

Chapter 3

BUSINESS REGULATIONS AND TAXATION

Business Regulations - General

3.005 For the purposes of this chapter, the following words and phrases shall mean:

General

City manager. City manager or designee.

License. Includes licenses, certifications, or permits.

Licensee. Includes all persons possessing licenses, certifications or permits.

Principal. Includes all owners, shareholders, partners, directors, officers and managers of a business.

Material Information. Any information requested as part of the application process either for a new license, permit or certification, or a renewal of an existing license, permit or certification.

Special event. An activity, use, or event of a type normally regulated, permitted or licensed under provisions of this code, except that the activity, use, or event occurs only on a scheduled date(s) for a period of time not to exceed 14 calendar days.

Licensed Businesses

Alarm Systems. For purposes of sections 3.105 to 3.115, the following words and phrases mean:

Alarm central station. The business of any individual, partnership, corporation or other entity of monitoring the status of alarm systems not at the alarm central station location and reporting any alarm activations or changes in status to any police, fire, public safety or other governmental agency.

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Audible alarm system. Any fire alarm system that upon activation, causes to be activated, in the immediate vicinity, any siren, bell, buzzer or other type of sound-emitting device that is designed for or expected to notify persons in the vicinity of an activation of the alarm system.

Automatic dialing device. A device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response. Such a device is an alarm system.

Emergency response services. Police, fire and/or emergency medical services.

False alarm. A report received by the city from any source that results in a dispatch of emergency response services personnel to the premises on which a fire alarm system is located, (when a situation requiring a response does not in fact exist), but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the property owner, alarm business operator or alarm user. Use of a fire alarm system for a purpose other than its specific intended use constitutes a false alarm. A false alarm does not necessarily require a response by the city to the premises.

Fire alarm business. The business of any individual, partnership, corporation or other entity selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any fire alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

Fire alarm system. A combination of approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signal in the event of fire or system activation. Fire alarm system, for purposes of this chapter, includes, but is not limited to audible alarm systems, local alarm systems, silent alarm systems and those devices designed to transmit a signal or a message to a central alarm receiving station. An alarm system, the existence of which is exempt from disclosure under the public records law, is not included within this definition and is not subject to the provisions of sections 3.105 to 3.115 of this code.

Fire alarm user. Any person, firm, partnership, association, corporation, company or organization of any kind that owns, leases,

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rents, controls or occupies any building, structure or facility wherein a fire alarm system is maintained on premises within the city.

Interconnect. To connect a fire alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

Local alarm system. Any fire alarm system that operates solely as an audible alarm system without the additional features of a silent alarm system.

9-1-1 Central Lane Communications Center. The multi-jurisdictional facility used to receive emergency and general information from the public to be dispatched to the respective police and fire departments utilizing the center.

Premises. Any building, structure, facility, property or land within the city.

Primary trunk line. A telephone line serving the 9-1-1 Central Lane Communications Center that is designated to receive emergency calls.

Silent alarm system. Any fire alarm system that, upon activation, causes to be transmitted to a remote location, any signal or message indicating activation of the fire alarm system that signals or conveys a message that is not normally audible to persons in the vicinity.

Sound emission cutoff feature. A feature of a fire alarm system which will cause an audible alarm to stop emitting sound.

Payday Loans.

Borrower. A natural person who receives a payday loan.

Cancel. To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

City Manager. The city manager or the manager's designee.

Payday lender. A "lender" in the business of making payday loans as defined in ORS 725.600.

Payday loan. A payday loan as defined by state law.

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Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

Private Commerce on Public Property:

Commerce. A transaction occurring on public property involving the sale of, or offer to sell, goods or services.

Downtown activity zone. As described in section 4.871 of this code.

License operating area. The sidewalk from the midpoint of one block length, as defined in section 9.0500 of this code, to the midpoint of a connecting block length on the same block.

Occupied vending unit. A pushcart or other non-motorized movable cart, stand, or device propelled, occupied by, or attached to a vendor and utilized to engage in commerce on a public way.

Outdoor cafe. A restaurant that provides seating in the adjacent public right-of-way for service of food and beverages to its patrons.

Park blocks. That area generally bounded by East 8th Avenue, West Park Street, South Park Street, and East Park Street.

Public property. Sidewalks, streets, alleys, plazas and parks, including improvements thereto.

Sidewalk. That portion of the street between the curb line or the lateral line of a roadway and the property line of the adjacent property.

Sidewalk commerce. Commerce occurring on a sidewalk.

Street vendor. A person who sells or offers for sale, or distributes goods or services on a public street as defined in section 9.0500 of this code.

Vending equipment. Items or dispensing units other than occupied vending units.

Vending location. The specific area within a license operating area for which a person is licensed under this chapter to engage in commerce on public property.

Vendor. Any person engaged in private commerce on public property.

Public Passenger Vehicles:

Accessible vehicle. Any public passenger vehicle for hire that is constructed and equipped to meet ADA standards for the non-emergency transportation of persons in wheelchairs, persons using other mobility aids, or with other mobility impairments.

ADA. Americans with Disabilities Act.

Business. Any business, institution, association, occupation, and calling of every kind.

Charter Vehicle. A motorized vehicle originating from the Eugene-Springfield Metropolitan Area, marked with the company's business name, operated for hire to transport a group of seven or more persons with the fare based on a group rate rather than an individual basis.

Club car service. Vehicular passenger transportation service provided by a business to club members or by a residence home to its residents.

Courtesy car service. Vehicular passenger transportation service provided by a business to its clients or customers at no cost.

Employee: Any person employed for remuneration or under any contract of hire, written or oral, express or implied, including independent contractors. All persons who drive public passenger vehicles, including any person who has an ownership interest in the company, shall be considered employees of the public passenger vehicle company for purposes of this chapter.

Manager. Any person in charge of the operation or management of the public passenger vehicle company, any person who can direct or control the activities and scheduling of the company's employees, and any person who can hire or fire the company's employees.

Motorized vehicle. A public passenger vehicle other than a horse-drawn carriage or a non-motorized bike cab.

Operator. Any person who is a principal in a public passenger vehicle company. A principal includes all owners, shareholders, partners, directors, officers and managers.

Public passenger vehicle. Any vehicle which is used for the transportation of passengers for hire, including, but not limited to, shuttles, horse-drawn carriages, non-motorized bike cabs, and

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taxicabs. However, the following shall not be considered public passenger vehicles for the purposes of this chapter:

1. Vehicles, other than shuttles, operated pursuant to written authority by the city, state, or federal governments, or political subdivision thereof;
2. Vehicles commonly known as rent-a-cars, that are rented to be driven by the renter or the renter's agent;
3. Courtesy car services;
4. Tour bus services;
5. First aid vehicle or medical transport vehicle as those terms are defined in section 3.005 of this code;
6. Club car services;
7. Limousine, as that term is defined in section 3.005 of this code.

Public passenger vehicle company. Any business which operates one or more public passenger vehicles, regardless of who owns the vehicles operated.

Shuttle. A motorized vehicle for hire that transports passengers between predetermined destinations (e.g. motels, airport, downtown passenger station), at fixed rates and on a fixed schedule.

Taxicab. A motorized vehicle that is operated for hire by the public passenger vehicle company, other than a shuttle, limousine, or charter.

Taxi meter. A mechanical or electronic device which calculates and displays a fare.

Tour bus. A motorized vehicle accepting individual passengers for a fare for sightseeing or guided tours, making occasional stops at certain points of interest and returning the passengers to their point of origin.

Transportation Network Company. A person or business that provides a digital or software application scheduling platform or service that enables a prospective passenger to connect to a vehicle-for-hire.

Transportation Network Driver. An employee or independent contractor of a transportation network company that operates a vehicle-for-hire by transporting passengers for compensation utilizing the transportation network company's digital or software application scheduling platform or service.

Transportation Network Vehicle. A vehicle-for-hire operated by a transportation network driver.

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Vehicle-for-Hire. A vehicle used for providing shared transport, which transports one or more passengers for a fee between locations of the passengers' choice, including, but not limited to, all public passenger vehicles and all transportation network vehicles.

Vehicle-for-Hire Company. All public passenger vehicle companies and all transportation network companies.

Solid Waste, Yard Debris and Recycling:

Collection route. Any public or private street, road or alley that is suitable for motorized vehicle travel and that is either used by the public, or abuts parcels of real estate occupied by not less than four of a licensee's residential solid waste collection customers.

Collector. The person who provides collection service.

Commercial. Stores; offices, including manufacturing and industrial offices; restaurants; multi-family dwellings; warehouses; schools; colleges and universities; hospitals; and other employment and industrial, manufacturing and non-manufacturing entities; but does not include business activities conducted in residential dwellings.

Compensation. Compensation includes:

- (a) Any type of consideration paid for service including, but not limited to, rent, the proceeds from resource recovery, any direct or indirect provision for the payment of money, goods, services or benefits by tenants, lessees, occupants or similarly situated persons;
- (b) The exchange of service between persons; and
- (c) The flow of consideration from a person owning, possessing or generating solid waste to another person who provides services or from a person providing services to another person owning, possessing or generating solid waste.

Curbside. When used with reference to residential waste and recycling collection, curbside is that area abutting a collection route that is within three feet of the curb or other line of demarcation of the edge of the collection route. A curbside area may be within the apron of a residential customer's driveway if no other useable curbside space is available. Curbside space does not include any area within a public or private roadway, including any portion of the roadway used for vehicle parking or as a bicycle lane.

Curbside collection. The collection of solid waste or recyclables placed at a curbside location.

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Customer. Those persons to whom a licensee provides collection service of solid waste, recyclable materials or yard debris.

Licensee. The person to whom a solid waste collection license is granted by the city pursuant to this code, to provide service and solid waste management service for compensation, or the person to whom a recycling collection license is granted by the city pursuant to this code, to provide collection of recyclable materials.

Multi-family dwelling. A building or group of buildings on a single development site used for occupancy by three or more families, living independently of each other and having separate housekeeping facilities for each family.

Person. The United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, trust, firm, estate or other private legal entity.

Rate. The fee set by administrative rule that collectors are allowed to charge their customers.

Recyclable materials. Any material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and is separated from solid waste that will be transported to a transfer station or landfill, either by the generator or at the material recovery facility.

Recycling. Any process by which solid waste materials are transformed into new products in a manner that the original products may lose their identity.

Refuse. Solid waste as defined in this code.

Residence. Any dwelling unit in the city that is a duplex or smaller where at least 50 percent of the use of the building is residential, regardless of whether it has solid waste collection in individual cans, carts or containers. The term "residence" does not include any multi-family dwelling as defined in this section.

Residential. Of or pertaining to a residence as defined in this section.

Service. The provision of collection, transportation or disposal of solid waste, residential recycling, or yard debris.

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Solid waste. All putrescible and non-putrescible wastes, including, but not limited to, garbage, rubbish, refuse, ashes, paper and cardboard, useless or discarded commercial, industrial, demolition and construction materials, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386. Excluding discarded or abandoned vehicles or parts thereof; sewage, sludge, septic tank and cesspool pumpings or other sludge; discarded home or industrial appliances; hazardous wastes as defined in ORS 466.005; materials used as fertilizers or for other productive purposes; recyclable materials which have been source separated for collection.

Solid waste collection license. A license which allows the holder to provide collection of solid waste, yard debris, or recyclables within the city limits of Eugene.

Solid waste collector. The person who provides solid waste, yard debris, or recyclable collection service on a regular, recurring schedule.

Source separate. To separate recyclable materials from solid waste by the person who last uses the recyclable material.

Vehicle. Any motorized equipment used to collect and/or transport solid waste or recyclable.

Yard debris. Includes grass clippings, leaves, hedge trimmings, branches that are less than four inches in diameter and fit inside the yard debris cart, and similar vegetative waste but does not include dirt, rocks, metal, or other non-vegetative solid waste.

Telecommunications:

Cable service.

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

Cable System. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community. A reference to a cable system includes pedestals, equipment enclosures (such as equipment cabinets), amplifiers, power guards, nodes, cables, fiber optics and other equipment necessary to

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operate the cable system. As used herein, cable system does not include:

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

Communications facility. Refers to a telecommunications facility, cable system, or open video system.

License. Refers to the authorization granted by the city to an operator of a communications facility, giving the operator the non-exclusive right to provide, through facilities maintained or operated upon, across, beneath, or over any public right-of-way in the city, a specified service within a license area. Any such authorization, in whatever form granted, shall not exempt the licensee from the need to obtain any other permit, registration or authorization required by this code, including but not limited to:

- (a) The registration required by section 3.405 of this code;
- (b) Any permit, agreement or authorization required in connection with operations in the public right-of-way or on other public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along public rights-of-way.

FCC. The Federal Communications Commission or its designee.

Gross Revenues. Any and all revenue, of any kind, nature or form, without deduction for expense.

