

CHAPTER SEVEN -- BUSINESS

REVENUE

BUSINESS LICENSE ACT

7.005 SHORT TITLE

The provisions of [Sections 7.010 to 7.100](#) shall be known as the Business License Act. [Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.010 PURPOSE OF BUSINESS TAX

- (1) This licensing act is necessary to assure minimum compliance by regulated businesses with local planning ordinances.
- (2) This licensing act requires Business owner to obtain authorization prior to the business commencing operations. [Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.015 DEFINITIONS

- (1) In [Sections 7.005 to 7.100](#), (Business License Act), "Business" means any trade, profession, occupation or pursuit conducted for gain. "Business" shall not include:
 - (a) Business excluded from local business license by Oregon Revised Statute; or
 - (b) Public utilities covered by franchise Ordinances and paying taxes under the franchise are exempted from the provisions of this Act.
- (2) Businesses shall include:
 - (a) Those persons who cater to the general public by selling merchandise or rendering professional or nonprofessional services within City limits.
 - (b) Those persons whose physical plants or facilities are located outside the City, streets or facilities and whose services or materials are rendered within the City.
- (3) For purposes of [Sections 7.005 to 7.100](#) (Business Licenses), each branch establishment of a Business shall be considered a separate Business and

subject to the business fee under [Section 7.095](#).

- (4) For the purposes of this Act, no person whose income is based solely on a wage or salary shall be considered a business. [Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.020 OPERATION WITHOUT SECURING LICENSE OR PAYMENT OF FEE

No person shall carry on any Business as defined in Section 7.015, without first paying in advance the business fee imposed by Section 7.095 and obtaining a business license. [Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.025 LICENSE DURATION

Except for temporary business licenses, new licenses shall be valid from the date of issuance for up to one year, ending on December 31st. Renewal licenses shall be valid from January 1st for one, two or three years, ending on December 31st. Temporary business licenses shall be valid only for a 45-day period. [Amended by Ordinance No. 6496, enacted Aug. 19, 1985; Amended by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance 02-21, enacted July 1, 2003; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.030 APPLICATION FOR LICENSE

Each person wishing to engage in a new Business or assuming ownership of an existing Business shall apply for a license to carry on business for the license year. Suitable application forms will be furnished by the City. Application for a business license shall be made before the Business is operational. Applications for Businesses wishing to conduct residential door-to-door solicitation must be accompanied by a door-to-door solicitation registration form as required in [Section 7.770 to 7.776](#) (Residential Door-to-Door Solicitations). At the time of filing,

the applicant shall pay the required license fee required in Section 7.095 (Business License Fee). The application shall contain the information required.

[Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.035 APPLICATION REVIEW

- (1) The City Manager shall refer each application to the City departments to review the Community Development Ordinance, City Codes and State and Federal laws and regulations.
- (2) The City Manager may deny an application or revoke a business license if it does not meet the Community Development Ordinance, City Codes, State and Federal laws and regulations or, after an investigation by the City Police Department, the Business owner has criminal convictions directly related to the Business operations or if criminal activity giving rise to a conviction is conducted by Business owners or employees on the Business premises.

[Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.037 REPEALED

[Added by Ordinance No. 11-08, enacted Oct. 3, 2011; Repealed by Ordinance No. 15-07, enacted July 20, 2015.]

7.040 INFORMATION FROM APPLICANT

The City may require the applicant to supply information necessary to determine the compliance with the requirements under [Section 7.035](#). If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended or denied.

[Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.045 ISSUANCE OF LICENSE

- (1) The City Manager shall determine whether the Business as described in the application and as operated would comply with the requirements of Section 7.035. If the Business

qualifies, the City Manager shall issue the license.

- (2) No license shall be issued to a person if the person has, prior to making application, conducted a Business without a current, valid business license unless an additional amount equal to the license fee is paid for the period during which the Business was conducted.

[Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.050 REPEALED

[Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Repealed by Ordinance No. 15-07, enacted July 20, 2015.]

7.055 LICENSE RENEWAL AND LATE PENALTY

The application for renewal of a business license shall be made to the License Clerk prior to the expiration of the license. A penalty of ten percent (10%) of the tax for each month or part thereof during which the tax remains unpaid shall be added to the license tax accompanying a later renewal application. Following February 28, renewal shall no longer be permitted, a new license application and fee shall be required.

[Amended by Ordinance No. 6496, enacted Aug. 19, 1985; Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 02-21, enacted July 1, 2003; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 13-03, enacted May 20, 2013; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.060 RENEWAL APPLICATION AND REVIEW

A renewal shall be processed without a review unless the City has reason to believe the Business is not in compliance with [Section 7.035](#) (Application for License).

[Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.065 REPEALED

[Amended by Ordinance No. 6592, enacted March 19, 1990, Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Repealed by Ordinance No. 15-07, enacted July 20, 2015.]

7.070 REPEALED

[Amended by Ordinance 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Repealed by Ordinance No. 15-07, enacted July 20, 2015.]

7.075 SUSPENSION OF LICENSE

If a licensed Business presents an immediate danger to persons or property, the City Manager may immediately suspend the license. The suspension takes effect immediately upon receipt of notice of the suspension by the licensee or local agent, or delivery to the licensee's business address as stated on the licensee's application. Such notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the provisions for appeal under [Section 7.080](#).

[Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.080 APPEAL

- (1) The aggrieved applicant or licensee may, submit an appeal to Council under Section 1.025 (Uniform Appeal and Hearing Procedure).
- (2) An appellant who fails to file the statement within the permitted time waives objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The Council shall hear and determine the appeal on the basis of the written statement and any additional evidence it considers appropriate. The decision of the Council is final.

[Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.085 POSTING OF LICENSE

- (1) Except as provided in Subsection (2), the business license shall be posted, at all times, in a conspicuous place upon the business premises, and available for inspection by the public and by employees and prospective employees of the business.
- (2) When the licensee has no office, business premises or other established place of business in the City, the business license shall be in the possession of the representative of

the business who is present in the City at all times during which business is being transacted by any employee or representative in the City.

[Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.090 CONTENTS OF LICENSE

[Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Repealed]

7.095 BUSINESS LICENSE FEE

- (1) City Manager shall establish a schedule of business license fees according to Section 1.075 (Fees).
- (2) Non-profit corporations and businesses excluded from local business licensing by federal and state law shall be exempt from the business license fee.
- (3) If two or more related Businesses are operated at the same premises by the same owners, one license may be issued to the Business with the primary business use. Two or more Businesses operated by different persons on the same premises must be separately licensed.
- (4) If a Business with a current business license has a physically separate warehouse that is used solely for storage related to the licensed Business and is not accessed by the public, a separate business license is not required for the warehouse.

[Amended by Ordinance No. 6572, enacted Sep. 5, 1989; Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 02-21, enacted July 1, 2003; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by Ordinance No. 15-07, enacted July 20, 2015.]

7.100 TRANSFER OR ASSIGNMENT OF LICENSE

- (1) No person shall assign or transfer a business license issued to another person. Any transfer or assignment of a Business shall be subject to a new application in Section 7.030.
- (2) In the event a licensed business changes location, a new fee application and a fee in an amount set by Council, shall be required.

[Amended by Ordinance No. 6496, enacted Aug. 19, 1985; Amended by Ordinance No. 6592, enacted March 19, 1990; Amended by Ordinance No. 11-08, enacted Oct. 3, 2011; Amended by

Ordinance No. 15-07, enacted July 20, 2015.]

PARKING DISTRICT FEES

7.125 PURPOSE AND SCOPE

(1) Under authority conferred by ORS 223.805 to 223.845, Fees are imposed for revenue purposes only. The Fees are imposed for the privilege of occupying real property within the Parking District as established by [Sections 7.125 to 7.190](#) and where free public parking facilities are provided.

(2) Revenues generated by the Fees shall be used solely for the administration, enforcement, purchase, construction, operation, maintenance, improvement, and development of parking facilities and pedestrian amenities intended to improve on-street and public off-street parking. The Fees are in addition to any other tax, assessment or fee required by state or local law or Ordinance. Such revenues and expenditures shall be maintained in a separate account and shall be independently disclosed in the City's budget documents.

(3) If other resources are available, or the need for the facilities decreases, the Fees shall be decreased or eliminated.

[Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.130 DEFINITIONS

As used in [Sections 7.125 to 7.190](#) (Parking District Fees), the following terms shall mean:

(1) **Business.** Business means any trade, profession, occupation or pursuit conducted for profit or non-profit making, occupying premises in the Parking District as described in [Section 7.135](#) (Boundaries of District). Such activities shall include, but not be limited to, the furnishing of professional or nonprofessional services, the sale or other disposition of goods, wares or merchandise, or a combination of such activities. The term "Business shall not apply to:

- (a) The act of occupying living quarters; and
- (b) Governmental activities.

(2) **Employee, Full-Time and Part-Time.** Employee includes owners, manager, volunteers, employees, agents and outside sales persons, doing Business. Persons who begin work after 5:00 p.m. and leave before 8:00 a.m., will not be considered an "Employee" and shall not be subject to the Parking District Fees.

(3) **Employee Parking Permit Fee.** The Employee Parking Permit Fee is for the

privilege of occupying real property within the Parkign District where free public parking facilities are provided.

(4) **Fees.** The term "Fees" shall mean collectively, the Employee Parking Permit Fee and the Parking Maintenance Fee.

(5) **Parking District.** Parking District shall be referred to as "District" and as established in [Section 7.135](#).

(6) **Parking Maintenance Fee.** The Parking Maintenance Fee is for administration, enforcement, purchase, construction, operation, maintenance, improvement, and development of parking facilities within the District.

(7) **Premises.** A fixed or definite location where Business is conducted.

(8) **Seasonal Employee.** An Employee of a Business who works 40 hours a week for less than 3 months of a year, such as temporary staff for an accounting agency during the tax season.[Amended by Ordinance No. 99-15, enacted November 15, 1999; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.135 BOUNDARIES OF DISTRICT

The District boundaries shall be established by the City Council and may be amended from time to time by Resolution following a public hearing.

[Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Amended by Ordinance No. 6456, enacted June 4, 1984; Amended by Ordinance No. 6480, enacted Dec. 3, 1984; Amended by Ordinance No. 6540, enacted Oct. 5, 1987; Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Amended by Ordinance No. 03-10, enacted April 7, 2003; Amended by Ordinance No. 03-39, enacted Dec. 15, 2003, amended by Ordinance No. 05-54, enacted Jan. 22, 2005; Amended by Ordinance no. 11-07, enacted Sep. 19, 2011.]

7.140 OPERATION WITHOUT PAYMENT OF FEES

No person, agent or employee of a Business shall transact Business in the District unless the Fees for the operation of the Business were paid in advance as required by [Sections 7.125 to 7.190](#) (Parking District Fees).

[Amended by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.145 FEE PERIOD

(1) The Fees shall be imposed for the period July 1 to June 30 (Fee Year). If a Business within the District starts during the year, the Fees shall be prorated on a monthly basis for the unexpired year, using the first day of the calendar month within which the business was begun. A Business or service shall not be charged less than one-twelfth (1/12) of the Fees. The Fees are imposed on the Business and not the Premises.

(2) If the Business moves from the original location to another location within the District, its Fees for the new location shall be considered paid.

[Amended by Ordinance No. 09-11, enacted Aug. 4, 2009.]

(3) Upon payment of required Fees, the City shall provide the Business with a copy of the rules and regulations applicable to parking downtown, along with a map of the District and one Full-Time Parking Permit or one Part-Time Parking Permit for each Employee of the Business as self-reported.

[Amended by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance No. 95-2, enacted March 9, 1995; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.147 LATE PENALTY

A monthly penalty of 10% of the Fees due, up to a maximum of 100% of the fees due, shall be applied to all delinquent payments under [Sections 7.125](#) to 7.190 (Parking District Fees). If payment is delinquent more than 6 months, the Business shall be considered in violation of [Section 7.035](#) (Business License), and the City Manager may elect to revoke under [Section 7.070](#) (License Revocation) or deny the renewal under [Section 7.060](#) (Renewal Application and Review).

[Added by Ordinance No. 93-10, enacted July 21, 1993; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.150 REPEALED

[Repealed by Ordinance No. 93-10, enacted July 21, 1993.]

7.155 TWO OR MORE BUSINESS PREMISES; TWO OR MORE BUSINESSES ON THE SAME PREMISES – REMOVED BY ORDINANCE NO. 11-07

[Amended by Ordinance No. 94-35, enacted Jan.

6, 1995; Removed by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.160 PARKING MAINTENANCE FEE

The annual Parking Maintenance Fee shall be the amount authorized by Council for each Employee. This fee shall apply to every Business within the District, regardless of whether a business provides off-street parking. Season Employees and the Businesses that employ them shall not be responsible for any Parking Maintenance Fee for such employees.

[Amended by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Amended by Resolution No. 01-48, effective Jan. 1, 2002; Amended by Resolution No. 04-13, enacted May 17, 2004; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.165 EMPLOYEE PARKING PERMIT FEE

(1) A Business is required to pay the appropriate Employee Parking Permit Fee, for the categories described in Section 7.187 (Permits), for every Business that has employees.

(2) The Employee Parking Permit Fee shall be the amount authorized by Council.

(3) Each Employee shall receive only one parking permit for each Employee Parking Permit Fee.

