's or corporation's financial ability to complete installation and operation of the CATV system;
  - 7. A statement of the proposed percentage license fee payment to the city referred to in Section 5.08.040.

- B. Upon consideration of any such application, the city council may grant a license for CATV to such applicant as may appear from the application to be in its opinion best qualified to render proper and efficient CATV service to television viewers and subscribers in the city, regardless of the license fee offered. The council's decision in the selection will be final.
- C. The city council may include any reasonable condition, limitation or restriction which it may deem necessary to impose in connection with such license pursuant to the authority conferred by this chapter.
- D. A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person, firm, group or corporation with respect to the license and the proposed operations. If a license is granted to a person, firm, group or corporation posing as a front or representative for another person, firm, group or corporation and such information is not disclosed in the original application, such license shall be revoked automatically and the council shall consider awarding the license to another qualified applicant. (Ord. 49-1983 §6, 1983: Ord. 32-1978 §16, 1979)

#### 5.08.040 License fee.

- A. Any licensee granted a license under this section shall pay to the city, during the life of such license and at the times hereinafter specified a sum equal to two percent of the monthly total gross receipts of the licensee, and such payment by the licensee to the city shall be in lieu of any occupation tax, license tax or similar levy, and shall be paid annually.
- B. The licensee shall file with the city, within sixty days after the expiration of any year during which such license was in force, a financial statement prepared by a certified public accountant or a person otherwise satisfactory to the council showing in detail the total annual gross receipts, as defined in this chapter, of the licensee, its successors and assigns, during the preceding year. It shall be the duty of the licensee to pay to the city, within fifteen days after the time for filing such statements, any unpaid balance for the year covered by such statements.
- C. The city shall have the right of inspection of the licensee's records showing its gross receipts. (Ord. 49-1983 §3, 1983 : Ord. 32-1979 §4, 1979)

#### 5.08.050 Limitation of license.

- A. Any privilege claimed under the license by the licensee in any street shall be subordinate to any prior lawful occupancy of the streets or other public property.
- B. Any such license shall be a privilege to be held in personal trust by the original licensee. It cannot in any event be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without prior written consent of the city expressed by resolution, and then only under such conditions as may be therein prescribed; provided, however, that no such consent shall be required for any transfer in trust, mortgage or other hypothecation, as a whole, to secure an indebtedness. The consent of the city may not be arbitrarily refused, provided, however, that the proposed assignee must show financial responsibility and must agree to comply with the terms of this chapter.

- C. Time shall be of the essence of any license granted under this chapter. The licensee shall not be relieved of its obligation to comply promptly with any of the provisions of this chapter, or by any failure of the city to enforce prompt compliance.
- D. The licensee shall have no recourse whatsoever against the city for any loss, cost, expense or damage, arising out of any provision or requirement of this chapter or its enforcement.
- E. The licensee is subject to all requirements of the city ordinances, rules, regulations and specifications of the city heretofore enacted or established, including, but not limited to, those concerning street work, street excavations, use, removal and relocation of property within a street, and other street work. (Ord. 32-1979 §5, 1979)

5.08.060 Uses permitted by licensee—Term.

- A. Any license granted pursuant to the provisions of this chapter shall authorize and permit the licensee to engage in the business of operating and providing a CATV system in the city, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any city street, such poles, wires, cables, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system and, in addition, so to use, operate and provide similar facilities or properties rented or leased from a public utility franchised or permitted to do business in the city.
- B. The term of the license, or any renewal thereof, granted by the city council under this chapter shall be as set forth in its resolution and such term shall commence on the date of acceptance of such license by the licensee or renewal thereof.
- C. Any such license may be terminated prior to its date of expiration by the city council in the event the council shall have found, after notice and hearing, that:
  - 1. The provisions of this chapter have become invalid or unenforceable, and the council further finds that such provisions constitute a consideration material to the grant of the license; provided, however, that the licensee shall be given at least thirty days' notice of any proposed termination proceedings. If the licensee cures the alleged violation of any term or condition of the license during the notice period, the termination proceedings called for under Subdivision 1 of this subsection shall be canceled.
- D. No provision in this chapter shall be construed to preclude the introduction of program material into a licensed CATV system or a portion thereof. (Ord. 49-1983 §2, 1983; Ord. 32-1979 §3, 1979)

5.08.070 Rights reserved to city.

- A. There is reserved to the city every right and power which is required to be reserved or provided by any ordinance of the city, and the licensee, by its acceptance of the license, agrees to be bound thereby, and to comply with any action or requirements of the city in its exercise of any such right or power, heretofore and hereafter enacted or established.

