

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS REGISTRATION AND FEES**
- 111. AMUSEMENTS**
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CHAPTER 110: BUSINESS REGISTRATION AND FEES

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BUSINESSES IN GENERAL

110.001 PURPOSE OF BUSINESS REGISTRATION.

This subchapter is enacted for the purposes of providing for the health, safety and welfare of the citizens of Tillamook by raising revenue for municipal purposes, to provide revenue to pay for the necessary expense required to issue the business registration and for business identification. The registration fees hereinafter imposed shall be in addition to all general ad valorem taxes now or hereafter levied pursuant to law, and shall be in addition to any and all other license or franchise fees otherwise imposed by the City of Tillamook under existing subchapters.

(Ord 1288, passed 4-7-2014)

110.002 DEFINITIONS.

AUCTIONS AND AUCTIONEERS. Every person who shall by public outcry offer for sale, either as principal or agent, to the highest bidder on the spot, any article of merchandise or property, shall be deemed an AUCTIONEER, and every such sale shall be deemed an AUCTION; provided, however, that nothing in this section shall apply to judicial sales, nor to sales by executors, administrators or trustees under court order.

BUSINESS.

1. As a noun, shall mean all manufacturers, professions, trades, occupations and shops of all and every kind carried on for profit
2. As a verb shall mean any lawful activity or enterprise engaged in for gain, benefit, advantage or livelihood.
3. A business shall also be determined by the discrete location(s) which are encompassed by the enterprises accounting records.

CITY PROPERTY. For the purposes of this and other subchapter(s), property owned and/or controlled by the city as described in this or other subchapter(s). For example, city property include, but is not limited to, highways, roadways, public rights of way, sidewalks, alleys, parking lots, parks, open spaces and any other city owned property. (This does not include private parking lots or private property; either open to the public or controlled access).

EMPLOYEE/EMPLOYER. Any owner, operator, sales person, agent or worker whether paid by salary, bonus, commission, piecework or hourly wage and associated with or working for any commercial, professional, fraternal or public establishment within the City of Tillamook, unless

excluded through franchise agreement or Federal or State laws.

EMPLOYEE/EMPLOYER VOLUNTEER. Any person, who not for compensation, acting or serving willingly and with no constraint or guarantee of reward, performs any function(s) normally done by an Employee/Employer in any commercial, professional, fraternal or public establishment within the City of Tillamook, unless excluded through franchise agreement or Federal or State laws.

FISCAL YEAR. July 1 to June 30.

HAWKER. Any person who, for himself or as agent of another, carries for sale and offers for sale, or exposes for sale, any goods, wares, or merchandise, or any article or thing for which a price is asked, in or on the streets, to customers in or on the streets, or who offers or exposes for sale any such commodity from a doorway, recess, alleyway, vacant lot, or other place facing on the street, whether making outcry or not.

NON-PROFIT. For the purposes of this subchapter, the person which is:

1. Organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals
2. For which no part of the net earnings inures to the benefit of a private shareholder or individual
3. By which no substantial part of the person's activities is for carrying on propaganda or otherwise attempting to influence legislation and which does not participate in or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office and possessing a certificate from the Internal Revenue Service to that effect.

PEDDLE. Any sale, or offering for sale, or exposing for sale of any goods, wares, or merchandise, or any article or thing for which a price is asked by a peddler in pursuance of his occupation as a peddler, but shall not be construed to include any wholesaler selling directly to a licensed business.

PEDDLER. Any person who, for himself or as agent for another, goes from place to place, or from house to house within the City of Tillamook, carrying for sale and offering or exposing for sale at retail any goods, wares, or merchandise, or any article or thing for which a price is asked.

PERSON. All corporations, associations, syndicates, partnerships of every kind, joint ventures, societies and individuals, whether for profit or non-profit, transacting and carrying on business in the City of Tillamook, Oregon.

RETAIL. Any sale direct to the ultimate consumer or user for consumption or use and not for resale purposes; provided, however, that the above definition shall not be deemed to include persons engaged in the sale of goods, wares and merchandise to dealers by commercial travelers or sales agents in the usual course of business, nor bona fide sales of goods, wares or merchandise by the same for future delivery in interstate commerce, or to the sale of staple products by the grower thereof or his employee.

SOLICITOR. Every person or individual who goes from house to house or from place to place within the City of Tillamook selling, offering to sell or taking orders for any products, wares, merchandise or any article or service whether payment is made prior to receiving purchased goods/services or delivery is made upon payment. The term "solicitor" shall not include any commercial traveler receiving orders for

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goods at wholesale from merchants nor shall said term include any person seeking customers for farm fresh products.

TRANSIENT MERCHANT. A person who temporarily occupies a fixed location, sells and delivers from stock on hand, and does business in much the same manner as a permanent business.

UMBRELLA REGISTRATION. A single business registration for a number of business or activities on special occasions. Examples include, but are not limited to, the following:

1. Insurance, real estate or other agency-type where brokers supervise independent agents
2. The Chamber of Commerce's June Dairy Parade
3. Tillamook Revitalization Association's **events and/or** Tillamook Farmers' Market.

(Ord. 1288, passed 4-7-2014)

110.003 REGISTRATION.

1. On or after July 1, 2002, any person who operates a business or conducts business, to include peddlers, solicitors, hawkers and occult arts, within the jurisdiction of the City of Tillamook, Oregon, shall first obtain a business registration registering that business. The applicant shall apply on a form approved by the City and shall pay a fee for the registration in advance. Fees for this Ordinance shall be set by resolution of the Tillamook City Council.
2. Any person that carries on or engages in a business that does not comply with City, State, or Federal law is prohibited from being issued a business license. Additionally, currently held licenses may be revoked for violation of City, State, or Federal law.
3. Registrations shall be valid for one 365 day year, the period being July 1st to June 30th. Registrations are renewable on July 1st of each year, with renewal notices sent out in May of each year. A late fee will be assessed if not paid by July 1. Additional penalty and citation into Tillamook Municipal Court will be issued 15 days from the date of the written late notice.

(Ord. 1288, passed 4-7-2014)

110.004 PENALTIES.

1. Penalty(s) for violation of any section of this subchapter are to be set by resolution.
2. Each day's violation of a provision of this Subchapter constitutes a separate violation.
3. A citation or other charging instrument filed in court shall include all violations from the date of any written warning notice (a.k.a. abatement) as cited in the charging instrument.

(Ord. 1288, passed 4-7-2014)

110.005 COVERAGE AND RATES.

This subchapter shall apply to manufacturers, trades, professions, occupations, businesses and shops of every kind, unless otherwise exempted. All business registration fees shall be established by resolution of the Tillamook City Council.

' 110.006 NONRESIDENT PROPRIETORS.

Any agent or agents of non-resident proprietors engaged in any business in the City of Tillamook shall be personally liable for the business registration fee required and shall be subject to the penalties hereof for the failure to pay that fee to the same extent as if they were themselves the proprietors of the business. The act of advertising within the city, of and by itself, shall not require a business registration under this subchapter.

(Ord. 1288, passed 4-7-2014)

' 110.007 TRANSFER AND ASSIGNMENT OF REGISTRATION.

No transfer or assignment of any business registration issued here shall be valid or permitted, except as follows:

A business registration may be transferred or assigned for only the remainder of the registration period when the successive business continues the same use and level of use of the property, when the number of employees remains the same or less, and when City is notified and paid a transfer or assignment fee, as set by resolution.

(Ord. 1288, passed 4-7-2014)

' 110.008 BUSINESS REGISTRATION NONCONTRACTUAL.

The registration application is not a contract between City and registrant or any other person. City may unilaterally at any time raise registration fees. However, the increased fee shall apply to the next fiscal year's registration fee and/or to registrations issued subsequent to the effective date of any new fee.

(Ord. 1288, passed 4-7-2014)

' 110.009 EXEMPT BUSINESSES.

The following are exempt from the provisions of this subchapter:

1. Government agencies
2. Non-profit organizations which are federally tax exempt unless the non-profit organization is carrying an umbrella registration as defined in this subchapter.
3. Home based businesses operated solely by the owner with no employees (i.e. babysitting/childcare where the individual either goes to the person's home or does babysitting in their home, music teachers, house cleaning, cosmetic sales, yard care, odd jobs, mending, etc. if the average weekly hours for any given month do not exceed 10 hours) Daycare facilities as defined by the zoning subchapter do not qualify for this exemption.
4. Individuals below the age of 18 who do not operate a commercial business establishment or have other employees.
5. Garage sales permitted under City ordinance.
6. Non-resident businesses offering merchandise by catalog or by telecommunications for future delivery to the customer.

