

TITLE XI: BUSINESS REGULATIONS

Chapter

110. AMUSEMENTS

111. DRUG PARAPHERNALIA

112. BUSINESS LICENSES

113. TAXICABS

114. GAMBLING

115. TOBACCO PRODUCTS

116. MOTOR VEHICLE FUEL DEALERS

117. TELECOMMUNICATIONS PROVIDERS

CHAPTER 110: AMUSEMENTS

Section

- 110.01 Definitions
- 110.02 License required; application and issuance
- 110.03 Transferability
- 110.04 License fees; delinquencies
- 110.05 Denial of application
- 110.06 Revocation
- 110.07 Suspension
- 110.08 Appeal

- 110.99 Penalty

OPERATOR. Any person who either as the owner or consignee of any amusement device, placed the amusement device in a business or premises in his or her control wherein the device is offered for operation or display to the public or to the membership of a private club.

PERSON. A person, firm, fraternal club, a corporation, except municipal corporations, the singular shall include the plural, and the male gender shall include the female.
(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.01 DEFINITIONS.

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

AMUSEMENT DEVICE. Any video game, pinball machine, pool table or similar electrical or mechanical device or game which is played for amusement and entertainment, the playing or operating of which is had by depositing therein coins, paper money or slugs, and the operation of which is for a commercial purpose.

DISTRIBUTOR. Any person who himself, herself or through agents or employees, engages in the distribution of amusement devices by placing with or consigning to another machine in return for the payment or receipt of certain fees or revenue to be derived by the machines.

§ 110.02 LICENSE REQUIRED; APPLICATION AND ISSUANCE.

(A) All distributors and operators of any amusement device on any premises within the city shall obtain a license in the manner hereinafter provided.

(B) (1) Any person desiring to obtain or renew a license, either as a distributor or as an operator, shall make application therefore to the Office of the City Recorder on forms to be furnished by the city for that purpose.

(2) Upon approval of the license by the City Recorder and payment of the fee as hereinafter provided, the license shall be issued by the City

Oakridge - Business Regulations

Recorder and shall be prominently displayed in the place of business.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86) Penalty, see § 110.99

§ 110.03 TRANSFERABILITY.

(A) Licenses issued under § 110.02(B) are not transferable.

(B) However, if a person sells or transfers a business for which an amusement device license has been paid, the purchaser shall not be required to pay an additional license fee for the remainder of the year, unless additional devices are installed.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.04 LICENSE FEES; DELINQUENCIES.

(A) The license fee for a distributor's license shall be \$200 per year, payable upon issuance of the license. The license fee for an operator shall be \$35 per year, plus \$35 per year per device. Licenses are valid for one calendar year and are due on January 1 of each year. If less than six months of the license period remains, the license fee shall be one-half the annual fee.

(B) A late payment fee equal to 50% of the original license fee and of the fee for each device shall be charged for each 60 days in which a license and device payment is delinquent.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.05 DENIAL OF APPLICATION.

If the City Recorder determines that the applicant does not qualify for issuance or renewal of a license,

the City Recorder shall notify the licensee in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal in § 110.08.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.06 REVOCATION.

(A) The City Recorder, upon determining that a distributor or operator is violating this chapter or other city ordinances or any state or federal law, shall notify the licensee, in writing, that his or her license is to be revoked. The notice shall be given at least 30 days before revocation.

(B) If the violation ends within the 30 days, the City Recorder may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions for appeal in § 110.08.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.07 SUSPENSION.

Upon determining that a distributor or operator presents an immediate danger to person or property, the City Recorder may suspend the license at once. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated in the licensee's application. The notice shall be mailed and state the reason for the suspension and inform the licensee of the provisions for appeal in § 110.08. The City Recorder may continue a suspension for as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under § 110.08.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.08 APPEAL.

(A) (1) In the event an applicant for a license under this chapter is denied the license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal.

(2) The written notice of appeal to the Council shall be filed with the City Recorder within 15 days after the denial of license or license suspension or revocation.

(B) The Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than ten days after the filing of the notice of appeal. The decision of the Council on the appeal shall be final and conclusive. (Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

§ 110.99 PENALTY.

Any person violating any provision of this chapter shall, upon conviction thereof in the Municipal Court, be punished by fine of not more than \$250.

(Ord. 682, passed 11-15-84; Am. Ord. 729, passed 9-18-86)

CHAPTER 111: DRUG PARAPHERNALIA

Section

- 111.01 Definitions
- 111.02 License required; application and fees
- 111.03 Records
- 111.04 Compliance
- 111.05 Violation

- 111.99 Penalty

§ 111.01 DEFINITIONS.

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

DRUG PARAPHERNALIA. Any equipment, products and materials of any kind used, intended for use or marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing and injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug. The term includes, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant that is an illegal drug or from which an illegal drug can be derived;

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing an illegal drug;

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant that is an illegal drug;

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness, potency or purity of an illegal drug;

(5) Scales or balances used or intended for use in weighing or measuring an illegal drug;

(6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting an illegal drug.

(7) Separation gins and sifters used or intended for use in removing twigs and seed from, or otherwise cleaning or refining marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding an illegal drug;

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of an illegal drug;

(10) Containers and other objects used or intended for use in storing or concealing an illegal drug;

(11) Hypodermic needles, syringes and other objects used or intended for use in parenterally injecting an illegal drug into the human body; and

Oakridge - Business Regulations

(12) Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls; water pipes, carbureting tubes and devices; smoking and carbureting masks, roach clips (objects used to hold burning material, such as a marijuana cigarette, that is too small or too short to be held in the hand); miniature cocaine spoons and cocaine vials; chamber, carburetor, electric or air-driven pipes; chillums; bongos; and ice pipes or chillers.

ILLEGAL DRUG. Any drug or chemical substance the manufacture, possession or use of which is made unlawful by O.R.S. Chapter 475 or federal law. The term includes "marijuana," as defined in O.R.S. 475.005.

PERSON. Any individual, corporation, partnership, joint venture, association or other business entity.

TO SELL. To sell, to exchange, to contract to sell, to rent or lend for value, to offer for sale or exchange or to give away free as a prize or bonus incident to a business promotion.
(Ord. 683, passed 5-2-85)

§ 111.02 LICENSE REQUIRED; APPLICATION AND FEES.

(A) (1) No person shall sell drug paraphernalia within the city without first obtaining a drug paraphernalia sales license. The license required by this section shall be in addition to any other licenses required by law.

(2) No person under 18 years of age may obtain a drug paraphernalia sales license, nor shall any

person be employed by a licensee to sell drug paraphernalia.

(B) (1) An application for a drug paraphernalia sales license shall contain the applicant's name, business name and address, the names of each employee and be accompanied by affidavits by the applicant and each and every employee of the applicant who would be authorized to sell any item of drug paraphernalia that the person has never been convicted of a drug-related offense.

(2) Except as provided herein to the contrary, the form of the application and the procedure for issuance, denial and revocation of a drug paraphernalia sales license shall be governed by the general ordinance with respect to business licenses.

(C) Upon approval of an application for a drug paraphernalia sales license, the licensee shall submit a license fee of \$100 to the city.

(D) (1) A drug paraphernalia sales license shall be effective for one year and may be renewed by satisfactory completion of a new application, including the required affidavits, and payment of the \$100 license fee.

(2) The license is not transferable.

(3) The licensee shall ensure that all information provided by the application remains current, and shall immediately submit the affidavits required by division (B) above for any persons employed by the licensee after issuance of the license.

(Ord. 683, passed 5-2-85)

§ 111.03 RECORDS.

(A) (1) Each licensee under this chapter shall keep a written record of all drug paraphernalia that is sold by the licensee or held in inventory.

(2) The licensee shall hold these records open to inspection by the police during normal business hours.

(B) (1) With respect to each sale or drug paraphernalia, the record shall contain the name and address of the purchaser, a description and quantity of the product sold, the date of the sale and the licensee's or agent's signature.

(2) The licensee shall maintain these records for not less than two years.
(Ord. 683, passed 5-2-85)

(B) A knowing violation of any requirement of this chapter by a licensee shall, in addition to any fine imposed, be grounds for revocation of the license.
(Ord. 683, passed 5-2-85)

§ 111.04 COMPLIANCE.

The licensee shall comply with all applicable federal, state and local laws and regulations. Conviction of the licensee for any drug-related offense shall be grounds for revocation of the license.
(Ord. 683, passed 5-2-85)

§ 111.05 VIOLATION.