- B. In connection with the issuance of any license under this chapter, the city council may impose such reasonable restrictions, conditions and limitations as to the area or areas of the city to be served by the licensee, operation conditions and the cooperative working arrangements relative to local television broadcasting stations serving the Fort Jones area with the best possible television reception. However, every application shall include the entire city. (Ord. 32-1979 §6,1979)

5.08.080 Time of performance. Installation of a CATV system shall be commenced within one hundred twenty days after any license is granted under the provisions of the ordinance codified in this chapter, and any extensions and service pursued with due diligence thereafter. Failure to so commence and diligently pursue to completion shall be grounds for termination of the license. The council may extend the time for beginning the installation for additional periods in the event the licensee, acting in good faith, experiences delays by reason of circumstances beyond his control. (Ord. 32-1979 §7,1979)

5.08.090 Location of licensee's properties.

- A. Any poles, wires, cable lines, conduits or other properties to be constructed or installed in street or public rights-of-way shall be so constructed or installed only at such locations and in such manner as shall be approved by the city council. Upon receipt of a construction or installation request from the licensee, the city council shall reply within thirty days.
- B. The licensee may install or erect any facilities or apparatus on public property or rights-of-way within the city upon obtaining written approval of the city council in advance.
- C. In those areas and portions of the city where either the transmission and distribution facilities of the public utility providing telephone service, and those of the utility providing electric service, are underground or hereafter may be placed underground, then the licensee shall likewise construct, operate and maintain all of its transmission and distribution facilities underground. Amplifiers in the licensee's transmission and distribution lines may be in concrete boxes or vaults upon the surface of the ground.
- D. Construction or installation of the licensee's cable lines or conduits in all other public places, owned or controlled by the city, shall be subject to approval of and regulation by the city council in advance. (Ord. 49-1983 §4,1983: Ord. 32-1979 §8,1979)

5.08.100 Removal or abandonment of property of licensee.

- A. In the event that the use of any part of the CATV 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 its license, or the license has been terminated, canceled or has expired, the licensee shall promptly remove 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 any such removal, the licensee shall promptly restore the street or other area from which the property has been removed, to a condition satisfactory to the city.

- B. Any property of the licensee remaining in place thirty days after the termination of the license shall be considered permanently abandoned. The city council may extend this time not to exceed an additional thirty days.
- C. Any property the licensee abandoned in place shall be abandoned in such manner as the city council shall prescribe. Upon permanent abandonment of the property of the licensee in place, the property becomes that of the city council and the licensee shall submit to the city council, an instrument, to be approved by the city attorney, transferring to the city the ownership of such property. (Ord. 322-1979 §9,1979)

5.08.110 Changes required by public improvements. The licensee shall, at its own expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, any property of the licensee when required by the city by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by governmental agencies when acting in a governmental proprietary capacity, or any other structures or public improvements; provided, however, that the licensee shall in all such cases have the privileges and be subject to the obligations to abandon any property of the licensee in place, as provided in Section 5.08.100. (Ord. 32-1979 §10, 1979)

5.08.120 Failure to perform street work. Upon failure of the licensee to complete any work required by law or by the provisions of this chapter to be done in any street, within the time prescribed, and to the satisfaction of the city, the city may cause the work to be done and the licensee shall pay to the city the cost thereof in the itemized amounts reported by the city to the licensee, within thirty days after receipt of such itemized report. (Ord. 32-1979 §11,1979)