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7. Construction subcontractors working under a general contractor who possess a valid business license.
 8. Any agent or business specifically exempted by State Law.
 9. Delivery services unless the deliverer operates from a facility based within the city's jurisdiction
- (Ord. 1288, passed 4-7-2014)

' 110.010 PAYMENT OF BUSINESS REGISTRATION FEES; NONREFUNDABLE; TEMPORARY REGISTRATION.

It shall be unlawful for any persons to carry on any business, trade, occupation, profession, or calling, or transact any business as described in this subchapter, without first paying in advance the registration fee as set by resolution. For the purpose of fairness the City shall allow registration fees to be prorated for new applicants not applying on July 1. Fees shall be calculated for the remainder of the fiscal year by quarters. A business may register for a temporary license under this subchapter for up to three (3) months and the fee shall be *one third* of the yearly fee.

(Ord. 1288, passed 4-7-2014)

' 110.011 APPLICATION.

Business registration is effective from July 1 to June 30 of each year. On or before the first day of July of each and every business registration year after the passage of this subchapter, every person/business as defined in the subchapter, engaged in a business, in the City of Tillamook, Oregon, shall make application to the City upon a form furnished by the City, for a business registration to carry on his/her business for the year in question.

The applications shall be numbered consecutively; they shall have the year for which application for business registration is applied, printed or stamped thereon, and shall contain the following information:

1. Amount of business registration fee tendered with application
2. Signature of applicant or agent making application
3. Date of application
4. Type of business
5. Any other information the City Manager or City Recorder or common council deems said application should contain.

The same application standard shall apply for those making application during the business registration year. The City Manager, City Recorder or their designee shall be empowered to issue a business registration upon receipt of proper application and appropriate fee paid. If a question arises between the applicant for a business registration and the City, as to fee or otherwise, the same may be referred to the common council for its determination. This determination may be made by the common council at the next regularly scheduled council meeting. The determination of the council shall be final. Each business registration issued under the provisions hereof shall at all times be displayed in a conspicuous place in the business. Replacement license costs shall be established by resolution.

(Ord. 1288, passed 4-7-2014)

' 110.012 MISREPRESENTATION BY APPLICANT.

It shall be a violation of this subchapter for any person to willfully make any false or misleading statement in his/her application for the purpose of determining the amount of any business registration to be paid, or to fail or refuse to comply with any of the provisions of this subchapter. The penalty for violation of this section shall be set by resolution. The conviction of any person for violation of any of the provisions of this subchapter shall not relieve said person from paying any business registration fee or penalty for which said person shall be liable, nor shall the payment of any business registration fee be a bar to or prevent prosecution in the City Municipal Court of any complaint for the violation of any of the provisions of this subchapter.

(Ord. 1288, passed 4-7-2014)

' 110.013 USE OF PUBLIC RIGHTS-OF-WAY, CITY PROPERTY.

It shall be a violation of this subchapter for any business, person conduction business, peddler, solicitor, hawker or other activity described in this subchapter as requiring a business registration, to conduct business, operate a business, solicit, peddle, hawk, or conduct any other activity described in this subchapter, on any public rights of way or city property, as defined in this subchapter, without written approval of the City of Tillamook. Penalty for violation of this subchapter shall be set by resolution.

(Ord. 1288, passed 4-7-2014)

' 110.014 REGULATION OF HOURS.

No peddler, solicitor or hawker registered under this subchapter shall solicit before the hour of 9:00 a.m. or after the hour of 8:00 p.m.

(Ord. 1288, passed 4-7-2014)

' 110.015 VIOLATION.

Upon conviction of a violation of this subchapter, the court shall order the defendant to pay any cost, disbursement, fee, fine, or penalty authorized by this subchapter or as amended.

Each day or distinct time period of a violation as described in this subchapter, shall be considered a separate violation, subject to a separate penalty as described in this subchapter and by resolution. Fees and fines identified in this subchapter shall be set by resolution.

(Ord. 1288, passed 4-7-2014)

' 110.016 CONCURRENT REMEDIES.

In addition to the penalties heretofore provided, and as separate and distinct remedies, the City of Tillamook may sue in any court of competent jurisdiction to obtain judgment and to enforce payment of any business registration fee due pursuant to the provisions of this subchapter and to seek injunctive

relief against any person violating this subchapter. Attorney fees, costs, disbursements and/or prevailing party fees shall be awarded to the prevailing party, unless otherwise agreed or waived by City.

(Ord. 1288, passed 4-7-2014)

' 110.017 BUSINESS REGISTRATION FEE REDUCTION OR WAIVER; FEE; APPEAL.

A person may apply for a reduction or waiver of the business registration fee by submitting a letter justifying the request to the City Manager. The City Council or City Manager, may grant in writing, a reduction or waiver of the business registration fee for good cause shown, hardship or equity. The City Manager may refer an application directly to the City Council. The applicant may appeal, without additional fee, the City Manager's decision to the City Council.

(Ord. 1288, passed 4-7-2014)

TAXICAB REGULATIONS

' 110.030 PURPOSE.

It is the purpose of this subchapter to require that those persons operating taxicabs do so in a safe, fair and efficient manner. Because taxicabs constitute an essential part of the city's transportation system, some regulation is necessary to ensure that the safety and well-being of its citizens is protected, the public need provided and the public convenience promoted.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.031 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LICENSEE. A person or entity who has applied for a license to operate a taxicab company or to whom a license to operate a taxicab company has been issued.

OPERATE. To drive a vehicle, to use a vehicle in the conduct of business, to receive money from the use of a vehicle, or to cause or allow another person to do the same.

PERMITTEE. A person who has applied for a permit to operate a taxi or to whom a permit to operate a taxi has been issued.

TAXI or TAXICAB. Every motor vehicle which carries passengers for hire and has a seating capacity of nine passengers or less, as per manufacturer's rating; excepting, however, that motor vehicles for rent without drivers and motor vehicles of private nonprofit organizations which provide transportation of passengers for hire, or not for hire, and are not operated exclusively over a fixed and defined route are not ***TAXIS*** or ***TAXICABS***.

TAXICAB COMPANY. A person or any entity operating taxicabs other than as a driver and regardless of whether the vehicles so operated are owned by the company, leased or owned by individual members of the company.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.032 GENERAL OPERATING PROCEDURE.

All taxis operating within the limits of the city shall be clean, properly equipped and in safe condition for the transportation of passengers. Further, the vehicle shall be clearly marked Ataxi@ or Ataxicab@ in an approved method.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.033 TAXICAB COMPANY LICENSE REQUIRED.

No person shall conduct business as a taxicab company within the corporate limits of this city without first obtaining from the City Recorder a license permitting the operation of a taxicab company business.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980) Penalty, see ' 110.999

' 110.034 APPLICATIONS FOR TAXICAB COMPANY LICENSE.

(A) Any person making application for a license to operate a taxicab company business within the city shall produce satisfactory evidence at the time of making application for a license that the applicant has complied with all the laws of the state with reference to registration of the automotive equipment to be used under the license.

(B) In addition, each applicant shall furnish the following information to the City Recorder under oath:

- (1) Name under which business is to be conducted;
- (2) Name and address of all owners or persons having an interest in the business;
- (3) Name and address of each operator;
- (4) Name, make and identification of all vehicles to be operated;
- (5) Name and address of the insurance company or companies (together with policy numbers) in which the liability insurance coverage required in ' 110.035 is in force;
- (6) Applicant's certification of giving direction to all insurance companies to give 15 days'

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advance notice to City Recorder of the company's intention to cancel any policy on any of the applicant's taxicabs, and requiring the same to be included on all policies; and

(7) Any additional information as the City Manager may require for the efficient administration of this subchapter, including but not limited to fingerprints, criminal record, if any, and motor vehicle driving record of all persons having an interest in the business.

(C) The application shall thereupon be submitted to the office of City Manager for investigation. If the City Manager finds from his or her investigation that the following divisions (C)(1) through (C)(5) apply, the City Manager shall direct the City Recorder to issue the license:

(1) The applicant (and all persons having an interest in the business) has complied with all the applicable laws of the state and the ordinances of this city;

(2) Applicant (and all persons having an interest in the business) is financially responsible and adequately equipped to conduct the business;

(3) The equipment listed is safe for operation;

(4) The operation is not contrary to the public interest; and

(5) The granting of the license will not result in the impairment of the ability of existing operators to serve the public adequately.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.035 LIABILITY INSURANCE.