A willful violation of any provision of this chapter by any person shall, upon a determination of the violation, result in the seizure and civil forfeiture of all drug paraphernalia possessed and offered for sale by the person within the city.
(Ord. 683, passed 5-2-85)

§ 111.99 PENALTY.

(A) A violation of any provision of this chapter shall be punishable by a fine of not less than \$10 nor more than \$300 for each offense.

CHAPTER 112: BUSINESS LICENSES

Section

- 112.01 Purpose
- 112.02 Exemptions
- 112.03 Definitions
- 112.04 License required
- 112.05 Application
- 112.06 License fees
- 112.07 Display, transfers and relocations; term of license
- 112.08 Approval, denial, revocation or suspension of license
- 112.09 Appeal
- 112.10 Disclaimers, exceptions, general requirements
- 112.11 Specific requirements
- 112.12 Violation; abatement procedure

- 112.99 Penalty

Cross-reference:

Vending goods on streets and sidewalks, see § 130.08

§ 112.01 PURPOSE.

This chapter is enacted, except as otherwise specified, to provide revenue for municipal purposes and to provide for the health, safety and welfare of the citizens of the city through regulation of businesses, occupations and trade.
(Ord. 855, passed 2-7-02)

§ 112.02 EXEMPTIONS.

(A) Nothing in this chapter shall be construed to apply to any person transacting and carrying on business within the city which is exempt from taxation or regulation by the city by virtue of the Constitution of the United States or the State of Oregon except as provided in § 112.11.

(B) No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the city, and it is the intention that all license taxes and fees will be borne by the employer.

(C) Any business paying a franchise tax or fee under any city ordinances or resolutions now existing is exempt from the requirements of this chapter.

(D) Wholesalers making deliveries or taking orders from duly licensed retail outlets within the city are exempt from this chapter.

(E) Any person who operates a business on a part-time basis, which business has an annual gross income of less than \$5,000, is exempt from this chapter.

(Ord. 855, passed 2-7-02)

§ 112.03 DEFINITIONS.

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

APARTMENT HOUSES. A building, portion of a building, or group of buildings on a parcel of land within the city containing two or more dwelling units which are rented, leased, let or made available for compensation for sleeping or living purposes. A building containing two dwellings shall not be deemed an **APARTMENT HOUSE** if the owner of the dwelling occupies one of the dwelling units. The term **APARTMENT HOUSE** shall include a hotel or motel, automobile or tourist court, rooming or lodging house and mobile home or trailer park. In the case of mobile homes or trailer parks, the term dwelling unit shall mean space or stall.

APPLICANT. Agent or owner of the named business.

AUCTION. The sale, or offer to sell, by public outcry or to the highest bidder.

BUSINESS. Any profession, trade, occupation, shop and every type of calling wherein a charge is made for goods, materials or services.

GARAGE SALE. A commercial activity open to the public, conducted at a private residence where personal property is sold to others provided that no more than three garage sales per residence per year shall occur and that no garage sale exceeds two days in duration.

LICENSE. The permission granted for the carrying on of a business, profession or occupation within the city limits.

LICENSEE. The business as specified and named by the applicant.

NON-PROFIT ORGANIZATION. A bona fide organization with tax exempt status.

PEDDLER. A person or persons, traveling from place to place, selling and delivering at the same time.

PERSON. All public and private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the city.

REVOCATION OF ANY BUSINESS LICENSE. Withdrawal of approval to operate a business.

SOLICITOR. One who travels from place to place, not carrying his or her goods with him or her, but taking orders for future deliveries.

SUSPENSION OF BUSINESS LICENSE. An official order to suspend business operations pending correction or ceasing of certain conditions or practices.

TRANSIENT MERCHANT. One who occupies a temporary fixed location, sells and delivers from stock on hand and does business in much the same manner as a permanent business.
(Ord. 855, passed 2-7-02)

§ 112.04 LICENSE REQUIRED.

(A) A license fee is hereby imposed on any business not licensed by other ordinances of the city, and it shall be unlawful for any person to engage in any such business within the city without first having obtained a license for the current year or provided proof of exemption, as provided under this chapter.

(B) All owners of apartment houses as defined must possess a license.

(C) The agent, or agents, of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for any failure to comply with the provisions of this chapter,

2005 S-1

or for any penalty assessed under this chapter, to the extent, and with like effect, as if such agent or agents were themselves the proprietors or owners of the business.

(D) A person engaged in business in more than one location, or in more than one business licensed under this chapter, shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

(E) A person representing himself or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the city on which a license fee is levied by this chapter, shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this chapter.

(F) The city may require proof of bonding or state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if city approval is a prerequisite, before a city license will be issued.

(G) The City Council reserves the right to waive or reduce the fee for non-profit organizations having tax exempt status.
(Ord. 855, passed 2-7-02) Penalty, see § 112.99

§ 112.05 APPLICATION.

(A) Application for a business license or for renewal of a business license shall be made to the office of the City Recorder upon forms furnished by the city. Each application shall state:

- (1) The name of the proposed business;

(2) A description of the trade, shop, business, profession, occupation or calling to be carried on;

(3) The name and address of the applicant;

(4) The address at which the business will be conducted, or the address of its Oakridge office;

(5) The amount of the license fee tendered with the application and the basis for its calculation;

(6) The signature of the applicant or agent making application;

(7) The date of application;

(8) Evidence of satisfaction of state registration, bonding or insurance if required, including registration number and expiration date; and

(9) The fiscal year for which application is made.

(B) Prior to approving or denying an application, the City Recorder may require the applicant to supply any additional information necessary to determine under § 112.08 the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.
(Ord. 855, passed 2-7-02)

§ 112.06 LICENSE FEES.

All business license fees and their disposition shall be determined by resolution of the City Council.
(Ord. 855, passed 2-7-02)

2005 S-1

§ 112.07 DISPLAY, TRANSFERS AND RELOCATIONS; TERM OF LICENSE.

(A) *Display of license.* All licenses issued in accordance with this chapter shall be openly displayed in the place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection by the city when requested by such individuals to do so. Failure to carry such license or produce the same on request shall be deemed a violation of this chapter.

(B) *Transfer of license.* In the event of the transfer of ownership of any business, the applicable business license may be transferred by application to the City Recorder. The city may approve the transfer upon finding that the new applicant meets the requirements of this chapter.

(C) *Relocation of an existing business.* In the event a business relocates, the licensee shall reapply to the City Recorder to transfer the business license. The city may issue the license upon finding that the new location meets the requirements of this chapter.

(D) *License term.* A business license year shall be January 1 to December 31 of the same calendar year. The business license fee shall be paid in advance of the business license year. If a person, firm or corporation begins engaging in business after the beginning of the business year, the business license fee shall be paid in advance on a prorated basis as of the beginning of the quarterly period during which such activity begins.

(Ord. 855, passed 2-7-02)

§ 112.08 APPROVAL, DENIAL, REVOCATION OR SUSPENSION OF LICENSE.

(A) *Approval of application.*

(1) The City Recorder shall issue a decision on an application within 30 days of the submission of a complete application form, all requested additional information, and annual license fee.

(2) The City Recorder may issue a license upon finding that the applicant has met all requirements of federal, state, and county law, and this chapter.

(3) If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which the City Recorder deems necessary to protect the public health, safety or welfare, or which are required by federal, state, or county law, or this chapter.

(B) *Denial, revocation, or suspension of license.* The City Recorder may deny, suspend or revoke a business license upon finding that:

(1) The licensee fails to meet the requirements of, or is doing business in violation of federal, state, or county law or requirements of this chapter;

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

(3) The applicant's past or present violation of law or chapter, including a violation that does not lead to a conviction, presents a reasonable doubt about his/her ability to perform the licensed activity without endangering property or the public health or safety.

2005 S-1

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

(5) The licensed activity or device would endanger property or the public health or safety.

(C) *Notice.* The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under § 112.09. The notice shall be given at least 15 days before a revocation becomes effective. If the violation ends within the 15 days, the City Recorder may discontinue the revocation proceedings.

(D) *Reapplication.* A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.

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

(F) *Summary suspension.* Upon determining that a licensed activity or device presents an immediate danger to person or property, the City Recorder may summarily suspend the license for the activity or device. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of

the provisions for appeal under § 112.09. The city may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under § 112.09.

(Ord. 855, passed 2-7-02)

§ 112.09 APPEAL.

In the event an applicant for a license under this chapter is denied a license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the Council shall be filed with the City Recorder within 15 days after the denial of license or license suspension or revocation. The Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than ten days after the filing of the notice of appeal. The decision of the Council on the appeal shall be final and conclusive.

