

Title 5

BUSINESS LICENSES AND REGULATIONS

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Chapter 5.04

PUBLIC DANCES

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5.04.010 Definitions.

As used in this chapter:

“Applicant” means an applicant for or one who holds a permit under this chapter.

“Public dance” means a gathering of persons primarily for the purpose of dancing, where the general public may attend and which is not restricted to a closed membership, as is a club or private gathering.

“Public dance hall” means any place, licensed or otherwise, where the public is invited to meet, or does meet, for the purpose of dancing, or any public hall or place where the public dances. Public dance hall shall not include premises such as restaurants, nightclubs, taverns and parks which are not devoted solely or primarily to dancing. (Ord. 763 § 5-520(1), 1989)

5.04.020 Permit required.

No person shall hold or sponsor a public dance, or operate a public dance hall, without obtaining a permit from the city manager or the manager’s designee. (Ord. 763 § 5-520(2), 1989)

5.04.030 Police officers to be present.

At least one police officer shall be present at any public dance. The number of officers present at the dance shall be determined by the city manager or the manager’s designee. The person sponsoring or holding the public dance shall be responsible for the expense of having the officer(s) present at that dance. (Ord. 763 § 5-520(3), 1989)

5.04.040 Permit request.

A request for a permit to hold a public dance shall be made to a city manager or the manager’s designee at least two weeks prior to the scheduled date of the public dance. (Ord. 763 § 5-520(4), 1989)

5.04.050 Permit denial or revocation.

The city manager or the manager’s designee may deny or revoke a permit to hold a public dance or to operate a public dance hall upon finding that:

A. The applicant fails to meet the requirements of this code, or is doing business in violation of this code or applicable federal, state or county law, ordinance, rural or regulation;

B. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials or permit;

C. 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 hold the public dance or operate the public dance hall without endangering property or the public health and safety;

D. The public dance or public dance hall would endanger property or the public health or safety;

E. The site where the applicant proposes to hold the public dance or operate the public dance hall is one which is not zoned for such land use;

F. The structure in which the dancing would take place is not approved by the fire marshal or is not of sufficient size to accommodate the number of people expected to attend the dance or does not have sufficient exits as required in the fire code for the size of the building and the number of people elected to attend;

G. The structure in which the dance will occur does not comply with all the applicable state and city statutes;

H. The dance is expected to violate any applicable noise standards. (Ord. 763 § 5-520(5), 1989)

5.04.060 Immediate danger—Suspension of dance.

Upon determining that a dance presents an immediate danger to person or property, the city manager or the manager's designee may summarily suspend the dance or the operation of the public dance hall. (Ord. 763 § 5-520(6), 1989)

5.04.070 Violation—Penalty.

Violation of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not to exceed thirty (30) days, or both fine and imprisonment. (Ord. 763 § 5-901 (part), 1989)

Chapter 5.08

STREET AND SIDEWALK VENDORS

Sections:

- 5.08.010 Findings and purpose.**
- 5.08.020 Definitions.**
- 5.08.030 Permit required.**
- 5.08.040 Applications and fee.**
- 5.08.050 Permit issuance.**
- 5.08.060 Prohibited conduct.**
- 5.08.070 Health and sanitation requirements.**
- 5.08.080 Safety requirements.**
- 5.08.090 Display of permit.**
- 5.08.100 Renewal.**
- 5.08.110 Denial, suspension and revocation.**
- 5.08.120 Violation—Penalty.**

5.08.010

Findings and purpose.

- A. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- B. Vending on the streets and sidewalks promotes the public interest by contributing to an active and attractive pedestrian environment.
- C. Reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety and welfare.
- D. The regulations contained herein do not prohibit pure speech by religious organizations, but merely regulate the activities of an organization which are commercial in nature. (Ord. 872 § 1, 1997)

5.08.020

Definitions.

For the purposes of this chapter the following definitions shall apply:

“Central business district” means the area extending one block north of Central Avenue on the north, one block south of Central Avenue on the south, and from Oak Street on the west to Umatilla Street on the east.

“Motor vehicle” means any vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor which is of a type required to be licensed and registered by the Oregon Department of Motor Vehicles.

“Stand” means any table, showcase, bench, rack, pushcart, wagon or other wheeled vehicle, or device which may be moved without the assistance of a motor and which is not the type required to be licensed and registered by the Oregon Department of Motor Vehicles, and issued for the displaying, storing or transportation of articles offered for sale by a vendor.

“Vendor” means any person engaged in the selling or offering of food, beverages or merchandise on the public streets or sidewalks, from a stand or motor vehicle or from his person excluding store displays. (Ord. 872 § 2, 1997)

5.08.030

Permit required.

It is unlawful to sell or offer for sale any food, beverage or merchandise within the city limits without first obtaining a permit therefore.

Provided, however, no permit shall be required of not-for-profit organizations which hold occasional sales at a frequency of less than four times a year. This exemption also includes vendors who sell at such occasional sales with the permission of, or under a contract with, such organizations. (Ord. 872 § 3, 1997)

5.08.040

5.08.040

Applications and fee.

To obtain a permit, an applicant shall first submit to the city recorder an annual fee, as established by resolution, along with the application. The application shall contain at least the following information:

- A. The name, home and business address of the applicant and the name and address of the owner (if different from the applicant) of the vending business, stand or motor vehicle to be used in the operation of the vending business;
- B. A description of the types of food, beverage or merchandise to be sold;
- C. A description of the proposed location of the vending business, except vendors from motor vehicles who shall describe the general area in which they propose to vend, if less than the entire city;
- D. A description of the stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business, and proof of current insurance thereon;
- E. Proof of current insurance policy issued by an insurer licensed to do business in the state of Oregon, protecting the vendor and the city from all claims for damages to property and/or bodily injury, including death, which may arise under or in connection with such vendor. Such insurance shall name as additional insured's the city; shall have limits not less than one hundred thousand dollars (\$100,000.00) per person, three hundred thousand dollars (\$300,000.00) per occurrence and twenty-five thousand dollars (\$25,000.00) property damage, and shall provide that the insurance shall not terminate or be cancelled without thirty (30) days written notice to the city.
(Ord. 928 § 3, 2001; Ord. 872 § 4, 1997)

5.08.050

Permit issuance.

Consideration shall be given to the application submitted in accordance with the aforesaid at the next meeting of the common council following the date of submission and payment of all applicable fees. The city recorder shall give notice in writing to the applicant of the decision of the common council not later than ten days following a final decision by the common council.

The common council shall consider the standards set forth in this chapter in determining whether to grant or deny the application. The permit for a sidewalk vendor shall not be issued for a location within one hundred (100) yards of any location for which a permit has already been granted. In the event two or more applications are received for the same location, the successful applicant whose application bears the earliest date shall be awarded the location. If the permit is denied, the applicant shall be provided with a written statement of the reasons for the denial. The applicant shall be entitled to a hearing before the common council, should his application be denied, provided that the applicant makes written application to the city recorder for such a hearing not later than twenty (20) days following mailing to him of the written notice of denial.

Notification shall be deemed duly given when deposited in the United States mail, postage prepaid, addressed to the applicant at the address furnished on his application.

A permit issued pursuant to this section shall be valid for a period of twelve (12) months commencing on the first day of the month during which the application is approved and permit issued. A permit to vend on the sidewalks shall specify the location from which such vending is permitted, and shall be valid only at that location. (Ord. 872 § 5, 1997)

5.08.060 Prohibited conduct.

A. No vendor shall:

1. Vend on any street or sidewalk where vending is otherwise prohibited;
2. Leave any stand or motor vehicle unattended;

3. Store, park or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place, in conformance with city, county and state parking regulations;

4. Sell food or beverages for immediate consumption unless he/she has available his own or a public litter receptacle for patron's use;

5. Leave any location without first picking up, removing and disposing of any trash or refuse from the immediate area remaining from sales made by vendor;

6. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand or motor vehicle;

7. Solicit or conduct business with persons in motor vehicles;

8. Sell anything other than that which he/she has been approved to vend;

9. Sound or permit the sounding of any device which produces a loud or raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public;

10. Vend without the insurance coverage required hereunder.

B. No vendor selling from a stand on the sidewalk shall:

1. Vend at any location where the sidewalk is so narrow that the stand would block pedestrian traffic;

2. Vend within fifteen (15) feet of the entrance to a building, within fifteen (15) feet of a driveway, or within twenty-five (25) feet of a crosswalk;

3. Vend within one hundred (100) feet of the City Hall where city police and/or fire departments are located, or within one hundred (100) feet of any other building from which police and fire vehicles regularly operate;

4. Allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.

C. No vendor vending from a motor vehicle shall:

1. Conduct his business in such a manner as would restrict or interfere with the egress or ingress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion, delay or constitute a hazard to traffic, life or property or an obstruction to adequate access to police, fire or other emergency vehicles, or sanitation vehicles;

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2. Stop, stand or park his/her vehicle on any street, or permit it to remain there except on the roadway at the curb for the purpose of vending therefrom;

3. Stop, stand or park his vehicle on any street for the purpose of selling, or sell on any street under any circumstances during the hours when parking, stopping or standing has been prohibited by the signs, curb markings or by statute or ordinance;

4. Remain in one place longer than is necessary to make sale after having been approached or stopped for that purpose. (Ord. 872 § 6, 1997)

5.08.070 Health and sanitation requirements.

A vendor vending food or beverages shall obtain any county required food handler certificates. (Ord. 872 § 7, 1997)

5.08.080 Safety requirements.

All motor vehicles in or from which food is prepared or sold shall comply with the following requirements:

A. All equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

B. All utensils shall be stored in order to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to prevent the loose storage of knives.