A licensee who operates a taxicab or taxicab company in the city shall at all times have in full force and effect as to each taxicab in operation, liability and property damage insurance policy or policies issued by an insurance company licensed to conduct insurance business in the state. The minimum limits of insurance coverage for liability for injury to person shall not be less than \$100,000 as to any one person and \$300,000 in any single occurrence for injuries to more than one person, and \$50,000 for damage to property. Proof of this insurance shall be filed with the City Recorder, who shall be entitled to receive 15 days' notice in advance of any insurance company's intention to cancel any policy on any taxicab.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.036 LICENSE FEE.

After the application has been approved by the City Manager, the City Recorder shall, upon payment of fees established by the City Council in this subchapter or as may hereafter be amended by resolution of the City Council, grant a license to the applicant to operate a taxicab company. The annual license fee is as follows: for each vehicle to be operated as a taxi, the sum of \$25.00 per year; provided, however, that the license may be issued semi-annually upon the payment of \$12.50, the license to expire on June 30 and December 31 of each year. Each taxi shall carry its own license which shall be plainly visible in the vehicle at all times. The license shall not be transferable to another licensee or to another vehicle; provided, however, that the City Manager in his or her discretion may authorize a transfer of a license from a less serviceable vehicle to a more serviceable vehicle and waive payment of the regular license fee upon proof that the less serviceable vehicle has been permanently withdrawn from use in carrying passengers for hire by the licensee, or upon proof that the previous vehicle is in a temporary state of needing service and repairs.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.037 DENIAL, REVOCATION OR SUSPENSION OF LICENSE AND PERMIT.

(A) Except as herein provided, a license to operate a taxicab company and a permit to operate a taxi shall be denied, revoked or suspended by the City Manager when either of the following has occurred with respect to any licensee or permittee:

- (1) Conviction of a felony within the past five years;
- (2) Conviction of a crime involving moral turpitude;
- (3) Conviction of a major traffic offense within the past five years;
- (4) Repeated violation of the laws of the state;
- (5) Repeated violation of the ordinances of the city;
- (6) Violation of the terms of this subchapter;
- (7) Physical or mental illness or disability which may make the operation of a taxicab hazardous to members of the public; or
- (8) Engaging in any of the following acts of misconduct:
 - (a) Allow another person to use his or her driver's permit;
 - (b) Operate a taxi while under the influence of intoxicants or in a careless or reckless manner;
 - (c) Use a taxicab in the commission of any crime; or
 - (d) Defraud a passenger in any way.

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(B) Upon receiving information that any licensee or permittee has engaged in any conduct prohibited by division (A) of this section, or has been convicted in any manner proscribed by division (A) of this section, the City Manager shall give written notice by United States mail to the licensee/permittee at his or her last known address or by personally delivering the notice to him or her, stating that unless the licensee/permittee appears at the office of the City Manager, City Hall, Tillamook, Oregon, at a designated date and hour, which shall be not sooner than five days nor longer than 14 days from the date the notice is mailed or is personally delivered, and shows good cause why his or her license/permit should not be revoked, it will be revoked. The notice shall state the reason for the revocation or proposed revocation. After hearing the evidence produced by licensee/permittee, the City Manager shall within five days thereafter make a determination as to whether the license/permit should be revoked.

(C) The City Manager shall have the authority to summarily and without prior notice suspend a license and permit for a period of ten days where facts of a strong and convincing nature come into his or her possession causing him or her to have strong reason to believe that the licensee/permittee's license/permit should be revoked under the provisions of this subchapter and that the following of the procedure of giving notice as set forth in division (B) of this section could reasonably result in serious or irreparable injury to the best interests of the city and/or its citizens. At the same time the City Manager issues a suspension order as provided in this section, he or she shall forward a notice to the licensee/permittee for a hearing as provided in division (B) of this section.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980; Ord. 1166, passed 7-2-2001)

' 110.038 TAXI STANDS; FEE.

Whenever a license has been issued in accordance with the provisions of this subchapter for the operation of a taxi within the corporate limits of the city, application may be made to the City Council of the city for the designation by the Council of a taxi stand upon the street or streets of the city, and proper marking thereof upon the curb of the street so designated for the use and benefit of the licensee. The annual permit fee for each and every taxicab stand shall be \$150.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.039 DRIVER'S PERMITS REQUIRED.

No person shall drive or allow another person to drive a taxicab without a valid State Class 4 license and a taxicab driver's permit issued under ' 110.040. Taxicab driver's permits shall be valid for no more than one year and all permits shall expire on December 31 of each year.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980; Ord. 1093, passed 3-20-1989)

' 110.040 APPLICATION.

An applicant for a taxicab driver's permit shall submit to the Chief of Police an application form

containing any information as the city may require, including two passport-size photographs and a nonrefundable fee of \$10. The information given by the applicant shall be under oath. The applicant shall submit to fingerprinting if required to do so. Driver's permits shall be renewed upon the payment of a renewal fee of \$10 on or before December 1 of each year. If any of the information contained in the application changes, the applicant or permittee shall promptly report the change to the city. Upon presentation of convincing evidence that a taxicab driver's permit has been lost or destroyed and a payment of a replacement fee of \$5, the city shall issue a replacement permit. The Chief of Police shall submit all applications and information to the office of City Manager for issuance or renewal of a taxicab driver's permit.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.041 DENIAL OF PERMIT.

No taxicab driver's permit shall be issued to any person that the permit, had it been issued, should be revoked for any of the grounds for revocation set forth in ' 110.037. The grounds for revocation of a license/permit set forth in ' 110.037 are adopted by this reference as grounds for the denial of a driver's permit in the first instance.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.042 RENEWAL OF DRIVER'S PERMIT.

Any driver's permit may be renewed only upon the determination by the City Manager that if it were in force it should not be revoked as provided in ' 110.037.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.043 APPEALS.

The denial of issuance, or revocation/suspension of any license or permit, by the office of the City Manager is subject to appeal before the City Council. Any appeal must be submitted to the office of the City Manager in writing at least five days prior to a regularly scheduled Council meeting.

(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.044 CONDUCT OF DRIVERS.

No taxicab driver shall:

- (A) Operate a taxi in a manner contrary to the laws of this city or state;
- (B) Use profane or obscene language while operating a taxicab;
- (C) Smoke or chew tobacco without the consent of the passenger;

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(D) Be discourteous to a passenger or fail to accede to a passenger's reasonable request;

(E) Drive a passenger to his or her destination by any other than the most direct route, unless requested to do so by the passenger; or

(F) Refuse to issue a receipt for a fare paid, if one is requested.
(1977 Code, ' 6-17) (Ord. 984, passed 9-15-1980)

' 110.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.
(Ord. 1301, passed 4-20-2015)

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APPENDIX A: BUSINESS LICENSE APPLICATION

BUSINESS LICENSE APPLICATION
CITY OF TILLAMOOK
210 LAUREL AVENUE
TILLAMOOK, OR 97141
503-842-4861

NOTICE: Acceptance of business registration application does not certify that applicant has complied with all City Code provisions.
All information must be completed before application will be accepted.
Please print or type information.

Business Name: Business Phone:
Business Street Address:

Business Mailing Address:

Building Owners Name and Phone:

Type of Business to be Conducted: No. Employees FT.
P.T.

(1) Business Owner's name: Phone:
Driver's License Number:
(2) Business Owner's name Phone:
Driver's License Number

In event of building emergency, call:

1. Name Phone
2. Name Phone

Alarm System: Alarm Company Name and Phone:

None Audible Silent Holdup Fire
Other

Is building remodeling planned? Yes No
Hazardous materials stored or used on premises? Yes No

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Does building have fire sprinkler system? Yes _____ No _____
 Are you planning to put up a sign? May need sign permit. Yes _____ No _____

Remarks and/or hazardous information: _____

Date Submitted	Print Applicant's Name	Applicant's Signature
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OFFICE USE ONLY

Fee Amount \$ _____ Date Paid _____ Application # _____
 Approved _____ Receipt No. _____

(Ord. 1173, passed 4-15-2002)

CHAPTER 111: AMUSEMENTS

Section

Amusement Devices, Pinball Games and the Like

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- 111.081 Application; fees

- 111.999 Penalty

AMUSEMENT DEVICES, PINBALL GAMES AND THE LIKE

' 111.001 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT DEVICE. A device designed to be operated for music or amusement only or for playing a game by the insertion of legal tender of the United States in the machine, which amusement device is so designed and constructed that it cannot pay tokens, money or any other thing of value in violation of the laws of the state, and which can be operated, played or employed for amusement purposes only.