(Ord. 855, passed 2-7-02)

§ 112.10 DISCLAIMERS, EXCEPTIONS, GENERAL REQUIREMENTS.

(A) *Disclaimers and exceptions.*

(1) The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the city to the person engaged therein in the event the business shall be unlawful, illegal or prohibited by the laws of the state or the United States or ordinances of the city.

(2) Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city. Business license fees, as set by Council resolution, may be increased or decreased, and other or additional taxes or fees may be levied, increased or decreased, at any

2005 S-1

time by the City Council. No person having paid the fee required and having made application for a business license shall be entitled to any refund.

(3) None of the fees, bonds or insurance requirements provided for in this chapter or the rules adopted under this chapter shall be required if the applicant is a municipality.

(B) *General license requirements.* In addition to any other requirement of this chapter, each licensee shall:

(1) Conform to all federal, state and local laws and regulations, the provisions of this chapter, and any rules adopted hereunder;

(2) Notify the city within ten days of any change in material information contained in the application, related materials or license; and

(3) Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to an officer or employee of the city.

(Ord. 855, passed 2-7-02)

§ 112.11 SPECIFIC REQUIREMENTS.

(A) Businesses dealing in the purchase or trade of secondhand goods, such as, but not limited to, precious metals and jewelry, guns or electronic equipment, shall keep a record of the sales for inspection by the Chief of Police. A record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods.

(B) *Merchant police, security services and similar businesses.* Each individual shall agree to a

complete background check by the Chief of Police to determine the qualifications and reliability of the individual for the proposed business. The city may require a bond and insurance as may be deemed proper. The license shall be issued only upon the Police Chief's approval of each person involved, the approval to be based on the complete background check.

(C) *Peddlers, solicitors.*

(1) No person shall offer goods or services for sale or solicit money or anything having money value from another person or property occupied as a residence at any time before 8:00 a.m. and after 8:00 p.m. unless with the prior express permission of the person in possession or control of the residence.

(2) The applicant must supply the names, addresses, dates of birth and any other pertinent information regarding each individual intending to take part in the solicitation. Each individual shall agree to a complete background check by the Chief of Police to determine the qualifications and reliability of the individual. The city may require a bond and insurance as may be deemed proper. The license shall be issued only upon the Police Chief's approval of each person involved. The approval to be based on the complete background check.

(D) *Nonprofit organizations.*

(1) A non-profit organization which will conduct any type of business within the city on a continuous basis throughout the year shall make application to the City Recorder upon suitable blanks, furnished by the city, for the license to carry on the business for the current year. Upon submission of the application and payment of the fee, the City Recorder shall submit the application to the City Council at its next regular meeting. After once obtaining approval by the Council, subsequent annual renewals of the non-profit organization business license may be

2005 S-1

approved by the City Recorder. After once issued, the licensed business is subject to all the provisions of this chapter.

(2) Approval of a business license for a non-profit organization required in division (D)(1) above is subject to the following additional conditions:

(a) Business license is only for activities conducted by members; and

(b) Non-profit organization is required to obtain any and all county, state and federal permits for the business to be conducted.

(E) In the event a licensed business contracts to sponsor an outside activity, rodeo, circus, carnival and the like, a regular city business license must be obtained for that specific activity and the usual business license fee must be paid.
(Ord. 855, passed 2-7-02)

§ 112.12 VIOLATION; ABATEMENT PROCEDURE.

(A) *Inspection and right of entry.* Whenever they shall have cause to suspect a violation of any provisions of this chapter, or when necessary to investigate an application for or revocation of a license under any of the procedures prescribed in this chapter, officials responsible for enforcement or administration of this chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

(B) *Abatement.* Any business which is established, operated, moved, altered, enlarged or

maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.
(Ord. 855, passed 2-7-02)

§ 112.99 PENALTY.

(A) Any person convicted of violating any of the provisions of this chapter shall be punished by a fine not to exceed \$500 for any one offense, each day constituting a separate offense, or by imprisonment in the city or county jail for a period of not more than six months or by both the fine and imprisonment.

(B) In addition to the enforcement provisions of this chapter, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this chapter.
(Ord. 855, passed 2-7-02)

2005 S-1

CHAPTER 113: TAXICABS

Section

- 113.01 Purpose
- 113.02 Enactment
- 113.03 Multiple licenses

- 113.99 Penalty

§ 113.01 PURPOSE.

The purpose of this chapter is to provide for the orderly provision of taxi businesses in the city.
(Ord. 676, passed 3-15-84)

§ 113.02 ENACTMENT.

Persons desiring to operate a taxicab within the corporate limits of the city shall be required to do the following prior to engaging in the taxicab business:

(A) Shall file with the City Recorder an application setting forth the following information:

- (1) The name and address of the applicant;
- (2) The number of licenses that he or she is applying for and the make, serial number, motor number, latest state license number and the PUC number, if any, on each vehicle to be used for each license; and
- (3) The amount and name of the company in which his or her public liability and property damage insurance is carried, together with proof that the current premiums are fully paid.

(B) There shall be no fee required of an applicant for a taxi business, however, the owner of a taxi business operating in the city shall obtain a business license from the City Recorder and pay all fees associated therewith.

(C) The applicant shall be required to prominently display in his or her taxicab the rates charged to passengers.

(Ord. 676, passed 3-15-84) Penalty, see § 113.99

§ 113.03 MULTIPLE LICENSES.

There shall be no limit to the number of licenses authorized pursuant to this chapter so that more than one taxicab business can operate within the city at any one time.

(Ord. 676, passed 3-15-84)

§ 113.99 PENALTY.

Any person violating any of the terms of this chapter shall, upon conviction, be punished by a fine not to exceed \$250 or by imprisonment in the city jail for a period not to exceed 30 days or both and by revocation of the violator's license to operate a taxicab service.

(Ord. 676, passed 3-15-84)

CHAPTER 114: GAMBLING

Section

- 114.01 Definitions
- 114.02 Authorization
- 114.03 Administrative powers
- 114.04 Responsibility; certification required

accommodation does not include any bona fide club or place of accommodation which is in its nature distinctly private.

PRIVATE CLUB. Any person organized under O.R.S. Chapter 61 or similar corresponding provisions of other state law.

§ 114.01 DEFINITIONS.

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

IMPROPER PLAY. Any conduct that violates federal, state or local gambling laws or regulations.

OWNER OF SOCIAL GAMBLING PREMISES. Any person who owns or operates social gambling premises. When a corporation is owner or operator, the term shall include any substantial shareholder and all corporate officers and directors. A substantial shareholder is one who owns at least 10% of the issued shares of the corporation.

PERSON IN CHARGE. An owner of social gambling premises or other person designated by an owner to supervise the play of social games of a gambling premises.

PLACE OF PUBLIC ACCOMMODATION. Any place offering to the public accommodations, advantages, facilities or privileges whether for the nature of goods, services, lodgings, amusements or otherwise. However, a place of public

SOCIAL GAMBLING PREMISES. Any place of public accommodation or a private club where social games are played.

SOCIAL GAMES. All games described by *Hoyle's Modern Encyclopedia of Card Games* (Dolphin Handbook No. C512) when played by the rules prescribed by federal, state and local laws, except any card game in which the deal does not pass, cannot be won or requires a full time banker or any card game prohibited by federal, state or city law.

SOMETHING OF VALUE. Any money or property, any service or promise to perform a service, any token, object or article exchangeable for money of property or any form of credit or promise directly or indirectly contemplating transfer of money or property or any interest therein.

WAGER or BET. To stake or risk, or the staking or risking, of something of value upon the outcome of any social game.
(Ord. 775, passed 9-17-92)

§ 114.02 AUTHORIZATION.

Social games, as defined herein, are hereby authorized to be played within the corporate limits of the city.

(Ord. 775, passed 9-17-92)

§ 114.03 ADMINISTRATIVE POWERS.

(A) (1) To promote the uniform regulation of gambling throughout the city, the City Council shall have the authority to adopt rules regarding the time, place, supervision and the play of social games.

(2) The City Council shall base rules upon commonly recognized authoritative sources of rules for the playing of social games. The rules shall tend to:

- (a) Prevent excessive losses by individual participants;
- (b) Prevent cheating;
- (c) Prevent improper play; and
- (d) Protect the public health, safety and welfare.

(B) The rules shall be adopted after giving public notice of the intent to promulgate or amend a rule and an opportunity of at least 15 days to submit written comments thereon.

(Ord. 775, passed 9-17-92)

§ 114.04 RESPONSIBILITY; CERTIFICATION REQUIRED.