(4) Businesses that provide off-street parking are not required to pay an Employee Parking Permit Fee for the number of off-street parking spaces provided within 300 feet of the Business if the spaces are properly signed and so arranged as to be safely accessible. Variances to the 300 foot limit may be granted by the Downtown Advisory Committee. Further, the parking must be paved and landscaped in compliance with the Community Development Ordinance.

(5) If a Business provides off-street parking and does not pay appropriate Employee Parking Permit Fees, no Employee parking permits shall be issued.

[Amended by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance 99-15, enacted Nov. 15, 1999; Amended by Ordinance No. 00-13, enacted July 17, 2000; Amended by Ordinance No. 01-48, effective Jan. 1, 2002; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.170 PART-TIME EMPLOYEES – REMOVED BY ORDINANCE NO. 11-07

[Amended by Ordinance No. 99-15, enacted 11-15-99; Amended by Ordinance No. 00-13, enacted July 17, 2000; Amended by Res. No. 01-48, effective Jan. 1, 2002; Amended by Res. No. 04-13, enacted May 17, 2004; Removed by Ordinance No. 11-07, enacted Sept. 19, 2011.]

7.175 EVIDENCE OF DOING BUSINESS

In a trial of an alleged violation of [Sections 7.125 to 7.190](#) (Parking District Fees), evidence that the defendant or defendant's employer made a public representation, by way of advertisement by newspaper, radio, television or similar media, or by signs, notices or lettering displayed for public view, that the Business was being conducted within the District and expressing or implying the offer to sell goods or services in the course of the Business to the public, shall constitute prima facie evidence that the defendant was transacting Business as referenced in [Section 7.140](#) (Operation Without Payment of Fees) within the District on the date or dates during which the representations were made.

[Amended by Ordinance No. 11-07, enacted Sep. 19, 2011]

7.180 USE OF CHARGES – REMOVED BY ORDINANCE NO. 11-07

[Amended by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Removed by Ordinance No. 11-07, enacted Sept. 19, 2011.]

7.185 APPLICATION

(1) An application shall be submitted prior to the beginning of the year, or prior to the opening of the Business, and shall be signed by the owner or manager of the Business. The application shall be either the business license application or business license renewal form and shall contain:

- (a) The name or assumed business name under which the Business is conducted;
- (b) The nature of the Business;
- (c) The name of the owner and manager;
- (d) The location of the Business;
- (e) The number of Full Time Employees working for the Business in the District; and
- (f) The number of Part-Time Employees, the time at which each such Employee's shift commences, and the number of hours per week for which each Part-Time Employee is employed.

(2) Except as provided by law, the application shall be confidential, and the contents shall

not be revealed except for purposes of administering or enforcing [Sections 7.125 to 7.190](#) (Parking District Fees). No person shall knowingly submit a return containing a material false representation.

[Amended by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.187 PERMITS

(1) Upon payment of the appropriate fee, the City shall issue the corresponding permit from the following:

- (a) Full-Time Employee Parking Permit. This permit shall authorize parking during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, in areas designated as "Employee Parking" during the term of the permit. These permits are valid for one Fee Year and are prorated at the start of each month.
- (b) Temporary Construction Parking Permit. This Permit shall authorize parking on public streets or in public lots during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, in connection with the construction, maintenance, or repair of a building within the District. These permits are valid for no more than 30 days, but are renewable for the period of construction.
- (c) Reserved Parking Permit. This permit shall authorize an individual to park in parking spaces designated as "Reserved" in specific, off-street parking lots from the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. These Permits are valid for one calendar month, but may be purchased for the entire Fee Year. Only an Employee Parking Permit holder can receive a Reserve Parking Permit.
- (d) Part-Time Employee Parking Permit. This permit shall only be issued to Part-Time Employees, and shall authorize parking during the hours of employment in areas designated as "Employee Parking" during the terms of the Permit. These Permits are valid for one Fee Year.
- (e) Seasonal Employee Parking Permit. This permit shall authorize parking during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, in areas designated as "Employee Parking" during the term of the Permit. Seasonal Employees may

purchase a one month permit or a three month permit.

- (f) Courtesy Parking Permit. This permit authorizes a business customer to park within a "Two-Hour" parking space in the District for up to 4 hours. These Permits are available for purchase by Businesses only. On each Permit, Business must designate the date and time for parking.

(2)The City shall issue a Permit of the same category for a new Employee upon the employer turning in the old Permit from the departing Employee.

(3)The City may issue permits for no charge to jurors and for other public purposes.

[Added by Ordinance No. 94-35, enacted Jan. 6, 1995 Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

meeting.
[Added by Ordinance 06-30, enacted Oct. 16, 2006.]

7.188 FEES ESTABLISHED AND MODIFIED

All Fees authorized in [Sections 7.125 to 7.188](#) (Parking District Fees) may be from time to time established and changed by City Council Resolution following a Public Hearing.

[Added by Ordinance No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance No. 99-15, enacted Nov. 15, 1999; Amended by Ordinance No. 11-07, enacted Sep. 19, 2011.]

7.190 REPEALED

[Amended by Ordinance No. 6456, enacted June 5, 1984; Repealed by Ordinance No. 99-15, enacted Nov. 15, 1999.]

7.200 IMPOSITION OF LIEN SEARCH FEES

(1) In order to defray the costs of searching City lien records, any person or business entity searching City lien records via the City access site on the World Wide Web (the "internet") shall pay a fee of \$25 for each tax lot number or parcel of property searched.

(2) The Finance Director is hereby authorized to adopt policies and procedures to implement access to City lien records via the internet and to collect the lien search fee. The City Manager is authorized to modify the lien search fee at any time, provided, however, that prior to adoption and implementation, notice of the proposed fee change shall be provided to Council not less than 30 days prior to implementation to allow Council the opportunity to request that the fee charge be determined by Council during a public

MARIJUANA TAX

7.200 PURPOSE

Every person who sells marijuana or marijuana-infused products in the City of Klamath Falls is exercising a taxable privilege. The purpose of Sections 7.200 to 7.250 (Marijuana Tax) is to impose a tax upon the retail sale of marijuana and marijuana-infused products.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.201 EXEMPTION

(1) Marijuana sold for medical purposes through medical marijuana dispensaries authorized by the State of Oregon to dispense medical marijuana shall be exempt from the tax.

(2) Dispensaries who sell marijuana for medical and recreational purposes shall comply with the record keeping requirements as required by Sections 7.200 to 7.250 (Marijuana Tax). In addition, such dispensaries shall maintain records of marijuana sold for medical purposes.

(3) Dispensaries who sell only marijuana for medical purposes shall not be required to comply with the record keeping requirements of Sections 7.200 to 7.250 (Marijuana Tax).

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.202 DEFINITIONS

When not clearly indicated by context, the following words and phrases as used in Section 7.200 to 7.236 of City Code shall have the following meanings:

Director. The Support Services Director or the Director's designee.

Sale. The retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

Seller. Any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchase for money, credit, property or other consideration.

Tax. Either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under Sections 7.200 to 7.250 (Marijuana Tax).

Taxpayer. Any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the

terms of Sections 7.200 to 7.250 (Marijuana Tax). [Added by Ordinance No. 14-09, enacted Oct. 20, 2014, enacted Oct. 20, 2014; Amended by Ordinance No. 18-12, enacted Dec. 17, 2018]

7.205 LEVY OF TAX

(1) A three percent (3%) tax shall be imposed on marijuana retail sales in the City.

(2) Every seller exercising the taxable privilege of selling marijuana and marijuana-infused products shall pay the tax based upon the total sale amount of recreational marijuana and marijuana-infused products.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014; Amended by Ordinance No. 18-12, enacted Dec. 17, 2018.]

7.207 DEDUCTIONS

The following deductions shall be allowed against sales received by the seller providing marijuana:

(1) Refunds of sales actually returned to any purchaser; and

(2) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.210 SELLER RESPONSIBLE FOR PAYMENT OF TAX

(1) Every seller, shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October, and January) make a return to the Director, on forms provided by the City, specifying the total sales subject to marijuana taxation and the amount of tax collected. The Director may establish shorter reporting periods for any seller if the seller or Director deems it necessary in order to insure collection of the tax and the Director may require further information in the return relevant to the payment of the tax. A return shall not be considered filed until it is actually received by the Director.

(2) At the time the return is filed, the full amount of the tax collected shall be remitted to the Director.

(3) Non-designated payments shall be applied in the order of the oldest liability

first, with the payment credited first toward any accrued penalty then to interest, then to the underlying tax until the payment is exhausted. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to Sections 7.200 to 7.250 (Marijuana Tax) shall be held in trust for the account of the City, until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.

- (4) Every seller required to remit the tax imposed in Sections 7.200 to 7.250 (Marijuana Tax) shall be entitled to retain two percent (2%) of all taxes due to defray the costs of bookkeeping and remittance.
- (5) Every seller must keep and preserve in an accounting format established by the Director, records of all sales made by the dispensary and such other books or accounts as may be required by the Director. Every seller must keep and preserve for a period of three years all such books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014; Amended by Ordinance No. 18-12, enacted Dec. 17, 2018.]

7.212 PENALTIES AND INTEREST

- (1) Any seller who fails to remit any portion of any tax imposed by Sections 7.200 to 7.250 (Marijuana Tax) within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the amount of the tax.
- (2) Any seller who fails to remit any delinquent remittance within 60 days of the date the tax became delinquent, shall pay a second delinquency penalty of 10 percent of the amount of the tax.
- (3) If the Director determines that the nonpayment of any remittance due is due to fraud, a penalty of 25 percent of the amount of the tax shall be added.
- (4) Any seller who fails to remit any tax shall pay interest at the rate of one percent per month or a fraction thereof on the amount of the tax from the date on which the

remittance first became delinquent until paid.

- (5) Every penalty imposed, and such interest as accrues shall become part of the tax required to be paid.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.215 FAILURE TO REPORT AND REMIT TAX

If any seller should fail to report the tax required, the Director shall estimate the tax due based on facts and information available. When the Director estimates the tax, the Director shall give a notice of the amount assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in Section 7.217 (Appeal). If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.217 APPEAL

Any seller aggrieved by any decision of the Director with respect to the amount of the tax, interest and penalties may appeal pursuant to Section 1.025 (Uniform Appeal and Hearing Procedure), except that a hearings officer shall be appointed by the City Council to hear the appeal. The hearings officer shall hear and consider any records and evidence presented bearing upon the Directors' determination of amount due, and makes findings affirming, reversing or modifying the determination. The findings of the hearings officer shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of the hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.220 REFUNDS

- (1) Whenever the amount of the tax, interest or penalty was overpaid or has been erroneously collected or received by the City under Sections 7.200 to 7.250 (Marijuana Tax), it may be refunded as provided in Subsection (2), provided a claim in writing, stating under penalty of

perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.

- (2) The Director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as the validity of the claim. The Director shall notify the claimant in writing of the Director's determination.
- (3) No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.222 ACTIONS TO COLLECT

Any tax required to be paid by any seller under the provisions of Sections 7.200 to 7.250 (Marijuana Tax) shall be deemed a debt. The City may turn over any delinquent tax account to a collection agency and add collection fees.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.225 VIOLATION INFRACTIONS

- (1) Any person who is subject to Sections 7.200 to 7.250 (Marijuana Tax) shall not:
 - (a) Fail or refuse to comply as required;
 - (b) Fail or refuse to furnish any return required to be made;
 - (c) Fail or refuse to permit inspection of records;
 - (d) Fail or refuse to furnish a supplemental return or other data required by the Director;
 - (e) Render a false or fraudulent return or claim; or
 - (f) Fail, refuse or neglect to remit the tax to the City by the due date.
- (2) Violation of Section 7.225(1)(a)(b)(c)(d) and (f) shall be punished by a fine not more than \$1,000.
- (3) Violation of Section 7.225(1)(e) shall be punished by a fine of not more than \$10,000, or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment.
- (4) Violation of Section 7.225(1) shall result

in the forfeiture of the fee set out in Section 7.210(4).

- (5) The remedies provided by this Section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of Sections 7.200 to 7.250 (Marijuana Tax) prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City Ordinance.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014; Amended by Ordinance No. 18-12, enacted Dec. 17, 2018.]

7.227 CONFIDENTIALITY

Except as otherwise required by law, it shall be unlawful for the City, an officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of Sections 7.200 to 7.250 (Marijuana Tax). Nothing in this section shall prohibit:

- (1) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- (2) The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- (3) Presentation of evidence to the court, or other tribunal having jurisdiction in prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under Sections 7.200 to 7.250 (Marijuana Tax); or
- (4) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- (5) The disclosure of records related to a business' failure to report and remit the tax with the report or tax that is in arrears for over 6 months or the tax exceeds \$5,000. The City Council expressly finds and determines that the public interest in disclosure of such records outweighs the interest in confidentiality under ORS 192.345(5).

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014; Amended by Ordinance No. 18-12, enacted Dec. 17, 2018.]

7.230 AUDIT OF BOOKS, RECORDS OR PERSONS

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax returns, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the City limits and open at any time during regular business hours for examination by the Director or an authorized agent of the Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the Klamath Falls Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.235 FORMS AND REGULATIONS

The Director is authorized to prescribe forms and promulgate rules and regulations to administer Sections 7.200 to 7.250 (Marijuana Tax)

[Added by Ordinance No. 14-09, enacted Oct. 20, 2014.]