(Ord. 1123, passed 6-1-1992)

' 111.002 PRIVILEGE LICENSE FEE.

There is hereby imposed on every music and amusement device of every description or designation a privilege license fee as follows: each music machine, \$50 annually; for every amusement device or game, \$100 annually; providing, however, that a maximum fee of \$1,000 shall be charged annually to any one licensee for amusement devices or games located at any one business location, notwithstanding the number of devices or games exceeding ten in number at one location.

(Ord. 1123, passed 6-1-1992)

' 111.003 LICENSE YEAR DEFINED.

The fee as specified in ' 111.02 shall be paid on an annual basis. The license year for the purposes of this subchapter shall begin on January 1 and end on December 31.

(Ord. 1123, passed 6-1-1992)

' 111.004 RECEIPT.

Upon payment of the privilege license fee hereby imposed, the City Recorder shall issue to each applicant a receipt therefor. For each new amusement device or game acquired any time after January 1 of any year, the full fee as listed in ' 111.002 shall be paid on a monthly proration to year end. All license fees paid shall be nonrefundable.

(Ord. 1123, passed 6-1-1992)

' 111.005 DISPLAY OF RECEIPT.

It is hereby made unlawful for any person to display in any public or private place of amusement or business in the city any amusement device subject to the fee imposed by this subchapter unless there be affixed to the device subject to the fee, or posted in a conspicuous place in the room in which the device is displayed, a receipt of the City Recorder for payment of the fee. The receipt, sticker or label shall contain the name and address of the owner and operator thereof, the number of the device, the receipt

number, the date issued and the year and months for which the same is issued, signed by the City Recorder. Absence of a duly issued receipt as herein provided shall be prima facie evidence that the fee has not been paid.

(Ord. 1123, passed 6-1-1992) Penalty, see ' 111.999

' 111.006 EFFECTIVE DATE.

This subchapter shall be in full force and effect 30 days from the date it is signed by the Mayor of the city.

(Ord. 1123, passed 6-1-1992)

SOCIAL GAMES AND GAMES OF CHANCE

' 111.020 GAMBLING PROHIBITED; CONFISCATION OF PROPERTY.

No person shall participate in, operate or assist in operating any gambling game or activity, including a lottery. No person shall have in his or her possession any property, instrument or device designed or adapted for use in any type of gambling activity. Any such property, instrument or device is a nuisance and may be summarily seized by any police officer. Property so seized shall be placed in the custody of the Chief of Police of the city. Upon conviction of the person owning or controlling the property for a violation of this section, the Municipal Judge shall order the property confiscated and destroyed.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977) Penalty, see ' 111.999

' 111.021 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CARDROOM. Any place open to the public wherein any table is maintained upon which games of cards are played.

GAMBLING.

(1) Any contest, game, gaming scheme, gaming device or machine in which the outcome depends in a material degree upon an element of chance, notwithstanding the skill of the contestants may also be a factor therein.

(2) The term ***GAMBLING*** shall not include social games.

SOCIAL GAMES.

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(1) A game involving the playing of cards only, which does not include lotteries or any game involving the use of any property, instrument or device designed or adapted for the use in any type of gambling activity, between players in a private home where no house player, house bank or house odds exist, and there is no house income from the operation of the *SOCIAL GAME*.

(2) A game involving the playing of cards only, which does not include lotteries or any game involving the use of any property, instrument or device designed or adapted for the use in any type of gambling activity, between players in a private business, private club or place of public accommodation, where no house player, house bank or house odds exist and there is no income from the operation of the *SOCIAL GAMES*.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977)

' 111.022 APPLICATION FOR LICENSE.

From and after this date, it shall be unlawful for any person, firm or corporation to engage in or carry on, or maintain or conduct any cardroom in the city without having valid license for the cardroom and licenses for the card tables therein. Any person desiring to obtain licenses under the provisions of this subchapter shall pay to the City Recorder fees as specified in ' 111.028.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 994, passed 5-4-1981) Penalty, see ' 111.99

' 111.023 CARDROOM LICENSE NOT TRANSFERABLE.

No cardroom license shall be assignable or transferable. A change of persons having a financial interest in a licensed business shall be reported immediately to the City Manager, who shall order an investigation by the Police Department and the changes approved or denied by the City Council. Application for change of financial ownership shall be accompanied by a \$65 nonrefundable investigation fee.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 994, passed 5-4-1981)

' 111.024 GRANTING AND DENIAL OF APPLICATION.

(A) The City Council shall either approve the application and grant the license applied for or deny the application and refuse to grant the license.

(B) The above shall not be granted if:

- (1) The applicant has been previously convicted of a felony within the last ten years;
- (2) The applicant has been convicted of five misdemeanors, the last of which was within five years;
- (3) The applicant has been convicted of or forfeited bail for any crime involving gambling

within the last five years;

(4) The applicant has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in state statutes where the gambling device has been ordered destroyed, or a bond has been forfeited in lieu of the gambling device being destroyed within the last five years;

(5) Any false or misleading information is supplied in the application or any information requested is omitted from the application;

(6) The applicant has had a license which was in his or her name revoked or suspended three times by the State Liquor Control Commission, the last of which was in the last five years;

(7) The applicant violates any section of this subchapter; or

(8) Any other conduct involving moral turpitude on the part of the applicant.
(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 1027, passed 1-17-1983)

' 111.025 SUSPENSION AND REVOCATION OF LICENSE.

(A) The City Manager shall temporarily suspend any cardroom license issued hereunder if:

(1) Any person who has any interest in the business has been previously convicted of a felony;

(2) Any person who has any interest in the business has been convicted of five misdemeanors, excepting minor traffic offenses;

(3) Any person who has any interest in the business has been convicted of or forfeited bail for any crime involving gambling;

(4) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in the state statutes where the gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed;

(5) Any false or misleading information is supplied in the application;

(6) Any person who has any interest in the business has had a license which was in his or her name revoked or suspended three times by the State Liquor Control Commission;

(7) Any person who has any interest in the business or any employee who violates any section of this subchapter; or

(8) Any other conduct involving moral turpitude on the part of any person who has any interest in the business.

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(B) Action in this respect shall be subject to the right of appeal to the City Council meeting in regular Council session. Notice of the appeal shall be filed with the City Recorder within ten days or the action shall be deemed final and conclusive. A temporary suspension shall be 30 days.

(C) Permanent revocation may be made only by the City Council, and the revocation shall only take place at a City Council meeting in regular Council session upon application of the City Manager and only after the licensee has been served with notice at least 20 days prior to the City Council meeting. The notice shall include the time and date of the City Council meeting and the grounds upon which the permanent revocation is sought. Notice shall be deemed to have been received by the licensee if the City Manager mails the notice to the address listed by the licensee on his or her application for a license. (1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 1027, passed 1-17-1983)

' 111.026 REGULATIONS.

It shall be unlawful to operate a cardroom in violation of any of the following regulations and rules.

(A) With respect to the social games set forth in this subchapter, there shall be a limit on any bet of \$10 and a three-raise limit.

(B) Licensees holding or obtaining licenses under the provisions of this subchapter shall thereby automatically agree to be bound by and observe each and all of the terms, conditions and provisions of this subchapter and of the regulations and rules established thereby.

(C) Each and all of the games conducted or operated in the city pursuant to the provisions of this subchapter shall be conducted and operated in full conformity with, and subject to, all the provisions of the laws of this state and the city.

(D) No licensee shall allow the use of any cardroom between the hours of 2:30 a.m. and 8:00 a.m. of any day.

(E) All cardrooms shall be open to police inspection during all hours of operation. The cardroom license shall be available for inspection during all hours of operation.

(F) No person who has any direct financial interest in a business permitting social gaming, per this subchapter and state law, shall participate in any card game, procure players, back, farm out, assign or sublet any card games lawfully permitted on the premises in which the person has any interest or works. ***DIRECT FINANCIAL INTEREST*** means any interest, legal or equitable, of any person as an owner, co-owner, stockholder, officer or shareholder in any corporation, joint venture, partnership, trading company or association.

(G) The playing of all card games shall be so arranged as to provide free access and visibility to any interested party. Doors leading into the cardroom must remain unlocked during all hours of operation.

(H) No person under the age of 21 shall be permitted to participate in any card game or to enter or remain upon the premises.

(I) No charge shall be collected from any player for the privilege of participating in any game.

(J) With respect to tables at which any form of Blackjack or Twenty-one is played, there shall be a limit of three tables for the play in any licensed cardroom.