(A) (1) No person shall act as an owner or person in charge of a social gambling premises without first obtaining a social gambling certification card issued by the city.

(2) The city may issue or renew a social gambling certification card upon finding that the applicant has not, in the preceding ten years, violated any federal, state or local gambling law or regulation or committed any felony including theft, fraud, racketeering, coercion, bribery, perjury or obstructing justice, whether or not any criminal proceeding has been initiated or conviction obtained.

(3) Certification cards expire one year after the date of issue. Application for renewal may be made no earlier than 30 days prior to expiration.

(4) No certification card shall be issued or renewed until the findings required in division (A)(2) above have been made and the applicant has paid the fee set by the City Council.

(B) An owner of a social gambling premises shall:

(1) Conspicuously post and maintain in plain view of all areas where social games are played, a sign provided by the city setting forth a summary of the requirements for social gambling prescribed by this chapter or rules adopted hereunder;

(2) Clearly designate the areas set aside for social gambling;

(3) Designate an agent or employee to act as person in charge of a social gambling premises whenever social games are being played. An owner shall be strictly liable for any violation of this chapter which occurs when no person in charge is present at the social gambling premises;

(4) Designate as a person in charge only those persons who hold a valid social gambling certification card issued by the city; and

(5) Be strictly liable for any violation, of the provisions of this chapter by a person in charge, agent, employee or designate.

(C) (1) An owner of a social gambling premises and any person in charge shall:

(a) Obtain and maintain a valid social gambling certification card from the city;

(b) Obtain and maintain a valid social gambling certification card from the city;

(c) Report to the city in writing within seven days any violation of any offenses described in division (A)(2) above;

(d) Inform the city in writing within 24 hours of any reasonable suspicion of improper play;

(e) Comply with all applicable federal, state and local laws and regulations;

(f) Make all social gambling premises available to the city for inspection upon request;

(g) Not permit improper play;

(h) Not cause or permit there to be a house bank, house odds, house player or house income form the operation of social games;

(i) Not permit social games to be played on any social gambling premises in which the sign required by division (B)(1) above is not conspicuously posted;

(j) Not participate in social games while on the social gambling premises;

(k) Not charge any participant in a social game a price for any consumer good that is higher or lower than the price charged to non-participants;

(l) Not accept any payment, fee, service or gratuity as consideration for the participation on or for the privilege of participating in social games;

(m) Not permit social games to be played in any area which cannot be observed from the main portion of the social gambling premises;

(n) Not permit social games to be played in violation of the rules adopted under this chapter;

(o) Not permit social games to be played unless the owner or person in charge is actively supervising the play; and/or (The supervisor shall not participate in any social game.)

(p) Not permit disorderly persons in a social gambling premises.
(Ord. 775, passed 9-17-92) Penalty, see § 10.99

CHAPTER 115: TOBACCO PRODUCTS

Section

- 115.01 Definitions
- 115.02 License requirement
- 115.03 License fee
- 115.04 Non-transferability of license
- 115.05 Sales to minors
- 115.06 Vendor-assisted sales
- 115.07 Non-retaliation
- 115.08 Notice
- 115.09 Hearing

- 115.99 Penalty

§ 115.01 DEFINITIONS.

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

LICENSE. A license issued by the City of Oakridge for the retail sale of tobacco products.

LICENSEE. The holder of a valid license for the retail sale of tobacco products.

MINOR. Any person under 18 years of age.

SELF-SERVICE DISPLAYS. Open display of tobacco products that the public has access to without the intervention of a store employee.

TOBACCO PRODUCT. Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco, which may be utilized for smoking, chewing, inhalation, or other means of ingestion.

VENDOR-ASSISTED. Only a store employee has access to the tobacco product and assists the customer by supplying the tobacco products. The customer does not take possession of the tobacco product until after it is purchased.
(Ord. 863, passed 3-6-03)

§ 115.02 LICENSE REQUIREMENT.

(A) It shall be a violation of this chapter for a retailer to sell tobacco products unless that retailer holds a valid license from the city for each location in which tobacco products are sold. All such licenses shall be renewed annually on or before December 31.

(B) Any license issued in accordance with the provisions of this chapter shall remain the property of the city, and upon expiration, revocation, or suspension, it shall be returned to the city. If a license is lost or destroyed, it may be replaced upon the payment by the applicant of a fee as set forth in § 115.03.

(Ord. 863, passed 3-6-03; Am. Ord. 867, passed 6-18-03) Penalty, see § 115.99

§ 115.03 LICENSE FEE.

No tobacco retailer's license shall be issued or continue to be valid unless the holder thereof has paid the fees as required by resolution of the City Council at the time the application is submitted to the city.
(Ord. 863, passed 3-6-03) Penalty, see § 115.99

§ 115.04 NON-TRANSFERABILITY OF LICENSE.

A license is non-transferable.

(Ord. 863, passed 3-6-03) Penalty, see § 115.99

§ 115.05 SALES TO MINORS.

It shall be a violation of this chapter for a retailer to sell or otherwise provide tobacco products to minors under 18 years of age. The prohibition of this division does not apply if the retailer is the custodial parent or guardian of the minor.

(Ord. 863, passed 3-6-03) Penalty, see § 115.99

§ 115.06 VENDOR-ASSISTED SALES.

It shall be a violation of this chapter for any person, business, or tobacco retailer to sell, permit to be sold, or offer for sale any tobacco product by means of self-service displays or any means other than vendor-assisted sales.

(Ord. 863, passed 3-6-03) Penalty, see § 115.99

§ 115.07 NON-RETALIATION.

It shall be a violation of this chapter for any person or employer to discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this chapter.

(Ord. 863, passed 3-6-03) Penalty, see § 115.99

§ 115.08 NOTICE.

(A) Unless otherwise provided, prior to the revocation or suspension of a license issued under this chapter, the City Manager or his/her designee shall

provide a notice to the holder of said license. The notice shall contain the following information:

(1) The name and title of the person issuing the notice;

(2) The date on which the fine, suspension, or revocation will become effective;

(3) The reason for the fine, suspension or revocation;

(4) That the licensee may request a hearing regarding the fine, revocation, or suspension;

(5) That the request for a hearing must be made in person or in writing and received by the City Manager within ten days after receipt of the notice of penalty;

(6) That failure to request a hearing within ten days after receipt of the notice or by the notice's return by the Postal Service shall act as a waiver of the right to a hearing and the fine, revocation, or suspension will, if applicable, become effective on the date included in the notice.

(Ord. 863, passed 3-6-03)

§ 115.09 HEARING.

(A) Upon request for a hearing as provided in § 115.08, a hearing shall be held before the City Council. The hearing shall be conducted at a regular Council meeting within 25 days after the request for hearing is filed with the city. The hearing can be set for a later day if the applicant or licensee so requests.

(B) At the hearing, the applicant or licensee may contest the fine, suspension, revocation or denial.

(C) If the City Council finds that the applicant is not eligible for a license, the City Council shall

2005 S-1

declare the license application denied. If the City Council finds that the fine, suspension, or revocation is in accordance with this chapter, then that fine, suspension, or revocation shall take effect immediately. The action of the City Council is final.

(D) If the applicant or licensee does not appear at the scheduled hearing, the City Council may move to deny, fine, revoke, or suspend the licensee or applicant.
(Ord. 863, passed 3-6-03)

§ 115.99 PENALTY.

(A) *License holder penalties.* Any licensee who violates any provision of this chapter other than § 115.02 shall be assessed penalties and/or have their license suspended as follows:

(1) In the case of a first violation within

any two-year period, the licensee shall be fined \$200 and shall be notified in writing of penalties levied for further violations.

(2) In the case of a second violation within any two-year period, the licensee shall be fined \$350, and the license shall be suspended and the suspended retailer shall be ineligible to apply for a new license for 45 days after the effective date of the suspension.

(3) In the case of three or more violations within any two-year period, the licensee shall be fined \$500, and the license shall be revoked and the revoked retailer shall be ineligible to apply for a new license for six months after the effective date of the revocation.