5.08.130 Faithful performance bond.

- A. The licensee shall, concurrently with the filing of an acceptance of award of any license granted under the ordinance codified in this chapter, file with the city clerk and at all times thereafter maintain in full force and effect, for the first two years of the term of the license, at the licensee's sole expense, a corporate surety bond, of a company approved by and in the form approved by the city attorney, in the amount of five thousand dollars, renewable annually, and conditioned upon the faithful performance of the licensee and that in the event the licensee shall fail to comply with any one or more of the provisions of this chapter, that there shall be recoverable jointly and severally from the principal and surety of the bond, any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the licensee as prescribed by this chapter which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond. The condition is to be a continuing obligation for the duration of the license and thereafter until the licensee has liquidated all of its obligations with the city that may have arisen from the acceptance of the license by the licensee or from its exercise of any privilege granted in this chapter. The bond shall provide that thirty days' prior written notice of intention not to renew, cancellation or material change be given to

the city. At the end of the first two years of the term of the license, the amount of the aforesaid corporate surety bond which the licensee shall maintain in full force and effect for the remainder of the term of the license shall be in the amount of five thousand dollars but shall correspond in all other particulars to the bond required during the first two years of the term as required in this subsection, and upon application by the licensee, the council may, by unanimous consent, waive the bond required or reduce the amount thereof.

- B. Neither the provision of this section, any bond accepted by the city pursuant thereto, nor any damages recovered by the city there under shall be construed to excuse faithful performance by the licensee or limit the liability of the licensee under the license or for damages, either to the full amount of the bond or otherwise.
- C. The city may, on application of the licensee, at or prior to the expiration of the first annual bond, reduce the amount thereof or excuse the licensee from the requirement of subsection A of this section. (Ord. 32-1979 §12,1979)



5.08.140 Indemnification of city.

- A. The licensee agrees that at all times during the existence of the license it will maintain in full force, furnish and file with the city, at its own expense, a general comprehensive liability insurance policy, in protection of the city, its boards, commissions, officers, agents and employees, in a company authorized to do business in the state, and in form to be approved by the city attorney, protecting the city and the persons against liability for loss or damages for personal injury, death of any one person, and three hundred thousand dollars for personal injury death of two or more persons in any occurrence, and fifty thousand dollars for damage to property resulting from any one occurrence.
- B. The policies mentioned in subsection A of this section shall name the city as an additional insured, and shall also contain a provision that a written notice of any cancellation or reduction in coverage of the policy shall be delivered to the city not less than ten days in advance of the effective date thereof. If such insurance is provided in either case by a policy which also covers the licensee or other such entity or person than those above named, then such policy shall also contain the standard cross-liability endorsement.
- C. No franchise or license granted under this chapter shall be effective unless and until each of the foregoing policies of insurance as required in this section have been delivered to the city. (Ord 32-1979 §13,1979)

5.08.150 Operational Standards. The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the best possible service according to TASO standards for good to excellent ratio. In determining the satisfactory extent of such standards, the following shall apply:

- A. Subscriber Visual Carrier Level.
  - 1. Definition. "Subscriber visual carrier level" means 0.707 times the instantaneous peak voltage of the visual carrier, modulated with FCC standard composite visual signal, as delivered to the individual subscriber to a CATV system.
  - 2. Minimum Standard. The visual carrier level at the subscriber's terminal shall be no less than five hundred micro volts at seventy-five ohms. (The field strength meter actually reads voltage at seventy-five ohms. The three hundred ohm adapter must be used for measuring level at three hundred ohm subscriber terminals. Whether reading the level directly at seventy-five ohms or with the three hundred ohm adapter the meter reading shall be no less than five hundred micro volts. It is noted that the actual level at three hundred ohms will then be approximately one thousand micro volts minimum. At the present stage of the art, it is considered unnecessary to take account of the adapter loss.)
  - 3. Method of Measurement. The measurement shall be made with the standard field strength meter.