Open Video System, or "OVS". A facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service, which includes video programming, which is provided to multiple subscribers within a community, and which the Federal Communications Commission or its successor has certified as compliant with Part 76 of

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the Rules of the Federal Communications Commission, 47 C.F.R., Part 76, as amended from time-to-time.

Operator. A person who provides telecommunications services.

When used with reference to a system, refers to a person:

- (a) Who provides, or intends to provide, service over a communications facility and directly or through one or more affiliates owns a significant interest in such facility; or
- (b) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a facility.

A person that leases a telecommunications facility or a specific portion of a telecommunications facility to provide telecommunications services shall be treated as an operator for purposes of this code.

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

Private communications system. A facility placed in whole or in part in the public right of way for the provision of communications solely in connection with a private communications system owner's business, but not encompassing the provision of telecommunications services for hire to others or in any respect the provision of telecommunications services.

Registration. The provision of information to the city by an operator or other person engaged in telecommunications activities, pertaining to telecommunications activity within the city. The information shall be submitted on a form provided by the city and in such additional documents as the city may require, and shall be accompanied by an application fee in an amount set by the city manager pursuant to section 2.020 of this code.

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

Telecommunication activities. Telecommunication activities include telecommunication services, cable service, OVS services, and private communication system services.

Telecommunications facility. A facility that is used to provide one or more telecommunications services. The term telecommunications facility includes radio transmitting towers, other supporting structures, and associated facilities, including fiber, used to transmit

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telecommunications signals. An open video system is not a telecommunications facility to the extent that it provides only video services; a cable system is not a telecommunications facility to the extent that it provides only cable service.

Telecommunications services. The transmission for hire, of information in electromagnetic frequency, electronic or optical form, including, but not limited to, voice, video, or data, whether or not the transmission medium is owned by the provider itself, and whether or not the transmission medium is wireline or wireless. Telecommunications service includes all forms of telephone services and voice, data and video transport, but does not include: (1) cable service; (2) OVS service; (3) private communications system services; (4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996.

Tobacco Products Retail Licenses:

Minor. Any person under 18 years of age.

Retailer. For purposes of sections 3.500 to 3.515 of this code, a retailer is a person or entity who sells, or offers for sale, merchandise to the general public.

Self-service display. An open display of tobacco products to which the public has access 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 sales. Sales in which a customer has no access to tobacco products without the assistance of a store employee and in which a customer does not take possession of the tobacco product until it is purchased.

Uniform Business Practices

Commercial Solicitor:

Commercial Solicitor. A person who goes from house to house or place to place, selling or taking orders or offering to sell or take orders for goods or services for present or future delivery, or for the making, manufacturing, or repairing of an article or thing for present or future delivery, except a person selling to merchants for resale. Commercial solicitors do not include:

Persons selling or taking orders for the sale of fruits, vegetables, dairy products, poultry, meats, or farm products raised or produced by themselves;

Carriers of newspapers of general circulation or

Charitable solicitors.

Solicitor employer. A person who employs one or more commercial solicitors.

First Aid and Medical Transport Vehicles:

Ambulance services. The transportation of an ill, injured or disabled individual and, in connection therewith, the administration of pre-hospital and out-of-hospital medical, emergency or non-emergency care, if necessary.

Emergency care. The performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or disabled, or in the administration of care or medications as prescribed by a licensed physician, insofar as any of those acts is based upon knowledge and application of the principles of biological, physical and social science.

First aid care. The performance of non-emergency care of a type not requiring consultation with a physician, on a patient whose medical condition will not require evaluation or observation during transport.

First aid vehicle. Any motor vehicle for hire that is constructed, equipped or regularly provided for the transportation in the sitting or

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non-recumbent position of persons, and in connection therewith the rendering of first aid care as defined in this chapter.

First aid vehicle operator. Any person engaged in the operation of a first aid vehicle.

First aid vehicle owner. Any person engaged in the business of providing first aid vehicle services.

Non-emergency care. The performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a licensed physician, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science.

Medical transport vehicle. Any motor vehicle for hire that is constructed, equipped or regularly provided for the transportation in the sitting or non-recumbent position of non-ambulatory or medically impaired persons not requiring ambulance services as defined in this chapter.

Medical transport vehicle operator. Any person engaged in the operation of a medical transport vehicle.

Medical transport vehicle owner. Any person engaged in the business of providing medical transport vehicle services.

Limousine:

Limousine. An unmarked luxury class motor vehicle that is operated for hire on a reserved, hourly basis, and used on a prearranged basis for special or business functions, weddings, funerals or similar purposes.

Social Gambling:

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 a social gambling premises. When a corporation is owner or operator, the term shall include any substantial shareholder and all

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corporate officers and directors. A substantial shareholder is one who owns at least ten percent 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 on a social gambling premises.

Place of public accommodation. Any place offering to the public accommodations, advantages, facilities or privileges whether in the nature of goods, services, lodgings, amusements or otherwise. However, a place of public accommodation does not include any institution or bona fide club or place of accommodation which is in its nature distinctly private.

Private club. Any person organized under ORS Chapter 61 or similar corresponding provisions of any other state law.

Social gambling premises. Any place of public accommodation or any private club where social games are played.

Social games. All games described in Hoyle's Modern Encyclopedia of Card Games (Dolphin Handbook No. C512) when played by the rules prescribed by federal, state and local law, 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 local law.

Something of value. Any money or property, any service or promise to perform a service, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of 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.

Weapons Dealer:

Dangerous weapon:

- (a) Any instrument or device, other than a knife or a firearm as defined in 18 USC Section 921, designed to, or which has no other purpose but to strike, launch a projectile at, immobilize or injure another person, including, but not limited to, a stun gun, mace, a cross-bow, a sap, and martial arts apparatus, and
- (b) A sword, switchblade, stiletto, dirk, machete, any knife with a blade sharpened on both edges, or any knife with a folding blade

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which is sharpened on one edge and is five inches or more in length.

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

Weapons dealer. A person or any employee of a person who engages in the business of selling or offering for sale at retail firearms or dangerous weapons.

(Section 3.005 amended by Ordinance No. 17213, enacted December 9, 1974; Ordinance No. 17254, enacted February 10, 1975; Ordinance No. 17374, enacted June 9, 1975; Ordinance No. 17394, enacted June 23, 1975; Ordinance No. 17412, enacted July 14, 1975; Ordinance No. 17838, enacted February 28, 1977; Ordinance No. 18124, enacted March 13, 1978; Ordinance No. 18186, enacted May 22, 1978; Ordinances No. 18323 and No. 18324, enacted January 22, 1979; Ordinance No. 18352, enacted March 14, 1979; Ordinance No. 18742, enacted December 23, 1980; Ordinance No. 18798, enacted May 20, 1981; Ordinance No. 18853, enacted August 17, 1981; Ordinance No. 18868, enacted September 16, 1981; Ordinance No. 19254, enacted June 11, 1984; Ordinance No. 19294, enacted November 19, 1984; Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19331, enacted June 12, 1985; Ordinance Nos. 19337, 19338, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19552, enacted May 9, 1988; Ordinance No. 19594, enacted January 23, 1989; Ordinance No. 19649, enacted November 20, 1989; Ordinance No. 19651, enacted November 20, 1989; Ordinance No. 19746, enacted January 28, 1991; Ordinance No. 19737, enacted December 10, 1990, effective February 1, 1991; Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; Ordinance No. 19845, enacted April 27, 1992; Ordinance No. 19892, enacted December 7, 1992, effective January 6, 1993; Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993; Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; Ordinance No. 19963, enacted May 9, 1994, effective June 8, 1994; Ordinance No. 20058, enacted September 9, effective October 9, 1996; Ordinance No. 20059, enacted September 9, 1996, effective October 9, 1996; Ordinance no. 20083, enacted April 28, 1997; Ordinance No. 20088, enacted July 14, 1997, effective August 13, 1997; Ordinance No. 20102 enacted December 8, 1997, effective January 7, 1998; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20211, enacted September 26, 2000, effective October 26, 2000; amended by Ordinance No. 20233, enacted August 6, 2001, effective September 5, 2001, which incorporated Section 4.933, "which was added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended and renumbered by Ordinance No. 20043, enacted May 13, 1996, effective July 1, 1996; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998"; Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002; Ordinance No. 20303, enacted November 24, 2003, effective December 24, 2003; Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004; Ordinance No. 20324, enacted July 21, 2004, effective August 20, 2004; Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006; Ordinance No. 20528 enacted May 14, 2014, effective June 23, 2014; and Ordinance No. 20590, enacted April 23, 2018, effective April 25, 2018.)

Business License Procedures

3.011 Business Licenses - Procedures Generally.

- (1) The procedures and requirements of sections 3.015 to 3.075 of this code apply to all licensees and applicants for licenses unless otherwise provided.
- (2) Application, issuance, denial, revocation and suspension of certification cards required under this chapter shall be governed by procedures and requirements in sections 3.015 to 3.075 of this chapter.

(Section 3.011 added by Ordinance No. 19321, enacted April 22, 1985; amended by Ordinance No. 19337, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; and Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.015 Business Licenses - Administrative Powers of the City Manager or Designee.

The city manager shall have the authority to approve rules under section 2.019 and administrative orders under section 2.020 concerning the administration and enforcement of this chapter. The rules and orders may address, but are not limited to:

- (a) Fees, penalties and assessments for hearings and calculated to reimburse the full cost of processing the application, conducting the hearing, and administering the program being regulated;
- (b) The procedures to be followed and information to be required regarding an application for a new or renewed license, certification card, or permit;
- (c) The procedure to be used in reviewing applications for all new and renewal licenses, permits and certifications;
- (d) A requirement for the provision of (1) bonds and/or insurance, and the amounts and types thereof, sufficient to protect the public and city against loss or injury, and (2) the designation of an agent who can accept legal process;
- (e) The form and content of application, permit, certification, and identification forms;
- (f) The form and content of records required to be maintained by a licensee, permittee, or certificate holder, including financial information relating to revenues and expenses;
- (g) The form and content of tests to be administered;
- (h) Required equipment;
- (i) Required markings; and
- (j) Such other matters as may be specifically authorized elsewhere in this code.

(Section 3.015 amended by Ordinance No. 18387, enacted May 2, 1979; Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19337, enacted June 26, 1985, effective July 26, 1985;

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Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; and Ordinance No. 19914, enacted April 28 1993, effective May 28, 1993.)

3.020 Business Licenses - Application for License.

- (1)** An application for a license, or for renewal of a license required by this chapter shall be completed by each and every principal in the business. A principal in the business includes all owners, shareholders, partners, directors, officers and managers. The city manager may exempt certain principals from completing an application if the city manager determines that granting such an exemption is consistent with the objectives of this code, and where the business demonstrates to the satisfaction of the city manager that those principals play no role in the operation of the company.
- (2)** An application for a license, or for renewal of a license required by this chapter shall be accompanied by an application fee in the amount set by the city manager. The application fee is not refundable.
- (3)** An applicant shall make a request for a license on forms provided by the city manager and shall include all requested information and attachments. Review of an application shall not begin until all requested information has been provided. Except as provided in subsection (4) of this section, if an applicant fails to submit required information within 30 days from the date the application is filed, the application shall be deemed withdrawn.
- (4)** When reviewing the application, the city manager may require the applicant to supply information necessary to determine under section 3.050 the applicant's qualifications for the license. A request for additional information under this subsection shall be in writing, and shall specify a reasonable date by which the information must be submitted. The application shall be deemed withdrawn if the information is not submitted by the date specified.
- (5)** The city manager shall issue a decision on the application within 30 days of the submission of a complete application form and all requested attachments.
- (6)** An application shall be deemed withdrawn if the applicant fails to deliver to the city manager, within 30 days after approval of the application, any documents required as a condition of approval.
- (7)** If an application is deemed withdrawn under subsections (3), (4), or (6) of this section, there shall be no refund of any fees paid by the applicant.
- (8)** A separate license must be obtained for each location at which the licensed activity is conducted.

(Section 3.020 amended by Ordinance No. 16306, enacted September 27, 1971; Ordinance No. 16330, enacted November 1, 1971; Ordinance No. 18323, enacted January 22, 1979; Ordinance No. 19321, enacted April 22, 1985; and Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991.)

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3.023 Business Licenses - Investigation of Licensed Persons and Premises.

The city may investigate licensed persons and inspect licensed establishments, vehicles and devices in accordance with law. Licensed vehicles, devices and establishments shall be made available for inspection at reasonable times to determine compliance with provisions of this code. In the event that the city is refused admittance to premises where a licensed establishment, device or vehicle is located, a search warrant may be obtained from the municipal court authorizing entry upon the premises to make the inspection.

(Section 3.023 added by Ordinance No. 19321, enacted April 22, 1985.)

3.025 Business Licenses - Approval of Application.

- (1) The city may issue a license upon finding that the applicant has met all requirements of federal, state and county law, this code, including compliance with city zoning regulations within the urban growth boundary, and rules made pursuant to this code.
- (2) If an application for a new or renewed license is approved, the city shall notify the applicant in writing. The notice shall state any conditions placed on the approval and any further requirements the applicant must meet before a license will be issued.