(B) *Penalty for selling tobacco without a license.* Violators of § 115.02 are subject to a fine of \$500 for each day a violation occurs.
(Ord. 863, passed 3-6-03)

CHAPTER 116: MOTOR VEHICLE FUEL DEALERS

Section

- 116.01 Definitions
- 116.02 Tax imposed
- 116.03 Amount and payment
- 116.04 License requirements
- 116.05 License applications and issuance
- 116.06 Failure to secure license
- 116.07 Suspension and revocation of license
- 116.08 Cancellation of license
- 116.09 Remedies cumulative
- 116.10 Payment of tax and delinquency
- 116.11 Monthly statement of dealer
- 116.12 Failure to file monthly statement
- 116.13 Billing purchasers
- 116.14 Failure to provide invoice or delivery tag
- 116.15 Transporting motor vehicle fuel in bulk
- 116.16 Exemption of export fuel
- 116.17 Sales to Armed Forces exempted
- 116.18 Fuel in vehicles coming into city not taxed
- 116.19 Refunds
- 116.20 Examinations and investigations
- 116.21 Limitation on credit for or refund of overpayment and on assessment of additional tax
- 116.22 Examining books and accounts of carrier of motor vehicle fuel
- 116.23 Records to be kept by dealers
- 116.24 Records to be kept three years
- 116.25 Use of tax revenues

§ 116.01 DEFINITIONS.

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

CITY. The City of Oakridge.

DEALER. Any person who:

(1) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in the city, but **DEALER** does not include any person who imports into the city motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer hereunder if that dealer assumes liability for the payment of the applicable license tax to the city; or

(2) Produces, refines, manufactures or compounds motor vehicle fuels in the city for export or for use, distribution or sale in the city; or

(3) Acquires in the city for sale, use or distribution in the city motor vehicle fuels with respect to which there has been no license tax previously incurred.

DISTRIBUTION. In addition to its ordinary meaning, the delivery of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service

2005 S-1

station, tank or storage facility is owned, operated or controlled by the dealer.

HIGHWAY. Every street, road, way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

MOTOR VEHICLE. All vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

MOTOR VEHICLE FUEL. Includes gasoline, diesel, mogas, methanol and any other flammable or combustible gaseous, liquid, or solid substance, by whatever name such substance is known or sold, usable as fuel for the operation of motor vehicles except a substance, the chief use of which, as determined by the Tax Administrator, is for purposes other than the propulsion of motor vehicles upon the highways.

PERSON. Includes every natural person, association, firm, partnership, corporation, joint venture or other business entity.

SERVICE STATION. Any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

TAX ADMINISTRATOR. The City Administrator, the City Administrator's designee, or any person or entity with whom the City Administrator contracts to perform those duties. (Ord. 876, passed 12-16-04)

§ 116.02 TAX IMPOSED.

A business license tax is hereby imposed on every dealer. This tax is in addition to any other business license fee imposed by the city. The tax

imposed shall be paid monthly to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the business license tax, including all powers specified in O.R.S. 319.010 to 319.430. (Ord. 876, passed 12-16-04)

§ 116.03 AMOUNT AND PAYMENT.

In addition to any fees or taxes otherwise provided for by law, every dealer engaging in the city in the sale, use or distribution of motor vehicle fuel shall:

(A) Not later than the 25th day of each calendar month, render a statement to the Tax Administrator on forms prescribed, prepared and furnished by the Tax Administrator of all motor vehicle fuel sold, used or distributed by him or her in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month.

(B) Pay a license tax computed on the basis of \$0.03 per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this code. (Ord. 876, passed 12-16-04)

§ 116.04 LICENSE REQUIREMENTS.

No dealer shall sell, use or distribute any motor vehicle fuel until he or she has secured a dealer's license as required herein. (Ord. 876, passed 12-16-04)

2005 S-1

§ 116.05 LICENSE APPLICATIONS AND ISSUANCE.

(A) Every person, before becoming a dealer in motor vehicle fuel in this city, shall make application to the Tax Administrator for a license authorizing such person to engage in business as a dealer.

(B) Applications for the license shall be made on forms prescribed, prepared and furnished by the Tax Administrator.

(C) Applications shall be accompanied by a duly acknowledged certificate containing:

(1) The business name under which the applicant transacts business;

(2) The address of the applicant's principal place of business and location of distributing stations in the city; and

(3) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership or, if a corporation, the name under which the corporation is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.

(D) If an application for a motor vehicle fuel dealer's license is complete and accepted for filing, the Tax Administrator shall issue to the dealer a license in such form as the Tax Administrator may prescribe to transact business in the city, provided, however, that the Tax Administrator may refuse to issue such license if it finds that the applicant meets any of the conditions for refusal to issue a license under state law. A license issued hereunder is not assignable and is valid only for the dealer in whose name it is issued.

(E) The Tax Administrator shall retain all completed applications with an alphabetical index thereof, together with a record of all licensed dealers. (Ord. 876, passed 12-16-04)

§ 116.06 FAILURE TO SECURE LICENSE.

(A) If a dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and obtaining the license required by § 116.05:

(1) The license tax on all motor vehicle fuel sold, distributed or used by that dealer shall be immediately due and payable.

(2) The Tax Administrator shall proceed forthwith to determine, from as many available sources as the Tax Administrator determines reasonable, the amount of tax due, shall assess the dealer for the tax in the amount found due, together with a penalty of 100% of the tax, and shall make its certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty or both, the certificate shall be prima facie evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty stated.

(3) Any tax or penalty assessed pursuant to this section may be collected in the manner prescribed in § 116.10 with reference to delinquency in payment of the fee or by an action at law.

(B) In the event any suit or action is instituted to enforce this section, if the city is the prevailing party, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law. (Ord. 876, passed 12-16-04)

§ 116.07 SUSPENSION AND REVOCATION OF LICENSE.

The Tax Administrator may, to the extent permitted by law, suspend and, upon ten days written notice, revoke the license of any dealer who fails to comply with any provision of this chapter. The Tax Administrator shall mail, by certified mail addressed to the dealer at his or her last known address appearing in the files of the Tax Administrator, a notice of intent to cancel. The notice of revocation shall include the reason for cancellation.

(Ord. 876, passed 12-16-04)

§ 116.08 CANCELLATION OF LICENSE.

(A) The Tax Administrator may, upon written request of a dealer, cancel a license issued to that dealer. The Tax Administrator shall, upon approving the dealer's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the license shall no longer be effective.

(B) The Tax Administrator may, after 30 days' notice has been mailed to the last known address of the dealer, cancel the license of dealer upon finding that the dealer is no longer engaged in the business of a dealer.

(Ord. 876, passed 12-16-04)

§ 116.09 REMEDIES CUMULATIVE.

Except as otherwise provided in §§ 116.10 and 116.11, the remedies provided in §§ 116.06 through 116.08 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this code.

(Ord. 876, passed 12-16-04)

§ 116.10 PAYMENT OF TAX AND DELINQUENCY.

(A) The license tax imposed by this chapter shall be paid to the Tax Administrator on or before the 25th day of each month.

(B) Except as provided in divisions (C) and (D) of this section, if payment of the license tax is not paid as required by division (A) of this section, a penalty of 1% of such license tax shall be assessed and be immediately due and payable.

(C) Except as provided in division (D) of this section, if the payment of the tax and penalty, if any, is not made on or before the first day of the next month following that month in which payment is due, a further penalty of 10% of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in division (B) of this section and shall be immediately due and payable.

(D) Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to § 116.06. The Tax Administrator may for good cause shown waive any penalties assessed under this section.

(E) If any person fails to pay the license tax or any penalty provided for by this section, the tax and/or penalty shall be collected from that person for the use of the city. The Tax Administrator shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.

(F) In the event any suit or action is instituted to collect the business license tax or any penalty provided for by this section, if the city is the prevailing party, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial

or upon appeal of such suit or action, in addition to all other sums provided by law.
(Ord. 876, passed 12-16-04)

§ 116.11 MONTHLY STATEMENT OF DEALER.

Every dealer in motor vehicle fuel shall provide to the Tax Administrator on or before the 25th day of each month, on forms prescribed, prepared and furnished by the Tax Administrator, a statement of the number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.
(Ord. 876, passed 12-16-04)

§ 116.12 FAILURE TO FILE MONTHLY STATEMENT.

If a dealer fails to file any statement required by § 116.11, the Tax Administrator shall proceed forthwith to determine from as many available sources as the Tax Administrator determines reasonable the amount of motor vehicle fuel sold, distributed or used by such dealer for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of fuel sold, distributed or used. The Tax Administrator shall immediately assess the dealer for the license tax upon the amount determined, adding thereto a penalty of 10% of the tax. The penalty shall be cumulative to other penalties provided in this code.
(Ord. 876, passed 12-16-04)

§ 116.13 BILLING PURCHASERS.