7.236 ALTERNATIVE COLLECTION METHOD; PENALTIES AND ENFORCEMENT; CONFLICT OF LAWS

- (1) Pursuant to ORS 305.620, the Director may enter into an intergovernmental agreement with the Oregon Department of Revenue to collect the 3 percent tax imposed under section 7.205. The terms and conditions of the IGA shall apply in lieu of this Ordinance.
- (2) If the Director enters into an intergovernmental agreement pursuant to this section, the provisions of ORS 475B.710, ORS 475B.715, and ORS 475B.755 shall apply to every marijuana retailer subject to this Ordinance.
- (3) In the event of any conflict between the provisions of this Ordinance and the provisions of the intergovernmental agreement, the provisions of the intergovernmental agreement shall apply.

[Added by Ordinance No. 18-12, enacted Dec. 17, 2018.]

MARIJUANA FACILITIES

7.240 DEFINITIONS

When not clearly indicated by context, the following words and phrases as used in Section 7.240 to 7.270 of City Code shall have the following meanings:

Attractive to Minors. Packaging, labeling and advertising that features:

- (a) Cartoons;
- (b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
- (c) Symbols or celebrities that are commonly used to market products to minors
- (d) Images of minors; or
- (e) Words that refer to products that are commonly associated with minors or marketed by minors.

Cannabinoid Concentrate. A substance obtained by separating cannabinoids from marijuana by a mechanical extraction process or a chemical process that does not use a hydrocarbon-based solvent and/or high heat or pressure.

Cannabinoid Extract. A substance obtained by separating cannabinoids from marijuana by any chemical extraction process using a hydrocarbon-based solvent and/or high heat or pressure.

Cannabinoid Product. Cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers; including:

- (a) Usable marijuana, cannabinoid extracts and cannabinoid concentrates that have been combined with an added substance; or
- (b) Any combination of useable marijuana, cannabinoid extracts and cannabinoid concentrates.

Cannabinoid product does not include:

- (a) Usable marijuana by itself;
- (b) A cannabinoid concentrate by itself;
- (c) A cannabinoid extract by itself; or
- (d) Industrial hemp, as defined in state law.

Childcare Facility. A residence or building used to provide substitute residential care for children as provided under state law.

Hemp. All non-seed parts and varieties of the cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol

concentration that does not exceed 0.3 percent on a dry weight basis.

Industrial Hemp Certificate. A person or facility who produces and/or process agriculture hemp and is registered with the Department of Agriculture and in compliance with all state and local laws.

Laboratory. A site certified under state law authorized to sample or test marijuana items for purposes specified by state law.

Marijuana. The plant cannabis family cannabaceae, any part of the plant cannabis family cannabaceae and the seeds of the plant cannabis family cannabaceae; not including industrial hemp, as defined in state law.

Marijuana Facility. Any retail, production, processing, wholesaling, or other facility licensed under the state marijuana laws.

Marijuana Laboratory License. A laboratory licensed under state law.

Medical Marijuana Dispensary. A person or facility licensed by the OHA that sells cannabinoid products, extracts and concentrates to OMMP patients over the age of 18 in this state and is in compliance with all state and local laws.

Medical Marijuana Extraction Processor. A person or facility licensed by the OHA that processes marijuana for medical purposes using a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane, a chemical extraction process using the solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the OHA, in consultation with the authority, by rule.

Medical Marijuana Grow Site. A location designated and registered through OHA and in compliance with state law where marijuana is produced for use by a patient, for transfer to a registered processing site or dispensary.

Medical Marijuana Processor. A person or facility that is licensed by the OHA to perform processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts, without using hydrocarbons and/or high heat or pressure, and is in compliance with all state and local laws.

Medical Purpose. A purpose related to using useable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to mitigate the symptoms or effects of a debilitating medical condition as defined in state

law.

Minor. A person under 21 years of age.

Noncommercial. Not dependent or conditioned upon the provision or receipt of financial consideration.

OAR. Oregon Administrative Rules.

OHA. Oregon Health Authority.

OLCC. Oregon Liquor Control Commission

ORS. Oregon Revised Statutes.

Public Park. A public property that covers more than 20,000 square feet and has recreational facilities such as a playground, basketball court, football field, soccer field, tennis court, basketball court, or volleyball court. For the purposes of Sections 7.240 through 7.270, only those Parks which are actively used as such will be considered for buffers.

Recreational Home Grow Site. A site at a private home where up to four plants may be grown by a person 21 years of age or older for noncommercial purposes.

Recreational Marijuana Extraction Processor. A person or facility licensed by the OLCC that processes marijuana using a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Commission, in consultation with the authority, by rule.

Recreational Marijuana Processor. A person or facility that is licensed by the OLCC to perform processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts, without using a chemical process and is in compliance with all state and local laws.

Recreational Marijuana Producer. A person or facility that is licensed by the OLCC that produces (grows) marijuana in this state and is in compliance with all state and local laws.

Recreational Marijuana Research Certificate. A person or facility that performs marijuana research under the authority of the OLCC, in coordination with the Oregon Health Authority and Oregon Department of Agriculture.

Recreational Marijuana Retailer. A person or facility that is licensed by the OLCC that sells marijuana products, extracts and concentrates to a consumer over the age of 21 in this state and is in compliance with all state and local laws.

Recreational Marijuana Wholesaler. A

person or facility that is licensed by the OLCC that purchases marijuana items from processors and producers in this state for resale to an OLCC facility other than a consumer and is in compliance with all state and local laws.

School. Real Property comprising a public or private elementary, secondary, or career school attended primarily by persons under the age of 18.

Security Plan. A plan as required by state law that fully describes how an applicant will comply with applicable laws and rules regarding security.

[Added by Ordinance No. 16-09, enacted by Nov. 7, 2016; Amended by Ordinance No. 18-11, enacted Dec. 5, 2018; Amended by Ordinance No. 19-09, enacted June 3, 2018]

7.250 LOCATION

- (1) All distances shall be measured in a straight line from the closest edge of each property line.
- (2) No marijuana facility shall be located within 50 feet of the Downtown Business Overlay Zone or within 50 feet of any area zoned Mixed Use or within 150 feet of any real property comprising of a school attended primarily by minors.
- (3) No marijuana facility shall be located within 400 feet of an area zoned for residential use.
- (4) No recreational marijuana retailer or medical marijuana dispensary shall be located within 1000 feet of the real property comprising a school, public library, park, recreation center or facility, licensed child care facility, public transit center, or any game arcade where admission is not restricted to persons aged 21 years or older.
- (5) No retail marijuana facility shall be within 1000 feet of another retail marijuana facility.

[Added by Ordinance No. 14-02, enacted March 17, 2014; amended by Ordinance No. 16-09, enacted Nov. 7, 2016; amended by Ordinance no. 19-09, enacted June 3, 2019.]

7.251 GENERAL PROVISIONS

- (1) All marijuana facilities shall conduct operations inside secure, enclosed structures. No production, processing, storage, or sales may be conducted out of doors or in view of the general public.
- (2) No marijuana facility shall cause or allow an offensive odor of marijuana products to emanate from a structure or property.
- (3) Any marijuana facilities located within 1000

feet of a primary or secondary school shall have its entrances and exits hidden from the view of any person on the property of the school.

- (4) All marijuana facilities shall be licensed by the state and comply with all applicable state laws and regulations.
- (5) Marijuana facilities shall only be developed in accordance with the provisions of the Community Development Ordinances, Chapters 10 through 14.

[Added by Ordinance No. 18-11, enacted Dec. 5, 2018; Amended by Ordinance No. 19-09, enacted June 3, 2019.]

7.252 GENERAL SECURITY FEATURES

All marijuana facilities shall comply with all appropriate state laws and regulations to ensure the security and appropriate monitoring of the facilities and have at a minimum an approved security plan.

[Added by Ordinance No. 19-09, enacted June 3, 2019.]

7.253 MARIJUANA PROCESSING RESTRICTIONS

(1) In addition to the state laws and regulations for marijuana processing, marijuana processing facilities must:

(a) Install and operate security systems intended to deter theft and other crimes.

(b) Limit access to regulatory agencies, licensed individuals and their employees.

(2) Marijuana processing facilities shall not transfer marijuana products to any entity other than those defined in state law.

[Added by Ordinance No. 16-09, enacted Nov. 7, 2016; Amended by Ordinance No. 19-09, enacted June 3, 2019.]

7.255 MARIJUANA-INFUSED PRODUCTS

(1) A recreational marijuana retailer or medical marijuana dispensary may not transfer any marijuana-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging.

(2) A recreational marijuana retailer or medical marijuana dispensary may not transfer any marijuana-infused product that is packaged in a manner that is attractive to minors.

[Added by Ordinance No. 14-02, enacted March 17, 2014; amended by Ordinance No. 16-09, enacted Nov. 7, 2016; Amended by Ordinance No. 19-09, enacted June 3, 2019.]

7.260 MOBILE MARIJUANA FACILITIES PROHIBITED

Mobile marijuana facilities are prohibited. No person shall locate, operate, own, allow to be operated or aide, abet or assist in the operation of any mobile marijuana facility which transports or delivers, or arranges the transportation or delivery, of marijuana to a person.

[Added by Ordinance No. 14-02, enacted March 17, 2014.]

7.270 PUBLIC NUISANCE DECLARED

Operation of any medical marijuana facility within the City in violation of the provisions of the City Code is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

[Added by Ordinance No. 14-02, enacted March 17, 2014.]

CITY ENTERPRISE ZONE ACT

7.300 POLICY & INTENT

- (1) The City Council finds and declares that the health, safety and welfare of the people of Klamath Falls are dependent upon the continued encouragement, development, growth and expansion of employment, business, industry and commerce within the City, and that this community requires the particular attention of government to help attract private business investment into the area. Therefore, it is declared to be the purpose of this Act, [Sections 7.300 to 7.340](#), to stimulate employment, business and industrial growth in the City by providing assistance to businesses and industries and by making available tax and other local incentives.
- (2) It is the intent of Council that the provisions of this Act shall take precedence over previously adopted conflicting City Code provisions, Ordinances, Resolutions and policy as necessary to further the purpose set forth above.
- (3) The provision of this Act shall be construed to the extent possible, to be consistent with the provisions of ORS 284.110 to 284.260 and the administrative rules promulgated.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.305 ZONE BOUNDARIES

- (1) The boundaries of the zone shall be the City of Klamath Falls' city limits which area includes the Enterprise Zone designated in the Governor's Executive Order No. EO-06-08.
- (2) The boundaries established in (1) above may be amended from time to time by Council Resolution.

[Added by Ordinance No. 6506, enacted May 19, 1986; Amended by Ordinance No. 6512, enacted July 9, 1986.]

7.310 DEFINITION OF BUSINESS

For purposes of this act, the term "business" shall mean any commercial or industrial enterprise as those terms are defined in the Community Development Ordinance.

- (1) New or expanding businesses shall qualify for the City incentives set forth in [Sections 7.315 to 7.340](#) provided such business or business expansion will result in the creation of at least 5 new full-time employment positions or, if

relevant, a 10% increase in the work force, whichever is greater.

- (2) Though not qualifying for the tax incentive under ORS 284.210 et seq., retail business shall qualify as a business under this act.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.315 FAST-TRACK PROCESSING

City staff and Commissions are hereby directed to expeditiously process applications and respond to inquiries for assistance regarding new and expanding businesses within the Enterprise Zone to the degree possible without denial of the legal rights to notice and opportunity for input afforded other interested parties.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.320 FEE WAIVER

The City Business License fee for new businesses within the zone shall be waived for the calendar year in which the business begins operation and the following year.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.325 CDO APPLICATION FEES

Except for payment of legal advertising and notification costs, the application fees for applications under the City's Community Development Ordinance by new or expanding business within the zone shall be waived.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.330 LOCAL IMPROVEMENT DISTRICTS

Subject to the necessity of public improvements required to address public safety or health problems, the City Manager is authorized to enter into agreements with new or expanding businesses within the zone at the request of the business whereby the City agrees not to establish any Local Improvement District encompassing the businesses' property to be improved for a period of up to two years from the date of the businesses' establishment or expansion. Such agreements must be requested by the business within 60 days of opening.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.335 SEWER CONNECTION FEES

The City Manager is hereby authorized to enter into agreements with new or expanding businesses within the zone for deferral of sewer connection fee payments. Said agreements shall provide for installment payments within 12 months at no-interest, or at the option of the business for installment payment over a 36 month period at 6% per annum interest.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

7.340 CONSTRUCTION ASSISTANCE AND CITY SERVICES

There are hereby created and directed the following assistance teams:

- (1) Construction Assistance Team, to be composed of the Public Works Director, the Senior Engineering Technician and the Police Chief, which is directed to assist in expediting

construction activities of new or expanding business as related to municipal services and facilities.

- (2) City Services Team, to be composed of the City Manager, City Attorney and City Planner, which shall represent the City during all phases of business prospect development and business start-up and shall coordinate with other community resources to assure adequate responses to business requests for assistance. Under the supervision of the Mayor, this team shall provide overall guidance and evaluation of the zone activities and shall periodically report back to the Council on zone progress.

[Added by Ordinance No. 6506, enacted May 19, 1986.]