(Section 3.025 amended by Ordinance No. 16036, enacted September 27, 1971; Ordinance No. 18853, enacted August 17, 1981; Ordinance No. 19321, enacted April 22, 1985; and Ordinance No. 19845 enacted April 27, 1992.)

3.030 Business Licenses - License Term and Renewal.

- (1) A license shall be valid from the date of issuance for a period specified on the license.
- (2) An application for renewal of a license shall be submitted to the city at least 30 days prior to its expiration date and shall be accompanied by the required fee and other required documents.
- (3) The city may impose conditions on the approval of a license.
- (4) Any application for renewal submitted less than 30 days prior to expiration shall be treated as a new application and must be accompanied by the required application fee.

(Section 3.030 amended by Ordinance No. 19321, enacted April 22, 1985; and Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.035 Business Licenses - Transferability. Licenses, permits and certificates issued under this chapter shall not be transferred to any other person except where expressly allowed by this chapter, and only with the prior written approval of the city manager. Where this code authorizes transfer, the city manager shall approve a request to transfer a license only if the new licensee qualifies for a license.

(Section 3.035 amended by Ordinance No. 19321, enacted April 22, 1985; and Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991.)

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3.040 Business Licenses - Display of License.

- (1) A license issued for an activity at a fixed place of business shall be displayed at all times on the premises where it can be easily read.
- (2) A license issued for an activity which is not at a fixed place of business shall be carried at all times by the licensed person while engaged in the activity. Upon request, the licensed person shall show the license to a person with whom he or she is dealing as part of the licensed activity or to an officer of the city.
- (3) A permit for a vehicle shall be displayed on the vehicle as required by the city manager.

(Section 3.040 amended by Ordinance No. 18323, enacted January 22, 1979; Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.041 Business Licenses - License Requirements. In addition to any other requirement of this chapter, each licensee shall:

- (a) Conform to all federal, state, and local laws and regulations, the provisions of this code, and any rules adopted thereunder.
- (b) Notify the city manager in writing within 10 days of any change in material information, such as change of name, address, telephone number, employer, criminal history, location of office, registered agent, and addition of vehicles. No new principal may become involved in a licensed business until an application form is submitted to and approved by the city manager for that principal. If a new principal does become involved in a business prior to approval, the city manager may revoke the license pursuant to the procedures in section 3.050.
- (c) A licensee may not advertise for business in any name other than the name for which a license is held.

(Section 3.041 added by Ordinance No. 19321, enacted April 22, 1985; amended by Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.042 Business Licenses - Complaints.

- (1) The council finds that the city's financial resources are insufficient to pursue all alleged violations of this code. Instead, the city should, within available resources, focus on those violations which pose the greatest threats to public health and safety. In order to ensure some recourse for individuals affected by violations which the city will not pursue, a private cause of action is enacted. Nothing in this section restricts or otherwise affects any enforcement authority granted elsewhere in this code.
- (2) Any person having a complaint regarding the services performed by a licensee may file a complaint in writing with the city manager if the complaint involves an alleged violation of this chapter.

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- (3) Within ten days of receipt of a complaint the city manager or designee shall indicate, in writing, whether the city intends to pursue enforcement action. The city's failure to respond in ten days shall be deemed, for purposes of subsection (4) hereof, a determination not to pursue enforcement action. If the city manager or designee timely issues a written determination that the city intends to pursue enforcement action, the city manager or designee may issue a subsequent determination indicating that the city no longer intends to pursue enforcement action. Such a determination shall have the same effect as an initial determination not to pursue enforcement action.
- (4) If the city manager or designee determines under subsection (3) above not to pursue enforcement action, any person claiming to be aggrieved by an alleged violation shall have a cause of action against a responsible person, in any court of competent jurisdiction, for such equitable remedies as may be appropriate. For purposes of this section, responsible person means the violator and any licensee for whom the violator works in either an independent contractor or employee capacity.

(Section 3.042 added by Ordinance No. 18197, enacted May 24, 1978; amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19845, enacted April 27, 1992; Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.045 Business Licenses - Administrative Civil Penalty.

- (1) In addition to, and not in lieu of any other enforcement mechanism authorized by this code, upon a determination by the city manager or city manager's designee, that a person has violated a provision of this chapter, a rule adopted hereunder, or a condition imposed on a license issued hereunder, the city manager or designee may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by section 2.018 of this code. For purposes of this subsection, a responsible person means the violator and any licensee for whom the violator works in either an independent contractor or employee capacity.
- (2) In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to subsection (1) of this section shall be grounds for revocation of any license, permit, or certification of the person failing to pay the penalty.

(Section 3.045 amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19719, enacted October 8, 1990, with an effective date of October 17, 1990, set by Ordinance No. 19722; and Ordinance No. 19746, enacted January 28, 1991; and administratively amended by Ordinance No. 20113.)

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3.050 Business Licenses - Denial or Revocation of License.

- (1)** The city may deny or revoke a license upon finding that:
 - (a) The licensee fails to meet the requirements of this code, or is doing business in violation of this code or applicable federal, state or county law, ordinance, rule or regulation.
 - (b) The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license.
 - (c) The applicant has violated a law, including a violation which does not lead to a conviction, unless the applicant demonstrates to the satisfaction of the city manager that the violation has no bearing on the applicant's fitness to undertake the licensed activity without endangering property or the public health, safety or welfare. The city manager may consider as a basis for denial or revocation:
 1. Only those violations which would constitute felonies, if convicted, which occurred within the preceding ten years;
 2. All other violations only if they occurred within the preceding three years.
 - (d) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity.
 - (e) The licensed activity or device would endanger property or the public health or safety.
 - (f) A license fee or installment payment of a fee has not been made by the due date.
- (2)** The city shall provide written notice to the applicant of a denial or revocation. The notice shall state the reason for denial or revocation and shall inform the applicant of the right to appeal under section 2.021 of this code.
- (3)** The notice shall be given at least 15 days before the revocation becomes effective. If the violation ends within the 15 days, the city may discontinue the revocation proceedings.
- (4)** A person whose application for any 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 required attachments.

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- (5) 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.

(Section 3.050 amended by Ordinance No. 18197, enacted May 24, 1978; Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; and Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.055 Business Licenses - Summary Suspension.

- (1) Upon determining that a licensed activity or device presents an immediate danger to person or property, or that insurance or bond required by this code or rules promulgated hereunder has lapsed, been canceled, is inadequate, or less than the required amount, the city manager may summarily suspend the license for the activity or device.
- (2) 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 section 2.021.
- (3) 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 section 2.021.

(Section 3.055 amended by Ordinance No. 17740, enacted August 23, 1976; Ordinance No. 18197, enacted May 24, 1978; Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993; Ordinance No. 19929, enacted September 13, 1993; effective October 13, 1993; Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.075 Business Licenses - Exemptions. 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.

(Section 3.075 amended by Ordinance No. 18197, enacted May 24, 1978; and Ordinance No. 19321, enacted April 22, 1985.)

3.080 Business Licenses - Appeal. Unless a different procedure is specified in another section of this chapter, any person aggrieved by an administrative action taken pursuant to this chapter may appeal the action within the time and in the manner provided in section 2.021 of this code.

(Section 3.080 added by Ordinance No. 19982, enacted September 12, 1994, effective October 12, 1994.)

Specific Licensing Regulations

Alarm Systems

3.105 Fire Alarm Systems - Prohibitions.

- (1) Information required. Each fire alarm business selling, leasing or furnishing to any fire alarm user an alarm system that is installed on premises located within the city shall furnish the fire alarm user with instructions that provide sufficient information to enable the fire alarm user to operate the alarm system at any time, together with city guidelines and regulations related to fire alarm systems.
- (2) Automatic dialing device. It is unlawful for any person to:
 - (a) Fail to disconnect or reprogram an automatic dialing device within 12 hours of receipt of written notice from the city that it is programmed to select a primary trunk line in violation of section 4.904 of this code.
 - (b) Program an automatic dialing device to select any telephone line assigned to the city, or fail to disconnect or reprogram such automatic dialing device within 12 hours of receipt of written notice from the city that it is so programmed.

The notice required by paragraphs (a) and (b) of this subsection shall be personally delivered to the fire alarm user, or other person in charge of the premises.

(Section 3.105, formerly Section 4.935, added by Ordinance No. 20043, enacted May 13, 1996, effective July 1, 1996; amended and renumbered by Ordinance No. 20233, enacted August 6, 2001, effective September 5, 2001; and amended by Ordinance No. 20324, enacted July 21, 2004, effective August 20, 2004.)

- #### 3.110 Fire Alarm Systems - False Alarms. Upon the occurrence of two or more false fire alarms at the same premises within a 12 month period, the fire alarm user shall be required to pay the false fire alarm fee established by the city manager for the second and subsequent false alarm at the premises. Notification of each false fire alarm, and/or the notice of the amount of the false alarm fee, shall be sent to the fire alarm user at the address where the fire alarm system is maintained, and shall contain the information required in rules promulgated by the city manager hereunder. The notice shall advise the fire alarm user of the right to appeal the false alarm fee in the manner set forth in section 2.021 of this code. In addition to, or in lieu of the fire false alarm fee or any other penalty, upon the occurrence of the second and subsequent false fire alarm at the premises within a 12 month period, following the procedures of section 2.018 of this code, the city may impose an administrative civil penalty upon the fire alarm user. The fire alarm systems fee schedule may also establish a credit that may be applied to offset all or a portion of a false fire alarm fee for attendance by the fire alarm user at city approved alarm system educational programs.

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(Section 3.110, formerly Section 4.936, added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 20043, enacted May 13, 1996, effective July 1, 1996; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended and renumbered by Ordinance No. 20233, enacted August 6, 2001, effective September 5, 2001; and amended by Ordinance No. 20324, enacted July 21, 2004, effective August 20, 2004.)

3.115 Fire Alarm Systems - Cessation of Transmission.

- (1)** A fire alarm user not utilizing an alarm central station shall post a notice containing the current name(s) and telephone numbers of the person(s) to be notified, capable of silencing the alarm and securing the premises whenever the fire alarm system is activated. The notice shall be posted in a conspicuous location that is visible from the exterior of the building. A fire alarm user utilizing an alarm central station shall provide the alarm central station with the current names and telephone numbers of all persons capable of silencing the alarm and securing the premises who are to be notified when the fire alarm system is activated.
- (2)** Upon request of the city, an alarm user or other designated person shall respond to the premises where the fire alarm system is located within 30 minutes after being notified, and shall silence the alarm and secure the premises.
- (3)** Emergency response personnel may silence or cause an alarm system to be silenced if:
 - (a)** A fire alarm user or designated person does not arrive within 30 minutes after being requested to do so by the city; or
 - (b)** The alarm system has transmitted a signal for more than ten minutes after the arrival of emergency response personnel and no fire alarm user or designated person is available to respond. The city shall be exempt from and shall assume no liability or responsibility related to the silencing of any alarm system and any subsequent incidents where the alarm does not function due to exercising the provisions of this section. It shall be the responsibility of the fire alarm user to repair, reset, or otherwise enable any fire alarm system so silenced.

(Section 3.115, formerly Section 4.937, added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 20043, enacted May 13, 1996, effective July 1, 1996; amended and renumbered by Ordinance No. 20233, enacted August 6, 2001, effective September 5, 2001; and amended by Ordinance No. 20324, enacted July 21, 2004, effective August 20, 2004.)

Solid Waste, Yard Debris and Recycling

3.245 Solid Waste, Yard Debris and Recycling - License Required.

- (1) No person shall collect residential recyclables, yard debris or solid waste within the corporate limits of the city without first obtaining a solid waste collection license for such activity in accordance with the rules adopted by the city manager under section 2.019 of this code.
- (2) The following persons do not require a solid waste collection license:
 - (a) A civic, community, benevolent or charitable non-profit organization that collects, transports and markets source separated materials for resource recovery, but only for the purpose of raising funds for a charitable, civic or benevolent activity.
 - (b) A person who transports solid waste which such person produces directly to a disposal site authorized by the Oregon Department of Environmental Quality or to a recycling or resource recovery facility.
 - (c) A property owner who transports solid waste left by a tenant upon such owner's property; however, an owner of an apartment, condominium or mobile home complex of more than five units may not provide solid waste collection service for compensation for tenants on a regular or continuing basis without first obtaining a license for solid waste collection.
 - (d) A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment.
 - (e) A person who collects recyclable materials only from commercial customers.
 - (f) A person who performs landscaping services for a property owner or tenant and transports yard debris in his or her own vehicle.
- (3) Except as otherwise provided in sections 3.245 through 3.270, no other person shall provide, offer to provide, or advertise for the performance of the services provided for therein for any person or any real property in the city for compensation.