(K) To provide for special events and promotional programs temporary tables will be allowed. The following requirements for temporary tables shall apply in addition to regulations set forth in this subchapter for regular table operations:

(1) The maximum number of tables in operation shall not exceed six, including regularly licensed tables;

(2) Licenses must be issued prior to the use of the temporary tables;

(3) The license fee for temporary tables shall be per ' 111.028;

(4) Temporary table licenses may be suspended or denied by the City Manager upon receiving a report from the Chief of Police of the city that the business establishment of a temporary license has become a law enforcement problem by reason of any of the following:

(a) Rowdy and/or disorderly conduct occurring on the premises of the licensed business;

(b) Drunkenness and/or being under the influence of intoxicants on the premises of the licensed business;

(c) The use, possession, sale, gifts, barter or exchange by any person on the premises of licensed business of any controlled substance as defined by O.R.S. 475.005 or any drug whose possession, sale, exchange, gift or use is made illegal by any law of this state or of the United States of America;

(d) Gambling occurring and/or permitted on the premises of the licensed business contrary to the law of the state and/or this subchapter; or

(e) Any lewd, lascivious or immoral conduct or act occurring upon the premise of the licensed business which is contrary to or offends the current moral standards of the community.

(5) Denial or suspension of all temporary table licenses may be made by the City Manager upon receiving a report by the Chief of Police that, on the dates of special promotional events, increased law enforcement demands occur within public or private properties within the city by reason of the following:

(a) Drunkenness and/or being under the influence of intoxicants;

(b) Rowdy and/or disorderly conduct;

(c) Lewd, lascivious or immoral conduct or acts; and/or

(d) Vandalism of public or private property.

(6) Upon suspension of a temporary license, the licensee may give notice of an appeal to the City Recorder within 24 hours of being advised by the City Manager of the suspension. Within 48 hours after an appeal is filed, a hearing shall be held before the City Recorder, at which time licensee shall show cause why the temporary license suspensions should not be made permanent. When the City Manager gives notice of the suspension to licensee, there shall be included with the notice the reason for the suspension. The burden of proof pertaining to a suspension of a license shall be by the preponderance of the evidence.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 989, passed 2-3-1981; Ord. 1027, passed 1-17-1983; Ord. 1070, passed 5-19-1986; Ord. 1974, passed 7-21-1986) Penalty, see ' 111.999

' 111.027 SIGNS.

(A) Signs advertising gambling, playing of cards or advertising specific forms of card playing or enticing players, shall not be displayed so as to be seen from outside the building housing the cardroom.

(B) Signs visible from inside the building, informing the public in which areas cards may be played and/or designating permitted games, will be allowed.

(C) Neon signs or flashing light signs will not be permitted.

(D) Signs, and the placement of same, shall first be approved by the City Manager.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 994, passed 5-4-1981)

' 111.028 CARDROOM AND CARD TABLE FEES.

Any person who shall keep, maintain or operate any cardroom shall pay in advance a yearly cardroom license fee of \$50. Tables at which any form of Blackjack or Twenty-one is played shall be charged each quarter a table license fee of \$140, or once annually a table license fee of \$500, at the option of the applicant. Quarterly licenses shall expire on March 31, June 30, September 30 and December 31, respectively, during the year. Annual licenses shall expire on December 31 of the year for which it is issued. Card tables used for other card games shall be charged \$50 for each card table kept or maintained therein. Cardroom and table licenses shall expire on December 31 of the year for which they are issued.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 975, passed 7-7-1980; Ord. 994, passed 5-4-1981; Ord. 1042, passed 2-7-1984)

' 111.029 EXCEPTIONS TO LICENSE.

A nonprofit society, club or fraternal organization having adopted bylaws and duly elected directors

and members may be granted a permit at an annual fee of \$500, expiring on December 31, when it appears that the tables are for the exclusive use of members of the society, club or fraternal organization, and no charge is made for participation. The society, club or fraternal organization shall have been in continuous existence, actively conducting its affairs in the city for a period of two years immediately preceding application for a license, and only if the conduct of a cardroom is not the primary reason for existence of the society, club or fraternal organization.

(1977 Code, ' 6-11) (Ord. 855, passed 1-3-1977; Ord. 975, passed 7-7-1980)

OCCULT ARTS

' 111.080 LICENSE REQUIRED.

It shall be unlawful from and after the passage of this subchapter for any person to engage in the business of telling fortunes or the practice of necromancy, conjuration, spiritualism, mesmerism or any of the occult arts or sciences for the purpose of healing or otherwise within the corporate limits of the city for a fee or consideration of any kind, without first having obtained a license from the City Recorder so to do.

(1977 Code, ' 6-3) (Ord. 554, passed 10-16-1939) Penalty, see ' 111.999

' 111.081 APPLICATION; FEES.

Any person desiring to engage in the business of telling fortunes or the practice of necromancy, conjuration, spiritualism, mesmerism or any of the occult arts or sciences for the purpose of healing or otherwise, for a fee or consideration paid directly or indirectly, shall apply to the City Recorder for a license and at the time of making the application shall deposit with the City Recorder the sum of \$10, which application shall be presented to the City Council at its next regular meeting and shall be then considered by the City Council; and if the application be approved by the Council, the City Recorder shall thereupon issue a license to the applicant upon the payment of \$10 license fee; and the license shall authorize the person to engage in the business or practice described in the license for a period of one week; provided, however, that the licensee prior to the expiration of the period of one week may pay an additional \$5 which will automatically extend the license period for an additional week; and the license may continue from week to week upon payment of the \$5 until the same shall be revoked by order of the City Council of this city. In the event the license be not granted, the City Recorder shall return the application, together with the \$10 fee paid.

(1977 Code, ' 6-3) (Ord. 554, passed 10-16-1939)

Cross-reference:

Occult arts, see also ' 110.005

' 111.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person violating any of the provisions of ' ' 111.001 through 111.006, upon conviction thereof, shall be punished by a fine not to exceed the privilege license fee amount plus court costs.

(C) Violation of, or failure to comply with, any provision of ' ' 111.020 through 111.029 is punishable, upon conviction, by a fine not to exceed \$1,000, or imprisonment in jail not to exceed one year, or both the fine and imprisonment.

(1977 Code, ' 6-11)

(D) Violation of any provision of ' ' 111.045 through 111.047 is punishable by a fine not to exceed \$150.

(1977 Code, ' 6-5)

(E) Violation of any provision of ' ' 111.060 through 111.067 is punishable by a fine not to exceed \$200, or by imprisonment not to exceed 60 days, or by both the fine and imprisonment.

(1977 Code, ' 6-4)

(F) Violation of any provision of ' ' 111.080 and 111.081 is punishable by a fine not to exceed \$100.

(1977 Code, ' 6-3)

(Ord. 554, passed 10-16-1939; Ord. 579, passed 8-5-1941; Ord. 630, passed 10-18-1948; Ord. 855, passed 1-3-1977; Ord. 870, passed 3-28-1977; Ord. 871, passed 3-28-1977; Ord. 874, passed 3-28-1977; Ord. 1123, passed 6-1-1992)

CHAPTER 112: ADULT BUSINESSES

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GENERALLY

' 112.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ENTERTAINMENT. Any exhibition, performance or dance of any type conducted in a premises where the exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or any exhibition, performance or dance of any type conducted in a premises where the exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or
- (4) Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises where the exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for the performance, exhibition or dance. For purposes of example and not limitation, these exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

ADULT ENTERTAINMENT ESTABLISHMENT. Any commercial premises to which any patron is invited or admitted and where adult entertainment is provided on a regular basis and as a substantial part of the premises activity.

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APPLICANT. The individual or entity seeking an adult entertainment license in the city.

APPLICANT CONTROL PERSONS. All partners, corporate officers and directors and any other individuals in the applicant's business organization who holds a significant interest in the adult entertainment establishment, based on responsibility for management of the adult entertainment business.

EMPLOYEE. Any and all persons, including managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of any adult entertainment establishment.

ENTERTAINER. Any person who provides live adult entertainment, whether or not a fee is charged or accepted for the entertainment.

MANAGER. Any person who manages, directs, administers or is in charge of the affairs and/or the conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment establishment.

OPERATOR. Any person operating, conducting or maintaining an adult entertainment establishment.

PANORAMA or PEEPSHOW. Any device which, upon insertion of a coin or by any other means of payment, including membership fee or other charge, exhibits or displays a picture or view by film, video or by any other means, including observation of live performances.

PANORAMA PREMISES. Any premises or portion of a premises or portion of a premises on which a panorama is located and which is open to the public, including through membership.