- B. System input signals may be either the normally received TV station signals or may be derived from a series of signal generators arranged to stimulate normal modulated carrier reception conditions.
- C. Systems using a single channel, "Strip type," AGC amplifiers, or systems using a pilot carrier type AIC, may be tested using a single signal generator to simulate one channel at a time. Systems using broad-band, multi-channel, AOC amplifiers controlled by some combination of carrier levels must be tested with enough modulated signal generators operating simultaneously to simulate each signal normally received.
  - 1. Normally Received Signals. The level at subscriber terminals shall be measured when all signals are at their normal operating design level measured at the output of the first AGC amplifier.
  - 2. Simulated Signals. The required modulated signal generators are fed to the input of the first amplifier and levels adjusted so that the output of the first AGC amplifier give the same reading on the standard field strength meter as the normally received signal adjusted to normal operating design level.
  - 3. Specification for the Standard Field Strength Meter.
    - a. The instrument shall be peak indicating. Indications must be within five percent of the true peak of the FCC standard horizontal sync pulse.
    - b. The indicating scale shall be calibrated to read 0.707 times the true peak R.F. voltage.
    - c. Selectivity. The selectivity shall permit unattenuated passage of the FCC standard horizontal sync pulse. Maximum selectivity shall be such that sidebands more than plus or minus four and three-tenths mc are attenuated thirty db. Care should be exercised to assure that the adjacent lower sound carrier is not affecting the accuracy of measurements.
- d. Input impedance shall be seventy-five ohms nominal, coaxial terminal, unbalanced. An adapter to three hundred ohms minimal, balanced, binding post terminals, shall be supplied either as an accessory or as a built-in feature.
- e. Input VSWR at seventy-five ohms shall not be more than one and two-tenths to one: or a return loss of not less than twenty-one db.
- F. Overall accuracy of the instrument shall be plus or minus one and seventy-five hundredths db at seventy-five ohms, and plus or minus two and five-tenths db using the three hundred ohms adapter. (Ord. 32-1979 §14,1979)

#### 5.08.160 Miscellaneous provisions.

- A. 1. All notices provided for in this chapter shall be prepared registered mail addressed to the parties as follows: To the city, to the city clerk, City Hall, Fort Jones, California, with a copy to the city attorney, 201 Fourth Street, Yreka, California; and to the licensee as provided by any license granted pursuant to the provisions of this chapter.
- 2. All matters in this chapter to be filed with the city shall be filed with the city clerk.
- B. Any licensee shall submit to the city the form of its service agreement between the licensee and its subscribers and shall also serve upon the city a full schedule of its proposed basic installation and service charges to be paid by subscribers before soliciting

for subscribers within the city, and shall serve upon the city any amendments or alterations in the service agreement or schedule of charges; the licensee for one week following the filing of the schedule of charges or amendments thereto shall publish the same in a newspaper of general circulation within the city. The basic rate schedule for any service agreement or increase thereto to the subscriber must have city approval.

- C. The licensee shall pay to the city a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the granting of a license pursuant to the provisions of this chapter, such payment to be made within thirty days after the city shall furnish such licensee with a written statement of such expenses.
- D. The licensee shall not engage in the business of selling television or other receivers which make use of signals transmitted by its systems, nor shall the licensee engage in the repair of such receivers or the sale of parts for the same.
- E. Nothing in the ordinance codified in this chapter or in the license granted under this chapter shall prevent the city from subsequently granting to a licensee under this chapter or to any other person, company, corporation or association a franchise or license to distribute service commonly known as "Pay-TV".
- F. The licensee shall, prior to digging in or opening of any holes, trenches or other openings or installations of any poles or structures in any public way or street in the city, must submit in duplicate to the city such drawings or maps as may clearly and accurately define the work proposed to be done by the licensee. The city shall, if such proposed work is not objectionable to the city council, grant a permit for the purpose of performing such proposed work.
- G. The city council shall have the authority, in the event that any requirement or provision of this chapter may create an undue hardship upon the licensee, to extend the time for performance of any act required to be done or to modify the form or method of compliance with any act required to be done by this chapter.
- H. The city council shall have the authority, upon notice to the licensee, to renegotiate and review the terms and provisions of any license granted under this chapter in the event that the city council shall deem it in the best interests of the city to expand the number of channels for television reception available for the inhabitants of the city or to improve or in any manner modify the standard of service being provided at any time by the licensee.
- I. The basic rate schedule for any service agreement or increase thereto to subscribers must have the written approval of the city council. (Ord. 49-1983 §5, 1983: Ord. 32-1979 §15, 1979)