FRANCHISE RIGHT OF WAY ACT

GENERAL

7.370 PURPOSE

The purpose and intent of this Act is to:

- (1) Establish a local policy concerning when services are performed for other persons for hire or profit for telecommunications, electricity or gas for use of the public rights-of-way;
- (2) Minimize unnecessary local regulation of franchisees and services;
- (3) Permit and manage reasonable access to the public ways of the City for franchise purposes on a competitively neutral basis;
- (4) Conserve the limited physical capacity of the public ways held in public trust by the City;
- (5) Assure that the City's current and ongoing costs of granting and regulating private access to and use of the public ways are fully paid by the persons seeking such access and causing such costs;
- (6) Secure fair and reasonable compensation to the City and the residents of the City for permitting private use of the public ways;
- (7) Assure that all franchisees providing facilities or services within the City comply with the ordinances, rules and regulations of the City;
- (8) Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare;
- (9) Enable the City to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.371 DEFINITIONS

For the purpose of the Franchise Right of Way Act, Sections 7.370 to 7.499, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

Affiliate. A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

City Property. Means and includes all real property owned by the City, other than public streets and utility easements as those terms are defined herein, and all property held in a proprietary capacity by the City, which are not subject to right-of-way licensing and franchising as provided in this Act.

Excess Capacity. The volume or capacity in any existing or future duct, conduit, manhole, handhole or other utility facility within the public way that is or will be available for use for additional utility facilities.

Overhead Facilities. Utility poles and utility facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

Public Street. Any highway, street, alley, path, bikeway or other public right of way for motor vehicle pedestrian, or bicycle travel under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to highway purposes.

Public Way. Means and includes all public highway, streets, alleys, utility easements, or other rights-of-way, now or hereafter owned by or under the jurisdiction of the City.

Surplus Space. That portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the PUC, to allow its use by a franchise grantee for a pole attachment.

Telecommunications Service. The providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

Underground Facilities. Utility facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

Usable Space. The total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Oregon Public Utility Commission.

Utility Easement. Any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with utility facilities.

Utility Facilities. The plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the public ways of the City and used or to be used for the purpose of providing services.

[Added by Ordinance No. 97-21, enacted Aug.

18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.373 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, enacted Oct. 7, 2013.]

7.374 FRANCHISE

Except as otherwise provided herein, any companies who desire to construct, install, operate, maintain or otherwise locate facilities in, under, over or across any public way of the City, and to also provide services that are subject to Sections 4.505 to 4.520 (Franchises) to persons or areas in the City, shall first obtain a franchise granting the use of such public ways from the City Council pursuant to 7.405 to 7.421.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.375 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, enacted Oct. 7, 2013.]

**7.376 APPLICATION TO EXISTING
FRANCHISE ORDINANCES AND
AGREEMENTS**

Franchise Right of Way Act, Sections 7.370 to 7.499, shall have no effect on any existing franchise ordinance or franchise agreement until the earlier of:

- (1) The expiration of said franchise ordinance or agreement; or
- (2) An amendment to an unexpired franchise

Act or franchise agreement, unless both parties agree to defer full compliance to a specific date not later than the present expiration date.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.377 PENALTIES

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Act shall be fined not less than \$100 nor more than \$500 for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.378 OTHER REMEDIES

Nothing in this Act shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Act.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.379 SEVERABILITY

If any section, subsection, sentence, clause, phrase, or other portion of this Act, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.387 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.388 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.389 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.390 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.391 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.392 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.393 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.394 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.395 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.396 [REMOVED]

[Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.397 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.398 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.399 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.400 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.401 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.402 [REMOVED]

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

FRANCHISE**7.405 FRANCHISE**

A franchise shall be required of any provider of services that are subject to Sections 4.505 to 4.520 (Franchises), desires to occupy public ways of the City and desires to provide services to any person or area in the City.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.406 FRANCHISE APPLICATION

Any person that desires a franchise subject to Franchise Right of Way Act, Sections 7.370 to 7.499 shall file an application with the City Recorder's office which shall include the following information:

- (1) The identity of the franchise applicant, including all affiliates of the applicant.
- (2) A description of the services that are or will be offered or provided by the franchise applicant over its existing or proposed facilities.
- (3) A description of the transmission medium that will be used by the franchisee to offer or provide the services.
- (4) Preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:
 - (a) The location and route requested for applicant's proposed utility facilities.
 - (b) The location of all overhead and underground public utility, electricity, gas, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.
 - (c) The location(s), if any, for interconnection with the utility facilities of other service providers.
 - (d) The specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.
- (5) If applicant is proposing to install overhead facilities, evidence that underground installation is not possible and that surplus space is available for locating its utility facilities on existing utility poles along the proposed route.
- (6) The location proposed for the new ducts or conduits if applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways:
- (7) A preliminary construction schedule and completion dates.

(8) A preliminary traffic control plan in accordance with the Manual on Uniform Traffic Control Devices.

(9) Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.

(10) Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the utility facilities and services described in the application.

(11) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the services.

(12) Whether the applicant intends to provide cable service, video dialtone service or other video programming service, and sufficient information to determine whether such service is subject to cable franchising.

(13) An accurate map showing the location of any existing utility facilities in the City that applicant intends to use or lease.

(14) A description of the services or facilities that the applicant may propose to offer or make available to the City and other public, educational and governmental institutions.

(15) A description of applicant's access and line extension policies.

(16) If applicable, the area or areas of the City the applicant desires to serve and a schedule for build-out to the entire franchise area.

(17) All fees, deposits or charges required pursuant to Franchise Right of Way Act, Sections 7.370 to 7.499.

(18) Such other and further information as may be requested by the City Manager.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.407 DETERMINATION BY THE CITY

Within 150 days after receiving a complete application under Section [7.388](#), the City Council shall issue a written determination granting or denying the application in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial.

- (1) The capacity of the public ways to accommodate the applicant's proposed facilities.

- (2) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the franchise is granted.
- (3) The public interest in minimizing the cost and disruption of construction within the public ways.
- (4) The service that applicant will provide to the community and region.
- (5) The availability of alternate routes and/or locations for the proposed facilities.
- (6) Such other factors as may demonstrate that the grant to use the public ways will serve the community interest.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Updated by Ordinance No. 13-07; Enacted Oct. 7, 2013.]

7.408 AGREEMENT

No franchise shall be granted hereunder unless the applicant and the City have executed a written agreement setting forth the particular terms and provisions under which the franchise to occupy and use public ways of the City will be granted.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.409 NONEXCLUSIVE GRANT

No franchise granted hereunder shall confer any exclusive right, privilege, franchise to occupy or use the public ways of the City for delivery of the services or any other purposes.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.410 TERM OF FRANCHISE

Unless otherwise specified in a franchise agreement, a franchise granted hereunder shall be valid for a term of 10 years.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.411 RIGHTS GRANTED

No franchise granted hereunder shall convey any right, title or interest in the public ways, but shall be deemed a franchise only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no franchise shall be construed as any warranty of title.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.413 LOCATION OF FACILITIES

Unless otherwise specified in a franchise agreement, all facilities shall be constructed, installed and located in accordance with the following terms and conditions:

(1) All new telecommunication facilities and electric facilities shall be installed underground unless the Public Works Director determines that extraordinary circumstances make overhead installation necessary.

(2) Telecommunications and electric facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.414 CONSTRUCTION PERMITS

All franchisees are required to obtain construction permits for utility facilities to be constructed within the public ways as required in Sections 7.451 to 7.478 provided, however, that nothing herein shall prohibit the City and a franchisee from agreeing to alternative plan review, permit and construction procedures in a franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.415 COMPENSATION TO CITY

Each franchise granted hereunder is subject to the City's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the use of the public ways granted to the franchisee pursuant to Section 7.443; provided, nothing herein shall prohibit the City and a franchisee from agreeing to the compensation to be paid.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.417 SERVICE TO THE CITY

A franchisee shall make its services available to the City at rates charged to similarly situated users, unless otherwise provided in a franchise agreement.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.419 RENEWAL APPLICATIONS

A grantee that desires to renew its franchise under this Article shall, not more than 240 days, or less than 150 days before expiration of the current franchise, file an application with the City Recorder's office for renewal of its franchise which shall include the following information:

- (1) The information required pursuant to Section 7.406.
- (2) Any information required pursuant to the franchise agreement between the City and the grantee.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.420 RENEWAL DETERMINATIONS

Within 150 days after receiving a complete application under Section 7.419, the City Council shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal.

- (1) The continuing capacity of the public ways to accommodate the applicant's existing facilities.
- (2) The applicant's compliance with the requirements of this Act and the franchise agreement.
- (3) Such other factors as may demonstrate that the continued grant to use the public ways will serve the community interest.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.421 OBLIGATION TO CURE AS A CONDITION OF RENEWAL

No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the franchise agreement, or of the requirements of this Act, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the City.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

FEES AND COMPENSATION

7.440 PURPOSE

It is the purpose of Sections 7.440 to 7.448 to provide for the payment of reasonable compensation for use of the public ways and for the recovery of all direct and indirect costs and expenses of the City related to the enforcement and administration of the Franchise Right of Way Act, Sections 7.370 to 7.499.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.441 APPLICATION AND REVIEW FEE

(1) Any applicant for a franchise pursuant to Sections 7.387 to 7.402 or Sections 7.405 to 7.421 shall pay a fee of \$100.

(2) The application and review fee shall be deposited with the City as part of the application filed pursuant to this Act.

[Amended by Ordinance No. 07-09, enacted March 5, 2007; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.443 COMPENSATION FOR PUBLIC WAYS

(1) As compensation to be paid for the use of the public ways granted to a franchise grantee, the grantee shall annually pay to the City a fee equal to \$.20 per linear foot of public way occupied by grantee's facilities. Provided, however, said fee shall be increased every five years from the effective date of this act by an amount equal to the percentage change of the CPI-U national.

(2) As compensation to be paid for the use of the public ways granted to a franchise grantee, the grantee shall annually pay to the City a fee equal to 7% of grantee's gross revenues derived from within the City.

(3) Nothing herein shall prohibit the City and a grantee from agreeing to alternative compensation to be paid for the use of the public ways.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.444 COMPENSATION FOR CITY PROPERTY

If the right is granted, by lease, license, franchise or other manner, to use and occupy City Property for the installation of utility facilities, the compensation to be paid shall be fixed by the City.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.445 CONSTRUCTION PERMIT FEE

Unless otherwise agreed in a franchise grant agreement, prior to issuance of a construction permit, the permittee shall pay a permit fee equal to \$50 or 4% of the estimated cost of constructing the utility facilities within the public ways, as certified by the applicant's engineer and approved by the City Public Works Director, whichever is greater.

[Amended by Ordinance No. 07-09, enacted March 5, 2007; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.447 [REMOVED]

[Removed by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.448 REGULATORY FEES AND COMPENSATION NOT A TAX

The regulatory fees and costs provided for in this Act, and any compensation charged and paid for the public ways provided for in Section 7.443, are separate from, and additional to, any and all federal, state, local and city taxes (including a City business license tax) as may be levied, imposed or due from the service provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of its services.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

CONDITIONS OF GRANT

7.451 LOCATION OF FACILITIES

Location of Facilities. All facilities shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

- (1) All new telecommunication facilities shall be installed underground unless the Public Works Director determines that extraordinary circumstances require overhead installation.
- (2) A grantee shall install its utility facilities within an existing underground duct or conduit whenever excess capacity exists within such utility facility.
- (3) A grantee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available.
- (4) Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the City, a grantee with permission to occupy the same public way must also locate its utility facilities underground.
- (5) Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the City, a grantee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or undue hardship as determined by the City Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways.
- (6) All new utility facilities shall be installed so as to have no adverse effect on motor vehicle or pedestrian safety and access, or on the operation, maintenance and aesthetic quality of the public ways system.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.452 COMPLIANCE WITH K.U.C.C.

All franchise grantees shall, before commencing any construction in the public ways, comply with all locate requirements of the Klamath Utilities Coordinating Council.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.453 CONSTRUCTION PERMITS

All franchise grantees are required to obtain construction permits for utility facilities as required in Sections 7.481 to 7.499. However, nothing herein shall prohibit the City and a grantee from agreeing to alternative plan review, permit and construction procedures in a franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.454 INTERFERENCE WITH THE PUBLIC WAYS

No franchise grantee may locate or maintain its utility facilities so as to unreasonably interfere with the use of the public ways by the City, by the general public or by other persons authorized to use or be present in or upon the public ways. All such facilities shall be moved by the grantee, temporarily or permanently, as determined by the City Public Works Director.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.455 DAMAGE TO PROPERTY

No franchise grantee or any person acting on a grantee's behalf shall take any action or permit any action to be done which may impair or damage any City Property, public ways of the City or other property located in, on or adjacent thereto.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.456 NOTICE OF WORK

Unless otherwise provided in a franchise agreement, no franchise grantee, nor any person acting on the grantee's behalf, shall commence any non-emergency work in or about the Public Ways of the City without 10 working days advance written notice to the City Public Works Director.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.457 REPAIR AND EMERGENCY WORK

In the event of an unexpected repair or emergency, a grantee may commence such repair and emergency response work as required under the circumstances, provided the Grantee shall notify the K.U.C.C. in advance and the City Public Works

Director as promptly as possible, before such repair or emergency work or as soon thereafter as possible if advance notice is not practicable.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.458 MAINTENANCE OF FACILITIES

Each franchise grantee shall maintain its facilities located in the public ways in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.459 RELOCATION OR REMOVAL OF FACILITIES

Within 30 days following written notice from the City Public Works Director, a franchise grantee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the public ways, at no cost to the City, whenever the City Public Works Director shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

(1) The construction, repair, maintenance or installation of any City or other public improvement in or upon the public ways.