C. Compressors, auxiliary engines, generators, batteries, battery chargers, gas fueled water heaters and similar equipment shall be installed so as to be accessible only from the outside of the vehicle. (Ord. 872 § 8, 1997)

5.08.090 Display of permit.

Permits shall be displayed somewhere visible in vehicle or on cart at all times during the operation of the vending business. (Ord. 872 § 9, 1997)

5.08.100 Renewal.

Permits are valid for one year unless revoked or suspended prior to expiration. An application to renew permit shall be made not later than thirty (30) days prior to the expiration of the current permit and shall be in accordance with Section 5.08.040. (Ord. 872 § 10, 1997)

5.08.110 Denial, suspension and revocation.

Any permit may be denied, suspended or revoked for any of the following reasons:

A. Fraud or misrepresentation contained in the application for a permit;

B. Fraud or misrepresentation in the course of carrying on the business of vending, or determination by the State Attorney General or a court of competent jurisdiction that the business is being conducted in violation of the Oregon Unfair Business Practices Act;

C. Conduct of the business in such a manner as to create a public nuisance, or constitute a manner as to create a public nuisance, or constitute a danger to the public health, safety, welfare or morals;

D. Conduct which is contrary to the provisions of this chapter. (Ord. 872 § 11, 1997)

5.08.120 Violation—Penalty.

Any person convicted of violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) by imprisonment not to exceed six months, or by both fine and imprisonment. (Ord. 872 § 12, 1997)

Chapter 5.12

TAXICABS AND LIMOUSINES

Sections:

- 5.12.010 Definitions.**
- 5.12.020 License required for operation.**
- 5.12.030 Application requirements.**
- 5.12.040 Fees.**
- 5.12.050 Investigation and inspection.**
- 5.12.060 Approval of application.**
- 5.12.070 Term, renewal and transferability.**
- 5.12.080 License requirements.**
- 5.12.090 Complaints.**
- 5.12.100 Abatement of violations.**
- 5.12.110 Denial or revocation of license.**
- 5.12.120 Summary suspension.**
- 5.12.130 Appeal.**
- 5.12.140 Responsibility of owner.**
- 5.12.150 Driver certification required.**
- 5.12.160 Taxi stands.**
- 5.12.170 Insurance required.**
- 5.12.180 Violation—Penalty.**

5.12.010

Definitions.

Definitions. Unless the context in which they are used clearly requires a different meaning, for the purpose of this chapter, the following words and phrases mean as follows:

“Driver” means an individual who, as an owner, employee, lessor or independent contractor, drives a taxicab and/or limousine.

“Limousine” means a motor vehicle hired for transporting passengers at fixed rates and operating over fixed or predetermined routes at regular times or upon request.

“Owner” means a person who is the owner or lessee of one or more taxicabs and/or limousines, or a person who is the principal in a business that provides transportation by taxicab and/or limousine and employs or contracts with others to drive a taxicab and/or limousine for that business.

“Taxicab” means a motor vehicle hired for transporting passengers and operating over unfixed routes at irregular times.

“Vehicle” means a taxicab or limousine. (Ord. 760 § 1, 1989)

5.12.020**License required for operation.**

No person shall operate a taxicab or limousine, or permit the operation thereof without first submitting an application in accordance with Section 5.12.030, payment of any required fees, and securing a license to do so from the city recorder. (Ord. 760 § 2, 1989)

5.12.030**Application requirements.**

A. An application for a taxicab and/or limousine business license, or for renewal thereof, shall be obtained from and filed with the city recorder and shall include all requested information and attachments. Review of the application shall not begin until all requested information has been provided and the required fees paid. At a minimum, an application shall require that the following information be provided:

1. The applicant's true name, date of birth, permanent address, and an address which the city may use for purposes of notice;
2. The true name and address of a person for whom the applicant is acting as an agent. If the applicant is acting as the agent of a corporation:

5.12.040

- a. The address of the registered office of the corporation in Oregon, and
- b. The name and address of the registered agent of the corporation in Oregon;

If the applicant is acting as the agent of a partnership or association, the name(s) and address(es) of all principals of the business entity;

3. A description of the nature of the business operation;
4. A description of the services the applicant will offer;
5. The location from which the applicant will operate;
6. The hours the applicant will conduct the business;
7. The past business experience of the applicant;
8. Past criminal convictions involving unlawful trade practices as defined by ORS 646.608, fraud or crimes involving moral turpitude;

9. Known consumer complaints made to local or state consumer agencies; and
10. Proof of compliance with all relevant federal, state, and local laws and ordinances.

B. When reviewing the application, the city recorder may require the applicant to supply information necessary to determine the applicant's qualifications for the license.

C. The city recorder shall issue a decision on the application within thirty (30) days of the submission of a complete application form and all requested attachments. (Ord. 760 § 3, 1989)

5.12.040

Fees.

The applicant shall submit with the application the following fees:

- A. Application fee (nonrefundable);
- B. License fee (annual);
- C. Certification fee;
- D. Taxicab stand fee.

No license shall be issued until the applicant has paid the required fees. (Ord. 928 § 4, 2001: Ord. 760 § 4, 1989)

5.12.050

Investigation and inspection.

The city may investigate persons and inspect premises and vehicles to whom or for which a license has been issued in accordance with law. Licensed vehicles shall be made available for inspection at reasonable times to determine compliance with provisions of applicable city ordinances and regulations. In the event the city is refused admittance to premises where a licensed vehicle is located, a search warrant may be obtained from the municipal court authorizing entry upon the premises to make the inspection. (Ord. 760 § 5, 1989)

5.12.060**Approval of application.**

A. The city recorder may issue a license upon finding that the applicant has met all requirements of federal, state and county law, this chapter, any rules made pursuant to this chapter, and other applicable city ordinances and regulations.

B. If an application for a new or renewed license is approved, the city recorder shall notify the applicant in writing. The notice shall state any conditions placed on the approval and any further requirements the applicant must meet before a license will be issued. (Ord. 760 § 6, 1989)

5.12.070**Term, renewal and transferability.**

A. A license shall be valid from the date of issuance for a period of one year, unless otherwise specified herein or on the license.

B. An application for renewal of a license shall be submitted to the city recorder at least sixty (60) days prior to its expiration date and shall be accompanied by the required fees and other required documents.

C. A licensee shall notify the city recorder thirty (30) days prior to a change in location or termination of the licensed activity.

D. Licenses issued under this chapter shall not be transferred to any other person except as authorized herein. (Ord. 760 § 7, 1989)

5.12.080**License requirements.**

In addition to any other requirements of this chapter, each licensee shall:

A. Conform to all federal, state and local laws and regulations, the provisions of this chapter, any rules adopted hereunder, and other applicable city ordinances and regulations;

B. Notify the city within ten days of any change in material information contained in the application, related materials, or license. (Ord. 760 § 8, 1989)

5.12.090**Complaints.**

Any person having a complaint regarding the services performed by a licensee hereunder shall file the complaint in writing with the city recorder. The city recorder shall respond to the complaint and take appropriate action within a reasonable period of time. (Ord. 760 § 9, 1989)

5.12.100**Abatement of violations.**

A. Upon finding that a violation of this chapter, or applicable city, county, state or federal laws has occurred, the city recorder may provide written notice to the licensee of the violation and demand that the violation be corrected within a reasonable time as specified in the notice. The notice shall describe with reasonable certainty the violation and the action necessary to correct the violation.

B. In the event notice is given under subsection A of this section:

1. The licensee shall notify the city recorder when corrective action has been taken, and the city may then cause an inspection to be made to determine compliance.