(Section 3.245 amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19603, enacted February 13, 1989; Ordinance No. 19982, enacted September 12, 1994, effective October 12, 1994; Ordinance No. 20173, enacted October 25, 1999, effective November 24, 1999; and Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002.)

3.247 Solid Waste, Yard Debris and Recycling - Limitation on Number of Solid Waste Collection Licenses.

- (1) The city shall issue no more than eight licenses for the collection of solid waste, yard debris and residential recyclable materials from within the city.

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- (2) Notwithstanding subsection (1) of this section, additional licenses for the collection of solid waste, yard debris and residential recyclable materials may be issued only upon a showing by the applicant of the need for such service in the city. The decision of the city manager or the city manager's designee on such applications shall be based on criteria addressing need contained in the rules adopted by the city manager under section 2.019 of this code.

(Section 3.247 added by Ordinance No. 19603, enacted February 13, 1989; amended by Ordinance No. 19982, enacted September 12, 1994, effective October 12, 1994; and Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002.)

3.248 Solid Waste, Yard Debris and Recycling - License Term.

- (1) The rights, privileges and license granted shall be for a continuing five (5) year term subject to annual license renewal, payment of license fees, and the provisions of subsection (2) of this section.
- (2) The city manager or designee may elect to not extend a license, or all licenses, by notice in writing given to a licensee or all licensees by April 1. In such event, the license or licenses shall have a flat license term of five (5) years remaining from the following July 1.

(Section 3.248, formerly section 3.265 amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19603, enacted February 13, 1989; and Ordinance No. 19844 enacted April 27, 1992, effective May 27, 1992; amended and renumbered by Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002.)

- 3.249 Solid Waste, Yard Debris and Recycling - Subcontracts.** A solid waste collection licensee shall not subcontract with another person on a regular, periodic or long-term basis to provide solid waste, yard debris, and/or recycling collection service under this code without the prior written approval of the city manager or designee. Approval shall be based on the ability of the licensee to substantiate that the subcontractor meets all the provisions of this chapter and rules adopted hereunder applicable to the service to be provided by the subcontractor. Approval by the city manager or designee shall not relieve the licensee from responsibility for compliance by the licensee and subcontractor with the provisions of this code and the rules adopted hereunder.

(Section 3.249, formerly section 3.284 added by Ordinance No. 19603, enacted February 13, 1989; amended and renumbered by Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002.)

3.250 Solid Waste, Yard Debris and Recycling - Administrative Powers of the City Manager.

- (1) The rules adopted by the city manager under section 2.019 of this code concerning solid waste and recycling licenses may address, but are not limited to:
- (a) Minimum identification, maintenance and sanitation standards for collectors' vehicles;

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- (b) Minimum standards relating to the qualifications, training and identification of collectors' employees;
 - (c) Minimum standards for all information to be included in collectors' records;
 - (d) Minimum standards and procedures for collection service to assure quality of service to customers;
 - (e) The establishment of rates for service and the procedure to be used in recommending and revising solid waste and recycling service rates;
 - (f) The establishment of application requirements to be met before a license may be issued or transferred;
 - (g) The establishment of application, license and license transfer fees that allow the city, at a minimum, to recover regulatory and enforcement costs associated with solid waste and/or recycling collection;
 - (h) The establishment of procedures, policies and operating practices which are required for implementation of this code; and
 - (i) The establishment of customer responsibilities that include, but are not limited to, payment responsibility; location of receptacles; time and manner of placement and retrieval of solid waste, recyclable materials and yard debris receptacles; the manner in which receptacles are loaded, and acceptable and unacceptable materials for specific receptacles, and the maximum weights for each.
- (2) The city manager may adopt a solid waste systems benefit fee under section 2.020 of this code, or may enter into an intergovernmental agreement with Lane County to authorize Lane County to impose and collect within the city a solid waste systems benefit fee in the same amount that applies outside the city, to fund the cost of waste management programs and community services, including but not limited to recycling education, recycling drop-off facilities, special waste programs and facilities, solid waste transfer sites and technical assistance services for businesses

(Section 3.250 amended by Ordinance No. 18629, enacted May 12, 1980; Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19603, enacted February 13, 1989; Ordinance No. 19982, enacted September 12, 1994, effective October 12, 1994; Ordinance No. 20173, enacted October 25, 1999, effective November 24, 1999; and Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002.)

3.260 Solid Waste, Yard Debris and Recycling - Rates.

- (1) All collectors, except those who collect only recyclables, shall charge rates established and adjusted by administrative rule of the city manager pursuant to this chapter.
- (2) Licensees may request a rate adjustment in the manner established by administrative rule of the city manager issued pursuant to provisions of this code.

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- (3) The city manager or designee shall respond to proposed rate changes within 60 days of receipt of the request.

(Section 3.260, formerly section 3.275, amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19603, enacted February 13, 1989; and Ordinance No. 19982, enacted September 12, 1994, effective October 12, 1994; amended and renumbered by Ordinance No. 20252, enacted May 13, 2003, effective April 12, 2002.)

3.270 Solid Waste, Yard Debris and Recycling - Licensee Responsibility.

- (1) In addition to the requirements of section 3.041 and other provisions of this chapter, licensees shall provide curbside recycling and yard debris collection services to their customers, and shall comply with the rules adopted by the city manager under section 2.019 of this code.

- (2) No licensee shall operate a vehicle or load or unload a vehicle so as to create a noise disturbance that is plainly audible within any dwelling unit between 10:00 p.m. and 7:00 a.m. the following day.

(Section 3.270 amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19603, enacted February 13, 1989; Ordinance No. 19982, enacted September 12, 1994, effective October 12, 1994; Ordinance No. 20088, enacted July 14, 1977, effective August 13, 1997; Ordinance No. 20173, enacted October 25, 1999, effective November 24, 1999; Ordinance No. 20204, enacted August 7, 2000, effective September 6, 2000; and Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002.)

Private Commerce on Public Property

- 3.335** **Private Commerce on Public Property - General.** The provisions of sections 3.336 to 3.344 of this code are intended to authorize and regulate private commerce activities on public property. Except as specifically provided to the contrary, the procedures and requirements of sections 3.015 to 3.075 of this code apply to the activities authorized by sections 3.336 to 3.344. In addition to the administrative powers set forth in sections 2.019, 3.015 and 3.340, the city manager is authorized to contract with a private entity to administer all or any part of the private commerce on public property activities authorized under sections 3.336 to 3.344.
(Section 3.335 added by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993.)
- 3.336** **Private Commerce on Public Property - License Required.** No person shall engage in commerce on public property within the corporate limits of the city without having obtained a license pursuant to sections 3.336 to 3.344 of this code.
(Section 3.336 added by Ordinance No. 19331, enacted June 12, 1985; and amended by Ordinance No. 19914, enacted April 28 1993, effective May 28 1993.)
- 3.337** **Private Commerce on Public Property - Exempt Activities.** Sections 3.336 to 3.344 of this code shall not apply to commerce conducted as part of a special event, as defined in section 3.005 of this code, provided the activity has been specifically approved or issued a special permit by the city.
(Section 3.337 added by Ordinance No. 19331, enacted June 12, 1985; and amended by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993.)
- 3.338** **Private Commerce on Public Property - License Requirements.** In addition to the requirements of section 3.041, each vendor desiring to engage in commerce not exempt under section 3.337 of this code shall:
- (a)** Submit to the city, upon approval of an application, the hold harmless agreement required by rules adopted under this chapter sufficient to protect the city from damage or liability;
 - (b)** Submit to the city, upon approval of an application, proof of applicable liability insurance required by rules adopted pursuant to this chapter;
 - (c)** Locate anywhere except in areas zoned RA, R-1,R-2, R-3, or R-4 under chapter 9 of this code;
 - (d)** Use only an occupied vending unit or vending equipment that meets the requirements of rules adopted under this chapter;
 - (e)** Sell only the items approved by the city;
 - (f)** Conduct business only at the location designated on the license; and

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- (g) Pay fees according to the schedule adopted by the city manager pursuant to section 2.020 of this code.

(Section 3.338 added by Ordinance No. 19331, enacted June 12, 1985; amended by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993; Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.340 Private Commerce on Public Property - Rulemaking Powers of the City Manager.

The rules adopted under section 2.019 concerning licenses for commerce on public property may address, but are not limited to, the following areas:

- (a) Maximum dimensions and other safety features of an occupied vending unit or vending equipment;
- (b) Restrictions on vending locations, including restrictions on how close vendors may locate to a business selling similar products, on the nature of items to be sold, and on the number of different items that can be sold by a single vendor;
- (c) The minimum and type of liability insurance coverage required for a license for commerce on public property to protect the city and public from loss or injury;
- (d) Requirements of and restrictions on the conduct of business by vendors;
- (e) The amount of the applicable fees;
- (f) The allocation of license operating areas and vending locations;
- (g) The form and content of the hold harmless agreement to be submitted by each vendor, sufficient to protect the city from damage or liability;
- (h) The issuance of special event permits for commerce on public property;
- (i) Such other matters as are consistent with the purpose of sections 3.336 to 3.344 of this code.

(Section 3.340 added by Ordinance No. 19331, enacted June 12, 1985.)

3.341 Private Commerce on Public Property - Issuance of License.

- (1) In determining whether to grant or deny a license, the city shall consider:
 - (a) The need to maintain the free flow of pedestrian and vehicular traffic on streets, sidewalks and areas open to the public;
 - (b) Any danger to public health, safety or welfare or to public or private property that may result from approval of an application;
 - (c) The need to preserve and enhance the aesthetic qualities of the license operating area; and
 - (d) The need to prevent interference with the peaceful enjoyment of the areas near places where commerce is occurring.
- (2) The city may issue a license upon finding that the applicant has met all requirements of this code and rules adopted under this chapter, and that the criteria of section 3.341(1) are satisfied.

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- (3) Upon sale, transfer or termination of business, the vending location shall be allocated in accordance with rules adopted under this chapter.

(Section 3.341, formerly Section 3.342, added by Ordinance No. 19331, enacted June 12, 1985; and amended and renumbered by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993.)

3.342 Private Commerce on Public Property - Restrictions. No licensee under section 3.341 of this code shall:

- (a) Operate in a manner which creates a danger to persons or property;
- (b) Use private property without the written permission of the owner of the property;
- (c) Use private property in violation of any land use provisions of chapter 9 of this code;
- (d) Deliberately hinder or impede pedestrian traffic;
- (e) Obstruct the clear vision of the driver of any vehicle approaching or entering an intersection; or
- (f) Operate in a manner which will hinder emergency or utility services.

(Section 3.342 added by Ordinance No. 19914, enacted April 28 1993, effective May 28, 1993.)

3.343 Private Commerce on Public Property - License Revocation. In addition to revocation of a license issued pursuant to section 3.341 for violation of any provisions of sections 3.336 to 3.344 of this code, or any rule issued thereunder, a license may be revoked if the city manager finds that:

- (a) The licensee has failed to occupy the vending location for more than 15 consecutive days;
- (b) The need to maintain the free flow of pedestrian and vehicular traffic on streets, sidewalks and areas open to the public necessitates revocation of the license; or
- (c) A danger to public health, safety or welfare or to public or private property may result from continuation of the licensed commerce at that location.

(Section 3.343 added by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993.)

3.344 Private Commerce on Public Property - Specific Authorized Activities.

(1) Sidewalk Commerce.