PERSON. Any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity or other entity or group of persons, however organized.

SEXUAL CONDUCT. Acts of:

- (1) Sexual intercourse within its ordinary meaning;
- (2) Any contact between persons involving the sex organs of one person and the mouth or anus of another;
- (3) Masturbation, manual or instrumental, of oneself or of one person by another; or
- (4) Touching of the sex organs or anus, of oneself or of one person by another.

(Ord. 1145, passed 5-20-1996)

112.02 FINDINGS OF FACT.

Based on public testimony and other evidence presented to it, the City Council makes the following findings of fact.

(A) The secondary effects of the activities defined and regulated in this chapter are detrimental to the public health, safety, morals and general welfare of the citizens of the city and, therefore, these activities must be regulated.

(B) Regulation of the adult entertainment industry is necessary because in the absence of the regulation significant criminal activity has historically and regularly occurred. This history of criminal activity in the adult entertainment industry has included prostitution, illegal employment of minors, narcotics and alcoholic beverage law violations, breaches of the peace, tax evasion and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants.

(C) Proximity between entertainers and patrons during adult entertainment performances can facilitate sexual contact, prostitution and related crimes. Concerns about crime and public sexual activity are legitimate and compelling concerns of the city which demand reasonable regulation of adult entertainment establishments in order to protect the public health, safety and general welfare.

(D) The activities described in divisions (B) and (C) of this section occur, in the absence of regulation, regardless of whether the adult entertainment is presented in conjunction with the sale of alcoholic beverages.

(E) It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors; to ensure that each entertainer is an adult; and to ensure that the entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.

(F) It is necessary to have a licensed manager on the premises of establishments offering adult entertainment at such times as the establishments are offering adult entertainment so that there will at all necessary times be an individual responsible for the overall operation of the adult entertainment establishment, including the actions of patrons, entertainers and other employees.

(G) The license fees required in this chapter are necessary as nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the city in regulating the adult entertainment industry.

(H) Hidden ownership interests for the purposes of skimming profits and avoiding the payment of taxes have historically occurred in the adult entertainment industry in the absence of regulation. These hidden ownership interests have historically been held by organized and white collar crime elements. In order for the city to effectively protect the public health, safety, morals and general welfare of its citizens and effectively allocate its law enforcement resources, it is important that the city be fully apprised of the actual ownership of adult entertainment establishments, and identities and backgrounds of persons responsible for management and control of the adult entertainment establishment.

(I) It is not the intent of this chapter to suppress or censor any expressive activities protected by the

First Amendment of the United States Constitution or Article 1 of the State Constitution, but rather to enact time, place and manner regulations which address the compelling interests of the city in mitigating the secondary effects of adult entertainment establishments.

(J) In an undercover operation in 1995, police officers entered the Deja Vu adult entertainment establishment in Federal Way, Washington over an approximately five-month period. Approximately 24 criminal violations were charged for acts occurring while the officers were inside Deja Vu. Police officers repeatedly observed managers ignoring criminal law violations committed inside Deja Vu, within a short distance from the manager. Managers would look at the patrons/officers while criminal violations were committed by the entertainers. Entertainers continuously violated the Federal Way city code. There have been numerous instances where entertainers masturbate the patrons and where the entertainers, without invitation, press their vaginas on the genital area and mouths of the patrons, including undercover officers.

(K) Experience in the city demonstrates that in less than three months of operation of one adult entertainment establishment, violations of liquor laws, controlled substance laws, assaults, lewd conduct, vandalism and excessive noise were reported. In addition, within a few days of operation a serious injury was suffered by an employee of the establishment which resulted in hospitalization and reportedly lifelong debility. As a consequence of repeated offenses by this establishment, the State Liquor Control Commission denied the application for a permanent liquor license for the establishment based on the negative neighborhood impact.

(Ord. 1145, passed 5-20-1996)

' 112.03 ADDITIONAL ENFORCEMENT.

Notwithstanding the existence or use of any other remedy, the City Recorder may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any provision of this chapter.

(Ord. 1145, passed 5-20-1996)

' 112.04 BUSINESS HOURS.

No adult entertainment shall be conducted between the hours of 2:00 a.m. and 10:00 a.m.

(Ord. 1145, passed 5-20-1996)

' 112.05 ACTIVITIES NOT PROHIBITED.

(A) This chapter shall not be construed to prohibit:

(1) Plays, operas, musicals or other dramatic works which are not obscene as defined in this chapter;

(2) Classes, seminars and lectures held for serious scientific or educational purposes; or

(3) Exhibitions or dances which are not obscene.

(B) Whether or not activity is obscene shall be judged by consideration of the following factors:

(1) Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex;

(2) Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual contact as described in O.R.S. 163.305; and

(3) Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.

(Ord. 1145, passed 5-20-1996)

ADMINISTRATION

' 112.20 LICENSE SUSPENSION OR REVOCATION.

(A) The City Recorder may, at any time upon the recommendation of the Chief of Police and as provided below, suspend or revoke any license issued under this chapter:

(1) Where the license was procured by fraud or false representation of fact;

(2) For the violation of, or failure to comply with, the provisions of this chapter or any other similar local or state law by the licensee or by any its servants, agents or employees when the licensee knew or should have known of the violations committed by its servants, agents or employees; or

(3) For the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in O.R.S. 167.002 through 167.027) committed on the premises, or the conviction of any of the licensee's servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in O.R.S. Chapter 475) committed on the licensed premises when the licensee knew or should have known of the violations committed by its servants, agents or employees.

(B) A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first violation, 90 days upon the second violation with a 24-month period, and revoked for third and subsequent violations within a 24-month period, not including periods of suspension.

(C) The City Recorder shall provide at least ten days' prior written notice to the licensee of the decision to suspend or revoke the license. The notice shall inform the licensee of the right to appeal the decision to the hearing examiner or other designated hearing body and shall state the effective date of the

revocation or suspension and the grounds for revocation or suspension.

(D) Notification shall be by personal service or registered or certified mail, return receipt requested, of the decision. Notice mailed to the address on file shall be deemed received three days after mailing. The notice shall specify the grounds for the suspension or revocation. The suspension or revocation shall become effective ten days from the date the notice is delivered or deemed received unless the person affected thereby files a written request with the City Recorder for a hearing before the City Council within the ten-day period. The City Council shall conduct a hearing and render its decision within 45 days following the close of the appeal hearing. Any person aggrieved by the decision of the City Council shall have the right to appeal the decision to the Circuit Court within 14 days of the City Council's decision, by writ of mandamus as provided in the state statutes. The decision of the City Recorder shall be stayed during the pendency of any administrative and judicial appeals, except as provided in division (E) below.

(E) Where the City Building Official, Fire Marshal or the County Health Department find that any condition exists upon the premises of an adult entertainment establishment which constitutes a threat of immediate serious injury or damage to persons or property, the official may immediately suspend any license issued under this chapter pending a hearing in accordance with division (C) above. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the City Council under the same appeal provisions set forth in division (C) above; provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

(Ord. 1145, passed 5-20-1996)

112.21 NOTICE OF APPEAL.

Any person falling under the provisions of this chapter may appeal from any notice of suspension, denial or revocation or civil penalty assessment by filing with the City Recorder within ten days from the date the notice is delivered or deemed received, a written appeal containing:

- (A) A heading in the words: "Before the City Council for the City of Tillamook;"
- (B) A caption reading "Appeal Of" giving the names of all appellants participating in the appeal;
- (C) A brief statement setting forth the legal interest of each of the appellants participating in the appeal;
- (D) A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
- (E) A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
- (F) The signatures of all parties named as appellants, and their official mailing addresses; and

(G) The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.
(Ord. 1145, passed 5-20-1996)

' 112.22 DATE, TIME, PLACE FOR HEARING.

As soon as practicable after receiving the written appeal, the City Council shall fix a date, time and place for the hearing of the appeal before the City Council. The date shall be not less than ten days nor more than 30 days from the date the appeal was filed with the City Recorder, unless the parties agree to an extension of time. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the City Recorder either by causing a copy of the notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.
(Ord. 1145, passed 5-20-1996)

' 112.23 SCOPE OF MATTERS CONSIDERED IN APPEAL.

Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the hearing of the appeal.
(Ord. 1145, passed 5-20-1996)

' 112.24 WAIVER OF RIGHT TO APPEAL.

Failure of any person to file an appeal in accordance with the provisions of this subchapter shall constitute a waiver of his or her right to an administrative hearing and adjudication of the notice and order, or any portion thereof.
(Ord. 1145, passed 5-20-1996)

' 112.25 ACTION AFTER HEARING.