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2. If the licensee fails to take corrective action within the time required, the city recorder may take action under Section 5.12.110 to revoke the license. (Ord. 760 § 10, 1989)

5.12.110 Denial or revocation of license.

A. The city recorder may deny an application for a license or revoke a license upon finding that:

1. The applicant or licensee fails to meet the requirements of this chapter, or is doing business in violation of this chapter, applicable federal, state or county law, other city ordinance, rule or regulation, or a condition imposed on the license;

2. The applicant or licensee has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials or license;

3. The applicant's or licensee'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 or her ability to perform the licensed activity without endangering property or the public health and safety;

4. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity;

B. The city shall provide written notice to the applicant or licensee of a denial or revocation. The notice shall state the reason therefore and inform the applicant or licensee of the right to appeal under Section 5.12.130.

C. The notice to a licensee shall be given at least fifteen (15) days before the revocation becomes effective. If the violation ends within the fifteen (15) days, the city recorder may discontinue the revocation proceedings.

D. A person whose application for a license has been denied or whose license has been revoked may, after ninety (90) days from the date of denial or revocation, apply for a license upon payment of the required fees and submission of an application form and required attachments, unless other provisions of this ordinance provide to the contrary.

E. A person whose application for a license hereunder has been denied, or whose license has been revoked for a total of two times within one year or who has a total of four denials or revocations, shall be disqualified from applying for a license hereunder for a period of two years from the date of the last revocation or denial. (Ord. 760 § 11, 1989)

5.12.120 Summary suspension.

A. Upon determining that the activities of a licensee hereunder presents and immediate danger to person or property, the city manager may summarily suspend the license.

B. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the application for the license being suspended. Such notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 5.12.130.

C. The city manager may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 5.12.130. (Ord. 760 § 12, 1989)

5.12.130 Appeal.

A. An applicant whose application 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 fifteen (15) days after the date of the notice of denial, suspension or revocation, appeal in writing to the council. The notice of appeal shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

B. An appellant who fails to file the notice of appeal with the city manager and to pay any required appeal fee within the time permitted, waives his or her objection, and his or her appeal shall be dismissed.

C. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal.

D. Unless the appellant and the city manager agree to a different period, an appeal shall be heard by the council at its next meeting at least fifteen (15) days following the receipt of the notice of appeal. At least ten days prior to the hearing, the city manager shall mail notice of the time and location thereof to the appellant.

E. The council or its designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence he or she deems appropriate. At the hearing the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.

F. If the appeal is from a denial, the applicant shall carry the burden of proving that he or she is entitled to the license and wherein the city recorder erred in his or her denial. If the appeal is from a revocation or suspension, the city recorder shall carry the burden of proving that the revocation or suspension was proper.

G. The council shall issue a written decision within twenty (20) days of the hearing date. If the appeal is granted, any appeal fee paid by the appellant shall be refunded to the appellant. The decision of the council is final. (Ord. 760 § 13, 1989)

5.12.140 Responsibility of owner.

A. An owner shall:

1. Issue to each driver in his/her employ an identification card with the driver's photograph, name in printed form and signature, and the owner's business name, address and telephone number, and retrieve the identification card from the driver immediately upon termination of employment;

2. Conspicuously display in each vehicle a schedule of rates for services in a manner that can be easily read from both inside and outside the vehicle. The schedule shall be printed in machine lettering not less than one-quarter inch high on cards not less than four inches by six inches;

3. Maintain all vehicles according to manufacturer's instructions;

4. Maintain for a period of three years complete maintenance records for each vehicle, and make the records and the vehicles available for inspection by the city recorder upon request;

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5. Maintain records on each driver during the term of employment and for six months thereafter. Each record shall contain the driver's:

- a. Name and aliases,
- b. Current and prior three addresses,
- c. Physical description,
- d. Date of birth, and
- e. Oregon driver's license number;
6. Equip each vehicle with an ABC-rated fire extinguisher;
7. Comply with all applicable federal, state and local laws and regulations;
8. Employ as drivers only those persons who hold a valid taxi/limousine driver certification card issued by the city recorder;

9. Report to the city recorder in writing within seven days any known or suspected conviction of a driver for any felony or misdemeanor described in Section 5.12.150;

10. Not permit any driver to operate a vehicle unless the driver's identification card is displayed in full view of the passenger compartment.

B. A taxicab owner shall:

1. Affix the terms "Zoned Rates" or "Metered Rates" onto the exterior of each taxicab in machine lettering not less than one-inch high to indicate the manner in which taxicab fares are made;

2. Prominently display on the exterior of each taxicab the word "Taxi" or "Taxicab," the taxicab's number assigned by the owner, the business name under which the taxicab operates, and, in the designated location, a valid license tag issued by the city recorder;

3. If a taximeter is used to calculate taxicab fares:

a. Place and illuminate the taximeter so that its numbers are visible from the passenger compartment, and

b. Keep the taximeter accurate;

4. If zones are used to calculate taxicab fares, display in plain view of the passenger compartment a map of the city on which each zone is delineated and on which rates are printed in machine lettering.

C. An owner shall be strictly liable for any violation of this ordinance committed by an agent or employee.

D. An owner shall file with the city recorder a evidence of insurance as required by Section 5.12.170 and a performance bond in the sum of two thousand five hundred dollars (\$2,500.00), in a form to be approved by the city recorder to insure to the city and the public the owner's faithful performance of the obligations required by this chapter. Such insurance and bond shall remain in force and effect as long as the owner is licensed under this chapter. Should the insurance or bond be cancelled without the city recorder having received a replacement evidence of insurance or bond, owner's license may be summarily suspended under Section 5.12.120. (Ord. 760 § 14, 1989)

5.12.150 Driver certification required.

A. No individual shall act or be employed as a driver without first obtaining a certification card issued by the city recorder.

B. The city recorder may issue a taxi/limousine certification card upon finding that the applicant:

1. Has a valid Oregon Class C operator's license;

2. Has not been convicted of a crime or offense involving burglary, theft, narcotics, assault, robbery, kidnapping, homicide, harassment, vice, a major traffic crime except driving while suspended, or a sex-related offense:

- a. If a felony, within the preceding five years,
- b. If a misdemeanor, within the preceding two years;
- 3. Has not had his/her certification card revoked as provided in Section 5.12.110.
- C. A taxi/limousine driver certification card shall be valid from date of issuance for a term of three years. (Ord. 875 § 3(E), 1997; Ord. 760 § 15, 1989)

5.12.160 Taxi stands.

A. No owner or driver of a taxicab shall stand or permit a taxicab to stand waiting employment upon any portion of the streets of the city other than at a place designated by the city manager and assigned to the owner of the taxicab.

B. Permits may be issued by the city manager pursuant to the terms of this chapter allowing taxicabs, while awaiting employment, to stand at certain designated places upon the streets of the city; provided, however, that no such permit shall be granted except upon the written application of the owner filed with the city recorder. The application shall set forth the location of the proposed stand having reference to street and building number, if any, or the number of the parking meter involved. The city manager shall have the right to grant or deny an application for a taxi stand and may issue or refuse to issue such permit.

C. The regulatory fee for such permit is the sum of fifty dollars (\$50.00) per year, which sum must be paid in advance before the permit is issued for the full period of time covered by the permit. No taxi stand shall be larger than necessary to accommodate one taxicab.

D. No taxicab or other vehicle may occupy a regularly established taxi stand unless the taxicab is being operated by or for the holder of the permit to whom such taxi stand has been assigned. (Ord. 760 § 16, 1989)

5.12.170 Insurance required.

No person shall operate a taxicab or limousine that is not covered by public liability insurance in an amount of not less than two hundred fifty thousand dollars (\$250,000.00) property damage, five hundred thousand dollars (\$500,000.00) personal injury, and five hundred thousand dollars (\$500,000.00) per occurrence or an amount required by state law, whichever is greater. The insurance shall provide that the city receive thirty days prior written notice of termination or cancellation. (Ord. 771 § 1, 1989; Ord. 760 § 17, 1989)

5.12.180 Violation—Penalty.

In addition to any other action authorized in this chapter, and without requiring any of those actions to be taken first, violation of any provision of this ordinance shall be punishable by a civil penalty not to exceed five hundred dollars (\$500.00). Every day in which a violation is caused or permitted to remain constitutes a separate violation. (Ord. 760 § 18, 1989)

Chapter 5.16

TIMBER HARVESTING

5.12.070

Sections:

| | |
|----------|--|
| 5.16.010 | Purpose. |
| 5.16.020 | Definitions. |
| 5.16.030 | Tree falling prohibition. |
| 5.16.040 | Tree falling permits for less than five acres. |
| 5.16.050 | Tree falling permits for more than five years. |
| 5.16.060 | Criteria for tree falling. |
| 5.16.070 | Reforestation. |
| 5.16.080 | Appeals from denial. |
| 5.16.090 | Exceptions. |
| 5.16.100 | Violations—Penalties. |

5.16.010 Purpose.

The purpose of this chapter is to provide general guidelines to assist the city staff, the planning commission and the council in regulating timber harvesting activities within the incorporated boundaries of the city and its urban growth boundary. (Ord. 789 § 1, 1991)

5.16.020 Definitions.

As used in this chapter:

“Fall” means to remove or sever a tree for the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fall does not in any context include normal trimming, pruning, topping of trees, or removal of trees which present a hazard to a nearby building or residential structure.