- (a) Sidewalk commerce licenses shall be restricted to vending locations located within a geographical area on Kincaid Street from 100 feet north of 12th Avenue to 100 feet south of 13th Avenue. In assigning a vending location, the city shall consider the following:
 - 1. Any license operating area requested by the applicant;
 - 2. The licensed activities of any other sidewalk commerce enterprise in the same license operating area;
 - 3. Other sidewalk uses in the license operating area;

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4. The public health and safety, including the possibility of restricted visibility for persons using the public way;
 5. Compatibility of the request with rules adopted under this chapter.
- (b) A vending location may be assigned upon compliance with section 3.338 of this code.
- (c) If the city manager finds that a sidewalk within a license operating area is being fully utilized for its primary purpose of pedestrian traffic, or that the issuance of a sidewalk commerce license will have an adverse impact on the primary use of the sidewalk because of existing levels of pedestrian use, the city manager may restrict or prohibit the issuance of sidewalk commerce licenses for a specified license operating area.
- (d) At no time shall the city issue more than six sidewalk commerce licenses for a license operating area.
- (2) Street Vendor.**
- (a) A street vendor shall:
1. Sell, offer for sale, or distribute only the items approved by the city;
 2. Conduct business only from a vehicle legally parked alongside the curb;
 3. Comply with all applicable federal, state and local laws and regulations.
- (b) A street vendor shall not:
1. Conduct business in such a way as to restrict or interfere with the enjoyment or use of property by nearby property owners or occupants;
 2. Increase traffic congestion or delay;
 3. Create a hazard to life or property;
 4. Stop on the traveled portion of any street or in any bicycle lane;
 5. Stop in one location for more than fifteen minutes within the same hour while conducting business.
- (3) Outdoor Cafes.**
- (a) The city manager or the manager's designee, may issue a permit for an outdoor cafe allowing the service of food or beverages within a public right of way provided the following conditions are met:
1. The permit applicant assumes all risks associated with the use of the right of way;
 2. The permit applicant lawfully operates a restaurant adjacent to the right of way for which the applicant seeks a permit;

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3. The owner of the restaurant property consents to issuance of the permit;
 4. The permit applicant demonstrates that the use of the right of way will not interfere with existing utilities, pedestrian use of the right of way nor pose a hazard to vehicular traffic;
 5. The permit applicant obtains all other necessary state and local permits;
 6. If the applicant seeks to use the right of way in front of properties contiguous to the restaurant, the applicant demonstrates that a restaurant is a permitted use for the contiguous property and the owner of the contiguous property consents to the issuance of the permit;
 7. The permit applicant demonstrates that the use of the right of way will comply with all ordinances and codes of the city including but not limited to the structural safety, sanitation and fire codes;
 8. The permit applicant demonstrates that seating in the right of way will be provided for no more than 20 persons or, if seating is provided for a greater number that off-street parking as required by chapter 9 of this code is provided in a ratio of no less than one parking space for each 4 seats over and above 20; This subsection does not apply to outdoor café permits in the downtown activity zone, as that term is defined in section 4.871 of this code;
 9. The permit applicant demonstrates that the proposed use of the right of way is not inconsistent with the use for which the right of way was dedicated to the city.
- (b) No outdoor cafe permit shall be issued for premises located within the downtown activity zone as defined by section 4.871 of this code except by an activity permit issued pursuant to section 3.341 of this code.
- (c) A permit issued pursuant to section 3.341 of this code may be temporarily suspended if the public interest requires use of the right of way for a public event, construction, repair, or any other purpose.
- (4)** Downtown activity zone. Words and phrases used in this subsection shall have the meanings ascribed to them in section 4.871 of this code.
- (a) Except for participants in a city sponsored event, no person or business shall conduct any of the following activities on public pedestrian areas within the downtown activity zone without first receiving an activity permit pursuant to section 3.341 of this code:
 1. Any commercial pursuit except for personal solicitation, fund raising activities which do not involve the sale of goods, and street entertainment.
 2. Placing a display or allowing a display in one's charge to remain.

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3. An activity, event, or performance for which admission is charged, and that occurs in or upon a specific area of public property which the coordinator or sponsor desires to reserve for its exclusive use.
 4. Creating or continuing a noise disturbance.
- (b) A permit shall be valid for the period of time specified on the permit, not to exceed six months, with the exception of a pushcart permit, which may not exceed one year.
 - (c) Except for the sale of written material, distribution of written material may occur without obtaining an activity permit. Distribution of written material is allowed provided any person making the distribution removes all distributed material discarded or abandoned on any part of the downtown activity zone within 200 feet of each place where the written material was distributed. Such removal shall occur every four hours or when distribution ceases, whichever first occurs. Failure to promptly remove such material may result in the city performing the removal required of the distributor and billing and collecting the cost from any person responsible. Any person or organization which fails to remove discarded written material distributed by that person or organization shall have committed a violation of this code.
 - (d) An owner or person in charge of property or a business located within the boundaries of the downtown activity zone shall keep free from litter or other debris those portions of sidewalks that abut the property or business.

(Section 3.344 added by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993; amended by Ordinance No. 19969, enacted July 21, 1994; Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996; Ordinance No. 20102, enacted December 8, 1997, effective January 7, 1998; Ordinance No. 20303, enacted November 24, 2003, effective December 24, 2003; and Ordinance No. 20322, enacted May 25, 2004, effective June 24, 2004.)

Public Passenger Vehicle Services

3.345 Public Passenger Vehicle Services.

- (1) Vehicle-for-Hire Company Licensure Requirements.
- (a) No person or business may operate a vehicle-for-hire company without a public passenger vehicle company license; however, an unlicensed vehicle-for-hire operating outside the jurisdictional limits of Eugene and Springfield may deliver a fare from outside those limits to a location within the limits, and if the vehicle waits for the person, retrieves the person for the return trip back outside the jurisdictional limits.
 - (b) Unless driving a vehicle-for-hire for a person or business that has obtained a public passenger vehicle company license, no person may drive a vehicle-for-hire without first obtaining a public passenger vehicle company license.
 - (c) No person or business required to obtain a public passenger vehicle company license may solicit or accept any passenger within the city limits except as provided in this subsection.
 - (d) No vehicle-for-hire company may operate at the Eugene Airport unless authorized by the Airport to do so.
 - (e) All vehicle-for-hire companies shall:
 - 1. Maintain accurate, current records for all drivers employed by, contracting with, or otherwise affiliated with the company, including all drivers utilizing the company's digital or software application scheduling platform in the city; and
 - 2. Notify all drivers that they must obtain a driver certification card in accordance with subsection (2) of this section; and
 - 3. Revoke a driver's authority to operate as a driver for their company if the city revokes the driver's public passenger vehicle driver certification card; and
 - 4. Not locate its central operation in a residential zone unless expressly authorized by the city manager.
- (2) Vehicle-for-Hire Driver Certification Card Requirements. No person may drive a vehicle-for-hire unless that person possesses a valid public passenger vehicle driver certification card. An applicant may be issued a driver certification card without any waiting period if the person's application is complete and includes documentation demonstrating that the applicant has been hired by a vehicle-for-hire company after undergoing a criminal background check in accordance with the vehicle-for-hire company's criminal background check procedures. For purposes of this section, "hired by a vehicle-for-hire company" means a driver employed by, contracting with, or otherwise affiliated with the vehicle-for-hire company.
- (3) Fare. The actual fare charged for each trip by a vehicle-for-hire shall not exceed the higher of:

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- (a) The meter calculated rate, including authorized and posted surcharges, or
 - (b) The minimum fare as posted on the interior and exterior of the vehicle, or
 - (c) The smartphone application calculated rate, including displayed and passenger-confirmed surcharges.
- (4) Audit. The city manager may audit vehicle-for-hire companies up to twice per calendar year to review compliance with applicable city code and administrative rules. Upon request, a vehicle-for-hire company shall provide the city manager a sample of records for up to thirty (30) drivers affiliated with the vehicle-for-hire company that have operated in the thirty (30) days preceding the audit. The audit shall occur at a time and location designated by the city manager. In addition to an audit, the city manager may require a vehicle-for-hire company to produce records related to an investigation of a specific allegation of a violation of applicable city code administrative rules, or other applicable law, or to evaluate a complaint. Production of records for an investigation or to evaluate a complaint does not count toward the twice-per-year auditing limit.
- (5) Rules. The city manager shall adopt rules setting standards and establishing requirements for vehicle-for-hire companies; vehicles-for-hire; public passenger vehicle companies; public passenger vehicles; public passenger vehicle drivers; the issuance of public passenger vehicle company licenses; and the issuance of public passenger driver certification cards. Such rules shall be consistent with this code and be designed to ensure that the public safety is protected, the public needs are met, and the public convenience is promoted.
- (6) Term. The term for a license issued hereunder shall commence on January 1 and expire on December 31 of the year issued. The license fee for applications received after January 1 shall be prorated on the basis of that term. An application for extension or renewal of an existing license must be submitted by November 1, accompanied by the required license fee. Failure to submit the license fee with the extension or renewal application, or to pay the same before the end of the current license term may result in the licensee being required to submit a new application and pay an application fee. A licensee who submits an extension or renewal application after November 1 may be assessed a penalty fee of \$20 per day for each day between November 1 and the date the application is submitted.
- (7) Per-Trip Fee. In addition to licensure and certification card fees, a per-trip fee to be paid by the vehicle-for-hire company or the passenger may be established by the city manager pursuant to section 2.020 of this code. The purpose of the per-trip fee is to cover program costs required to adequately administer this Section 3.345 and the administrative rules adopted thereunder, increase the availability of accessible vehicles, and any other purpose related to public passenger

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vehicle services specifically identified by the city manager in the notice of proposed fee.

(Section 3.345, formerly Section 3.878, added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; renumbered and amended by Ordinance No. 19737, enacted December 10, 1990, effective February 1, 1991; administratively amended by Ordinance No. 19742, enacted January 14, 1991; amended by Ordinance No. 19845, enacted April 27, 1992; Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; Ordinance No. 20549, enacted February 9, 2015, effective February 13, 2015; and Ordinance No. 20590, enacted April 23, 2018, effective April 25, 2018.)

Telecommunications

3.400 Telecommunications - General. The provisions of sections 3.400 to 3.430 of this code and the rules adopted by the city manager pursuant to section 2.019 of this code are intended to authorize and regulate telecommunication activities in the city to the extent permitted under laws of the United States and the State of Oregon. Except as these sections specifically provide to the contrary, the procedures and requirements of sections 3.015 to 3.075 of this code apply to the activities authorized by sections 3.400 to 3.430.

(Section 3.400 added by Ordinance No. 20083, enacted April 28, 1997.)

3.405 Telecommunications Activities - Registration Required.

- (1) No person may, without first registering with the city and then paying the fee required by section 3.415(1), engage in any telecommunications activity through a communications facility located in the city.
- (2) Registration under this section shall be submitted pursuant to section 3.020, on a form provided by the city. The registration shall be accompanied by any additional documents required therein or in rules issued by the city manager pursuant to section 2.019 of this code.

(Section 3.405 added by Ordinance No. 20083, enacted April 28, 1997.)

3.410 Telecommunications - License Required.

- (1) No operator may, without first applying for and receiving a license from the city, construct, place or locate any facility in, upon, beneath, over or across any public right-of-way or on other public property to:
 - (a) Construct a cable system or provide cable service;
 - (b) Construct a telecommunications facility or provide telecommunications service;
 - (c) Construct an open video system or provide services via an open video system; or
 - (d) Construct or operate a private communications system.
- (2) An application for a license under this section shall be submitted pursuant to section 3.020, on a form provided by the city. The application shall be accompanied by any additional documents required by the application or in rules issued by the city manager pursuant to section 2.019 of this code.
- (3) The fact that a particular communications facility may be used for multiple purposes does not obviate the need to obtain a license for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a license to construct, install or locate a cable system to provide cable services, and, should it intend to provide telecommunications services over the same facilities, must also obtain a separate license.
- (4) So long as it registers with the city as required by section 3.405 and pays the registration and license fees required by section 3.415, a reseller may use another person's facilities to engage in

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telecommunications activities in the right-of-way without obtaining a license, providing the reseller does not, either itself or through an affiliate, own or lease, control or manage any facilities in the right-of-way and is not involved in construction or repair of facilities in the right-of-way. For purposes of calculating the registration and license fees to be paid by a reseller, the amount of compensation paid by the reseller to the owner or manager of facilities in the right-of-way for the services it resells shall be deducted from the reseller's gross revenues before applying the percentage rates described in section 3.415(1) and (2).

- (5)** So long as it registers with the city as required by section 3.405 and pays the annual registration fee required by section 3.415(1) as well as other applicable fees, an operator is not required to obtain a license under this section or pay an annual license fee under section 3.415(2) if the operator's only use of the public right-of-way is to place wireless transmitting or receiving facilities above the ground on existing poles or similar structures in the right-of-way and the operator does not install or use lines, wires or cables.
- (6)** An operator holding an outstanding permit or franchise from the city for a communications facility to provide specified services, or for a private communications system, may continue to operate under its existing permit or franchise to the conclusion of its present term (but not for any renewal or extension thereof) with respect to those activities expressly authorized by the permit or franchise. Any such permittee or franchisee may elect to apply for a superseding license under sections 3.400 to 3.430 of this code, and must apply for a license under those sections if intending to provide services other than, or in addition to, the services authorized under its existing permit or franchise. All such permittees and franchisees shall register and pay registration fees as required by sections 3.405 and 3.415(1) and be subject to the provisions of sections 3.400 to 3.430 and 7.290 to 7.309 to the full extent permitted by law. Any permits or licenses that are revocable shall be automatically revoked as of July 1, 1997, and the permittee or licensee required to obtain a new license pursuant to the provisions of sections 3.400 to 3.430.
- (7)** A license granted pursuant to this section shall not convey equitable or legal title in the rights-of-way.
- (8)** The license may not be assigned or transferred without the prior written consent of the city.
- (9)** Neither the issuance of a license hereunder nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, police power, or regulatory power of the city as may exist at the time the license is issued or thereafter obtained.

(Section 3.410 added by Ordinance No. 20083, enacted April 28, 1997.)