Upon completion of the hearing, the City Council shall:

(A) Affirm the City Recorder's decision; or

(B) Reverse or modify the City Recorder's decision.

(Ord. 1145, passed 5-20-1996)

' 112.26 APPEAL FROM CITY COUNCIL.

(A) Any person aggrieved by the decision of the City Council shall have the right to appeal the

decision to the Circuit Court within 14 days of the City Council's decision, by writ of mandamus as provided in the state statutes.

(B) If no appeal is filed, or the applicant or license holder does not follow the procedures within the time periods set forth in this chapter, the Council decision shall be final.
(Ord. 1145, passed 5-20-1996)

' 112.27 STAY DURING APPEAL.

The decision of the City Recorder to suspend, revoke or refuse to renew a license under this chapter shall be stayed during administrative and judicial review, but refusal to issue an initial license shall not be stayed.
(Ord. 1145, passed 5-20-1996)

LICENSES

' 112.40 LICENSE FOR ESTABLISHMENT REQUIRED; FEE; EXPIRATION.

(A) Adult entertainment establishments shall not be operated or maintained in the city unless the owner or operator has first obtained a license from the City Recorder, as set forth in this chapter. It is unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult entertainment establishment.

(B) The fee for an adult entertainment establishment license in the city as required in this section is \$500 per year.
(Ord. 1145, passed 5-20-1996)

' 112.41 LICENSE FOR MANAGERS, ENTERTAINERS REQUIRED; FEE.

No person shall work as a manager or entertainer at an adult entertainment establishment without having first obtained a manager's or an entertainer's license from the City Recorder pursuant to sections 9-110(b) and 9-111. The annual fee for the license shall be \$50.
(Ord. 1145, passed 5-20-1996) Penalty, see ' 112.99

' 112.42 DUE DATE FOR LICENSE FEES.

(A) The license fee required by ' 112.40 is due and payable to the City Recorder at least two weeks before the opening of the adult entertainment establishment.

(B) The license fees required by ' ' 112.40 and 112.41 are due and payable to the City Recorder before the beginning of the entertainment or beginning employment.

(C) Every license issued or renewed pursuant to this chapter shall expire on December 31 of each year.

(D) The entire annual license fee shall be paid for the applicable calendar year regardless of when the application for license is made, and shall not be prorated for any part of the year, except that if the original application for license is made subsequent to June 30, the license fee for the remainder of that year shall be one-half of the annual license fee. Annual license renewals shall be required to be obtained and paid in full by January 31 of each respective calendar year.

(Ord. 1145, passed 5-20-1996)

112.43 RENEWAL OF LICENSE; LATE PENALTY.

A late penalty shall be charged on all applications for renewal of a license received later than seven days after the expiration date of the license as set forth in the respective resolution or ordinance establishing the expiration date of the license. The amount of the penalty is fixed as follows:

<i>Days Past Due</i>	<i>Additional</i>
8 B 30	\$25
31 B 60	\$50
61 and over	\$100

(Ord. 1145, passed 5-20-1996)

112.44 LICENSE APPLICATIONS.

(A) *Adult entertainment establishment license.*

(1) Required information: all applications for an adult entertainment establishment license shall be submitted to the City Recorder in the name of the person or entity proposing to conduct the adult entertainment establishment on the business premises and shall be signed by the person or his or her agent and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

(a) The name of the applicant, location and doing-business-as name of the proposed adult entertainment establishment, including a legal description of the property, street address and telephone number, together with the name and address of each owner and lessee of the property;

(b) For the applicant and for each applicant control person, provide: names; any aliases or previous names; driver's license number, if any; Social Security number, if any; and business, mailing and residential address, and business telephone number;

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(c) If the applicant is a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of this state, and name and address of any registered agent for service of process;

(d) For the applicant and each applicant control person, list any other licenses currently held for similar adult entertainment or sexually oriented businesses, including motion picture theaters and panoramas, whether from the city or another city, county, state and if so, the names and addresses of each other licensed business;

(e) For the applicant and each applicant control person, list prior licenses held for similar adult entertainment or other sexually oriented businesses, whether from the city or from another city, county or state, providing names, addresses and dates of operation for the businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor;

(f) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition;

(g) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application;

(h) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application;

(i) Two 2-inch by two-inch photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face;

(j) For the applicant or each applicant control person, a complete set of finger prints prepared at the City Police Department on forms provided by the Department; and

(k) A scale drawing or diagram showing the configuration of the premises for the proposed adult entertainment establishment, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an adult entertainment establishment shall include building plans which demonstrate conformance with this chapter.

(2) The application must demonstrate compliance with the provisions of the city's zoning code concerning allowable locations for adult entertainment establishments.

(3) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of Anone@ where that is the correct response, and the applicant's verification that the application is complete. The City Recorder may request other information or clarification in addition to that provided in a complete application, where necessary to determine compliance with this chapter.

(4) A nonrefundable application fee in the amount of \$65 must be paid at the time of filing an application, in order to defray the costs of processing the application.

(5) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(6) If any person or entity acquires, subsequent to the issuance of an adult entertainment establishment license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of the acquisition shall be provided in writing to the City Recorder, no later than 21 days following the acquisition. The notice to the City Recorder shall include the same information required for an initial adult entertainment establishment license application.

(7) The adult entertainment establishment license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult entertainment establishment so that it can be easily read at any time the business is open.

(8) No person granted an adult entertainment establishment license pursuant to this chapter shall operate the establishment under a name not specified on the license, nor shall any person operate the establishment at any location not specified on the license.

(9) Upon receipt of the complete application and the nonrefundable application fee, the City Recorder shall provide copies to the Police, Fire and Community Development Departments for their investigation and review to determine compliance of the proposed adult entertainment establishment with the laws and regulations which each department administers. Each department shall, within 25 days of the date of the application, inspect the application and premises and shall make a written report to the City Recorder whether the application and premises complies with the laws administered by each department.

(a) No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application.

(b) Any adult entertainment establishment license approved prior to the premises construction shall contain a condition that the premises may be open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application.

(c) A department shall recommend denial of a license under this division (A)(9) if it finds that the proposed adult entertainment establishment is not in conformance with the requirements of this chapter or other law in effect in the city.

(d) A recommendation for denial shall cite the specific reason therefor, including

applicable laws.

(10) An adult entertainment establishment license shall be issued by the City Recorder within 30 days of the date of filing a complete license application and nonrefundable application fee, unless the City Recorder determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this division (A)(10), or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license.

(a) The City Recorder shall notify the applicant within five working days of application submittal if the application is incomplete, and shall grant an applicant's request for a reasonable extension of time in which to provide all information required for a complete license application.

(b) If the City Recorder finds that the applicant has failed to meet any of the requirements for issuance of an adult entertainment establishment license, the City Recorder shall deny the application in writing and shall cite the specific reasons therefor, including applicable law.

(c) If the City Recorder fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the City Recorder that the license has been denied, but in no event may the City Recorder extend the application review time for more than an additional 20 days.

(B) Application for manager or entertainer license.

(1) Required information: no person shall work as a manager/assistant manager or entertainer at an adult entertainment establishment without an adult entertainment manager or entertainer license from the city.

(a) All applications for a manager's or entertainer's license shall be signed by the applicant and notarized or certified to be true under penalty of perjury.

(b) All applications shall be submitted on a form supplied by the city, which shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by County Sheriff, Social Security number and any stage names or nicknames used in entertaining;

2. The name and address of each business at which the applicant intends to work;

3. Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

- b. A state-issued identification card bearing the applicant's photograph and date of birth;
 - c. An official passport issued by the United States of America;
 - d. An immigration card issued by the United States of America; and/or
 - e. Any other identification that the city determines to be acceptable.
4. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions;
5. A description of the applicant's principal activities or services to be rendered;
6. Two 2-inch by two-inch photographs of the applicant, taken within six months of the date of application showing only the full face; and
7. Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(2) The City Recorder may request additional information or clarification when necessary to determine compliance with this chapter.

(3) (a) A manager's or an entertainer's license shall be issued by the City Recorder within 14 days from the date the complete application and fee are received unless the City Recorder determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter.

(b) If the City Recorder determines that the applicant has failed to qualify for the license applied for, the City Recorder shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the City Recorder has failed to approve or deny an application for a manager's license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as a manager in a duly licensed adult entertainment establishment until notified by the City Recorder that the license has been denied, but in no event may the City Recorder extend the application review time for more than an additional 20 days.