“Occupied parcel” means real property within the boundaries of ad valorem tax lot description as found in the Douglas County, Oregon, ad valorem tax records with one or more dwellings thereon, or a parcel which has been approved for a dwelling.

“Person” means a natural person, firm, partnership, association or corporation, whether he, she or it is acting for themselves or as the clerk, servant, employee or agent of another.

“Timber harvesting” or “harvesting” means the cutting of trees of more than twelve (12) inches in base diameter for commercial purposes or sale for profit. It does not include the removal and sale of trees that have been blown down by the wind.

“Tree” means real property within the boundaries of an ad valorem tax lot description as found in the Douglas County, Oregon, ad valorem tax records. (Ord. 789 § 2, 1991)

5.16.030 Tree falling prohibition.

Except as provided in Section 5.16.090, no person may fall more than ten trees within a single calendar year from a parcel of private property consisting of more than one acre without a permit. (Ord. 789 § 3, 1991)

5.16.040 Tree falling permits for less than five acres.

A. Application for a permit to fall trees shall be filed with the city manager on a form prescribed by and available in the manager’s office containing:

1. Date, name, address and telephone number of the applicant; species or other description of the trees, their location on the property, and the reason for falling; and a plot plan showing trees to be removed and sizes; and

2. A brief description of any plan to replace, landscape, or otherwise reduce the effect of the falling if one is proposed.

B. Within ten business days after an application is filed, the city manager shall:

1. Issue the permit if the criteria of this ordinance have been met; or

2. Deny the permit and provide the applicant a written statement containing the basis of the denial.

C. If issuance of the permit is conditioned upon the applicant's proposed plan to replace the trees, landscape or otherwise reduce the effects of falling, the time within which the plan is to be completed shall be set forth on the permit.

D. Failure to comply with a condition of a permit within the designated time is a violation of this section. (Ord. 789 § 4, 1991)

5.16.050 Tree falling permits for more than five years.

Any person proposing to harvest more than ten trees within a calendar year must apply for a permit through the city planning commission. The city planning commission, through the conditional use permit (CUP) process, may require more restrictive requirements than this chapter to mitigate any negative impacts upon the neighboring property owners or the city as a whole. If a permit is authorized, the conditions, if any, shall be set forth on the permit. (Ord. 789 § 5, 1991)

5.16.060 Criteria for tree falling.

A. In determining whether a proposed falling is consistent with the provisions of this chapter, the city manager, planning commission or city council, as the case may be, shall consider and base their decision on one or more of the following:

1. The condition of the trees with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular traffic safety;

2. The topography of the land and the effect of falling on erosion, soil retention, stability of earth, impacts upon storm drainage systems and the quantity, quality and character of surface waters and streams, and protection of nearby trees and windbreaks;

3. The necessity to remove trees in order to construct proposed improvements, or to otherwise utilize the applicant's property in a reasonable manner;

4. The effect of the trees' removal upon the environmental quality of the area;

5. The adequacy of the applicant's proposals, if any, in meeting generally accepted practices of horticulture, silviculture or landscape architecture;

6. The falling is within the guidelines set forth in the Field Guide to Oregon Forestry Practices Rules published by the state of Oregon, Department of Forestry, as they apply to the northwest region of Oregon, or the corresponding future publication of the state of Oregon Department of Forestry.

B. Whenever the Forest Practices Act as provided in ORS 526.041, 527.721 and OAR 629-24-101 to and including 629-55-200, conflicts with the terms of this chapter, the Sutherlin zoning ordinance, other city ordinances, or any conditional use permits issued by the

5.12.070

city. The more restrictive conditions shall prevail unless specifically waived in writing by the planning commission or city council. (Ord. 875 § 3(F), 1997; Ord. 789 § 6, 1991)

5.16.070 Reforestation.

A. Any person harvesting timber subject to this chapter in the city limits or urban growth boundary shall be responsible for reforestation of that area with a minimum of two hundred fifty (250) trees planted per acre within one year of the tree falling unless excepted by the planning commission or city council. At the end of a twelve (12) month period following tree planting the site must demonstrate a minimum of seventy-five (75) percent survival rate. The planning commission may grant a one-year extension for reforestation if, and only if, the proper justification is provided.

B. All debris and slash realized from the tree falling shall be either removed or piled and burned within sixty (60) days following the removal of the harvested trees unless a time extension is granted by the planning commission due to unusual or extenuating circumstances; however, such time extension shall not exceed a maximum of twelve (12) months from the date of the completed harvest.

C. The city manager, planning commission or city council may require grass seeding, water break trails or unharvested buffer zones if the tree falling presents a reasonable potential for negatively impacting adjoining properties due to soil erosion or water runoffs. (Ord. 789 § 7, 1991)

5.16.080 Appeals from denial.

A. In those applications involving less than five acres, an applicant may appeal the city manager's permit denial to the planning commission by filing a written notice of the appeal with the city manager within thirty (30) calendar days from the date of the denial.

B. In those applications involving more than five acres, an applicant may appeal the planning commission's permit denial to the city council within thirty (30) business days from the date of the denial.

C. The planning commission or the city council, as respectively appropriate for the appeal of a denial, shall hear and determine the appeal at its first regularly scheduled meeting occurring after receipt of the notice of appeal.

D. The applicant shall carry the burden of proving the proposed falling is consistent with the criteria of Section 5.16.060. (Ord. 789 § 8, 1991)

5.16.090 Exceptions.

The requirements and restrictions of Sections 5.16.030 through 5.16.070 do not apply to:

A. The action of any city officer or employee of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service; or to reopen a public street or alley to traffic;

B. An occupied parcel of private property consisting of less than one acre of size;

C. Falling of trees in violation of any other ordinance of the city;

D. Any falling necessary to install or maintain improvements, such as streets and sewers within publicly owned and accepted rights-of-way or utility easements;

E. That portion of a PUD or PUD subdivision development for which final approval has been obtained. (Ord. 789 § 9, 1991)

5.16.100 Violations—Penalties.

Violation of Sections 5.16.030 through 5.16.070 is punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each tree removed, or confinement in jail not to exceed one hundred (100) days for each tree removed, or both fine and imprisonment. In addition, the city attorney, upon request of the city manager or city council, shall institute any necessary legal proceedings to enforce the provisions of Sections 5.16.030 through 5.16.070. (Ord. 789 § 11, 1991)

Chapter 5.20

TOBACCO VENDING MACHINES

Sections:

| | |
|----------|--------------------------------------|
| 5.20.010 | Purpose. |
| 5.20.020 | Title. |
| 5.20.030 | Definitions. |
| 5.20.040 | Tobacco vending machines prohibited. |
| 5.20.050 | Exceptions. |
| 5.20.060 | Affirmative defenses. |
| 5.20.070 | Violations—Penalties. |

5.20.010 Purpose.

The purpose of this chapter is to promote the health and welfare of the citizens of the city by limiting the availability of cigarettes and tobacco products to children under the age of eighteen (18) years, through the means of restricting the placing of vending machines dispensing cigarettes or tobacco products. (Ord. 791 § 1, 1991)

5.20.020 Title.

This chapter shall be known and cited as the city of Sutherlin tobacco vending machine ordinance. (Ord. 791 § 2, 1991)

5.20.030 Definitions.

For the purpose of this chapter:

“Accessible to persons under the age of eighteen (18) years” means, in reference to premises, that no prohibition exists to the entry upon premises, or a discrete portion of premises, by persons who have not attained the age of eighteen (18) years.

“Cigarette” has the meaning set out in ORS 323.010(1).

“Tobacco products” has the meaning set out in ORS 323.500(9).

“Tobacco vending machine” means any self-service device offered for public use which, upon insertion of a coin, coins, currency or token, or by other means, dispenses cigarettes or any tobacco product, either in bulk or package, without the necessity of replenishing the device between each vending operation. (Ord. 791 § 3, 1991)

5.12.070

5.20.040 Tobacco vending machines prohibited.

A. It is unlawful for any person in possession of any premises located within the city to place or allow to be placed on such premises any tobacco vending machine.