Dealers in motor vehicle fuel shall render bills to all purchasers of motor vehicle fuel. The bills shall

separately state and describe the different products sold or shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Tax Administrator are maintained.
(Ord. 876, passed 12-16-04)

§ 116.14 FAILURE TO PROVIDE INVOICE OR DELIVERY TAG.

No person shall receive and accept motor vehicle fuel from any dealer, or pay for the same, or sell or offer the motor vehicle fuel for sale, unless the motor vehicle fuel is accompanied by an invoice or delivery tag showing the date upon which motor vehicle fuel was delivered, purchased or sold and the name of the dealer in motor vehicle fuel.
(Ord. 876, passed 12-16-04)

§ 116.15 TRANSPORTING MOTOR VEHICLE FUEL IN BULK.

(A) Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such motor vehicle fuel, an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same.

(B) The person hauling such motor vehicle fuel shall, at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.
(Ord. 876, passed 12-16-04)

2005 S-1

§ 116.16 EXEMPTION OF EXPORT FUEL.

(A) The license tax imposed by § 116.02 shall not be imposed on motor vehicle fuel:

(1) Exported from the city by a dealer; or

(2) Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.

(B) In support of any exemption from license taxes claimed under this section other than in the case of stock transfers or deliveries in the dealer's own equipment, every dealer must execute and file with the Tax Administrator an export certificate in such form as shall be prescribed, prepared and furnished by the Tax Administrator, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as the Tax Administrator may require. The Tax Administrator may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Tax Administrator may, in a case where the Tax Administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate.

(C) Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.

(D) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city tax has not been paid and fail to export the same, or any portion

thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the Tax Administrator and the dealer from whom the motor vehicle fuel was originally purchased of his or her act.

(E) No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.

(F) In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his or her files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Tax Administrator. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

(Ord. 876, passed 12-16-04)

§ 116.17 SALES TO ARMED FORCES EXEMPTED.

The license tax imposed by §§ 116.02 and 116.03 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the Tax Administrator in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

(Ord. 876, passed 12-16-04)

2005 S-1

§ 116.18 FUEL IN VEHICLES COMING INTO CITY NOT TAXED.

Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for his or her own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in §§ 116.02 and 116.03 or complying with any of the provisions imposed upon dealers herein. However, if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the city shall be subject to all the provisions herein applying to dealers.

(Ord. 876, passed 12-16-04)

§ 116.19 REFUNDS.

Refunds will be made pursuant to applicable portions of O.R.S. Chapter 319. Claim forms for refunds may be obtained from the Tax Administrator's office.

(Ord. 876, passed 12-16-04)

§ 116.20 EXAMINATIONS AND INVESTIGATIONS.

The Tax Administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of dealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the Tax Administrator pursuant to the

requirements herein have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, the Tax Administrator may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigation. The dealer shall reimburse the city for the reasonable costs of the examination or investigation if the action discloses that the dealer paid 95% or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the city, such additional payment shall be subject to interest at the rate of 12% per year from the date the original tax payment was due.

(Ord. 876, passed 12-16-04)

§ 116.21 LIMITATION ON CREDIT FOR OR REFUND OF OVERPAYMENT AND ON ASSESSMENT OF ADDITIONAL TAX.

(A) Except as otherwise provided in this code, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within three years after the date on which the overpayment was made to the city.

(B) Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this code shall be served on dealers within three years from the date upon which such additional taxes become due, and shall be subject to penalty as provided in § 116.10.

(Ord. 876, passed 12-16-04)

2005 S-1

§ 116.22 EXAMINING BOOKS AND ACCOUNTS OF CARRIER OF MOTOR VEHICLE FUEL.

The Tax Administrator or duly authorized agents of the Tax Administrator may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for the purpose of enforcing the provisions of this code.
(Ord. 876, passed 12-16-04)

§ 116.23 RECORDS TO BE KEPT BY DEALERS.

Every dealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the Tax Administrator of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the Tax Administrator or authorized officers or agents of the Tax Administrator.
(Ord. 876, passed 12-16-04)

§ 116.24 RECORDS TO BE KEPT THREE YEARS.

Every dealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Tax Administrator. In the event such records are not kept within the State of Oregon, the dealer shall reimburse the Tax Administrator for all travel, lodging, and related expenses incurred by the Tax Administrator in examining such records. The amount of such expenses shall be assessed in addition to the tax imposed by § 116.06.
(Ord. 876, passed 12-16-04)

§ 116.25 USE OF TAX REVENUES.

(A) For the purpose of this section, net revenue shall mean the revenue from the tax and penalties imposed by this chapter remaining after providing for the cost of administration and any refunds and credits authorized herein.

(B) The net revenue shall be used only for the construction, reconstruction, improvement, repair, maintenance, operation, and use of public highways, roads and streets within the city.
(Ord. 876, passed 12-16-04)

CHAPTER 117: TELECOMMUNICATIONS PROVIDERS

Section

- Telecommunications Operations License***
- 117.01 Definitions
 - 117.02 Telecommunications utility license required
 - 117.03 License application
 - 117.04 Determination by city
 - 117.05 Effect of utility license
 - 117.06 Nonexclusive grant
 - 117.07 Rights granted
 - 117.08 Term of grant
 - 117.09 Coordination of activities
 - 117.10 Amendment of license
 - 117.11 Renewal applications
 - 117.12 Renewal determinations
 - 117.13 Obligation to cure as condition of renewal

Utility License; Fees and Compensation

- 117.30 Purpose
- 117.31 Application and review fee
- 117.32 Other city costs
- 117.33 Compensation for city property
- 117.34 Regulatory fees and compensation not a tax
- 117.35 Penalties and interest for late payment

Telecommunications Utility License Fee

- 117.50 Telecommunications provider fee imposed
- 117.51 Minimum fee
- 117.52 Returns
- 117.53 Gross revenue

- 117.54 Exemptions and credits
- 117.55 Penalties and interest
- 117.56 Lien

TELECOMMUNICATIONS OPERATIONS LICENSE

§ 117.01 DEFINITIONS.

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

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

CABLE ACTS. The Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, as amended by The Telecommunications Act of 1996 and as hereafter amended.

CABLE OPERATOR. An entity providing or offering to provide "cable service" within the city as that term is defined in the Cable Acts.

CABLE SERVICE. Shall have the same meaning as defined in the Cable Acts.

EXCESS CAPACITY. The volume or capacity in any existing or future duct, conduit, maintenance hole, handhole or other utility facility within the public way that is or will be available for use for additional telecommunications facilities, including that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Public Utility Commission, to allow its use by a telecommunications carrier for a pole attachment.

FCC or FEDERAL COMMUNICATIONS COMMISSION. The Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

LICENSEE. Any entity granted a license hereunder.

OVERHEAD FACILITIES. Utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

PERSON. Any individual or entity engaging in activities regulated by this chapter.

PUBLIC STREET. Any highway, street, alley or other public right-of-way dedicated for motor vehicle travel under the jurisdiction and control of the city.

PUBLIC UTILITY EASEMENT. Any easement granted to the city, acquired, established, dedicated or devoted for access for public utility facilities for construction, operations, and maintenance purposes.

PUBLIC WAY. Includes all public streets owned by the city and public utility easements granted to the city, as those terms are defined herein, but only to the

extent of the city's right, title, interest or authority to grant permission to occupy and use such streets and easements.

TAX ADMINISTRATOR. The City Administrator of the city or designee.

TELECOMMUNICATIONS CARRIER. Includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications service.

TELECOMMUNICATIONS FACILITIES OR SYSTEM. The plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications service.

TELECOMMUNICATIONS PROVIDER. Includes every person who provides telecommunications service over telecommunications facilities.

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

UNDERGROUND FACILITIES. Utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

USABLE SPACE. The total distance between the top of a utility pole and the lowest possible

2005 S-1

attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Public Utility Commission.

UTILITY. Any telecommunications utility as defined in O.R.S. 759.005(1), and telecommunications carrier, telecommunications provider or other entity providing telecommunications services.

UTILITY FACILITIES. The plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the public ways of the city and used or to be used for the purpose of providing utility services. The term shall include all such things owned by the utility and all such things as the utility shall have a property interest in, including things held by the utility or on its behalf under a lease, rental agreement or indefeasible right of use for a term of years.

UTILITY SERVICES. All services provided by a utility to customers located within the city limits or provided to customers wherever located using facilities physically located within the city limits. (Ord. 877, passed 12-16-04)

§ 117.02 TELECOMMUNICATIONS UTILITY LICENSE REQUIRED.