5.08.170 Compliance with requirements. No license issued under this chapter shall become effective until all the requirements of this chapter are fully met, including the filing with the city clerk certificates of insurance required in this chapter. (Ord. 32-1979 §17, 1979)

5.08.180 Additional services permitted to licensee. The licensee may use local CATV system to provide unregulated auxiliary and premium services as long as such service may be lawfully provided by a CATV system to subscribing members of the public or to selected customers. (Ord. 49-19883 §7, 1983: Ord. 32-1979 §18, 1979)

5.08.190 Right of purchase. The city shall have the right at any time during the life of the license granted under this chapter to acquire by purchase for fair market value for the use of the city itself all the property of the licensees placed under the licenses within the limits of public property at a fair and just value which shall not include any amount for the license itself, or of any of the rights and privileges granted in this chapter and the licenses shall thereupon terminate. (Ord. 32-1979 §19, 19979)

5.08.200 Right of inspection. At all reasonable times, the council may examine all records kept or maintained by the licensee or under its control which treat of the operations, affairs, property or transactions of the licensee within the city, for the serving of subscribers within the city. (Ord. 32-1979 §20, 1979)

5.08.210 Extension of service. The licensee shall and will extend its service and facilities to subscribers on each and every street in the city for service upon which street any applicant shall make application. Such licensee shall furnish such service promptly and not later than sixty days after such application. (Ord. 32-1979 §21, 1979)

5.08.220 Records of applications. The licensee, upon receipt of any application for service from any person, firm or corporation, shall keep a permanent record of the name and address of the applicant and the date and time of the application, which entries shall be signed by the applicant and a duly authorized representative of the licensee and such entry shall be conclusive of the date and time of application for such service. Such records shall at all times be open to examination by the duly constituted representative of the city. In addition to such entry, the licensee shall, at the time of the application and entry, furnish to each applicant and acknowledgment of the receipt of the application for such service, showing the date of the application, the name of the applicant, the address of the applicant, and the address for which service is applied. (Ord. 32-1979 §22, 1979)

## Chapter 5.12

### SOLICITORS AND PEDDLERS

#### Sections:

<u>5.12.010</u>	<u>Soliciting and peddling declared unlawful.</u>
<u>5.12.020</u>	<u>Violation—Penalty</u>

5.12.010 Soliciting and peddling declared unlawful. The practice of going in and upon private residences in the city by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited so to do by the owner or owners, occupant or occupants of the private residences for the purpose of soliciting orders for the sale of goods, wares or merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same, is prohibited, declared to be a nuisance and punishable as such as a misdemeanor. (Ord. 22 §1, 1935)

5.12.020 Violation—Penalty. Any person convicted of a violation of the ordinance codified in this chapter shall be fined in a sum of not exceeding fifty dollars or confined to the city jail or the county jail of the County of Siskiyou, for not exceeding thirty days, or by both such fine and

imprisonment. (Ord. 22 §2, 1935)



ORDINANCE NO. 2021-4

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF FORT JONES AMENDING  
TITLE 5, GRANTING AN ELECTRIC UTILITY FRANCHISE AND GENERAL UTILITY  
EASEMENT TO PACICORP

WHEREAS, PacifiCorp d.b.a. Pacific Power, is a regulated public utility that provides electric power and energy to the citizens of the Town of Fort Jones (the "City") and other surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the City;

WHEREAS, the City desires to set forth the terms and conditions by which PacifiCorp shall use the public ways of the City;

NOW, THEREFORE, the City Council of the Town of Fort Jones ordains as follows:

SECTION 5.10.1. Grant of Franchise and General Utility Easement. The City hereby grants to PacifiCorp the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in, under, along, over and across the present and future streets, alleys, public ways and public places (collectively referred to herein as "Public Ways") within the City, for the purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof.

SECTION 5.10.2. Term. The term of this Franchise and General Utility Easement is for ten (10) years commencing on the date of acceptance by the Company as set forth in Section 3 below.