(2) The operations of the City or other governmental entity in or upon the public ways.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.460 REMOVAL OF UNAUTHORIZED FACILITIES

Within thirty (30) days following written notice from the City Public Works Director, any grantee, or other person that owns, controls or maintains any unauthorized system, facility or related appurtenances within the public ways of the City shall, at its own expense, remove such facilities or appurtenances from the public ways of the City. A system or facility is unauthorized and subject to removal in the following circumstances:

(1) Upon expiration or termination of the grantee's franchise.

(2) Upon abandonment of a facility within the public ways of the City.

(3) If the system or facility was constructed or installed without the prior grant of a franchise.

(4) If the system or facility was constructed or installed without the prior issuance of a required construction permit.

(5) If the system or facility was constructed or installed at a location not permitted by the

grantee's franchise.

[Amended by Ordinance No.13-07, enacted Oct. 7, 2013]

7.461 EMERGENCY REMOVAL OR RELOCATION OF FACILITIES

The City retains the right and privilege to cut or move any utility facilities located within the public ways of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.462 DAMAGE TO GRANTEE'S FACILITIES

Unless directly and proximately caused by the willful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of any utility facility within the public ways of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public ways by or on behalf of the City.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.463 RESTORATION OF PUBLIC WAYS, OTHER WAYS AND CITY PROPERTY

(1) When a franchise grantee, or any person acting on its behalf, does any work in or affecting any Public Ways or City Property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City Public Works Director.

(2) If weather or other conditions do not permit the complete restoration required by this Section, the grantee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the grantee's sole expense and the grantee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(3) A grantee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.464 FACILITIES MAPS

Each franchise grantee shall provide the City Public Works Director with an accurate map or maps in an electronic geographic information system format (GIS) certifying the location of all existing underground and all new utility facilities within the public ways. Each grantee shall provide updated maps annually.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.465 DUTY TO PROVIDE INFORMATION

Within 10 days of a written request from the City Manager, each franchise grantee shall furnish the City with information sufficient to demonstrate:

- (1) That grantee has complied with all requirements of Franchise Right of Way Act, Sections 7.370 to 7.499.
- (2) That all fees due the City in connection with the franchised services and utility facilities provided by the grantee have been properly collected and paid by the grantee.
- (3) All books, records, maps and other documents, maintained by the grantee with respect to its facilities within the public ways shall be provided to the City.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.467 GRANTEE INSURANCE

Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies or self-insurance insuring the grantee and the City, and its elected and appointed officers, officials, agents and employees as additional insureds:

- (1) Comprehensive general liability insurance or self-insurance with limits not less than those provided for in ORS 30.269 to ORS 30.273.
- (2) The self-insurance or liability insurance policies required by this section shall be maintained by the grantee throughout the term of the franchise, and such other period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of its utility facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be cancelled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Manager of such intent to cancel or not to renew."

- (3) Within 60 days after receipt by the City of said

notice, and in no event later than 30 days prior to said cancellation, the grantee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.

- (4) A certificate of self-insurance as filed with and approved of by the State of Oregon shall be filed with the City Manager.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.468 GENERAL INDEMNIFICATION

Each franchise agreement shall include, to the extent permitted by law, grantee's express undertaking to defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its utility facilities, and in providing or offering services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Act or by a grant agreement made or entered into pursuant to this Act.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.469 PERFORMANCE AND CONSTRUCTION SURETY

Before a franchise granted pursuant to this Act is effective, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the City as may be required by this Act or by an applicable franchise agreement.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.471 CONSTRUCTION AND COMPLETION BOND

Construction and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond written by a corporate surety acceptable to the City equal to at least 100% of the estimated cost of constructing grantee's utility facilities within the public ways of the City shall be deposited before construction is commenced where

such estimated construction cost exceeds \$10,000.

- (1) The construction bond shall remain in force until 60 days after substantial completion of the work, as determined by the City Public Works Director, including restoration of public ways and other property affected by the construction.
- (2) The construction bond shall guarantee, to the satisfaction of the City:
 - (a) Timely completion of construction;
 - (b) Construction in compliance with applicable plans, permits, technical codes and standards;
 - (c) Proper location of the facilities as specified by the City;
 - (d) Restoration of the public ways and other property affected by the construction;
 - (e) The submission of "as-built" drawings after completion of the work as required by this Act.
 - (f) Timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.
- (3) The above bonding requirement shall be waived for those grantees that have a demonstrated five year history of compliance with local rules and regulations in their use of the public ways. Such waiver shall continue until such time as they fail to demonstrate continued compliance.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.472 COORDINATION OF CONSTRUCTION ACTIVITIES

All grantees are required to cooperate with the City and with each other.

- (1) By February 1 of each year, grantees shall provide the City Public Works Director with a schedule of their proposed construction activities for the calendar year in, around or that may affect the public ways.
- (2) Each grantee shall meet with the City, other grantees and users of the public ways annually or as determined by the City Public Works Director to schedule and coordinate construction in the public ways.
- (3) All construction locations, activities and schedules shall be coordinated, as ordered by the City Public Works Director, to minimize public inconvenience, disruption or damages.
- (4) This section does not apply to on-demand construction in response to a single customer request for a service connection.

[Amended by Ordinance No. 13-07, enacted Oct. 7,

2013]

7.475 REVOCATION OR TERMINATION OF GRANT

A franchise granted by the City to use or occupy public ways of the City may be revoked for the following reasons:

- (1) Construction or operation in the City or in the public ways of the City without a franchise grant of authorization.
- (2) Construction or operation at an unauthorized location.
- (3) Misrepresentation or lack of candor by or on behalf of a grantee in any application to the City.
- (4) Abandonment of utility facilities in the public ways.
- (5) Failure to relocate or remove facilities as required in this Act.
- (6) Failure to pay compensation fees or costs when and as due the City.
- (7) Insolvency or bankruptcy of the grantee.
- (8) Violation of material provisions of this Act.
- (9) Violation of the material terms of a franchise agreement.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.476 NOTICE AND DUTY TO CURE

In the event that the City Manager believes that grounds exist for revocation of a franchise, he shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time not exceeding 30 days to furnish evidence:

- (1) That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.
- (2) That rebuts the alleged violation or noncompliance.
- (3) That it would be in the public interest to impose some penalty or sanction less than revocation.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.477 HEARING

In the event that a grantee fails to provide evidence reasonably satisfactory to the City Manager as provided in Section 7.476, the Manager shall refer the apparent violation or non-compliance to the City Council. The City Council shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.478 STANDARDS FOR REVOCATION OR LESSER SANCTIONS

If persuaded that the grantee has violated or failed to comply with material provisions of this Act, or of a franchise agreement, the City Council shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- (1) Whether the misconduct was egregious.
- (2) Whether substantial harm resulted.
- (3) Whether the violation was intentional.
- (4) Whether there is a history of prior violations of the same or other requirements.
- (5) Whether there is a history of overall compliance.
- (6) Whether the violation was voluntarily disclosed, admitted or cured.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

CONSTRUCTION STANDARDS

7.481 GENERAL

No person shall commence or continue with the construction, installation or operation of facilities in the public ways except as provided in this Act.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.482 CONSTRUCTION CODES

Facilities in the public ways shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.483 CONSTRUCTION PERMITS

No person shall construct or install any facilities in the public ways without first obtaining a construction permit therefore, provided, however:

- (1) No permit shall be issued for the construction or installation of utility facilities unless the service provider has filed a registration statement with the City Recorder's office pursuant to Sections 7.382 to 7.384.
- (2) No permit shall be issued for the construction or installation of utility facilities unless the service provider has applied for and received a franchise pursuant to this Act.
- (3) No permit shall be issued for the construction or installation of utility facilities without payment of the construction permit fee established in Section 7.445 of this Act.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.484 APPLICATIONS

Applications for permits to construct utility facilities shall be submitted upon forms to be provided by the City Public Works Department and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- (1) That the facilities will be constructed in accordance with all applicable codes, rules and regulations.
- (2) The location and route of all facilities to be installed on existing utility poles.
- (3) The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public ways.

- (4) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public ways along the underground route proposed by the applicant.
- (5) The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public ways.
- (6) The location, dimension and types of all trees within or adjacent to the public ways along the route proposed by the applicant which would be impacted by construction, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas to be disturbed during construction.

[Amended by Ordinance No. 13-07, Enacted Oct. 7, 2013.]

7.485 ENGINEER'S CERTIFICATION

All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.486 TRAFFIC CONTROL PLAN

All permit applications which involve work on, in, under, across or along any public ways shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.487 ISSUANCE OF PERMIT

Within 45 days after submission of all plans and documents required of the applicant and payment of the perm

it fees required by this Act, the City Public Works Director, if satisfied that the applications, plans and document comply with all requirements of this Act, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as he may deem necessary or appropriate.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.488 CONSTRUCTION SCHEDULE

The permittee shall submit a written construction schedule to the City Public Works Director 10 working days before commencing any work in or about the public ways. The permittee shall further notify the City Public Works Director not less than 2 working days in advance of any excavation or work in the public ways.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.489 COMPLIANCE WITH PERMIT

All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City Public Works Director and his representatives shall be provided access to the work and such further information as he or she may require to ensure compliance with such requirements.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.490 DISPLAY OF PERMIT

The permittee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City Public Works Director or his representatives at all times when construction work is occurring.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.491 SURVEY OF UNDERGROUND FACILITIES

If the construction permit specifies the location of facilities by depth, line, grade, proximity to other facilities or other standard, the permittee shall cause the location of such facilities to be verified by a registered Oregon land surveyor. The permittee shall relocate any facilities which are not located in compliance with permit requirements.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.492 NONCOMPLYING WORK

Upon order of the City Public Works Director, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Act, shall be removed.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.493 COMPLETION OF CONSTRUCTION

The permittee shall promptly complete all construction activities so as to minimize disruption of the public ways and other public and private property. All construction work authorized by a permit within public ways, including restoration, must be completed within 120 days of the date of issuance or within such extensions as may be granted by the Public Works Director for cause.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.494 AS-BUILT DRAWINGS

Within 60 days after completion of new construction, the permittee shall furnish the City Public Works Department with 2 complete sets of plans, drawn to scale and certified to the City as accurately depicting the location of all facilities constructed pursuant to the permit.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.495 RESTORATION OF IMPROVEMENTS

Upon completion of any construction work, the permittee shall promptly repair any and all public and provide property improvements, fixtures, structures and facilities in the public ways or otherwise damaged during the course of construction, restoring the same as nearly as practicable to its condition before the start of construction.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.496 LANDSCAPE RESTORATION

(1) All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of franchise facilities, whether such work is done pursuant to a franchise, permit shall be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work.

(2) All restoration work within the public ways shall be done in accordance with landscape plans approved by the City Public Works Director.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.497 CONSTRUCTION SURETY

Prior to issuance of a construction permit, the permittee shall provide a performance bond, as provided in Section 7.471 of this Act.

[Amended by Ordinance No. 13-07, enacted Oct. 7,

2013]

7.498 EXCEPTIONS

Unless otherwise provided in a franchise agreement, all franchise grantees are subject to the requirements of 7.481 to 7.499

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

7.499 RESPONSIBILITY OF OWNER

The owner of the facilities to be constructed and, if different, the franchise grantee, are responsible for performance of and compliance with all provisions of 7.481 to 7.499.

[Added by Ordinance No. 97-21, enacted Aug. 18, 1997; Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

REGULATORY LICENSES

GENERAL

7.500 APPLICABILITY AND DEFINITIONS

- (1) The provisions of [Sections 7.410 to 7.495](#) shall apply to [Sections 7.500 to 7.872](#) when not in conflict with specific provisions contained in those sections.
- (2) As used in [Sections 7.410 to 7.996](#), the term "Manager" shall include his/her designee.
- (3) As used in [Sections 7.410 to 7.872](#), the term "license" shall also mean "permit".

7.501 PURPOSE

- (1) The regulatory license provisions of [Sections 7.405 to 7.872](#) are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.
- (2) Obtaining a regulatory license shall not exempt the licensee from other Code or Ordinance requirements, including business license tax and parking district tax requirements.

7.502 LICENSES REQUIRED

No person shall engage in an activity or operate a device regulated under [Sections 7.500 to 7.872](#) without first obtaining a license from the City as provided in those sections or without complying with conditions imposed by a license obtained under those sections.

7.503 LICENSE DURATION

Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following April 30 and shall be renewable annually for a term of 1 year, beginning on May 1.

7.504 LICENSE RENEWAL AND LATE PENALTY

- (1) The application for renewal of a license shall be made to the City prior to the license expiration date. A penalty of \$2.50 or 25% of the annual fee, whichever is greater, shall be added to the license fee accompanying a late renewal application. The effective date of a renewed license shall be May 1 if the application for renewal is made prior to the current license expiration date. Renewal licenses applied for after May 1 shall be effective on the date of issuance.
- (2) If a licensee fails to apply for and pay the required fee, including any accrued penalties,

within 30 days from the expiration date of the license, and continues to operate without a valid license, a new application fee, in addition to the license renewal fee and any accrued penalties, must be paid prior to issuance of the license.