B. It is unlawful for any person who owns or controls a tobacco vending machine to place or allow to be placed such tobacco vending machine on premises within the city. (Ord. 791 § 4, 1991)

5.20.050 Exceptions.

The prohibition of Section 5.20.040 shall not apply to premises or to tobacco vending machines on premises that are:

A. Licensed by the Oregon Liquor Control Commission for on-premises consumption of alcoholic beverages and persons under the age of eighteen (18) are prohibited from entering;

B. Licensed by the Oregon Liquor Control Commission as a retail liquor store;

C. Maintained for the use of employees and not open to the public;

D. Not accessible to persons under the age of eighteen (18) years;

E. Configured in a way that will allow a blind person, as that term is defined in ORS 346.110(3), who has training and skills that

enable the blind person to determine if a person obtaining cigarettes or any tobacco product from a tobacco vending machine is under eighteen (18) years of age, and which blind person is in control of the tobacco vending machine. (Ord. 791 § 5, 1991)

5.20.060**Affirmative defenses.**

In any prosecution for violation of Section 5.20.040 it shall be an affirmative defense that the premises are not accessible to persons who are under eighteen (18) years of age. (Ord. 791 § 6, 1991)

5.20.070**Violations—Penalties.**

A violation of Section 5.20.040 is an infraction punishable upon conviction by a fine of not more than five hundred dollars (\$500.00) for a noncontinuing offense and a fine of not more than one thousand dollars (\$1,000.00) for a continuing offense. (Ord. 791 § 7, 1991)

Chapter 5.24

USED MERCHANDISE DEALER

Sections:

- 5.24.010 Definitions.**
- 5.24.020 Exemptions.**
- 5.24.030 Permit required.**
- 5.24.040 Permit application and review.**
- 5.24.050 Permit denials.**
- 5.24.060 Permit renewal.**
- 5.24.070 Requirements.**
- 5.24.080 Prohibited conduct.**
- 5.24.090 Violation—Penalty.**

5.24.010

Definitions.

As used in this chapter, the following words and phrases mean:

“Business” shall have the meaning attributed to the term in 26 USC Section 162, including, but not limited to, any regularly conducted activity directed toward the production of income or a livelihood, or any activity for which a federal income tax deduction was taken under 26 USC Section 162 within the preceding three years.

“Precious metal or gem” means any metal or gem that is valued for its character, rarity, beauty or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires and pearls, and any other such metals or gems, and any other gem or stone or imitation thereof whether as a separate item or in combination as a piece of jewelry, but excluding the following items when being purchased by a bona fide business for investment purposes:

1. Gold bullion bars (0.995 fine or better);
2. Silver bullion bars (0.995 fine or better);
3. All coins, whether actual or commemorative, from all countries.

“Proper identification” means a document issued by a city, county, state or federal government which bears a photograph and the signature of the person to whom it was issued.

“Purchase” means the buying, exchanging, transferring, collecting, consigning or otherwise acquiring of articles from another person not a used merchandise dealer, for resale, exchange or transfer by the purchaser.

“Regulated property” means any of the following property which is used or secondhand, unless explicitly excluded in Section 5.24.020:

1. Any precious metal or gem, as defined above;
2. Jewelry containing precious metals or precious gems including, but not limited to: rings, necklaces, pendants, earrings, brooches, bracelets or chains;
3. Watches including, but not limited to: pocket watches, wrist watches or stop watches;

4. Sterling silver including, but not limited to: flatware, candleholders, coffee and tea sets, ornamental objects, champagne flutes, wineglasses, or serving pieces such as platters, bowls, trays, water pitchers, open bakers, ice buckets, shell dishes, or salt and pepper shakers;

5. Audio equipment including, but not limited to: tape players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, car stereos, car speakers, radar detectors, broadcasting equipment or citizen band radios/ transceivers;

6. Video equipment including, but not limited to: color televisions, black and white televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or color monitors or video game players;

7. Photographic and optical equipment and any accompanying bags including, but not limited to: cameras, camera lenses, camera filters, camera motors, drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlargement equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes or electronic sighting equipment;

8. Electrical office equipment including, but not limited to: telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers, modems, monitors, personal data assister or any computer equipment or accessories having uniquely identifiable parts;

9. Power yard and garden tools including, but not limited to: garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders or ladders;

10. Power equipment and tools including, but not limited to: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers or logging equipment;

11. Automotive and hand tools including, but not limited to: wrench sets, socket sets, screwdriver sets, pliers, vise grips, tool boxes, auto body hammers, jacks or timing lights;

12. Musical instruments and any accompanying cases or bags including, but not limited to: pianos, organs, keyboards, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, electronic synthesizers or mixing boards;

13. Firearms including, but not limited to: rifles, handguns, shotguns, BB guns or pellet guns;

14. Telephones or telephone equipment including, but not limited to: office telephones, portable home telephones, mobile telephones, cellular telephones or answering machines;

15. Sporting equipment including, but not limited to: hunting bows, crossbows, bicycles, golf clubs and golf bags, snow skis, snow ski boots, snowboards or skates;

16. Outboard motors and boating accessories including, but not limited to: outdrives, props, inboard engines, boat covers and tops or unlicensed boat trailers;

17. Microwave ovens; and

18. Any other article of property unless excluded in Section 5.24.020 which is marked or engraved in any way with what appears to be a name, or address, or telephone number, or owner-applied number such as a driver's license number or Social Security number, or other identifying markings or symbols, and the information marked or engraved is not that of the seller.

"Used merchandise dealer" means any person, or employee of any person, who, as all or part of a business: (1) purchases or sells regulated property, or (2) lends money on security of regulated property. (Ord. 947 § 1 (part), 2003)

5.24.020

Exemptions.

The provisions of this chapter shall not apply to:

A. A person dealing exclusively in the following used or secondhand property:

5.24.020

1. Vehicles required to be registered with the Oregon Motor Vehicles Division;
2. Boats required to be certified by the Oregon Marine Board;

5.24.030

3. Books and comics;
 4. Glassware and objets d'art;
 5. Sports cards and sports memorabilia;
 6. Furniture;
 7. Refrigerators, stoves, washers, dryers, and other similar major household appliances;
 8. Property which is purchased by a bona fide business for investment purposes, limited to:
 - a. Gold bullion bars (0.995 fine or better);
 - b. Silver bullion bars (0.995 fine or better);
 - c. All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency; or
 - d. Postage stamps, stamp collections and philatelic items;
 9. Clothing; or
- B. A person who purchases or sells used articles for four days or less in a six-month period; or
- C. A nonprofit corporation or association that sells or otherwise exchanges only donated articles. (Ord. 947 § 1 (part), 2003)

5.24.030

Permit required.

A. No person shall engage in business as a used merchandise dealer without obtaining a used merchandise dealer's permit from the city. Agents and employees who engage in the purchase of used merchandise must also obtain a permit from the city and are subject to all requirements of this chapter.

B. The annual fee for a used merchandise dealer's permit shall be the fee set by resolution.

C. Application for a used merchandise dealer's permit must be submitted on a form prescribed by the city. An application must be submitted at least thirty (30) days prior to the date the permit is requested to be effective. (Ord. 947 § 1 (part), 2003)

5.24.040

Permit application and review.

A. An application for a used merchandise dealer's permit shall be investigated by the Sutherlin police department. An applicant's signature on the application form shall constitute the applicant's consent to conduct the investigation.

B. The chief of police shall approve or deny an application for a used merchandise dealer's permit.

C. 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 permit that the applicant seeks. (Ord. 947 § 1 (part), 2003)

5.24.050

Permit denials.

A. A denial of a permit application must be made in writing and sent by first class mail to the applicant's address as stated in the application. The notice of denial shall set forth the grounds upon which the permit was denied.

B. An applicant may appeal the denial of a permit to the city council if the applicant makes a written application to the city recorder for such a hearing no later than twenty (20) days from the date of the denial. The city council's decision is final. Pursuant to ORS 34.020, an applicant has the right to appeal the city council's final order by filing a writ of review in circuit court.