SECTION 5.10.3. Acceptance by PacifiCorp. Within sixty (60) days after the passage of this ordinance by the City, PacifiCorp shall file an unqualified written acceptance thereof, with the City Administrator, otherwise the ordinance and the rights granted herein shall be null and void.

SECTION 5.10.4. Non-Exclusive Franchise. The right to use and occupy the Public Ways of the City shall be nonexclusive and the City reserves the right to use the Public Ways for itself or any other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with PacifiCorp's Electric Facilities or PacifiCorp's rights granted herein.

SECTION 5.10.5. City Regulatory Authority. In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed

necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of California, the laws of California or City Ordinances.

SECTION 5.10.6. Indemnification. Neither the City nor its officers or employees ("Indemnified Parties") shall be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the design, construction, operation or maintenance by PacifiCorp of its Electric Facilities. PacifiCorp shall indemnify, defend and hold the Indemnified Parties harmless from and against actions, claims, demands, liens and all liability or damage of whatsoever kind (collectively, "Claims") on account of PacifiCorp's use of the Public Ways within the City, and shall pay the costs of defense, including reasonable attorneys' fees, for any Claim brought as a result of such use. The City shall: (a) give prompt written notice to PacifiCorp of any Claim with respect to which any Indemnified Party seeks indemnification hereunder; and (b) unless in the City's judgment a conflict of interest exists between the Indemnified Parties and PacifiCorp with respect to such Claim, permit PacifiCorp to assume the defense of such Claim with counsel satisfactory to City. If such defense is not tendered to PacifiCorp, PacifiCorp shall not be liable for any judgment, nor for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, PacifiCorp shall not be obligated to defend any Indemnified Party in connection with any Claim which alleges solely a negligent act or omission or willful misconduct by one or more Indemnified Parties, nor shall PacifiCorp be obligated to indemnify and hold harmless any Indemnified Party for any damages to the extent they are adjudicated to have resulted from the act or omission of the Indemnified Party.

SECTION 5.10.7. Annexation.

5.10.7.1. Extension of City Limits. Upon the annexation to the city, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electrical Facilities owned, maintained or operated by PacifiCorp located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

5.10.7.2. Annexation. When any territory is approved for annexation to the City, the City shall, not later than ten (10) working days after the effect date of the annexation, provide by certified mail to PacifiCorp: (a) each site address to be annexed as recorded on county assessment and tax rolls; (b) a legal description of the proposed boundary change; and (c) copies of the document(s) evidencing final approval of the annexation. The notice shall be mailed to:



PacifiCorp Customer Contact Center  
Attn: Annexations  
P.O. Box 400  
Portland, Oregon 97207-0400

With a copy to:

PacifiCorp  
Attn: Office of the General Counsel  
Suite 2000  
825 N E Multnomah  
Portland, Oregon 97232

Additional or increased fees or taxes, other than ad valorem taxes, imposed on PacifiCorp as a result of an annexation of territory to the City shall become effective on the effective date of the annexation if notice is given to PacifiCorp by certified mail not later than ten (10) working days after the effective date of the annexation. However, if notification of the effective date of the annexation is provided to PacifiCorp later than the tenth (10<sup>th</sup>) working day after the effective date of the annexation, the additional or increased fees or taxes will become effective on the date of the notification.

SECTION 5.10.8. Planning, Design, Construction and Installation of Company Facilities.

5.10.8.1 All Electrical Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and city laws, codes and regulations.

5.10.8.2 Except in the case of an emergency, PacifiCorp shall, prior to commencing new construction or major reconstruction work in the public way or street or other public places, apply for a permit from the City which permit shall not be unreasonably withheld, conditioned, or delayed. PacifiCorp will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. Notwithstanding the foregoing, PacifiCorp shall not be obligated to obtain a permit to perform emergency repairs.

5.10.8.3 All Electric Facilities shall be located so as to cause minimum interference with the Public Ways of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City.

5.10.8.4 If, during the course of work on its Facilities, PacifiCorp causes damage to or alters the Public Way or public property, PacifiCorp shall (at its own cost and expense and in a manner approved by the City) replace and restore it to a condition comparable to that which existed before the work commenced.