A telecommunications utility license shall be required of any utility who desires to provide telecommunications service to persons in the city or to persons or areas outside the city using facilities located in the city. No utility shall provide services within the city nor shall such utility provide services outside the city using facilities located within the city unless licensed as provided herein. Any violation of the provisions of this chapter shall be a misdemeanor punishable in accordance with city ordinances.

Utilities who utilize facilities of another licensed utility for the distribution of their services shall be required to have a separate license. The purpose of licensing under this chapter is to:

(A) Provide the city with accurate and current information concerning the utilities who offer telecommunications services within the city, or that own or operate utility facilities within the city;

(B) Assist the city in enforcement of this chapter;

(C) Assist the city in the collection and enforcement of any municipal taxes, franchise fees, license, permit or other fees or charges that may be due the city;

(D) Assist the city in monitoring compliance with local and, to the extent authorized by law, with state and federal laws. (Ord. 877, passed 12-16-04)

§ 117.03 LICENSE APPLICATION.

Any utility that is required to have a telecommunications utility license shall file an application, using the form provided for such purpose, with the city, which shall include the following information:

(A) The identity of the license applicant, including all affiliates of the applicant.

(B) A description of the telecommunications services that are or will be offered or provided by licensee.

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

2005 S-1

approvals include, without limitation, any land use decisions. In the event any other required government approval is not obtained, any license granted hereunder shall be subject to modification to reflect the absence of such approval upon the city's discovery of or notice of the absence of required information.

(D) Identification of any adverse circumstances affecting the use of the public way, and a description of efforts to mitigate such circumstances.

(E) All fees, deposits or charges required pursuant to this chapter.
(Ord. 877, passed 12-16-04)

§ 117.04 DETERMINATION BY CITY.

(A) Within 120 days after receiving a complete application under § 117.32 hereof, the city shall, if the application conforms with the requirements of law, issue the license.

(B) If the application is denied, the denial shall be in writing and state the reasons for denial.
(Ord. 877, passed 12-16-04)

§ 117.05 EFFECT OF UTILITY LICENSE.

(A) The license granted hereunder shall authorize and permit the licensee, subject to other provisions of city ordinances and other applicable provisions of state or federal law, to operate in the city and provide the telecommunications services covered by the license. In addition to a grant of authority to operate within the city, and subject to other requirements of law regarding the activities involved in the placement of facilities in the public ways of the city, the license shall authorize the licensee to maintain facilities in, and occupy, the public ways of the city for so long as the licensee shall comply with the provisions of this code, and continue

to hold any and all licenses and permits required by state or federal law for the provision of such services as covered by this license; provided, however, that all work, construction, placement or operation of such facilities shall be in compliance with the provisions of the city code, including the Standard Construction Specification. Nothing in such license shall authorize the licensee to use the facilities or property of another, which use, if any, shall be subject to agreement with the owner of such facility or property and any applicable provisions of law. Nothing in such license shall operate or be construed as an approval of such business or a regulation of the practices of such business.

(B) The city reserves the right, in every event, without limitation, to:

(1) Construct, install, maintain and operate any public improvement, work or facility in, on, over or under the public ways;

(2) Perform or authorize or direct the performance of any work that the city may find desirable or convenient in, on, over or under any public way; or

(3) Vacate, alter, or close any public way; provided, however, that no vacation shall obligate a utility to remove or abandon any facility located within such public way; or

(4) Require, in the public interest, the removal or relocation, temporarily or permanently, of facilities maintained by the utility in the public ways of the city. The utility shall remove and relocate such facilities within 120 days after receiving notice in writing to do so from the city. Such removal or relocation shall be without cost or expense to the city, provided, however, that when such removal or relocation is required for the convenience or benefit of any private person, or non-governmental agency or instrumentality, the utility shall be entitled to

2005 S-1

reimbursement for the reasonable cost thereof from such person, agency or instrumentality, to the extent permitted by law.

(C) Whenever the city shall perform, or cause or permit to be performed, any work in the public way or the vicinity of the public way where such work may disturb or interfere with a utility's facilities, the city shall notify, or shall require its permittee to notify, in writing, the utility sufficiently in advance of such contemplated work to enable the utility to take such measures, including removal or relocation of such facilities, as may be deemed necessary to protect such facilities, at its own expense.

(D) The possession of a utility license from the city shall not provide the licensee with any right or privilege to alter or avoid any charge or cost allocation for the relocation of utility facilities, nor shall a license provide a different or greater claim for compensation than otherwise apportioned by law or agreement.
(Ord. 877, passed 12-16-04)

§ 117.06 NONEXCLUSIVE GRANT.

No license granted under this chapter shall confer any exclusive right, privilege, license or franchise to conduct business in the city, or to occupy or use the public ways of the city for delivery of utility services or any other purposes.
(Ord. 877, passed 12-16-04)

§ 117.07 RIGHTS GRANTED.

No license granted under this chapter shall convey any right, title or interest in the public ways, but shall be deemed a license only to conduct authorized activities within the city to offer telecommunications services and, where appropriate, to use and occupy the public ways for the limited

purposes and term stated in the grant. Further, no license shall be construed as any warranty of title.
(Ord. 877, passed 12-16-04)

§ 117.08 TERM OF GRANT.

Unless otherwise specified in a license agreement, a telecommunications license granted hereunder shall be in effect for a term of five years.
(Ord. 877, passed 12-16-04)

§ 117.09 COORDINATION OF ACTIVITIES.

Wherever possible, all holders of a license are directed to coordinate their activities affecting the public ways and shall be obliged to participate in coordination meetings to be held by the city for the purpose of facilitating such cooperation and coordination.
(Ord. 877, passed 12-16-04)

§ 117.10 AMENDMENT OF LICENSE.

A new license application and grant shall be required of any utility that desires to extend additional or different services in the city which are not included in a license previously granted under this chapter.
(Ord. 877, passed 12-16-04)

§ 117.11 RENEWAL APPLICATIONS.

A licensee that desires to renew its license under this chapter shall, not more than 180 days nor less than 90 days before expiration of the current license, file an application with the city for renewal of its license which shall include the information required for initial licensing.
(Ord. 877, passed 12-16-04)

2005 S-1

§ 117.12 RENEWAL DETERMINATIONS.

(A) Within 90 days after receiving a complete application under § 117.11 hereof, the city shall issue a written determination applying the following standards, as applicable, and, if the application conforms with the requirements of law, grant the application:

- (1) Demonstrated legal qualifications, financial and technical ability of the applicant;
- (2) Compliance with requirements of applicable state and federal laws and regulations; and
- (3) The applicant's compliance with the requirements of this chapter and other city ordinances.

(B) If the renewal application is denied, the written determination shall include the reasons for non-renewal.

(Ord. 877, passed 12-16-04)

§ 117.13 OBLIGATION TO CURE AS CONDITION OF RENEWAL.

No license shall be renewed until any existing violations or defaults in the licensee's performance of the requirements of this chapter have been cured or a plan detailing the corrective action to be taken by the licensee has been approved by the city.

(Ord. 877, passed 12-16-04)

UTILITY LICENSE; FEES AND COMPENSATION**§ 117.30 PURPOSE.**

It is the purpose of this subchapter to provide for the payment and recovery of all direct and indirect costs and expenses of the city related to the enforcement and administration of this chapter.

(Ord. 877, passed 12-16-04)

§ 117.31 APPLICATION AND REVIEW FEE.

(A) Any applicant for a license, including a renewal or amendment of an existing license, pursuant to §§ 117.01 through 117.13, shall pay a fee fixed by resolution of the Council.

(B) The application and review fee shall be deposited with the city as part of the application filed pursuant to §§ 117.01 through 117.13.

(C) An applicant whose license or franchise application has been withdrawn, abandoned or denied within 60 days of its application and review fee written request shall be refunded the balance of its deposit under this section, less:

(1) The non-refundable portion of the application and review fee, as fixed by resolution of the Council, or

(2) All ascertainable costs and expenses incurred by the city in connection with the application, whichever is greater.

(D) The council may elect to establish a graduated scale of application fees, reflecting the relative scope of utility activities within the city. Any applicant seeking to qualify for a reduced fee shall provide the necessary documentation at the time of

application showing eligibility for any fee reduction. The decision of the City Administrator regarding the applicability of a fee reduction shall be final. (Ord. 877, passed 12-16-04)

§ 117.32 OTHER CITY COSTS.

In addition to the application and review fee, all license or franchise grantees shall, within 30 days after written demand therefore, reimburse the city for all direct and indirect costs and expenses incurred by the city in connection with any issuance, modification, amendment, renewal or transfer of the license or franchise or any license or franchise agreement to the extent permitted by law. (Ord. 877, passed 12-16-04)

§ 117.33 COMPENSATION FOR CITY PROPERTY.