3.415 Telecommunications - Annual Registration and License Fees.

- (1) Annual Registration Fee. Each person required to register under section 3.405 of this code, except an operator of a private communications system, shall pay to the city an annual registration fee in the amount of 2% of the registrant's gross revenues derived from its telecommunication activities within the city. In addition, the first annual registration fee paid by a registrant shall include an additional charge, in an amount set by the city manager pursuant to section 2.020 of this code, that is calculated to recover all of the city's costs incurred in processing the registration, as well as a share of the city's costs in preparation of the city's telecommunications plan, this ordinance, and the implementing rules.
- (2) Annual License Fee. As compensation for use of right-of-way, each operator required to obtain a license pursuant to section 3.410 of this code shall pay, in addition to the registration fee described in subsection (1) of this section, a fee in the amount of 7% of the licensee's gross revenues derived from telecommunications activities within the city, to compensate the City for the use of the rights-of-way.
- (3) Private Communications System. In lieu of the fees required by subsections (1) and (2), a private communications system licensee shall pay to the city a fee based on a per foot rate to be established pursuant to section 2.020 of this code in an amount not less than the amount needed to ensure no degradation of the right-of-way.
- (4) Effect of Federal and State Law. To the extent that federal or state law, or an existing franchise agreement, limits the amount of fees which the City may impose on, or the compensation it may require from, an operator, nothing in this section shall require the payment of any greater amount, unless and until the federal or state limits are raised, or the franchise agreement expires or is otherwise terminated.
- (5) Other Fees. Payment of fees required by this section shall be in addition to both application fees required by this chapter, and any other fees required pursuant to chapters 7, 8 or 9 of this code.
- (6) In Lieu of Fee Payment.
 - (a) In lieu of part or all of the annual registration and license fees, the city may accept in-kind services which the city manager determines have a value to the city equal to or greater than the registration and license fees, or the portion of those fees in lieu of which the city will accept services. If the city manager agrees to the in-kind payment, the registration or license shall reflect this agreement.
 - (b) Prior to the city manager agreeing to such an arrangement, the operator shall provide to city, at the operator's expense, an analysis prepared by an independent entity, which demonstrates that the value of the in-kind service is equal to or greater than the license fee (or portion of fee) to be waived. In addition, the city manager shall give at least 20 days notice to the city council of the

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proposed arrangement. If any two city councilors give the manager written objections to the proposed arrangement within the 20 day period, the manager shall not agree to the proposal unless the council votes to approve the proposal.

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

(7) Payment of Annual Registration and License Fees.

- (a) Unless otherwise specified, the annual registration and license fees shall be paid to the City quarterly, and not later than forty-five (45) days after the end of each calendar quarter.
- (b) Each payment shall be accompanied by a statement showing the manner in which the fee was calculated, and shall be personally delivered or mailed to the city on or before the due date. If mailed, the postmark shall be considered the date of delivery.
- (c) For good cause, the city may extend for not to exceed one month, the time for making payment and filing the statement. Any person or operator to whom an extension is granted shall pay interest at the rate of 1.5% per month on the amount of fee due, without proration for a fraction of a month. If the statement is not filed and the fee and interest due is not paid by the end of the extension period, then the interest shall become part of the fee for computation of penalties prescribed in subsection (4) of this section.
- (d) No acceptance by the city of any payment hereunder shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such payment be construed as a release of any claim the city may have for additional sums payable.
- (e) The payments hereunder are not a payment in lieu of any tax, fee or other assessment except as specifically provided in this section, or as required by applicable law.
- (f) Within ninety (90) days following the end of the calendar year, each person or operator which paid a fee hereunder shall submit a statement, certified as true by an independent auditor or the chief financial officer of such person or operator, setting forth its gross revenues, by category, and describing what revenues were included and excluded in calculating the fee or fees, and any adjustments made to gross revenues.
- (g) The city may, from time to time, and upon reasonable advance written notice, inspect, copy and audit any and all books and

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records of a registrant or licensee reasonably necessary to the determination of whether fees have been accurately computed and paid.

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

(8) Penalties and Interest.

- (a) Any registrant or licensee who has not been granted an extension of time for remittance of a fee due and who fails to remit any fee imposed under this section prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the fee due in addition to the amount of the fee.
- (b) Any registrant or licensee who has not been granted an extension of time for remittance of a fee due, and who fails to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the fee due plus the amount of the fee and the ten percent (10%) penalty first imposed.
- (c) If the city determines that the nonpayment of any remittance due under this section is due to fraud or intent to evade the provisions hereof, a penalty of twenty-five percent (25%) of the amount of the fee shall be added thereto in addition to the penalties stated in subparagraphs (b) and (c) of this subsection.
- (d) In addition to the penalties imposed, any registrant or licensee who fails to remit any fee imposed by this section shall pay interest at the rate of 1.5% per month or fractions thereof, without proration for portions of a month, on the amount of the fee due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.
- (e) Every penalty imposed, and such interest as accrues under the provisions of this section, shall be merged with, and become a part of, the fee required to be paid.
- (f) Any person required to pay a penalty under this section may appeal to the city manager as provided in section 2.021 of this code.

- (9)** Calculation of Fees. In determining gross revenues for the calculation of fees under this section, 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

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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.

(Section 3.415 added by Ordinance No. 20083, enacted April 28, 1997; and amended by Ordinance No. 20277, enacted January 27, 2003.)

3.420 Telecommunications - Inspection and Conditions Relating to Licensee's Facilities.

- (1)** Every licensee's communications facility shall be subject to the right of periodic inspection and testing by the city to determine compliance with the provisions of this code, a franchise or license agreement, or other applicable laws that the city has some responsibility to enforce. The city shall have the right, upon request, to be notified and be present when the licensee's communications facility is tested by the operator. Each operator must respond to requests for information regarding its existing system and plans for the system as the city may from time to time issue, including requests for information regarding its plans for construction, operation and repair and the purposes for which the facility is being constructed, operated or repaired. The city engineer may require such information including GIS format or other drawings, surveys and plans as deemed necessary to determine whether the proposed work conforms to the requirements of this code.
- (2)** Each operator of a communications facility that places facilities underground shall be a member of the regional notification center for subsurface installations (Underground Services Alert) and shall field mark the locations of its underground communications facilities upon request. The operator shall locate its facilities for the city at no charge.
- (3)** The work to be performed by an operator shall be publicized as the city may from time to time direct.
- (4)** Each licensee shall provide the city a plan for any initial system construction, or for any substantial rebuild, upgrade or extension of its facility, which shall show its timetable for construction of each phase of the project, and the areas of the city that will be affected.
- (5)** A communications facility operator shall not deny service, deny access, or otherwise discriminate against subscribers, programmers, suppliers, vendors, or residents of the city on the basis of race, color, creed, national origin, sex, age, conditions of physical handicap, religion, ethnic background, marital status, or sexual orientation.
- (6)** A communications facility operator shall not discriminate among persons or the city or take any retaliatory action against a person or the city because of that entity's exercise of any right it may have under federal, state, or local law, nor may the operator require a person or the city to waive such rights as a condition of taking service.

(Section 3.420 added by Ordinance No. 20083, enacted April 28, 1997.)

3.425 Telecommunications - Removal of Facilities; Termination of Use of Right-of-Way.

- (1) Every licensee that ceases to operate a communications facility located within the city shall, upon written request of the city made within two years of the cessation of operation of such facility, promptly remove the facility, or any part thereof, and restore the property and right-of-way to the condition prior to installation. If the licensee neglects, refuses, or fails to remove the facility or part thereof, or to restore the property, the city may remove or restore it at the expense of the licensee. The obligation to remove shall survive the termination of the license. The city may require a licensee, prior to installation of a facility, to post a bond in an amount sufficient to cover the cost of removal of the facility and restoration of the property and right-of-way.
- (2) If a licensee violates any provision of sections 3.400, 3.405, 3.410, 3.415, 3.420 or administrative rules adopted pursuant to section 3.430 and fails to remedy the violation within ten days of receiving notice of the violation, the city manager may terminate the licensee's use of the right-of-way.

(Section 3.425 added by Ordinance No. 20083, enacted April 28, 1997.)

3.430 Telecommunications - Administrative Rules. The city manager shall adopt administrative rules pursuant to section 2.019 of this code, in order to implement the provisions of sections 3.400 - 3.430. Such rules may include, but are not limited to:

- (a) The information required to be provided in an application for registration and for a license, including a description of the services to be provided and the location and design of the proposed facility;
- (b) Criteria for determining whether the applicant for a license is financially, technically, and legally qualified to successfully complete any proposed facility to be installed in, on, under or over the public right-of-way;
- (c) Contents of a licensee's plans for construction, rebuilding, upgrade or extension of facilities, including the period of time such plans must cover;
- (d) Licensee and registrant reporting requirements;
- (e) Terms and renewals of registrations and licenses.
- (f) Transfer of licenses.

The rules may differentiate between telecommunications facilities and telecommunications service providers, open video systems, cable television systems, and private communications facilities.

(Section 3.430 added by Ordinance No. 20083, enacted April 28, 1997.)

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Motor Vehicle Fuel Dealer's Business Licenses

3.465 **Definitions.** As used in sections 3.465 through 3.489 of this chapter, unless the context requires otherwise the following words and phrases shall mean:

City. The City of Eugene.

Dealer. Any person who:

- (a) 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
- (b) Produces, refines, manufactures or compounds motor vehicle fuels in the city for use, distribution or sale in the city; or
- (c) 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 station, tank or storage facility is owned, operated or controlled by the dealer.

Highway. Every 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 gas or liquid, by whatever name such gasoline, diesel, mogas, methanol, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas, diesel, mogas, methanol or liquid, 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 manager, the city manager's designee, or any person or entity with whom the city manager contracts to perform those duties.

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Weight Receipt. A receipt issued by the Oregon Department of Transportation, stating the combined weight of each self-propelled or motor-driven vehicle.

(Section 3.465 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; and amended by Ordinance No. 20336, enacted January 26, 2005, effective February 25, 2005.)

3.466 Tax Imposed. A business license tax is hereby imposed on every dealer. 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 ORS 319.010 to 319.430.

(Section 3.466 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.467 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/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 \$.05 (five cents) 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.

(Section 3.467 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; amended by Ordinance No. 20337, enacted January 26, 2005, effective February 25, 2005, and amendment to 3.467(b) to sunset February 29, 2008; amended and the sunset provision deleted by Ordinance No. 20384, enacted May 29, 2007, effective July 1, 2007; amended by Ordinance No. 20391 repealing Ordinance No. 20384, enacted and effective August 15, 2007; amended by Ordinance No. 20401, enacted January 28, 2008, effective March 12, 2008, and Ordinance No. 20337 amendment to 3.467(b), unless otherwise extended by the City Council, to sunset February 28, 2011; amended by Ordinance No. 20434, enacted July 27, 2009, effective August 28, 2009, repealing sunset provision.)

3.468 License Requirements. No dealer shall sell, use or distribute any motor vehicle fuel until he/she has secured a dealer's license as required herein.

(Section 3.468 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.469 License Applications and Issuance.

- (1)** 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.

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- (2) Applications for the license shall be made on forms prescribed, prepared and furnished by the tax administrator.
- (3) Applications shall be accompanied by a duly acknowledged certificate containing:
 - (a) The business name under which the applicant transacts business.
 - (b) The address of applicant's principal place of business and location of distributing stations in and within three miles of the city.
 - (c) 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.
- (4) 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. A license issued hereunder is not assignable, and is valid only for the dealer in whose name it is issued.
- (5) The tax administrator shall retain all completed applications with an alphabetical index thereof, together with a record of all licensed dealers.

(Section 3.469 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.470 Failure to Secure License.

- (1) If a dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and obtaining the license required by section 3.469, 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 percent 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 section 3.474 with reference to delinquency in payment of the fee or by an action at law.
- (4) 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.

(Section 3.470 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

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3.471 Revocation of License. The tax administrator may revoke the license of any dealer who fails to comply with any provision of sections 3.465 to 3.489. The tax administrator shall mail, by certified mail addressed to the dealer at his/her last known address appearing in the files of the tax administrator, a notice of intent to cancel. The notice of revocation shall provide all information required by section 3.050 of this code, and include the reason for cancellation. A dealer has all appeal rights provided by section 2.021 of this code. The license cancellation shall become effective when the local appeal process provided in section 2.021 of this code is completed and a final decision has been rendered by the hearings official.

(Section 3.471 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; and administratively corrected May 14, 2003.)

3.472 Cancellation of License.

- (1) 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.
- (2) 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.

(Section 3.472 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.473 Remedies Cumulative. Except as otherwise provided in sections 3.474 and 3.475, the remedies provided in sections 3.470 through 3.472 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this code.

(Section 3.473 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.474 Payment of Tax and Delinquency.

- (1) The license tax imposed by sections 3.465 to 3.489 of this chapter shall be paid to the tax administrator on or before the 25th day of each month.
- (2) Except as provided in subsections (3) and (5) of this section, if payment of the license tax is not paid as required by subsection (1) of this section, a penalty of 1 percent of such license tax shall be assessed and be immediately due and payable.
- (3) Except as provided in subsection (5) of this section, if the payment of the tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (2) of this section and shall be immediately due and payable.