7.505 REVIEW OF RENEWAL

If the City has received complaints about the licensed activity or device, the application for renewal of the license may be reviewed under [Section 7.440](#).

7.506 APPLICATION REQUIREMENTS

Application for all licenses required by [Sections 7.500 to 7.872](#) shall be made under oath to the City on forms prescribed by the City Manager. Application shall be made at least 30 days prior to the date the license is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity or device to be licensed and shall provide for other information as required by specific license provisions of this Code or as necessary for review under [Section 7.440](#). The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the City.

7.507 APPLICATION REVIEW

Each application shall be referred to the person, department or agency designated by this Code or the City Manager to review the application.

7.508 INFORMATION FROM APPLICANT

A person, agency or department designated to review a license application may require the applicant to supply information necessary to determine under [Section 7.440](#) the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended or denied.

7.509 CRITERIA FOR OR DENIAL

- (1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this Code for the

license that the applicant seeks.

- (2) The license shall not be granted if:
- (a) The activity or device to be licensed would not comply with this Code, City Ordinances, or State or Federal law;
 - (b) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity.
 - (c) The licensed activity or device would endanger property or the public health or safety; or
 - (d) The applicant's past or present violation of law or Ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt about his/her ability to perform the licensed activity without danger to property or public health or safety.

7.510 ISSUANCE OR DENIAL BY THE MANAGER

For regulatory license applications required to be made to the City Manager, the following provisions shall apply:

- (1) After receipt of reports from all persons, departments and agencies designated to review an application, the City Manager shall determine whether the applicant qualifies for issuance or renewal of a license pursuant to Section 7.450.
- (2) If the applicant is qualified, the City Manager shall issue or renew the license.
- (3) If, on the basis of the application review under [Section 7.440](#), the City Manager determines that the application does not qualify for issuance or renewal of the license applied for, the City Manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal in [Section 7.475](#).

7.512 ISSUANCE OR DENIAL BY THE COUNCIL

For regulatory license applications required to be made to the Council, the following provisions shall apply:

- (1) After receipt of review reports from all persons, departments and agencies, the City Manager shall prepare a background and recommendations report and present it to the Council at its next regularly scheduled meeting. The applicant shall be advised by mail of the time and place of the Council

meeting.

- (2) Based upon the report of the City Manager, plus any additional evidence that may be presented to the Council during the course of the meeting, the Council shall determine whether the applicant qualifies for issuance or renewal of the license pursuant to Section 7.450.
- (3) If the applicant is qualified, the Council shall issue or renew the license.
- (4) If the Council determines that the applicant does not qualify, the application shall be denied and the applicant shall be notified in writing. The notice shall state the reasons for the denial.
- (5) The decision of the Council shall be final.

7.513 REVOCATION OF LICENSE

The City Manager, upon determining that a license activity, establishment or device is violating this Code, City Ordinances, or State or Federal law, shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least 30 days before the revocation. If the violation ends within 30 days, the City Manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions of [Section 7.475](#).

7.514 SUSPENSION OF LICENSE

Upon determining that a licensed activity or device presents an immediate danger to person or property, the City Manager may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension's being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the provisions for appeal under [Section 7.475](#). The City Manager may continue suspension so long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under [Section 7.475](#).

7.514 APPEAL

- (1) An applicant whose application to the City Manager for a license has been denied, or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within 30 days after the notice

of denial, suspension or revocation is mailed, appeal in writing to the Council. The appeal shall state:

- (a) The name and address of the appellant;
 - (b) The nature of the determination being appealed;
 - (c) The reason the determination is incorrect; and
 - (d) What the correct determination of the appeal should be.
- (2) An appellant who fails to file such a statement within the time permitted waives his/her objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The Council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days written notice of a hearing on the appeal.
- (3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence as used by courts of law do not apply, and the decision of the Council after the hearing is final.

7.515 POSTING OF LICENSE

- (1) Except as provided in Subsection (2), the license or permit shall be posted in a conspicuous place upon the business

premises, available for inspection by the public, employees and prospective employees of the business.

- (2) If the licensee has no office, business premises or other established place of business within the City, the license shall be at all times in the possession of the representative of the business present within the City while business is being transacted by any employee or representative within the City.

7.516 APPLICABILITY TO PERSONS EXEMPT BY STATE OR FEDERAL LAW

Nothing in [Sections 7.500 to 7.872](#) shall be construed to apply to any conduct which is exempt from the license or permit requirements or regulations imposed by those sections by virtue of the Constitution or laws of the United States or the Constitution or laws of the State.

7.517 TRANSFER OR ASSIGNMENT OF LICENSE

Except as otherwise provided by [Sections 7.500 to 7.872](#), no person shall transfer or assign a license or a permit issued under this Chapter.

7.518 PRORATING OF LICENSE FEE

The license fee imposed by [Sections 7.500 to 7.872](#) shall not be subject to proration.

ENTERTAINMENT

AMUSEMENT AND MUSIC DEVICES

7.500 - 7.520 REPEALED

[Repealed by Ordinance No. 6398, enacted June 21, 1982.]

CIRCUSES AND TENT SHOWS**7.530 PURPOSE**

The license fees provided for in [Section 7.534](#) are for the purpose of enabling the City to provide additional police protection and traffic control which the City, through past experience, has found to be necessary for the activities licensed.

7.532 LICENSE REQUIRED

No person shall operate any circus, menagerie, carnival or theatrical show shown in tents or other temporary structures without first obtaining a license from the Council.

7.534 LICENSE FEE

- (1) The proprietor, manager or agent of each circus, menagerie or carnival show shall pay a license fee of \$250 for each day that the circus, menagerie or carnival wishes to conduct performances in the City. No circus, menagerie or carnival shall exhibit in the City for a period longer than 6 days at any one time.
- (2) The proprietor, manager or agent of each theatrical show using a tent or other temporary structure shall pay a license fee of \$100 for each day the show is given. No license shall be issued for a period longer than 8 days in any three-month period.
- (3) The City Manager is authorized to set and modify the license fees provided for in this

Section in accordance with the requirements of [Section 1.075](#).

[Amended by Ordinance No. 07-09, enacted March 5, 2007.]

7.536 EXEMPTIONS

- (1) No license shall be required for entertainment, plays or amusement ventures given by local talent for public charity.
- (2) The Council may grant a permit to any organization operating or promoting a celebration for the general benefit of the community and sponsoring or operating a carnival, circus or theatrical show for a period of not more than 6 days without payment of the license fee or fees provided for in [Section 7.534](#).

7.538 EXHIBITION OF PRICES

The prices to be charged for goods, wares, merchandise or material vended at any circus, menagerie or carnival, or other facility used in connection with any circus, menagerie or carnival shall be plainly marked over each concession or booth. The prices of admission to the main show or entertainment, together with that for each ring or compartment for which a separate charge is made, shall be plainly posted over the entrance to each show, ring or concession where separate charges are made.

SOCIAL GAMING

7.550 DEFINITIONS

As used in [Sections 7.550 to 7.572](#), except where the context indicates otherwise, the following shall mean:

Cardroom. Any space, room or enclosure furnished or equipped with a table used or intended to be used as a card table for the playing of cards only and the use of which is available to the public.

Social Game.

- (1) A game involving the playing of cards only, which does not include lotteries, between players in a private home where no house player, house bank or house odds exist, and there is no house income from the operation of the social game; and
- (2) A game involving the playing of cards only, which does not include lotteries, between players in a private business, private club, or place of public accommodations where no house player, house bank or house odds exist and there is no income from the operation of the social game.
- (3) Social game does not include the game of blackjack or "21" or any variation thereof.

[Amended by Ordinance No. 93-11, enacted July 21, 1993; Amended by Ordinance No. 94-18, enacted Aug. 2, 1994.]

7.552 LICENSE REQUIRED

No person shall engage in, carry on, maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any cardroom without first obtaining a license from the City Manager.

[Amended by Ordinance No. 93-11, enacted July 21, 1993.]

7.554 LICENSE INVESTIGATION

An applicant for a cardroom license shall submit an application pursuant to Section 7.435.

[Amended by Ordinance No. 6533, enacted June 15, 1987; Amended by Ordinance No. 6572, enacted Sept. 5, 1989; Amended by Ordinance No. 93-11, enacted July 21, 1993.]

7.556 REPEALED

[Repealed by Ordinance No. 93-11, enacted July 21, 1993.]

7.558 – 7.560 REPEALED

[Repealed by Ordinance No. 6533, enacted June 15, 1987.]

7.562 LICENSE NOT TRANSFERABLE

No cardroom license shall be assignable or transferable (subject to specific provisions to the contrary).

[Amended by Ordinance No. 93-11, enacted July 21, 1993.]

7.564 REPEALED

[Repealed by Ordinance No. 93-11, enacted July 21, 1993.]

7.566 REGULATIONS

No person shall operate a cardroom in violation of any of the following regulations and rules.

- (1) There shall be a limit on any bet of \$5 and a 3 raise limit on any social game.
- (2) Each of the games conducted or operated in the City under the provisions of [Sections 7.550 to 7.572](#) shall be subject to the provisions of State law and the Code and Ordinances of the City.
- (3) All cardrooms shall be open to police inspection during the hours of operation. Doors leading into the cardroom must remain unlocked during the hours of operation. Cardroom licenses shall be available for inspection during the hours of operation.

[Added by Ordinance No. 6533, enacted June 15, 1987; Amended by Ordinance No. 93-11, enacted July 21, 1993.]

7.568 REPEALED

[Repealed by Ordinance No. 93-11, enacted July 21, 1993.]

7.570 LICENSE FEES

- (1) For each cardroom licensed, the fee of \$50 per table per year is payable in advance. The City Manager is authorized to set and modify the fee in accordance with the requirements of [Section 1.075](#).
- (2) The annual fee is payable on or before August 1 of each year. The annual fee shall be prorated for new applicants for the period February 1 to July 31 to one-half (1/2) the annual fee.

[Amended by Ordinance No. 6572, enacted Sept. 5, 1989; Amended by Ordinance No. 93-11, enacted July 21, 1993; Amended by Ordinance No. 94-18, enacted Aug. 2, 1994; Amended by Ordinance No. 07-09; Amended by Ordinance No. 07-09.]

7.572 REPEALED

[Repealed by Ordinance No. 93-11, enacted July 21, 1993.]

SPECIAL EVENTS

7.580 DEFINITIONS

As used in [Sections 7.582 to 7.630](#), the following shall mean:

Assembly. Includes all assemblies of the public, other than parades on public streets, indoors or outdoors, at a City park or upon public property.

Issuing Body. The City department or agency authorized to issue or deny an application pursuant to [Section 7.606](#).

Police Chief. The Police Chief of the City and his/her duly authorized officers and representatives.

Public Property. Is given the definition in Section 1.010 (Definitions and Rules of Construction). [Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.582 ASSEMBLY PROHIBITED

No person shall allow, promote, conduct or cause to be advertised an assembly in a City park or on public property when the person believes or has reason to believe that more than 150 persons will attend, unless a valid City permit has been obtained for the use of the park or other property for the assembly. One permit shall be required for each assembly. Criminal or civil liability for failure to comply with the provisions of [Sections 7.582 to 7.630](#) shall attach to persons who are responsible for obtaining permits under those provisions. [Amended by Ordinance No. 6407, enacted Nov. 15, 1982; Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.584 PERMIT REQUIRED; FEE

No assembly shall be held unless the person sponsoring the assembly obtains a permit. The fee for the permit to cover the cost of inspecting facilities and issuing and administering the permit prior to the event shall be an amount set by the City Manager pursuant to section 1.075. [Amended by Ordinance No. 6407, enacted Nov. 15, 1982; Amended by Ordinance No. 6572, enacted Sept. 5, 1989; Amended by Ordinance No. 07-09; Amended by Ordinance No. 13-06, enacted Oct. 7, 2013.]