C. To the extent permitted by law, the chief of police may deny, suspend or revoke a permit on any of the following grounds:

1. A knowingly false statement in the permit application.
2. Conviction of a crime that is prohibited as a felony in the state of Oregon or an offense in the nature of theft, deception or moral turpitude.
3. Failure of the dealer to have obtained all necessary zoning, planning, building and sanitation permits for the dealer's place of business.
4. Conducting business without a permit and allowing people who have not obtained a permit under this section to work as the dealer's agents or employees. (Ord. 947 § 1 (part), 2003)

5.24.060**Permit renewal.**

Permits are valid for one year unless renewed or suspended prior to expiration. An application to renew a permit shall be made not later than thirty (30) days prior to the expiration of the current permit and shall be made in accordance with Section 5.24.030. (Ord. 947 § 1 (part), 2003)

5.24.070**Requirements.**

A used merchandise dealer shall:

- A. Record at the time of purchase an accurate description of each article purchased by the dealer and the proper identification of the person from whom the purchase was made;
- B. Record all purchases made by the dealer in type or ink and in duplicate on forms obtained from the city, and have a copy of each record available for regular pickup by the city;
- C. Maintain records in an orderly manner at his/her place of business;
- D. Make all records and all articles purchased available for inspection by the city upon request;
- E. Segregate articles purchased by the dealer so that the articles can be identified by the records kept; and
- F. Comply with all applicable federal, state, and local laws and regulations. (Ord. 947 § 1 (part), 2003)

5.24.080**Prohibited conduct.**

A used merchandise dealer shall not:

- A. Alter, sell or dispose of any property purchased by the dealer for seven days after the date of purchase during which the dealer is open for business to the public;
- B. Sell, exchange, dismantle, alter in any manner, or otherwise dispose of articles purchased by the dealer when prohibited from doing so by the city in writing, and until notified otherwise by the city in writing;
- C. Purchase from a person under the age of eighteen (18) years unaccompanied by a parent or guardian;

D. Purchase from a person who is incapacitated as defined by ORS 126.003(4) or who is under the influence of drugs or intoxicating liquor;

E. Purchase property which has had its serial number obliterated, defaced, removed or otherwise altered; or

F. Knowingly purchase property from a seller that has previously sold stolen goods to the dealer. (Ord. 947 § 1 (part), 2003)

5.24.090

Violation—Penalty.

Any person who operates a used merchandise business in violation of this chapter commits a civil violation. Each day that a violation continues to exist constitutes a separate violation. Violation of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00). (Ord. 947 § 1 (part), 2003)

Chapter 5.28

SOCIAL GAMING

Sections:

- 5.28.010 Definitions.**
- 5.28.020 Social games allowed—Rules applicable to all social games.**
- 5.28.025 Rules applicable to tournament-style social games.**
- 5.28.030 License required.**
- 5.28.040 Application and license fees.**
- 5.28.050 License application and review.**
- 5.28.060 License denial.**
- 5.28.065 License revocation.**
- 5.28.070 License renewal.**
- 5.28.080 Violation—Penalty.**

5.28.010

Definitions.

Unless the context requires otherwise, all terms set forth in this chapter shall have the same meaning as set forth in ORS 167.117. (Ord. 963 § 2 (part), 2006)

5.28.020

Social games allowed—Rules applicable to all social games.

A social game between players in a private business, private club or place of public accommodation is authorized only when each of the following conditions are met:

- A. There shall be no house player, house bank, or house odds.
- B. There shall be no house income from the operation of a social game and there shall be no fee paid to, or collected by, the house, a social game organizer, or any other person, for the privilege of participating in a social game, including, but not limited to, a fee to defray the cost of providing the social game equipment or premises upon which the social game is conducted.
- C. No form of unlawful gambling shall be permitted upon the licensed premises.
- D. The game shall not be visible from a public right-of-way.
- E. Persons under 18 years of age shall not be permitted in the room or enclosure where the social game takes place.
- F. A license issued pursuant to this chapter shall be conspicuously displayed in the room or enclosure.
- G. The room or enclosure where the social game takes place shall be open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation.

H. The game shall be played in accordance with the rules set forth in *Hoyle's Modern Encyclopedia of Card Games*. However, the rules of a social game may deviate from those set forth in Hoyle's Modern Encyclopedia of Card Games if:

1. Such deviations are posted in the room or enclosure in a conspicuous location;
2. All players of a social game agree to the posted rule deviation; and
3. The social game does not, with such modifications, violate federal, state, or local law.

I. Copies of SMC Chapter 5.28 and *Hoyle's Modern Encyclopedia of Card Games* shall be maintained in the room or enclosure and shall be subject to inspection by any player upon their request. (Ord. 1024 § 1, 2013; Ord. 963 § 2 (part), 2006)

5.28.025**Rules applicable to tournament-style social games.**

Tournament-style social games are permitted in a private business, private club or place of public accommodation only when each of the following conditions are met:

A. The conditions set out at SMC 5.28.020 are met, except as made inapplicable under this section.

B. Tournament rules shall be conspicuously posted in the room or enclosure where the tournament takes place.

C. Buy-Ins.

1. All players must buy-in for the same amount of money;

2. Upon buying-in, each player shall be provided exactly the same amount of in-game currency (i.e., poker chips); and

3. No portion of the buy-in shall be paid to or retained by the house, organizer of the social game or any other person for the privilege of participating in a social game, including, but not limited to, a fee to defray the cost of providing the social game equipment or the premises upon which the social game is conducted.

D. All buy-ins must be returned to players pursuant to terms agreed upon before the tournament begins.

E. No other winnings or compensation to the players is permitted other than the buy-in. (Ord. 1024 § 2, 2013; Ord. 988 § 1, 2007; Ord. 963 § 2 (part), 2006)

5.28.030**License required.**

A. No person shall conduct or permit to be conducted in any private business, private club or place of public accommodation any social game without obtaining a social gaming license from the city.

B. A social gaming license issued by the city is not subject to transfer or assignment, is not valid at any location other than the premises described therein, and shall be dated as of the first day of the month in which issued and shall expire one year from that date. (Ord. 963 § 2 (part), 2006)

5.28.040**Application and license fees.**

The application fee and the annual fee for a social gaming license shall be the fees set by resolution. (Ord. 963 § 2 (part), 2006)

5.28.050

License application and review.

A. Application for a social gaming license must be submitted on a form prescribed by the city. An application must be submitted at least 30 days prior to the date the license is requested to be effective.

B. An application for a social gaming license shall be investigated by the Sutherlin police department. An applicant's signature on the application form shall constitute the applicant's consent to conduct the investigation.

C. The chief of police shall approve or deny an application for a social gaming license and shall report any such approval or denial to the city council at its next regularly scheduled meeting. (Ord. 963 § 2 (part), 2006)

5.28.060

License denial.

A. A denial of a license application must be made in writing and sent by first class mail to the applicant's address stated in the application. The notice of denial shall set forth the grounds upon which the license was denied.

B. An applicant may appeal the denial of a license to the city council if the applicant makes a written application to the city recorder for such a hearing no later than twenty days from the date of the denial. The city council's decision is final. Pursuant to ORS 34.020, an applicant has the right to appeal the city council's final order by filing a writ of review in circuit court.

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C. To the extent permitted by law, the chief of police shall deny a license if an applicant or any person(s) financially interested in the business, entity or organization has:

1. Been convicted of a felony within the last ten years;
2. Been convicted of five or more misdemeanors, the last of which was within the last five years;
3. Been convicted of any crime involving gambling within the last five years or has forfeited bail for any crime involving gambling within the last five years;
4. Been directly or indirectly involved in a forfeiture proceeding regarding a gambling device, as defined by state law, where such gambling device has been ordered destroyed within the last five years;
5. Supplied any false or misleading information in the application or omitted any requested information from the application;
6. Had a license in his/her name revoked or suspended by the Oregon Liquor Control Commission within the last five years;
7. Violated any provision of this chapter. (Ord. 963 § 2 (part), 2006)

5.28.065

License revocation.

A. The chief of police may revoke any license issued pursuant to this chapter if the chief of police finds that:

1. The holder or any person financially interested in the business, entity or organization has violated the provisions constituting grounds for denial of a license; or
2. The holder or any person financially interested in the business, entity or organization fails to allow lawful inspection of the business premises or records.

B. The chief of police shall provide written notice of the revocation to the holder of the license. The written notice shall state the reason for revocation and shall inform the holder of the license of the right to appeal under subsection E of this section.

C. The notice shall be given at least fifteen days before the revocation becomes effective and shall state the date that the revocation becomes effective, unless an appeal is filed before the revocation effective date in accordance with subsection E of this section.

D. A copy of the written notice of revocation shall be provided to the city council at its next regularly scheduled meeting.

E. An applicant may appeal the revocation of a license to the city council, if the applicant makes a written application to the city recorder for such a hearing no later than twenty days from the date of the denial. The city council's decision is final. Pursuant to ORS 34.020, an applicant has the right to appeal the city council's final order by filing a writ of review in circuit court. (Ord. 963 § 2 (part), 2006)

5.28.070

License renewal.

Licenses are valid for one year unless renewed or suspended prior to expiration. An application to renew a license shall be made

not later than thirty days prior to the expiration of the current license and shall be made in accordance with the requirements of this chapter. (Ord. 963 § 2 (part), 2006)

5.28.080**Violation—Penalty.**

Any person who conducts or permits to be conducted any social gaming in violation of this chapter commits a civil violation. Each day that a violation continues to exist constitutes a separate violation. Violation of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00). (Ord. 963 § 2 (part), 2006)

Chapter 5.30

COMMUNICATIONS

Sections:

- 5.30.010 Communications—Title.**
- 5.30.020 Communications—General.**
- 5.30.030 Communications—Definitions.**
- 5.30.040 Communications—Registration required.**
- 5.30.050 Communications—License required.**
- 5.30.060 Communications—Registration fees.**
- 5.30.070 Communications—Annual license fees.**
- 5.30.080 Communications—Fees generally.**
- 5.30.090 Communications—Inspection and conditions relating to licensee's facilities.**
- 5.30.100 Communications—Removal of facilities—Relocation—Termination of use of right-of-way.**
- 5.30.110 Communications—Administrative rules.**
- 5.30.120 Communications—Penalties.**

5.30.010

Communications—Title.