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- (4) If the license tax imposed by sections 3.465 to 3.489 of this code is not paid as required by subsection (1) of this section, interest shall be charged at the rate of .0329 percent per day until the tax, interest and penalties have been paid in full.
- (5) Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to section 3.470. The tax administrator may for good cause shown waive any penalties assessed under this section.
- (6) If any person fails to pay the license tax, interest, or any penalty provided for by this section, the tax, interest, 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.
- (7) In the event any suit or action is instituted to collect the business license tax, interest, 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.

(Section 3.474 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; and amended by Ordinance No. 20336, enacted January 26, 2005, effective February 25, 2005.)

3.475 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.

(Section 3.475 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.476 Failure to File Monthly Statement. If a dealer fails to file any statement required by section 3.475, 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 percent of the tax. The penalty shall be cumulative to other penalties provided in this code.

(Section 3.476 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.477 Billing Purchasers. Dealers in motor vehicle fuel shall render bills to all purchasers of motor vehicle fuel. The bills shall separately state and

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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.

(Section 3.477 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.478 **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.

(Section 3.478 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.479 **Transporting Motor Vehicle Fuel in Bulk.** 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. 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.

(Section 3.479 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.480 **Exemption of Export Fuel.**

- (1)** The license tax imposed by section 3.466 shall not be imposed on motor vehicle fuel:
 - (a) Exported from the city by a dealer; or
 - (b) Sold by a dealer 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.
- (2)** 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

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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.

- (3) 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.
- (4) 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/her act.
- (5) 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.
- (6) In support of any exemption from taxes on account of sales of motor vehicle fuel for export by the purchaser, the dealer shall retain in his/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.

(Section 3.480 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; and amended by Ordinance No. 20336, enacted January 26, 2005, effective February 25, 2005.)

3.481 **Sales to Armed Forces Exempted.** The license tax imposed by sections 3.466 and 3.467 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.

(Section 3.481 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.482 **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/her own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in sections 3.466 and 3.467 or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is

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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.

(Section 3.482 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.483 **Refunds.**

- (1)** Refunds of tax on motor vehicle fuel will be made pursuant to any refund provisions of Chapter 319 of the Oregon Revised Statutes, including but not limited to ORS 319.280 and 319.831. Claim forms for refunds may be obtained from the Tax Administrator's office.
- (2)** A holder of a weight receipt that certifies to the city that the motor vehicle fuel upon which the tax was imposed will be used only for fueling vehicles subject to the State of Oregon's weight-mile tax, may apply for a refund of 80 percent of the tax imposed by Section 3.467 of this code on motor vehicle fuel purchased in bulk for distribution at the weight receipt holder's facility located within the city. This subsection applies only to motor vehicle fuel purchased by the weight receipt holder on or after February 23, 2005.
- (3)** All claims for refund under subsection (2) of this section shall be filed within 15 months of the date that the fuel was purchased and may not be filed more frequently than quarterly. The minimum claim for refund filed under subsection (2) of this section shall be not less than \$25.00.

(Section 3.483 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; amended by Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003; and amended by Ordinance No. 20336, enacted January 26, 2005, effective February 25, 2005.)

3.484 **Examinations and Investigations.** Pursuant to section 2.019 of this code, 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 sections 3.465 through 3.489. 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 percent 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

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the city, such additional payment shall be subject to interest at the rate of .0329 percent per day from the date the original tax payment was due.

(Section 3.484 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003; and amended by Ordinance No. 20336, enacted January 26, 2005, effective February 25, 2005.)

3.485 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.

- (1)** 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.
- (2)** 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 section 3.474.

(Section 3.485 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.486 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.

(Section 3.486 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.487 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.

(Section 3.487 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.488 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

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such records. The amount of such expenses shall be assessed in addition to the tax imposed by section 3.466.

(Section 3.488 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

3.489 Use of Tax Revenues.

- (1) For the purpose of this section, net revenue shall mean the revenue from the tax and penalties imposed by sections 3.465 through 3.489 remaining after providing for the cost of administration and any refunds and credits authorized herein.
- (2) The net revenue shall be used only for the reconstruction, repair, maintenance, operation, and preservation of city-owned roads and streets within the city, roads and streets for which the city is contractually or legally obligated to operate and maintain, or roads and streets for which the city has accepted responsibility under intergovernmental agreement. No revenue shall be used for capacity-enhancing street improvements.

(Section 3.489 added by Ordinance No. 20278, enacted January 27, 2003, effective February 26, 2003.)

Tobacco Products Retail Licenses

3.500 Tobacco Products Sales - License Required. No retailer shall sell tobacco products within the corporate limits of the city without having obtained a license pursuant to sections 3.500 to 3.515 of this code for each location in which tobacco products are sold and where persons under the age of 21 years may have access to tobacco products. Except as these sections specifically provide to the contrary, the procedures and requirements of sections 3.015 to 3.075 of this code apply to the activities authorized by sections 3.500 to 3.515.

(Section 3.500 added by Ordinance No. 20211, enacted September 25, 2000, effective October 26, 2000.)

3.505 Tobacco Products Sales - Exempt Activities. Sections 3.500 to 3.515 of this code apply only to establishments to which persons under 21 years of age are admitted.

(Section 3.505 added by Ordinance No. 20211, enacted September 25, 2000, effective October 26, 2000.)

3.510 Tobacco Products Sales - Prohibitions.

- (1) Sales to Minors. No retailer shall sell or otherwise provide tobacco products to a minor. The prohibition of this subsection does not apply if the retailer is the custodial parent or guardian of the minor.
- (2) Non-vendor Assisted Sales. No retailer shall 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.

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- (3) **No Retaliation.** No person or employer shall 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 sections 3.500 to 3.515 of this code.
- (4) **Revocation or Suspension.** In addition to penalties imposed under section 3.990 and in addition to a license revocation or suspension under sections 3.050 or 3.055 of this code:
 - (a) Upon the judicial or administrative determination that the licensee has violated sections 3.505 to 3.515 of this code for a second time within a period of 24 months, the licensee's tobacco products retailer license may be suspended for a period of not more than 45 days;
 - (b) Upon the judicial or administrative determination that the licensee has violated sections 3.505 to 3.515 of this code for a third or subsequent time within a period of 24 months, the licensee's tobacco products retailer license may be revoked, and the licensee may not reapply for a period of six months from the date of revocation;
 - (c) Upon the failure of a licensee to pay a fine imposed for violation of sections 3.500 to 3.515 of this code within 30 days of the date the fine was imposed, the licensee's tobacco products retailer license shall be suspended until the fine is paid.

Upon revocation or suspension of a tobacco products retailer license, no tobacco products shall be sold on, and all tobacco products shall be removed from all retail areas of, the licensee's premises for the duration of the revocation or suspension period.

(Section 3.510 added by Ordinance No. 20211, enacted September 25, 2000, effective October 26, 2000.)

- 3.515 Tobacco Products Sales - Administrative Rules.** The city manager may adopt administrative rules pursuant to section 2.019 of this code, and establish fees pursuant to section 2.020 of this code in order to implement the provisions of sections 3.500 - 3.515. The rules shall include, but not be limited to:
- (1) The form and content of licenses, which shall provide at a minimum information about the penalty schedule reflected in section 3.990(2) of this code for enhanced penalties for second and subsequent violations occurring within a 24 month period; and
 - (2) A schedule of administrative civil penalties for violation of sections 3.500 to 3.510 of this code that considers factors that include, but are not limited to, the following:
 - (a) The extent to which a violator has voluntarily provided for its employees, or otherwise participated in, any training program designed to prevent violations of sections 3.500 to 3.510 of this code;

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- (b) The violator's cooperation and efforts to prevent or correct violations;
- (c) Any prior violations of the same ordinance or other similar statutes, ordinances, rules or orders; and
- (d) Whether the violation was intentional, knowing, reckless or negligent.

(Section 3.515 added by Ordinance No. 20211, enacted September 25, 2000, effective October 26, 2000.)

Payday Loans

3.550 Payday Loans - Purpose. The provisions of sections 3.550 to 3.560 of this code are intended to minimize the detrimental effects that certain payday lending practices have on individuals and families, by regulating payday lenders to require payment of a portion of the original loan amount prior to the renewal of a payday loan, to allow borrowers the ability to cancel a payday loan, and to allow borrowers the ability to convert a payday loan into a payment plan. Except as specifically provided to the contrary, the procedures and requirements of sections 3.015 to 3.080 of this code apply to the activities authorized by sections 3.550 through 3.560.

(Section 3.550 added by Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006.)

3.552 Payday Loans - License Required.

- (1) No person shall operate a payday lending business or loan any funds as a payday loan without a current payday lender license to do business issued by the city. Licenses shall be required for each location a lender operates in the city and shall be renewed annually.
- (2) The city manager shall adopt administrative rules pursuant to section 2.019 of this code, which shall include application criteria and a requirement that the payday lender report its fee schedule in the payday application.
- (3) The city manager shall adopt the annual cost for the license by administrative order pursuant to section 2.020 of this code.

(Section 3.552 added by Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006.)

3.554 Payday Loans - Inspection of Records. The city reserves the right to review and/or copy the records of any payday lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the city manager.

(Section 3.554 added by Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006.)

3.556 Payday Loans - Payment of Principal Prior to Renewal. A payday lender may not renew a payday loan unless the borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original payday loan, plus interest on the remaining balance of the payday loan. The payday

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lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

(Section 3.550 added by Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006.)

3.558 Payday Loans - Cancellation.

- (1) A payday lender shall cancel a payday loan without any charge to the borrower if, prior to the close of the business day following the day on which the payday loan originated, the borrower:
 - (a) Informs the payday lender in writing that the borrower wishes to cancel the payday loan and any future payment obligations; and
 - (b) Returns to the payday lender the uncashed check or proceeds given to the borrower by the payday lender or cash in an amount equal to the principal amount of the payday loan.
- (2) A payday lender shall disclose to each borrower that the right to cancel a payday loan as described in this section is available to the borrower. The payday lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

(Section 3.550 added by Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006.)

3.560 Payday Loans - Payment Plan.

- (1) A payday lender and a borrower may agree to a payment plan for a payday loan at any time.
- (2) A payday lender shall disclose to each borrower that a payment plan described in this section is available to the borrower after the maximum amount of renewals allowed by state law. The payday lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.
- (3) After a payday loan has been renewed to the maximum amount allowed by state law, and prior to default on the payday loan, a payday lender shall allow a borrower to convert the borrower's payday loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the payday lender and the borrower.
- (4) The payday lender shall not assess any fee, interest charge or other charge to the borrower as a result of converting the payday loan into a payment plan.
- (5) The payment plan shall provide for the payment of the total of payments due on the payday loan over a period of no fewer than 60 days in three or more payments. The borrower may pay the total of payments due on the payment plan at any time. The payday lender may not assess any penalty, fee or other charge to the borrower for early payment on the payment plan.
- (6) A payday lender's violation of the terms of a payment plan entered into with a borrower under this section constitutes a violation of sections 3.550 through 3.560 of this code. If a payday lender enters into a payment plan with a borrower through a third party that is representing

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the borrower, the payday lender's failure to comply with the terms of that payment plan constitutes a violation of sections 3.550 through 3.560 of this code.

(Section 3.560 added by Ordinance No. 20372, enacted July 10, 2006, effective July 11, 2006.)

TAXATION

3.600 Natural Gas Supplier Tax - Definitions. For purposes of sections 3.600 to 3.625 of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

City manager. The city manager or the city manager's designee.

Facilities. Includes gas mains, pipes, boxes, reducing and regulation stations, laterals, conduits and connections, including service connections, together with all of the necessary or useful appurtenances for the transmission and distribution of gas to the city and its inhabitants and to other customers and territory beyond the limits of the city.

Gross revenue. Revenues earned by the natural gas supplier from operations within the city, including but not limited to revenues from the sale and/or transportation of natural gas consumed within the city and revenues from the use, rental or lease of operating facilities of the natural gas supplier other than residential-type space and water heating equipment, less the net writeoff of uncollectible accounts directly related to such revenues. Gross revenues shall not include:

- (a) Revenues paid directly by the United States of America or any of its agencies;
- (b) Proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks; or
- (c) Sales at wholesale by one public utility to another when the utility purchasing the service is not the ultimate customer.

Natural gas supplier. Any person who makes natural gas available for consumption within the city or who operates a natural gas distribution system which makes natural gas available for consumption within the city.

Natural gas distribution system. Real and personal property of a natural gas supplier located within the city used for the transportation, storage, or sale of natural gas.

Person. A natural person, firm, partnership, association, corporation, joint venture or other business entity.

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Public way. Any street, road, alley, right-of-way, pedestrian or bicycle easement or utility easement for public use that is controlled by the city.