7.586 APPLICATION PROCEDURE

(1) Written application for each assembly permit shall be made to the City 40 or more days prior to the first day upon which the assembly is to be held by filing the application with the City Manager or his/her designee. It shall be on

forms furnished by the City and shall be signed by the person or persons organizing and sponsoring the assembly. Each application shall:

- (a) State the location to be used for the assembly and, the number of persons reasonably anticipated to attend. A graphic representation showing the facility boundaries and proposed use areas shall be submitted for all events; for proposed right-of-way closures a traffic plan, (including locations of barricades, traffic signs, cones, flaggers, etc.) shall also be submitted.
 - (b) Require that the applicant acknowledge and agree to abide by all rules and regulations of [Sections 7.582 to 7.630](#) and other regulations and laws for the protection of the health, morals, peace and safety of the persons employed at the location, the patrons or participants, and the public.
 - (c) Application Attachments:
Written plan for compliance with Sections 7.582 to 7.628.
Satisfactory evidence of liability insurance per Section 7.604.
 - (d) No permit shall be transferable or assignable without the consent of the issuing body.
- (2) The City Manager or his/her designee will review the application for completeness and route to the appropriate officials or departments for approval and assurance that satisfactory arrangements have been made by the applicant to comply with all of the conditions specified in [Sections 7.588 to 7.598](#). The officials or departments may approve, subject to conditions necessary to assure compliance with the appropriate criteria enumerated in those sections. When any type of physical facility is required or subject to approval, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. The approval shall be on forms provided and shall be filed with the City Manager or his/her designee.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.588 SANITARY FACILITIES

- (1) The applicant is responsible for compliance with the County Health Department and Oregon State Health Division Standards and Regulations regarding sanitary facilities. Sanitary facilities include, but are not limited to: toilets, hand washing facilities, drinking water, waste collection and removal, and food service amenities.
- (2) The application shall indicate the number, type and location, when appropriate, of the various facilities. If more than 500 people are expected to attend or there are food vendors present, additional waste receptacles are required.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.590 FIRE PROTECTION STANDARDS

No permit shall be granted unless the Fire Chief has reviewed and approved the application which will be routed by the City Manager or his/her designee. Examples of items that may be reviewed include but are not limited to the type, size, number and location of fire protection devices and equipment available at, in or near any location, including outdoor sites, buildings, tents, stadium or enclosure, where more than 10 persons may be expected to congregate at any time during the course of the assembly.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014]

7.592 MEDICAL SERVICES

The applicant is responsible for medical service required for the assembly. Each assembly shall have at least one individual trained in basic first aid with a basic CPR certification. Each assembly of more than 1,000 persons shall have at least a first-aid station staffed by two individuals trained in basic first aid with basic CPR certifications. In addition, should the assembly exceed 2,500 persons, there shall be at least one ambulance or rescue vehicle in attendance at all times.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.594 PUBLIC SAFETY

- (1) The applicant shall include plans for public safety at the assembly when submitting the application. The Police Chief or designee will review these plans for approval.
- (2) Adequate traffic control and crowd protection policing shall be contracted for or otherwise

provided by the applicant. There shall be provided one traffic control person for each 200 persons expected or reasonably expected to be in attendance at any time during the event. There also shall be provided one crowd control person for each 200 persons expected or reasonably expected to be in attendance at any time during the event.

- (3) The applicant shall submit the names and necessary background information, for all traffic control and crowd control personnel to be used during the assembly for investigation by the Police Chief as to fitness.
- (4) The policing personnel must wear an appropriate identifying uniform and must be on duty during the entire assembly.
- (5) It shall be the duty of the policing personnel to report any violations of law to the Police Chief and to take whatever action is necessary to enforce the terms of the permit.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.596 PARKING FACILITIES

The applicant shall provide the City Manager or his/her designee with a scale drawing showing that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. The parking facilities shall provide parking space for one vehicle for every 4 persons expected to attend the event. Adequate ingress and egress shall be provided for the parking area to facilitate the movement of vehicles at any time to or from the parking area. If buses are used to transport the public to the event, it shall be shown that public parking or parking as described above is available at a site from which buses are scheduled to pick up persons to transport them to the event.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.598 PARK CAPACITY

The Parks and Cemeteries Division has the responsibility for approving the reasonably anticipated attendance capacity for use of a City park or park facility.

The Divisions shall approve the application when the reasonably anticipated attendance is less than the predetermined capacity of the park or park facility according to the following schedule:

- (1) Kiger Stadium:
 - (a) 3,500 persons for bleacher use.
 - (b) 1,200 persons for playing field use.
- (2) Moore Park:
 - (a) 500 persons at picnic table area.
 - (b) 3,000 persons for ball field and central lawn area.
- (3) For all other parks, capacity shall be determined at 450 persons per acre of use area. [Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.600 INSPECTION OF REQUIRED FACILITIES

All facilities shall be subject to inspection by the approving agencies or departments. If the actual facility or construction fails to meet the standards approved in the proposed plans, preliminary approval shall be withdrawn and all permits granted subject to such approval shall be withdrawn.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.602 BOND OF INDEMNITY - REMOVED

[Removed by Ordinance No. 13-06, Enacted Oct. 7, 2013.]

7.604 INSURANCE

The permit applicants shall be required to furnish satisfactory evidence of liability insurance providing for a minimum of \$1,000,000 per occurrence, and \$2,000,000 aggregate. The City shall be named as an additional insured. The liability insurance shall apply to and provide coverage for any and all claims for bodily injury, death and property damage arising from or caused by the activities of the said entity. The permit applicants may also be required to provide additional insurance, when determined in the sole discretion of the City, to protect against additional risk. Such insurance may include event spectator insurance, liquor liability, and excess insurance.

7.606 PERMIT-ISSUING BODY

Upon receipt by the City Manager or his/her designee of approval forms from all City officials and departments specified in [Sections 7.586 to 7.598](#), the application shall be considered by the City Manager or his/her designee for approval. At the City Manager or his/her designee's discretion, the application may be scheduled to be heard by the following review body at the next regularly scheduled meeting:

- (1) The City Parks and Cemeteries Advisory

Board, if the assembly is proposed to occur in a City park or park facility and the number of persons reasonably anticipated to attend does not exceed 1,000.

- (2) The Council for all other assemblies. [Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.608 PERMIT APPROVAL

- (1) The Director shall grant and issue the assembly permit if, after consideration, it is found:

- (a) All City officials and departments have issued their approval pursuant to [Sections 7.586 to 7.598](#);
- (b) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (c) The facilities desired have not been reserved for other use at the day and hour required in the application;
- (d) The conduct of the activity will not substantially interrupt the safe and orderly movement of traffic;
- (e) The conduct of the activity will not require the diversion of so great a number of police officers of the City to properly police such activity and the contiguous areas as to prevent normal police protection to the City;
- (f) The conduct of the activity is not reasonably likely to cause injury to persons or property so as to incite violence, crime or disorderly conduct;
- (g) The appropriate provisions of [Sections 7.604](#) have been complied with;
- (h) The proposed activity or use of a park or park facility will not unreasonably interfere with or detract from the general public enjoyment of the park; and
- (i) If the activity is to be held on a park or park facility, excluding Kiger Stadium, it is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held for private profit.

- (2) In order to assure compliance with the criteria of this Section, the Director may impose conditions on the grant of a permit reasonably designed to assure compliance.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.610 PERMIT DENIAL

The City Manager or his/her designee shall deny the assembly permit if it is found that the criteria of [Section 7.608](#) have not been or cannot be complied with. If the permit is denied, the applicant shall be notified by mail, email or telephone of the denial and the reason therefore. [Amended by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.612 PERMIT INFORMATION

A permit issued pursuant to [Sections 7.606 to 7.610](#) shall contain the following information:

- (1) Date of the activity.
 - (2) Location of the activity, including, if applicable, restrictions to certain areas of a park.
 - (3) Hour when the activity will start and terminate, including set-up and tear-down times.
 - (4) Special conditions imposed on the activity.
- [Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.614 APPEAL

A decision may be appealed to the Parks and Cemeteries Advisory Board or to the Council by an interested party under the procedures contained in [Section 7.475](#). A decision of the Parks and Cemeteries Advisory Board may be appealed to the Council by an interested party under the procedures contained in Section 7.475. [Amended by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.616 INSPECTION

The City Manager or his/her designee shall have the right to go upon the premises or facilities for which the permit has been granted for the purpose of inspection and enforcement of this Code and State Law.

7.618 HOURS OF OPERATION

Unless otherwise provided in the permit, no assembly shall be conducted in a City park or upon public property during the time between 30 minutes after sunset and 6:00 a.m. of the following day. The City Manager or his/her designee has the ability to waive this code provision for events where overnight or afterhours use was permitted in the past without incident and similar types of events.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.620 INTOXICATING LIQUOR

Unless otherwise provided in the permit, no person sponsoring or having control of an assembly shall permit a person to bring into the assembly or upon the premises any intoxicating liquor, or permit intoxicating liquor to be consumed on the premises, and no person shall take onto or drink on the premises intoxicating liquor.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.622 CROWD LIMITATION

If at any time during the assembly the size of the crowd exceeds by 10% or more the number of persons reasonably anticipated to be in attendance, the Police Chief or designated representative shall require the permittee or sponsor to limit further admissions until sanitation, parking, fire, health, medical, traffic and crowd control requirements have been brought into conformity with the standards under which the permit was issued.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.624 DUTY TO PRESERVE ORDER PLACED ON OPERATOR

It is the purpose of [Sections 7.580 to 7.630](#) to put the burden of preserving order upon the operator of the assembly. If an assembly is not operated in accordance with the rules and regulations prescribed by those sections, the permit shall be subject to revocation.

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.626 RULES AND REGULATIONS

The following rules and regulations shall govern and control the permitted use of all City parks and public property during an assembly unless otherwise specifically provided in the permit.

- (1) No person shall build or maintain a fire within a City park or upon public property except in a camp stove or a fireplace provided, maintained or designated for that purpose. Gasoline, alcohol or oil camp stoves may be used in established camp sites or picnic areas where other stoves are provided. No fire shall be left unattended, and all fires shall be extinguished by the user before leaving the park or public property.
- (2) No person shall erect signs, markers or inscriptions of any type in a park or upon

public property of the City without permission of the City Manager or his/her designee.

- (3) Automobiles, trailers or other vehicles shall be parked only in designated parking areas.
- (4) No person shall set up or use a public address system in a City park or upon public property without the permission of the City Manager or his/her designee.
- (5) No person shall ride, drive or operate any motorcycle, motor bike, motor scooter or trail bike in a City park or upon public property except upon such roads, trails or areas as are designated for that purpose.
- (6) No person shall operate or use any noise-producing machine, vehicle, device or instrument in such a manner that it disturbs other visitors in the area.
- (7) No permittee shall intentionally violate or counsel, aid or abet a violation of the rules or regulations of this Section or a violation of the conditions imposed under [Section 7.608](#). No permittee or sponsor shall intentionally fail to obey a directive of the Police Chief or of any of his/her officers issued pursuant to Section 7.622.

[Added by Ordinance No. 13-06, enacted Oct. 7, 2013; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

7.628 REVOCATION OF PERMIT

- (1) If an assembly is not being operated according to the rules and regulations of [Sections 7.582 to 7.626](#), the City Manager or designated representative shall have the right to revoke the permit and the applicant or other responsible individual shall be subject to applicable penalties under this code, City Ordinances and State law. Failure to comply with the terms and conditions of [Sections 7.580 to 7.626](#) shall constitute a public nuisance and shall be subject to all criminal and civil remedies.
- (2) The revocation decision shall be subject to the appeal procedures of [Section 7.475](#).

[Amended by Ordinance No. 13-06, enacted Oct. 7, 2013]

7.630 EXCLUSION - REMOVED

[Removed by Ordinance No. 13-06, enacted Oct. 7, 2013]

MERCHANTS AND BUSINESSES**CLOSEOUT SALES****7.700 - 7.718 REPEALED**

[Repealed by Ordinance No. 6532, enacted June 1, 1987]

ITINERANT MERCHANTS

7.730 - 7.756 REPEALED

[Repealed by Ordinance No. 93-23, enacted Dec. 22, 1993.]

DOOR-TO-DOOR SOLICITATIONS**7.760 - 7.768 REPEALED**

[Repealed by Ordinance No. 93-23, enacted Dec. 22, 1993.]

RESIDENTIAL DOOR-TO-DOOR SOLICITATIONS

7.770 PURPOSE

It is the purpose of these provisions to provide protection from fraud for the citizens of the City by requiring the registration of Persons and Organizations who desire to go door-to-door to residences for purposes of sales.

[Added by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 11-13, enacted Dec. 5, 2011.]

7.772 DEFINITIONS

As used in sections 7.770 to 7.779 (Residential Door-to-Door Sales) the following definitions shall apply:

- (1) "Organization" includes a corporation (for profit or not for profit), business trust, estate, trust, partnership or association, or any other legal or commercial entity.
- (2) "Person" is defined in Section 1.010 (Definitions and Rules of Construction).

[Added by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 11-13, enacted Dec. 5, 2011.]

7.774 REGISTRATION REQUIRED

Before commencing sales, any Person or Organization which desires to sell, distribute or take orders for merchandise or services by going door-to-door to residences, shall register as provided under Section 7.776 (Manner of Registration) and obtain a city business license as provided under Section 7.030 (Application for License).

[Added by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 11-13, enacted Dec. 5, 2011.]

7.776 MANNER OF REGISTRATION

The registration required by Section 7.774 shall be submitted to the Community Development Department on a form provided by the City and shall contain at least the following information:

- (1) The legal name, address and phone number of the Organization or Person registering.
- (2) The names, addresses and phone numbers of the officers and directors of the Organization.
- (3) A description of the nature of the door-to-door sales proposed.
- (4) The specific dates and times during which the door-to-door activities are to be carried on and the areas to be covered.

- (5) The names, copy of a government-issued photo identification card, and cellular phone numbers of any and all persons who will be going door-to-door.

- (6) The name and address of the representative of the Organization designated to receive notice from the City.

- (7) The name and business and cellular phone number of a contact person who will be in the area during all periods of sales. The contact person is responsible for the activities of all persons going door-to-door.

[Added by Ordinance No. 93-23, enacted Dec. 22, 1993; Amended by Ordinance No. 11-13, enacted Dec. 5, 2011.]

7.777 REGULATIONS AND LAWS

- (1) No Person or Organization shall sell door-to-door in violation of any federal, state or city regulations or laws, such as ORS 646.611 (Telephone or Door to Door Seller; Information Required) or similar statute.

- (2) Persons or Organizations selling in residential areas must provide each person going door-to-door with a copy of the approved City of Klamath Falls Business License. Persons going door-to-door must show to potential customers the approved Business License, along with government-issued photo identification.