This chapter shall be known and cited as the city of Sutherlin communications ordinance. (Ord. 949 § 1 (part), 2004)

5.30.020

Communications—General.

The provisions of Section 5.30.070 and the rules adopted by the city manager pursuant to Section 2.09.020 are intended to authorize and regulate communication activities in the city and on public property to the extent permitted under the laws of the United States and the state of Oregon. (Ord. 949 § 1 (part), 2004)

5.30.030

Communications—Definitions.

For the purpose of this chapter, the following terms are defined:

“Adjusted gross revenues” means all gross revenues attributable to a period less the sum of: (1) gross revenues for the period upon which the operator has paid a license fee under this chapter, and (2) separately billed city license fee surcharges for the period. The operator claiming a deduction for license fee surcharges must submit copies of all invoices for the surcharges claimed as a condition to claiming a deduction for the surcharges.

“Cable services” means:

5.30.030

1. The one-way transmission to subscribers of (a) video programming, or (b) other programming service; and
2. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“Cable system” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community. A reference to a cable system includes pedestals, equipment enclosures (such as equipment cabinets), amplifiers, power guards, nodes, cables, fiber optics and other equipment necessary to operate the cable system. As used herein, “cable system” does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
2. A facility that serves subscribers without using any public rights-of-way or public utility easements;
3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II (Common Carriers) of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
4. A facility of any electric utility used solely for operating its electric utility systems.

“Communication activities” means and includes telecommunications services, cable services, open video system services, and private communications system services.

“Communication company facility” means and includes a telecommunications facility, cable system, open video system, or any part of any of the foregoing, but not a private communications system.

“FCC” means the Federal Communications Commission or its designee.

“Gross revenues” means any and all revenue, of any kind, nature or form, without deduction for expense, derived from the ownership or management of communication business facilities within the city, from communication activities within the city, or billed to communication activities customer accounts with addresses within the city. Gross revenues shall be calculated using consistently applied, generally acceptable accounting practices and methods described in an operator’s registration or license application.

“License” refers to the authorization granted by the city to an operator to occupy the space in, upon, across, beneath, or over any public right-of-way in the city with a facility used in communication activities. Any such authorization, in whatever form granted, shall not exempt the licensee from the need to obtain any other permits, registration or authorization required by this code, including, but not limited to:

1. The registration required to be made under Section 5.30.040; or
2. Any permit, agreement or authorization required in connection with operations in the public right-of-way or on other public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along public rights-of-way.

“License fee surcharge” means any amount itemized as a surcharge for the payment of license fees under this chapter and added to the base fees, rentals or other charges made by a licensee to another operator for the use of a facility by the operator.

“Open video system” or “OVS” means a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service, which includes video programming, which is provided to multiple subscribers within a community, and which the Federal Communications Commission or its successor has certified as compliant with Part 76 of the Rules of the Federal Communications Commission, 47 CFR, Part 76, as amended from time to time.

5.30.030

“Operator” means any person who engages in communication activities using a communication company facility or a private communications system located within the city or who owns, operates, controls, or is otherwise responsible for a communication company facility. A person who leases a communication company facility as a lessee, or as a lessor, shall be treated as an operator for purposes of this code.

5.30.040

“Person” includes any individual, corporation, partnership, association, joint stock company, trust, limited liability company, or any other legal entity.

“Private communications system” means a facility that provides communications services for the exclusive use of the owner’s business, but not for hire to others, and which facility is placed, in whole or in part, in the public right-of-way.

“Radio common carrier” means any individual or entity in the business of making available facilities to provide radio communications service, audio paging or cellular communications services for hire.

“Reseller” means any person that provides telecommunications services using a telecommunications facility for which a separate service charge is made, where that person does not own, lease, control or manage the telecommunications facility used to provide the service.

“Telecommunications carrier” means a telecommunications utility, as defined in ORS 729.005, or a cooperative corporation organized under ORS chapter 62 that provides telecommunications services.

“Telecommunications facility” means a facility that is used to provide one or more telecommunications services. The term “telecommunications facility” includes radio transmitting towers, other supporting structures and associated facilities, including fiber, used to transmit telecommunications signals. An open video system is not a telecommunications facility to the extent that it provides only video services; a cable system is not a telecommunications facility to the extent that it provides only cable service.

“Telecommunications services” means the transmission for hire of information in electromagnetic frequency, electronic or optical form, including, but not limited to, voice, video, or data, whether or not the transmission medium is owned by the provider itself, and whether or not the transmission medium is wireline or wireless. Telecommunications services include all forms of telephone services and voice, data and video transport, but do not include:

1. Cable services;
2. OVS services;
3. Private communications system services;
4. Over-the-air radio or television broadcasting to the public at large from facilities licensed by the Federal Communications Commission or any successor thereto; or
5. Direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996. (Ord. 949 § 1 (part), 2004)

5.30.040

Communications—Registration required.

A. No operator may, without first registering with the city and then paying the fees required by Section 5.30.060, engage in any communications activity in the city.

B. Registration under this section shall be submitted on a form provided by the city. The registration shall be accompanied by any additional documents required therein or in rules issued by the city manager pursuant to Section 2.09.020. (Ord. 949 § 1 (part), 2004)

5.30.050**Communications—License required.**

A. No operator may, without first applying for and receiving a license from the city, occupy, possess, maintain, operate, have or locate any telecommunications facility in, upon, beneath, over or across any public right-of-way or on other public property for:

1. A cable system or cable services;
2. A telecommunications facility or telecommunications services;
3. An open video system or services via an open video system; or
4. As a private communications system.

B. An application for a license under this section shall be submitted on a form provided by the city. The application shall be accompanied by any additional documents required by the application or in rules issued by the city manager pursuant to Section 2.09.020.

C. A separate license must be obtained for each type of facility with respect to which a person is an operator.

D. Each license will require the licensee to comply with all applicable provisions of this chapter and all applicable laws, rules and regulations concerning the construction, installation, operation and maintenance of the licensee's facilities, including, but not limited to, provisions for the location and relocation of utilities and construction of privately engineered facilities in the public way.

E. So long as it registers with the city as required by Section 5.30.040 and pays the registration fees required by Section 5.30.060, a reseller may use another person's facilities to engage in telecommunications activities in the right-of-way without obtaining a license, but only if the reseller does not, either itself or through an affiliate, own or lease, control or manage any facilities in the right-of-way and is not involved in construction, maintenance or repair of facilities in the right-of-way.

F. So long as it registers with the city as required by Section 5.30.040 and pays the annual registration fees required by Section 5.30.060 as well as other applicable fees, an operator is not required to obtain a license under this section or pay an annual license fee under Section 5.30.070 if the operator's only use of the public right-of-way is to place wireless transmitting or receiving facilities above the ground on existing poles or similar structures in the right-of-way and the operator does not install or use lines, wires or cables.

G. Except as provided in this subsection, an operator holding an outstanding permit or franchise from the city for a communication company facility to provide specified services, or for a private communications system, may continue to operate under its existing permit or franchise to the conclusion of its present term (but not for any renewal or extension thereof) with respect to those activities expressly authorized by the permit or franchise. Any such permittee or franchisee may elect to apply for a superseding license under this chapter, and must apply for a license under this chapter if intending to provide services other than, or in addition to, the services authorized under its existing permit or franchise. Upon such election, all such permittees and franchisees shall register and pay registration fees and license fees as required by Sections 5.30.060 and 5.30.070 and be subject to the provisions of this chapter to the full extent permitted by law. Any

permits or licenses that are revocable shall be automatically revoked as of January 1, 2004, and the permittee or licensee shall be required to obtain a new license pursuant to the provisions of this chapter.

H. A license granted pursuant to this section shall not convey equitable or legal title in the rights-of-way or other public property.

I. The license may not be assigned or transferred without the prior written consent of the city, which consent shall be withheld only for reasons related to the preservation and protection of public property and public services.

J. Neither the issuance of a license hereunder nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, police power, or regulatory power of the city as may exist at the time the license is issued or thereafter obtained. (Ord. 949 § 1 (part), 2004)

5.30.060

Communications—Registration fees.