(4) (a) Every adult entertainer shall provide his or her license to the adult entertainment establishment manager on duty on the premises prior to his or her performance.

(b) The manager shall retain the licenses of the adult entertainers readily available for inspection by the city at any time during business hours of the adult entertainment establishment.

(5) An applicant for an adult entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. The temporary license will automatically expire on

the fourteenth day following the filing of the complete application and fee, unless the City Recorder has failed to approve or deny the license application, in which case the temporary license shall be valid until the City Recorder approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the City Recorder extend the application review time for more than an additional 20 days.

(Ord. 1145, passed 5-20-1996)

' 112.45 MANAGER ON PREMISES.

A licensed manager shall be on the premises of an adult entertainment establishment at all times that adult entertainment is being provided.

(Ord. 1145, passed 5-20-1996)

REGULATIONS

' 112.60 STANDARDS OF CONDUCT AND OPERATION.

The following standards of conduct must be adhered to by employees of any adult entertainment establishment.

(A) No employee or entertainer shall be unclothed or in a less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least 18 inches above the immediate floor level and removed at least eight feet from the nearest patron.

(B) No employee or entertainer mingling with patrons shall be unclothed or in less than opaque and complete attire, costume or clothing as described in division (A) of this section, nor shall any male employee or entertainer at any time appear with his genitals in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.

(C) No employee or entertainer mingling with patrons shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus or buttocks.

(D) No employee or entertainer shall caress, fondle or erotically touch any patron. No employer or entertainer shall encourage or permit any patron to caress, fondle or erotically touch any employee or entertainer. No employee or entertainer shall sit on a patron's lap or separate a patron's legs.

(E) No employee or entertainer shall perform actual or simulated acts of sexual conduct as defined in this chapter, or any act which constitutes a violation.

(F) No employee or entertainer mingling with patrons shall conduct any dance, performance or exhibition in or about the non-stage area of the adult entertainment establishment unless that dance,

performance or exhibition is performed at a torso-to-torso distance of no less than four feet from the patron or patrons for whom dance, performance or exhibition is performed.

(G) No tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any patron. Any gratuity offered to any entertainer performing upon any stage area must be placed into a receptacle provided for receipt of gratuities by the adult entertainment establishment or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer conducting any performance, dance or exhibition in or about the non-stage area of the adult entertainment establishment shall be placed into the hand of the adult entertainer or into a receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.

(Ord. 1145, passed 5-20-1996)

' 112.61 LIST OF ENTERTAINMENTS, FEES.

There shall be posted and conspicuously displayed in the common areas of each place offering adult entertainment a list of any and all entertainment provided on the premises. The list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed.

(Ord. 1145, passed 5-20-1996)

' 112.62 PHYSICAL LAYOUT OF PREMISES; SIGHT OBSTRUCTIONS.

Every place offering adult entertainment shall be physically arranged in such a manner that:

(A) *Performance area.* The performance area, where adult entertainment as described in ' 112.01 is provided, shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which patrons have access. A continuous railing three to five feet in height above the floor and located at least eight feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever; and

(B) *Not visible to public.* No activity or entertainment occurring on the premises shall be visible at any time from any other public place.

(Ord. 1145, passed 5-20-1996)

' 112.63 NOTICE TO CUSTOMERS.

A sign shall be conspicuously displayed in a common area of the premises which shall read as follows in 24-point type or larger:

This adult entertainment establishment is regulated by the city. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to appear semi nude or nude, except on stage;
3. Not permitted to accept tips or gratuities in advance of their performance; and
4. Not permitted to accept tips or gratuities directly from patrons while performing upon any stage area.

(Ord. 1145, passed 5-20-1996)

' 112.64 ADDITIONAL REQUIREMENTS FOR PEEPSHOWS.

The following additional requirements must be adhered to at any panorama or peepshow.

(A) The interior of the panorama or peepshow premises shall be arranged in such a manner as to ensure that customers are fully visible from the waist down, and all persons viewing the panorama pictures shall be visible from the entrance to the premises.

(B) The licensee shall not permit any doors to public areas on the premises to be locked during business hours.

(C) Any room or area on the premises shall be readily accessible at all times for inspection by any law enforcement officer or license inspector.

(D) Sufficient lighting shall be provided in and equally distributed in and about the parts of the premises which are open to patrons so that all objects are plainly visible at all times, and so that on any part of the premises which is open to patrons, a program, menu or list printed in eight-point type will be readable by the human eye with 20/20 vision from two feet away.

(Ord. 1145, passed 5-20-1996)

' 112.65 ADDITIONAL REQUIREMENTS FOR ADULT ENTERTAINMENT ESTABLISHMENTS.

At any adult entertainment establishment the following are required:

(A) Admission must be restricted to persons of the age of 18 years or more;

(B) No adult entertainment shall be visible outside of the adult entertainment establishment, nor any photograph, drawing, sketch or other pictorial or graphic representation which includes lewd matter as defined in O.R.S. Chapter 167 or display of sexually explicit material in violation of O.R.S. Chapter 167; and

(C) Sufficient lighting shall be provided in and equally distributed in and about the parts of the premises which are open to patrons so that all objects are plainly visible at all times, and so that on any part of the premises which is open to patrons, a program, menu or list printed in eight-point type will be readable by the human eye with 20/20 vision from two feet away.

(Ord. 1145, passed 5-20-1996)

112.99 PENALTY.

(A) *Criminal penalty.* Any person violating any of the terms of this chapter shall be guilty of a Class A misdemeanor.

(B) *Civil penalty.* In addition to any other penalty provided in this section or by law, any person who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250 per violation, to be directly assessed by the City Recorder. The City Recorder, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator; the gravity of the violation; the number of past and present violations committed; and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed that remain unpaid for 30 days after assessment will be docketed as a lien on real property in the lien book of the city and be enforced and collected in accordance with the procedure for foreclosing liens on real property.
(Ord. 1145, passed 5-20-1996)

CHAPTER 114: GARAGE SALES

Section

- 114.01 Definitions
- 114.02 Exemptions
- 114.03 Permits
- 114.04 Advertising

- 114.99 Penalty

' 114.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARAGE SALE. Any sale, displaying of goods for sale, or the offer to sell used goods within the city limits by any individual or group of individuals from any private property, including but not limited to garages, porches, carports and yards.

PERSON. Any natural person, corporation, organization or personal representative.
(1977 Code, ' 6-12) (Ord. 890, passed 5-9-1977)

' 114.02 EXEMPTIONS.

The following are exempt from the provisions of this chapter:

(A) The offering for sale of one item by public display with a sign indicating the item is for sale, and the sale of more than one individual item not offered for sale by public display or by signs concerning a sale or place of sale; and

(B) Sales commonly referred to as Arummage sales,@ conducted by members of fraternal, civic, patriotic, religious, service, charitable or educational organizations.
(1977 Code, ' 6-12) (Ord. 890, passed 5-9-1977)

' 114.03 PERMITS.

(A) The City Manager or his or her delegate shall issue a permit for a garage sale upon application and upon payment of a fee, if it appears from the application that the applicant will comply with the terms and provisions of this chapter. Issuance of a permit under this chapter shall not constitute a waiver of the requirements of the zoning ordinance or any other ordinance of the city. The fee shall be \$5 and any future fee increases shall be set by resolution.

(B) The City Manager may prescribe the form of permit and the application to be used therefor, subject to the terms of this chapter.

(C) The City Manager or his or her delegate may issue a permit upon application, for a period not to exceed three consecutive days; provided, however, that no more than two permits shall be issued for sales at the same location within any calendar year.

(D) No permit granted under the provisions herein shall be assignable.
(1977 Code, ' 6-12) (Ord. 890, passed 5-9-1977; Ord. 972, passed 6-16-1980; Ord. 993, passed 4-20-1981; Ord. 1016, passed 8-2-1982; Ord. 1122, passed 2-18-1992; Ord. 1219, passed 5-21-2007)

' 114.04 ADVERTISING.

(A) There shall be allowed only one sign, not to exceed 24 inches by 25 inches, posted on the premises from which the garage sale is to be held under the provisions of this section; and no other signs shall be posted on the premises or on any other public or private place advertising the sale.

(B) This section is not intended to prohibit advertising in newspaper, radio or television.
(1977 Code, ' 6-12) (Ord. 890, passed 5-9-1977)

' 114.99 PENALTY.

A person in violation of this chapter shall be subject to fine not exceeding \$100. Each day that a sale is conducted in violation of this chapter shall constitute a separate offense.
(1977 Code, ' 6-12) (Ord. 890, passed 5-9-1977)