5.10.8.5 In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, PacifiCorp shall, upon payment of all charges

provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance.

5.10.8.6 The City shall have the right without cost to use all poles and suitable overhead structures owned by PacifiCorp within Public Ways for City wires used in connection with its fire alarms, police signal systems, or other communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that PacifiCorp shall assume no liability, nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles, and structures by the City shall be in such a manner as to prevent safety hazards or interferences with PacifiCorp's use of same. Nothing herein shall be construed to require PacifiCorp to increase pole size or alter the manner in which PacifiCorp attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of PacifiCorp and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by PacifiCorp.

5.10.8.7 PacifiCorp shall have the right to excavate the Public Ways subject to reasonable conditions and requirements of the City. Before installing new underground conduits or replacing existing underground conduits, PacifiCorp shall first notify the City of such work and shall allow the City, at its own expense, to share the trench of PacifiCorp to lay its conduit therein, provided that such action by the City will not unreasonably interfere with PacifiCorp's Electric Facilities or delay project completion. Each of the City and PacifiCorp will be solely liable for their respective construction and conduit installation activities and any resulting injury to persons, death or damage to property, including above or underground facilities in or near the Public Ways.

5.10.8.8 Before commencing any street improvements or other work within a Public Way that may affect PacifiCorp's Electric Facilities, the City shall give written notice to PacifiCorp.

5.10.8.9 No structures, buildings or signs shall be erected below PacifiCorp's facilities or in a location that prevents PacifiCorp from accessing or maintaining its facilities.

5.10.8.10 PacifiCorp shall provide the City with a report of all new services created within City boundaries on an annual basis during the term of this Franchise. The City shall provide written confirmation of the accuracy of the report and/or any corrections thereto to PacifiCorp within a reasonable time following receipt of the report.

#### **SECTION 5.10.9. Relocation of Electric Facilities.**

5.10.9.1 The City reserves the right to require PacifiCorp to relocate overhead Electric Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the City. Within a reasonable period of time after notice, PacifiCorp

shall promptly commence the overhead relocation of its Electrical Facilities. Before requiring a relocation of Electric Facilities, the City shall, with the assistance and consent of PacifiCorp, identify a reasonable alignment for the relocated Electric Facilities within the Public Ways of the City. The City shall assign or otherwise transfer to Company all right it may have to recover the cost for the relocation work and shall support the efforts of PacifiCorp to obtain reimbursement. In cases of capital improvement projects undertaken by the City, PacifiCorp shall convert existing overhead distribution Facilities to underground, so long as PacifiCorp is allowed to collect the costs associated with conversion from overhead to underground facilities consistent with California Public Utility Commission rules on forced conversions.

5.10.9.2. PacifiCorp shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, PacifiCorp may charge the expense of removal or relocation to the developer or customer. For example, PacifiCorp shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition or caused by a private development. In such event, the City shall require the developer to pay PacifiCorp for such relocation costs as part of its approval procedures.

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SECTION 5.10.10. Subdivision Plat Notification. Before the City approves any new subdivision and before recordation of the plat, the City shall mail notification of such approval and a copy of the plat to PacifiCorp:

Pacific Power  
Attn: Estimating Department  
Local Address 300 S Main St  
Local Address Yreka Ca. 96097

SECTION 5.10.11. Vegetation Management. PacifiCorp or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways, to prevent the branches or limbs or other part of such trees or vegetation from interfering with PacifiCorp's Electrical Facilities. Such pruning shall comply with the American National Standard for Tree Care Operation (ANSI A300) and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent PacifiCorp, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

SECTION 5.10.12. Compensation.

5.10.12.1 In consideration of the rights, privileges, and franchise hereby granted, PacifiCorp shall pay to the City from and after the effective date of the acceptance of this franchise two percent (2%) of the gross receipts arising from PacifiCorp's use, operation, or possession of this franchise; except that this payment shall not be less than one and one-

half percent (1.5%) of the annual gross revenue derived by PacifiCorp from the sale of electricity within the incorporated limits of the City.