A. Administrative Fee. Each person required to register under Section 5.30.040, except the registrant of a private communications system, shall pay to the city an initial administrative fee in an amount set by resolution of the city council that is calculated to recover all of the city's costs incurred in processing the registration, as well as a share of the city's costs in preparation of the city's communications plan, the ordinance codified in this chapter, and the implementing rules.

B. Annual Registration Fee. Any person required to register under Section 5.30.040 shall pay an annual registration fee in the amount of two percent of the registrant's annual adjusted gross revenues. (Ord. 949 § 1 (part), 2004)

5.30.070

Communications—Annual license fees.

A. Operator License Fee. As compensation for use of public property or right-of-way, each operator required to obtain a license pursuant to Section 5.30.050 other than a telecommunications carrier shall pay a fee in the amount of five percent of the licensee's gross revenues derived from communication activities within the city.

B. Telecommunications Carriers. As compensation for use of rights-of-way, each telecommunications carrier licensed as such pursuant to Section 5.30.050 shall pay an annual fee in the amount of seven percent of the licensee's gross revenues, as defined in ORS 221.515, and, if different, from any revenues upon which the carrier imposes a license fee surcharge.

C. Private Communications System. In lieu of the fees required by subsections A and B of this section, a private communications system licensee shall pay to the city an annual fee based on a per-foot rate to be established by resolution of the city council in an amount that fairly compensates the city for use of public property, but in no event less than the amount needed to ensure no degradation of the public property.

5.30.080

D. Effect of Federal and State Law. To the extent that federal or state law, or an existing franchise agreement, limits the amount of fees which the city may impose on, or the compensation it may require from, an operator, nothing in this chapter shall require the payment of any greater amount, unless and until the federal or state limits are raised or the franchise agreement expires or is otherwise terminated. (Ord. 949 § 1 (part), 2004)

5.30.080

Communications—Fees generally.

A. In Lieu of Fee Payment.

1. In lieu of part or all of the annual registration and license fees, the city may accept in-kind services which the registrant or licensee is willing to provide and which the city manager determines have a value to the city equal to or greater than the registration and license fees, or the portion of those fees in lieu of which the city will accept services. If the city manager agrees to the in-kind payment, the registration or license shall reflect this agreement.

2. Prior to the city manager agreeing to such an arrangement, the operator shall provide to city, at the operator's expense, an analysis prepared by an independent entity which demonstrates that the value of the in-kind service is equal to or greater than the license fee (or portion of fee) to be waived. In addition, the city manager shall give at least twenty (20) days' notice to the city council of the proposed arrangement. If any two city councilors give the manager written objections to the proposed arrangement within the twenty (20) day period, the manager shall not agree to the proposal unless the council votes to approve the proposal.

3. If an operator fails to provide all or a portion of the in-kind service reflected in the registration or license, the operator shall be liable to the city for the full amount of the annual registration and license fees pursuant to subsections (A)(1) and (A)(2) of this section for the year or years in which the in-kind service or a portion thereof is not provided. In addition, the city manager may terminate the arrangement for in-kind services and amend the registration or license accordingly.

B. Manner of Payment of Annual Registration and License Fees.

1. Unless otherwise specified, the annual registration and license fees shall be paid to the city quarterly and not later than forty-five (45) days after the end of each calendar quarter.

2. Each payment shall be accompanied by a statement showing the manner in which the fee was calculated, and shall be personally delivered or mailed to the city on or before the due date. If mailed, the postmark shall be considered the date of delivery.

3. For good cause, the city may extend for a period not to exceed one month the time for making payment and filing the statement. Any person or operator to whom an extension is granted shall pay an extension fee of two percent of the amount of fee due, payable before the expiration of the extension period. If the statement is not filed and the fee is not paid by the end of the extension period, then the extension fee shall be added to all other delinquent fees as a nonpayment penalty due on the original payment date, and the extension shall be rescinded.

4. Any fee or penalty not paid when due shall accrue interest at the rate of one and one-half percent per calendar month until paid, without proration for any partial month.

5. No acceptance by the city of any payment hereunder shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such payment be construed as a release of any claim the city may have for additional sums payable.

6. The payments hereunder are not payments in lieu of any tax, fee or other assessment except as specifically provided in this section, or as required by applicable law.

7. Within ninety (90) days following the end of the calendar year, each person who paid a fee based on gross revenues shall submit a statement, certified as true by an independent auditor or the chief financial officer of such person, setting forth its gross revenues, by category, and describing what revenues were included and excluded in calculating the fee or fees, and any adjustments made to gross revenues.

8. The city may, from time to time, and upon reasonable advance written notice, inspect, copy and audit any and all books and records of a registrant or licensee reasonably necessary to the determination of whether fees have been accurately computed and paid.

9. Notwithstanding the foregoing, in the event a registrant or licensee that is obligated to pay a fee ceases to provide service for any reason (including as a result of a transfer), such registrant or licensee shall make a final payment of any amounts owed to the city within ninety (90) calendar days of the date its operations in the city cease, and shall provide a statement of gross revenues for the calendar year through the date operations ceased, which statement shall contain the information and certification required by this section.

10. Any person required to pay a penalty under this section may appeal to the city manager as provided in Section 2.09.030. (Ord. 949 § 1 (part), 2004)

5.30.090

Communications—Inspection and conditions relating to licensee's facilities.

A. Every licensee's communication company facility shall be subject to the right of periodic inspection and testing by the city to determine compliance with the provisions of this code, a franchise or license agreement, or other applicable laws that the city has some responsibility to enforce. The city shall have the right, upon request, to be notified and be present when the licensee's communication company facility is tested by the operator. Each operator must respond to requests for information regarding its existing system and plans for the system as the city may from time to time issue, including requests for information regarding its plans for construction, operation and repair and the purposes for which the facility is being constructed, operated or repaired. The city engineer may require such information including GIS format or other drawings, surveys and plans as deemed necessary to determine whether the proposed work conforms to the requirements of this code.

B. Each operator of a communication company facility or private communications system that places facilities underground shall be a member of the regional notification center for subsurface installations (Underground Services Alert) and shall field mark the locations of its underground communications facilities upon request. The operator shall locate its facilities for the city at no charge.

5.30.100

C. The work to be performed by an operator shall be publicized as the city may from time to time direct.

D. Each licensee shall provide the city a plan for any initial system construction, or for any substantial rebuild, upgrade or extension of its facility, which shall show its timetable for construction of each phase of the project, and the areas of the city that will be affected.

E. The installation, construction and operation of all facilities in or affecting the public right-of-way shall be subject to the provisions of this code concerning construction and use of the public right-of-way, including, without limitation, provisions concerning permitting, inspection and relocation. (Ord. 949 § 1 (part), 2004)

5.30.100

Communications—Removal of facilities—Relocation—Termination of use of right-of-way.

A. Every licensee that ceases to operate a communication company facility located within the city shall, upon written request of the city made within two years of the cessation of operation of such facility, promptly remove the facility, or any part thereof, and restore the property and right-of-way to the condition prior to installation. If the licensee neglects, refuses, or fails to remove the facility or part thereof, or to restore the property, the city shall have the option of removing the facility and restoring its property at the expense of the licensee, or treating the facility as abandoned and assuming ownership of the facility. The obligation to remove shall survive the termination of the license. The city may require a licensee, prior to installation of a facility, to post a bond in an amount sufficient to cover the cost of removal of the facility and restoration of the property and right-of-way.

B. Relocation of a facility required to accommodate a public use of the public right-of-way shall be at the sole expense of the licensee.

C. If any licensee violates any provision of this chapter or administrative rules adopted pursuant to Section 5.30.110 and fails to remedy the violation within ten days of receiving notice of the violation, the city manager may terminate the licensee's use of the right-of-way. (Ord. 949 § 1 (part), 2004)

5.30.110

Communications—Administrative rules.

The city manager shall adopt administrative rules pursuant to Section 2.09.020 in order to implement the provisions of this chapter. Such rules may include, but are not limited to:

A. The information required to be provided in an application for registration and for a license, including a description of the services to be provided and the location and design of the proposed facilities;

B. Criteria for determining whether the applicant for a license is financially, technically, and legally qualified to successfully complete any proposed facility to be installed in, on, under or over the public right-of-way;

5.30.120

C. Contents of a licensee's plans for construction, rebuilding, upgrade or extension of facilities, including the period of time such plans must cover;

D. Licensee and registrant reporting requirements;

E. Terms and renewals of registrations and licenses; and

F. Terms for the transfer of licenses.

The rules may further differentiate between telecommunications facilities and telecommunications services providers, open video systems, cable systems, and private communications systems. (Ord. 949 § 1 (part), 2004)

5.30.120

Communications—Penalties.

A violation of Section 5.30.040 shall be punishable by a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00). Every day in which a person engages in communications activity in the city in violation of Section 5.30.040 constitutes a separate violation. (Ord. 949 § 1 (part), 2004)