If the right is granted, by lease, license, franchise or other manner, to use and occupy city property other than the public ways for the installation of facilities, the compensation to be paid shall be fixed by the city and shall be separate and distinct from any fees and taxes imposed herein. (Ord. 877, passed 12-16-04)

§ 117.34 REGULATORY FEES AND COMPENSATION NOT A TAX.

The regulatory fees and costs provided for in this chapter, and any compensation charged and paid for city property provided for in § 117.33, are separate from, and additional to, any and all federal, state, local and city taxes as may be levied, imposed or due from a utility, its customers or subscribers, or on account of the lease, sale, delivery or transmission of utility services. (Ord. 877, passed 12-16-04)

§ 117.35 PENALTIES AND INTEREST FOR LATE PAYMENT.

If any fee provided for herein shall not be timely paid, a penalty in the amount of 10% of such fee shall be assessed and due as of the date the underlying fee was due. Interest on fees and penalties shall accrue at the rate of 1.5% per month, commencing with the fifteenth day after the fee or penalty shall be due. (Ord. 877, passed 12-16-04)

TELECOMMUNICATIONS UTILITY LICENSE FEE

§ 117.50 TELECOMMUNICATIONS PROVIDER FEE IMPOSED.

There is hereby imposed a fee in the amount of 5% of gross revenue upon the privilege of conducting a utility business and providing telecommunications services required to be licensed under § 117.02, upon any telecommunications provider required to be licensed, as defined herein, in consideration of the authority of such provider to conduct such business. (Ord. 877, passed 12-16-04)

§ 117.51 MINIMUM FEE.

In no event shall the fee due for any calendar year be less than:

(A) In the case of a telecommunications provider providing services within the city, \$500.

(B) In the case of a telecommunications provider not providing services within the city, the greater of the product of the number of linear feet of public ways occupied by the facilities of the taxpayer and \$3 per linear foot, or \$500.

(C) Licensees who can show that their gross annual revenues for services provided within the city are less than \$10,000 may apply for an exemption from the payment of the license fee. Where the Tax Administrator can determine from the evidence provided that the applicant for an exemption is providing less than the threshold amount of services within the city, and where the evidence shows that the applicant is receiving a concomitantly small advantage derived from doing business within the city, and where the administrative costs to the city of processing the license fee payments would exceed the benefit to the city, the Tax Administrator may grant an exemption. Such an exemption shall be good only for the calendar year granted.
(Ord. 877, passed 12-16-04)

§ 117.52 RETURNS.

(A) For purposes of calculating fees dues under this section, every telecommunications provider subject to licensing and fees shall pay such fee on the basis of a calendar year, and shall file, quarterly, before the 45th day following the end of a calendar quarter, a return certified by an officer of the provider showing the amount of fee due and accompanied by the amount due.

(B) Such return shall show the amount of gross revenue of the utility within the city for the period covered by the payment computed on the basis set out in this section, and shall show any offsets, deductions or credits against the revenue or the amount of fee due. The compensation for the period covered by the statement shall be computed on the basis of the gross revenue so reported. If the licensee fails to pay the entire amount of compensation due the city through error or otherwise, the difference due the city shall be paid by the licensee within 15 days from discovery of the error or determination of the correct amount, with interest at the rate of 9% per annum, compounded monthly. Any overpayment to the city through error

or otherwise shall be offset against the next payment due from the licensee.

(C) In the event a licensee files a return claiming the minimum fee provided by § 117.51 shall be due, the licensee shall nonetheless file a return as provided in division (B) hereof and shall, if claiming under § 117.51(B), file a report duly certified by an engineer, licensed to practice within the State of Oregon, setting forth the calculation of the number of linear feet of public way occupied by the licensee. After the first such report, the licensee claiming under § 117.51(B) may substitute for the engineer's report a statement from a person knowledgeable about such matters, attesting that no additional installations have been made, if such a statement can be made.

(D) The city may audit any return filed by the licensee and require the licensee to submit such information as shall reasonably be required to establish the accuracy of any payment of fee or return documenting the amount of fee due. In the event such audit shall disclose a discrepancy in favor of the city in excess of 5% of the amount paid, there is hereby imposed a penalty in the amount of 10% of the difference between the amount paid and the amount found, upon audit, to be due.

(E) Acceptance by the city of any payment due under this section shall not be deemed to be a waiver by the city of any rights to conduct such audit, nor shall the acceptance by the city of any such payments preclude the city from later establishing that a larger amount was actually due, or from collecting any balance due to the city.
(Ord. 877, passed 12-16-04)

§ 117.53 GROSS REVENUE.

For purposes of this chapter, gross revenue shall mean any and all revenue, of any kind, nature or form, without deduction for expense; all inflows or

2005 S-1

enhancements of assets or settlements of its liabilities (or a combination of both) of whatsoever kind and nature derived by the licensee and any affiliates, subsidiaries or parent of the licensee on account of goods or services from the licensee's ongoing operations delivered within the city. Gross revenue shall include any and all subsidies, discounts, rebates or other considerations or forbearances by the licensee associated with the delivery of such goods and services within the city. In determining gross revenues for the calculation of fees, the city shall consider mobile telecommunications services to occur within the city if they are used by a customer whose place of primary use is within the city. As used in this section, "place of primary use" means the residential street address or the primary business street address of the customer. The city shall apply this provision consistently with the Mobile Telecommunications Sourcing Act, 4 USC 116 to 126.

(Ord. 877, passed 12-16-04)

§ 117.54 EXEMPTIONS AND CREDITS.

If any licensee is a party to a franchise, public way use agreement, or other contract with the city which requires the payment of a fee for the use of the public ways of the city, any payments made under such agreement during the filing year shall be credited against any fee due hereunder to the extent the revenue upon which such payments are based is subject to taxation hereunder. Revenues not included in the franchise or other agreement but otherwise earned because of transactions in the city shall remain subject to the license fee.

(A) If a taxpayer asserts that any other provisions of local, state or federal law imposes a limit upon the revenue subject to taxation that can be imposed in connection with the use of public ways, such taxpayer shall file a return which:

(1) Itemizes the gross revenue subject to taxation under this chapter; and

(2) Itemizes the portion of such revenue that is subject to the limitation claimed to exist under other provisions of local, state or federal law.

(B) The tax liability of a taxpayer claiming a limitation on revenue subject to taxation shall be the sum of:

(1) The fee due hereunder on that portion of the taxpayers revenue not subject to the limitation; and

(2) On the portion of revenue subject to a limitation, the lesser of:

(a) The fee due under this chapter; or

(b) The tax due under the other provision of local, state or federal law.

(C) Any licensed utility shall be allowed, as a credit against taxes due hereunder, the reasonable value of any and all services rendered to or goods provided to the city without fee, if any, during the preceding calendar year.

(Ord. 877, passed 12-16-04)

§ 117.55 PENALTIES AND INTEREST.

(A) If any payment due hereunder shall not be timely made, there is imposed a penalty in the amount of 10% of the amount due.

(B) Interest on any payment not timely made, and upon all penalties imposed, shall accrue at the annual rate of 9%, compounded daily, for each day beyond the due date, until the date paid.

(Ord. 877, passed 12-16-04)

§ 117.56 LIEN.

(A) The fee imposed by § 117.50, together with the interest and penalties provided by § 117.55 and the filing fees paid to the Department of Records of Lane County, Oregon, and auditing or other costs which may be incurred when the fee becomes delinquent under § 117.52 shall be, and until paid remain, a lien from the date of its recording with the Department of Records of Lane County, Oregon, and superior to all subsequent recorded liens on all real property or tangible personal property of the licensee located within the city and may be foreclosed on and sold as necessary to discharge the lien, if the lien has been so recorded. Notice of lien may be issued by the Tax Administrator whenever the operator is in default in the payment of the fee, interest and penalty, and shall be recorded with the Department of Records and a copy sent to the delinquent licensee. The personal property subject to the lien and seized by any deputy of the Tax Administrator may be sold by the Tax Administrator at public auction after 10 days notice thereof published in a newspaper in the city.

(B) Any such lien as shown on the records of the Department of Records shall, upon the payment of the fees, penalty and interest for which the lien has been imposed, be released by the Tax Administrator when their full amount has been paid to the city. The person making the payment shall receive a receipt therefore stating that the full amount of the fees, penalties, and interest have been paid and that the lien is thereby released and the record of lien satisfied.
(Ord. 877, passed 12-16-04)