The term "gross revenue" as used herein shall be construed to mean any revenue of PacifiCorp derived from the retail sale and use of electric power and energy within the municipal boundaries of the City after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. All amounts paid under this Section 12 shall be subject to review by the City; provided that only payments which occurred during a period of thirty-six (36) months prior to the date the City notifies PacifiCorp of its intent to conduct a review shall be subject to such review. Notwithstanding any provision to the contrary, at any time during the term of this Franchise, the City may elect to increase the franchise fee amount as may then be allowed by state law. The City shall provide PacifiCorp with prior written notice of such increase following adoption of the change in percentage by the City. The increase shall be effective sixty (60) days after City has provided such written notice to PacifiCorp.

5.10.12.2 The franchise fee shall not be in addition to any other license, occupation, franchise or excise taxes or charges which might otherwise be levied or collected by the City from PacifiCorp with respect to PacifiCorp's electric business or the exercise of this franchise within the corporate limits of the City and the amount due to the City under any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting there from the amount of said franchise fee paid hereunder.

SECTION 5.10.13. Renewal. At least 120 days prior to the expiration of this Franchise, PacifiCorp and the City either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. PacifiCorp shall have the continued right to use the Public Ways of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

SECTION 5.10.14. Waiver. Neither the City nor PacifiCorp shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

SECTION 5.10.15. Transfer of Franchise. PacifiCorp shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld; provided, however, inclusion of this Franchise as property subject to the lien of PacifiCorp's mortgage(s) shall not constitute a transfer or assignment.

SECTION 5.10.16. Amendment. At any time during the term of this Franchise, the City, through its City Council, or PacifiCorp may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and PacifiCorp and formally adopted as an ordinance amendment.

SECTION 5.10.17. Non-contestability—Breach of Contract.

5.10.17.1 Neither the City nor PacifiCorp will take any action for the purpose of securing modification of this Franchise before either the California Public Utility Commission or any Court of competent jurisdiction; provided, however, that neither shall be precluded from taking any action it deems necessary to resolve difference in interpretation of the Franchise nor shall PacifiCorp be precluded from seeking relief from the Courts in the event California Public Utility Commission orders, rules or regulations conflict with or make performance under the Franchise illegal,

5.10.17.2 In the event PacifiCorp or the City fails to fulfill any of their respective obligations under this Franchise, the City, or PacifiCorp, whichever the case may be, will have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy which would have the effect of amending the specific provisions of this Franchise shall become effective without such action which would be necessary to formally amend the Franchise.

SECTION 5.10.18. Notices. Unless otherwise specified herein, all notices from PacifiCorp to the City pursuant to or concerning this Franchise shall be delivered to the City Manager's Office. Unless otherwise specified herein, all notices from the City to PacifiCorp pursuant to or concerning this Franchise shall be delivered to the Customer and Community Affairs Vice President, Pacific Power, 825 NE Multnomah, Lloyd Center Tower Suite 2000, Portland, Oregon 97232, and such other office as PacifiCorp may advise the City of by written notice.

SECTION 5.10.19. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

SECTION 5.10.20. Waiver of Jury Trial. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

Section 5.10.21. The city attorney is hereby authorized to prepare a summary of the ordinance as required by Government Code Section 36933.

Section 5.10.22. The city clerk is hereby authorized to publish the summary and post certified copies of the full text of the proposed and then adopted ordinances as required by Government Code Section 36933.

Section 5.10.23. This ordinance shall take effect and be in force thirty-one (31) days after its passage.

Section 5.10.24. This ordinance shall be published in the Siskiyou Daily News, a newspaper of general circulation in the Town of Fort Jones, within fifteen (15) days after its passage.

I HEREBY CERTIFY the foregoing ordinance was introduced for first reading at a regular meeting of the City Council of the Town of Fort Jones held the 12<sup>th</sup> day of April 2021, and thereafter adopted at a regular meeting of said Council held the \_\_\_\_\_ day of \_\_\_\_\_ by the following vote to wit:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

APPROVED:

\_\_\_\_\_  
Michelle DeCausmaker, Mayor

ATTEST:

\_\_\_\_\_  
Sandra Wadley, Deputy City Clerk