- (3) Sales are permitted between the hours of 10:00 am and 7:00 pm only.

- (4) Sections 7.770 to 7.779 (Residential Door-to-Door Sales) shall not apply to any constitutionally protected activity, including, but not limited to, religious and political solicitations.

[Added by Ordinance No. 11-13, enacted Dec. 5, 2011]

7.778 REVOCATION OF DOOR-TO-DOOR SOLICITATION BUSINESS LICENSES.

The City Manager can revoke the authorization for door-to-door sales and Business Licenses for any violation of city, state or federal law regulating door-to-door sales by the Organization or Person. If such a violation occurs within the City, the Organization or Person shall cease operation immediately and be subject to penalties as

prescribed in Section 7.990 (Penalties).
[Added by Ordinance No. 11-13, enacted Dec. 5, 2011]

7.779 SEVERABILITY.

If any Section, Subsection, sentence, clause or phrase of Sections 7.770 to 7.779 of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of these Sections. The Council hereby declares that it

would have passed each Section, Subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional, and, if for any reason any portion of Sections 7.770 to 7.779 of this Code should be declared invalid or unconstitutional, then the remainder of the Ordinances shall be in full force and effect.
[Added by Ordinance No. 11-13, enacted Dec. 5, 2011]

MERCHANT POLICE**7.780 - 7.802 REPEALED**

[Repealed by Ordinance No. 696-18, enacted July 26, 1996.]

7.804 REPEALED

[Repealed by Ordinance No. 6365, enacted Oct. 19, 1981.]

TAXICABS**7.810 TITLE**

[Sections 7.812 to 7.840](#) shall be referred to and may be cited as the Taxicab Act.

7.812 DEFINITION

For the purposes of [Sections 7.814 to 7.840](#), "taxicab" shall mean a chauffeur-driven motor vehicle for hire used for the transportation of passengers when the destination and route traveled are controlled by a passenger and which is not regulated as a passenger carrier by the State of Oregon.

[Amended by Ordinance No. 6386, enacted March 1, 1982.]

7.814 COMPLIANCE WITH ACT

No person shall engage in the business of operating taxicabs in the city except in compliance with Klamath Falls City Code [Section 7.810 to 7.840](#).

[Amended by Ordinance No. 6386, enacted March 1, 1982.]

7.816 COUNCIL REVIEW

Prior to initiating operation of a taxicab business, the proposed business shall be subject to Council review. A written application for review shall be submitted which shall include the name of the applicant and proposed location of business; applicant's experience and qualifications to engage in such business; proposed rates to be charged for transportation of passengers; description of equipment proposed to be used; information showing financial ability of applicant to conduct such business; and a statement showing public interest by reason of the operation of any such taxicab or taxicabs.

[Amended by Ordinance No. 6386, enacted March 1, 1982.]

7.818 REPEALED

[Repealed by Ordinance No. 6386, enacted March 1, 1982.]

7.820 LIABILITY INSURANCE.

Prior to initiating operation of a taxicab business, the owner/manager shall file with the City Manager an insurance policy covering the business and the vehicles to be used issued by an insurance company authorized to transact business in the state in the following amounts:

- (1) Property damage, a minimum of \$100,000.
- (2) Personal injury liability for 1 person, a

minimum of \$100,000.

- (3) Personal injury liability for 2 or more persons, a minimum of \$500,000. Said policy shall be maintained in full force and effect during operation of the business and shall contain provision for 30 days prior notification to the City Manager of all changes in the terms and/or cancellation.

[Amended by Ordinance No. 6386, enacted March 1, 1982; Amended by Ordinance No. 6599, enacted May 21, 1990.]

7.822 REPEALED

[Repealed by Ordinance No. 6386, enacted March 1, 1982.]

7.824 REPEALED

[Repealed by Ordinance No. 6386, enacted March 1, 1982.]

7.826 RATES AND METERS

- (1) Except as provided in Subsection (2) below, all taxicabs operated in the City shall be equipped with meters and shall charge rates uniform throughout the City.
- (2) Taxicabs designed or constructed to accommodate and transport more than 5 passengers, exclusive of the driver, may charge a flat rate per hour or fraction thereof in lieu of use of a meter.
- (3) At the time a review application is filed with the City, the applicant shall include the proposed flat rate or meter rate to be approved by Council.
- (4) The City Manager is hereby authorized to establish a schedule of fees, charges, meter rates and flat rates for all taxicabs operating in the City and to periodically amend the schedule when deemed appropriate; provided, however, that prior to adoption and implementation of the schedule, including any periodic amendments, the proposed schedule, reflecting all changes, shall be provided to Council not less than 10 days prior to implementation. If any Council member objects to the proposed schedule, the matter shall be placed on the agenda of a regularly scheduled Council meeting and Council may approve, disapprove or modify the proposed schedule after a public hearing on the matter. A proposed schedule that has been objected to by a Council member shall not be implemented until the Council has

rendered its decision.

[Amended by Ordinance No. 6386, enacted April 1, 1982; Amended by Ordinance No. 6437, enacted Jan. 18, 1983, amended by Ordinance No. 05-19, enacted Nov. 22, 2005.]

7.828 REPEALED

[Repealed by Ordinance No. 6386, enacted March 1, 1982.]

7.830 DRIVERS' PERMIT

No person shall drive or operate a taxicab without an identification card issued by the owner/manager of said taxicab company.

[Added by Ordinance No. 6507, enacted May 19, 1986.]

7.832 REPEALED

[Repealed by Ordinance No. 6507, enacted May 19, 1986.]

7.834 IDENTIFICATION CARD AND PERMIT BADGE

(1) The owner/manager of a taxicab company shall issue to every cab driver an identification card which shall clearly display the following information:

- (a) A current photograph of the driver;
- (b) The driver's complete name; and
- (c) The driver's chauffeur's license number.

(2) Said identification card shall be displayed at all times while the taxicab is being operated by the driver in a location clearly visible to any occupant of the cab.

[Amended by Ordinance No. 6507, enacted May 19, 1986.]

7.836 INFORMATION FILES

(1) The owner/manager of a taxicab company shall maintain a file on each driver containing, at least, the following information:

- (a) A copy of the photograph and other information specified [in Section 7.834](#);
- (b) The driver's current home address; and
- (c) A complete physical description of the driver.

(2) Said file shall be maintained at the company's Klamath Falls dispatch center and shall be available at all times for inspection by City, County or State law enforcement officers.

[Added by Ordinance No. 6531, enacted June 17, 1987.]

SECOND HAND STORES

7.838 – 7.840 REPEALED

[Repealed by Ordinance No. 6507, enacted May 19, 1986.]

7.850 REPEALED

[Repealed by Ordinance No. 6489, enacted April 22, 1985.]

7.851 LICENSES - REQUIREMENTS

- (1) No person shall commence or continue as a part of its business the purchase of used goods without having first procured from the City Manager a license to do so.
- (2) This article shall not apply to estate sale purchases, the purchase of automobiles, farm implements or machinery, books, or to taking in trade used goods incidental to the sale of new or used goods or merchandise.
- (3) The requirements set forth herein shall apply to the owner, manager, operators, employees and agents of the licensed business.

[Added by Ordinance No. 6489, enacted April 22, 1985.]

7.852 LICENSE - APPLICATION

- (1) Every person desiring to engage as a portion of his business in the purchase of used goods shall, before engaging in such business, comply with Section 7.030 including submittal of a business license application, paying in advance the business fee imposed by Section 7.095 and obtaining approval to operate.
- (2) All business license applications for Second Hand Stores will be routed through the City Police Department for approval.

[Amended by Ordinance No. 6489, enacted April 22, 1985; Amended by Ordinance No. 07-09; Amended by Ordinance No. 13-02, enacted May 6, 2013.]

7.854 REPEALED

[Repealed by Ordinance No. 6489, enacted April 22, 1985.]

7.855 RECORDS

A Record of Purchase form shall be completed at the time of purchase of goods immediately upon delivery of said goods to the licensed business

premises. The forms provided by the licensee or to the licensee by the City shall be completed in a legible manner, providing all of the information called for on the form. The licensee shall turn over completed forms to agents or officers of the Klamath Falls Police Department upon request. The forms shall be filled out by the licensee, giving the following information which is necessary for the ready identification of all goods purchased or acquired by or through the licensed business: Name of the business; date of the transaction; time of the transaction; name of the employee or owner transacting the business; amount to be paid for the goods; a description and quantity of each article, including where applicable brand, name, color, model, and serial number; name and address of the seller; reference to valid identification of the seller such as a driver's license or comparable identification. In the event the seller cannot produce valid identification, the licensee shall not purchase any used articles from said seller.

[Added by Ordinance No. 6489, enacted April 22, 1985.]

7.856 RESTRICTION ON SALES

A law enforcement officer may at any order the licensee to hold any goods for a period not to exceed 7 days when said officer has a reasonable suspicion to believe the goods to be stolen.

[Repealed by Ordinance No. 6489, Added by Ordinance No. 6489, enacted April 22, 1985.]

7.857 PAWNBROKERS

Any person engaged in the business of pawnbroker shall comply with the State law with reference to pawnbrokers and in addition, shall comply with the provisions of [Sections 7.851 to 7.857](#). A valid pawnbrokers license held under former [Section 7.852](#) shall satisfy the license requirement of Section 7.851 through April 30, 1985.

[Added by Ordinance No 6489, enacted April 22, 1985.]

GARAGE SALES

7.860 DEFINITIONS

As used in 7.860 to 7.862, the following shall mean:

- (1) Garage sale is any casual sale, displaying of goods for the sale or offer to sell, commonly known as "garage sale," and including any auction, antique, rummage, tailgate, or any other sale similar in nature wherein all or part of the goods consist of used personal property which is advertised by any means whereby the public at large is or may be made aware of said sale and the sale is conducted in a residential area.
- (2) Goods are meant to include any goods, warehouse merchandise or other tangible personal property capable of being the object of a sale regulated.
- (3) Participate shall mean assisting in any manner in the organization or conduct of a garage sale, or supplying or providing any goods for such sale.

[Repealed and added by Ordinance No. 6495, enacted Aug. 19, 1985.]

7.862 REPEALED

[Repealed by Ordinance No. 6531, enacted May 18, 1987.]

7.863 REGULATION OF GARAGE SALES

No person shall:

- (1) Conduct a garage sale exceeding 3 days duration;
- (2) Participate in more than 2 garage sales in any 1 calendar year.
- (3) Permit more than 2 garage sales to be conducted on property under their control in any 1 calendar year.

[Added by Ordinance No. 6531, enacted June 17, 1987.]

7.864 – 7.866 REPEALED

[Repealed by Ordinance No. 6531, enacted May 18, 1987.]

7.868 PERSONS AND SALE EXCEPTED

The provisions of [Section 7.860 through 7.872](#) shall not apply to or effect the following persons or sales:

- (1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public official.

- (3) Any person selling or advertising for sale in the news media an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed 5 in number.
- (4) Sales wherein the sale is operated by or the proceeds go to a recognized charitable organization or institution.
- (5) Sales pursuant to a duly authorized home occupation or a valid city business license.

[Added by Ordinance No. 6495, enacted Aug. 19, 1985.]

7.870 REPEALED

[Repealed by Ordinance No. 6531, enacted May 18, 1987.]

7.872 SIGNS

There shall be allowed only 1 sign posted on the premises from which the garage sale is to be held under the provisions of this Section, and no other signs shall be posted on the premises or on any public property advertising such sale.

[Added by Ordinance No. 6495, enacted Aug. 19, 1985.]

PENALTIES AND ENFORCEMENT

7.990 PENALTIES

- (1) A violation of a provision of [Sections 7.010 to 7.240](#) shall be punishable by a fine not to exceed \$250.
- (2) A violation of a provision of [Sections 7.405 to 7.872](#) shall be punishable by a fine not to exceed \$500.
- (3) Every full business day during which a business activity continues to be conducted in violation of this Chapter shall be considered a separate offense.

[Amended by Ordinance No. 6398, enacted June 21, 1982; Amended by Ordinance No. 6495, enacted Aug. 19, 1985.]

7.992 CONFISCATION

Any device operated, kept or maintained in violation of [Sections 7.550 to 7.572](#) shall be confiscated by the City and, upon conviction, shall be disposed of as provided in Sections 2.650 to 2.685.

[Amended by Ordinance No. 6398, enacted June 21, 1982.]

7.994 EVIDENCE OF DOING BUSINESS

In a trial for a violation of this Chapter, evidence that the defendant made a public representation, by way of newspaper, radio, television or similar media advertisement or by signs conspicuously displayed for public view, that the business is being conducted, expressly or impliedly offering to sell goods or services in the course of the business to the public, shall constitute prima facie evidence that the defendant was transacting the business suggested by the public representation within the City on the date or dates during which the representation were made.

7.996 ADDITIONAL REMEDIES

- (1) In addition to the penalties provided in [Section 7.990](#), the City may sue in a court of competent jurisdiction to obtain a judgment for a tax or fee due under this Chapter and enforce collection of the judgment by execution.
- (2) The City may seek an injunction to prohibit a person from engaging in a business without complying with this chapter.
- (3) In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the Court in addition to its cost and disbursements.
- (4) Whenever a fee required by [Sections 7.500 to 7.872](#) is not paid when due, the Recorder shall add as a penalty to the fee an amount equal to 10% of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed 100% of the original fee.