(Section 3.600 added by Ordinance No. 19655, enacted December 4, 1989; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20176, enacted November 8, 1999, effective December 8, 1999.)

3.605 Natural Gas Supplier Tax - Levy.

- (1) Any person engaged in or carrying on the business, occupation or pursuit of a natural gas supplier or operating a natural gas distribution system during part or all of a calendar year shall comply with the provisions of sections 3.600 to 3.625 of this chapter and shall pay to the city for that year a tax of five percent (5%) of the gross revenues.
- (2) Payment shall be made within forty-five (45) days following the end of each quarter of each calendar year.

(Section 3.605 added by Ordinance No. 19655, enacted December 4, 1989; and amended by Ordinance No. 20176, enacted November 8, 1999, effective December 8, 1999.)

3.610 Natural Gas Supplier Tax - Administration.

- (1) The city manager shall administer the tax imposed by section 3.605 of this code. The city manager may do so in accordance with rules adopted in the manner provided in section 2.019 of this code. The rules shall include such provisions as are necessary or expedient for eliciting information needed to administer the tax, inducing prompt and full payment of the tax, preventing fraud or evasion related to the tax, affording subjects of the tax ample notice of their obligations regarding the tax, resolving administratively whatever controversies arise in administration of the tax, and imposing sanctions conducive to compliance with the rules. The city manager may also prescribe in the rules the types and amounts of insurance that a natural gas supplier must maintain to protect the city and its inhabitants from financial loss from property damage and personal injury caused by an accident or other incident involving a natural gas supplier or its facilities. The rules may include provisions for indemnity or bonding.
- (2) Every natural gas supplier shall, at the time of the quarterly payment of the tax, deliver a statement by an officer of the natural gas supplier showing the amount of gross revenues of the natural gas supplier for the quarter covered by the payment, including a description of and the amount for each exclusion and deduction from gross revenues as allowed under the definition of "Gross revenue" in section 3.600 of this code, the calculation of the tax for the quarter, computed on the basis set forth in section 3.605 of this code, and such other detailed information as may be prescribed by rule.
- (3) The city manager may obtain information necessary or convenient for administering the tax or to verify any statement or report submitted by a natural gas supplier pursuant to the provisions of this section. Each person or business subject to the tax shall keep available and open to

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inspection by the city manager during regular office hours, all accounts and books necessary or convenient for ascertaining the tax liability under section 3.605. Any person operating a natural gas distribution system shall make available upon request the names and addresses of all persons using or leasing the natural gas distribution system. Every natural gas supplier shall, upon request, furnish to the city a list of all customers within the corporate limits of the city who have contracted with the natural gas supplier for transportation and delivery of natural gas separate from the purchase of natural gas. This report shall include the names of all such customers and the volume of gas that was transported by the natural gas supplier on behalf of each customer for the period covered by the report. All such customers shall, upon written request from the city, furnish the names of the person or persons from whom they purchased natural gas, separate from the transportation and delivery of the gas.

- (4) The city manager shall see that all information about gross revenues furnished under subsection (3) of this section, and all information about the amount of any tax based on such gross revenues, is kept in strict confidence and becomes known only to persons responsible for administering the tax. Except as otherwise provided by law, no person may divulge any of the information contained in these reports to any person except as is necessary for administering and collecting the tax.
- (5) The city manager shall have the authority to:
 - (a) Administer oaths;
 - (b) Audit records to assure conformance with section 3.600 to 3.625;
 - (c) Certify official acts;
 - (d) Subpoena and require attendance of witnesses at meetings or hearings to determine compliance with section 3.600 to 3.625;
 - (e) Require production of relevant documents;
 - (f) Swear witnesses;
 - (g) Take testimony of any person by deposition; and
 - (h) Perform all other acts necessary to administer or enforce the provisions of sections 3.600 to 3.625.

(Section 3.610 added by Ordinance No. 19655, enacted December 4, 1989; administratively amended by Ordinance No. 19742, enacted January 14, 1991; and amended by Ordinance No. 20176, enacted November 8, 1999, effective December 8, 1999.)

3.615 Natural Gas Supplier Tax - Audit.

- (1) The acceptance of any payment required by the city shall not be construed as an acknowledgment that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim the city may have for additional sums due and payable.
- (2) All tax payments shall be subject to audit by the city and an assessment or refund if the payment is found to be in error. Any assessment requiring additional payment and all interest and penalties shall be

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immediately due and payable. The natural gas supplier shall reimburse the city for the reasonable costs of such audit if the audit discloses that the natural gas supplier has paid 95% or less of the fee owing for the period of the audit.

- (3) In the event that such audit 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 eight percent (8%) per year from the date the original tax payment was due.
- (4) In the event that such audit results in an assessment by and an additional payment due to the city which the city manager finds to have been the result of intentional acts seeking to avoid payment of the full amount due the city, the natural gas supplier shall be subject to an additional penalty of ten percent (10%) of the total amount of the additional tax payments due.
- (5) Any amount due the city as reimbursement for audit costs or as a tax, interest or penalty under section 3.605 or this section shall constitute a debt of the person from whom the amount is due. The city may bring action in a court of competent jurisdiction to enforce payment of the debt.
- (6) Any amount due the city as reimbursement for audit costs or as a tax, interest or penalty under section 3.605 of this code or this section may, by declaration of the city manager, be made a lien on the personal property of the person from whom the amount is due. The city may enforce payment of the amount by foreclosure of the lien in any manner authorized by law.

(Section 3.615 added by Ordinance No. 19655, enacted December 4, 1989; and amended by Ordinance No. 20176, enacted November 8, 1999, effective 8, 1999.)

- 3.620 Natural Gas Supplier Tax - Other Obligations Unaffected.** Except as provided in section 3.625, any amount due the city as a tax under section 3.605 of this code is in addition to any other payment required by law, and shall not be considered as payment in lieu of or as a credit toward:
- (a) Any franchise fee paid to the city for the use of the public ways of the city;
 - (b) The payment of any general ad valorem taxes levied or imposed upon the properties of the natural gas supplier;
 - (c) Any local improvement assessment imposed on the natural gas supplier;
 - (d) Any permit fees or inspection fees required by the construction codes or other ordinances of the city which are or may hereafter be adopted; or
 - (e) Any similar fee or charge imposed by law.

(Section 3.620 added by Ordinance No. 19655, enacted December 4, 1989; and amended by Ordinance No. 20176, enacted November 8, 1999, effective December 8, 1999.)

- 3.625 Natural Gas Supplier Tax - Credit for Franchise Fees.** A natural gas supplier which is required to pay a franchise fee to the city for the use of the

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public ways of the city may subtract the amount of the franchise fee paid for the same year or part of the year in which the tax is in effect from the total amount due as a tax under section 3.605 of this code.

(Section 3.625 added by Ordinance No. 19655, enacted December 4, 1989; and amended by Ordinance No. 20176, enacted November 8, 1999, effective December 8, 1999.)

Special Services District Occupancy Fee

3.650 Special Services District Occupancy Fee - Imposed.

(1) Downtown Services District

- (a) Unless exempt pursuant to section 3.680(1)(a) of this code, the owner of property within the downtown services district shall pay to the city a fee based on the square footage of space in a building which is occupied or used for non-residential purposes. No fee shall be imposed for that portion of the building which is not occupied. The fee shall be paid quarterly. The quarterly fee shall be based on the amount of square footage of space occupied or used for non-residential purposes measured on the first day of the quarter as follows:
 1. Owners of property located within the inner district as defined in subsection (c) of this section, shall pay a fee of \$0.04 per square foot of occupied space, exclusive of occupied basement space, per quarter, commencing January 1, 2001.
 2. Owners of property located within the outer district as defined in subsection (c) of this section, shall pay \$0.03 per square foot of occupied space, exclusive of occupied basement space, per quarter, commencing January 1, 2001.
- (b) Notwithstanding subsection (a) of this section, the owners of hotels and motels located within the downtown services district shall pay a fee of \$7.50 per occupied room per quarter. For purposes of this subsection, the fee for any quarter shall be based on the daily average of occupied rooms during the immediately preceding quarter. Such hotels and motels also shall pay to the city a square footage occupancy fee under subsection (1) of this section for that portion of the hotel or motel which is engaged in retail or food service activities.
- (c) The boundaries of the downtown services district to which this occupancy fee applies are described as:
 1. Inner district. That area bounded by the centerlines of 7th Avenue on the North, Charnelton Street on the West, 11th Avenue on the South, and the North/South alley between Pearl Street and High Street on the East.
 2. Outer district. The properties between the centerlines of 6th Avenue and 11th Avenue that abut the west side of

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Charnelton Street on the West; the properties between the northern boundary of the inner services district and the centerline of 6th Avenue on the North; and the properties between the eastern boundary of the inner services district to and including the properties that abut the East side of High Street between the centerlines of 6th Avenue and 11th Avenue on the East as depicted on the map attached as Exhibit A hereto.

- (d) Commencing July 1, 1997, owners of property located within both the inner district and outer district shall pay a fee of \$0.01 per square foot of occupied basement space per quarter.
- (e) In the event a petition requesting that the district be dissolved is presented to the city manager, and the petition is signed by property owners representing more than 50% of the square footage of the district, the city manager shall place the petition on a council agenda for consideration by the council. No more than one such petition may be presented to the council during a period of 12 consecutive months. If the council grants a petition and dissolves the district, owners of property within the district shall be required to continue payments in accordance with this section for a minimum period of two quarters thereafter. Subject to the procedural requirements of its operating agreements, the council may place consideration of dissolution of the district on a council agenda without a property owner petition being filed.

(2) West University Services District

- (a) Unless exempt pursuant to section 3.680(1)(b) of this code, the owner of property within the West University services district shall pay to the city a fee based on the square footage of space in a building which is occupied or used for non-exempt purposes. No fee shall be imposed for that portion of the building which is not occupied. The fee shall be paid quarterly. The quarterly fee shall be based on the amount of square footage of space occupied or used for non-exempt purposes as measured on the first day of the quarter. Owners of the property located within the district as defined in subsection (b) of this section shall pay the following fees on a quarterly basis, as provided in section 3.660(2) of this code:
 - 1. \$0.04 per square foot per month, up to a maximum of \$400.00 per property per month; and
 - 2. \$7.50 per occupied room per month.
- (b) The boundaries of the West University services district to which this occupancy fee applies are described as the commercial property on 13th Avenue between Kincaid Street and Ferry Street plus the adjacent commercial property on Alder Street and Hilyard Street between 13th Avenue and the alley south of 13th Avenue, excepting therefrom the north side of 13th Avenue from Ferry

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Street to Hilyard Street, as more particularly depicted on the map attached as Exhibit B hereto.

- (c) In the event a petition requesting that the district be dissolved is presented to the city manager, and the petition is signed by property owners representing more than 50% of the square footage of the district, the city manager shall place the petition on a council agenda for consideration by the council. No more than one such petition may be presented to the council during a period of 12 consecutive months. If the council grants a petition and dissolves the district, owners of property within the district shall be required to continue payments in accordance with this section for a minimum period of two quarters thereafter. Subject to the procedural requirements of its operating agreements, the council may place consideration of dissolution of the district on a council agenda without a property owner petition being filed.

(Section 3.650 added by Ordinance 19965, enacted on May 18, 1994, effective July 1, 1994; amended by Ordinance No. 20092, enacted September 17, 1997; and Ordinance No. 20197, enacted June 26, 2000, effective July 26, 2000.)

3.655 Special Services District Occupancy Fee - Administration.

- (1) The city manager shall administer and implement the provisions of sections 3.650 to 3.680 of this code. Except where otherwise indicated, as used herein, "city manager" includes the city manager's designee, and any entity the city manager contracts with for the administration of sections 3.650 to 3.680, and the billing and collection of the fees due thereunder and enforcement of those provisions. The city shall not delegate to a contractor authority to promulgate rules, establish fees, or issue final decisions regarding the imposition of fees or penalties.
- (2) The city manager may establish rules pursuant to section 2.019 of this code for implementation of sections 3.650 to 3.680 of this code. Such rules may include, but are not limited to, provisions necessary for eliciting information needed to administer the occupancy fee provisions, inducing prompt and full payment of the fee, preventing fraud or evasion in reporting or payment of the fee, procedures to adequately apprise property owners of their obligations under sections 3.650 to 3.680, provisions that further define what constitutes occupied property, residential use, and other terms used in this ordinance, procedures for resolution of disputed designations, and imposing sanctions conducive to compliance with the rules and this code.
- (3) The city manager or designee may obtain from each property owner the information necessary or convenient for determining the accuracy of the occupancy fee report. Each person subject to the fee shall keep available and open for inspection by the city, such records as may be necessary in making such determination.

(Section 3.655 added by Ordinance No. 19965, enacted on May 18, 1994, effective July 1, 1994; and amended by Ordinance No. 20092, enacted September 17, 1997.)

3.660 Special Services District Occupancy Fee - Payment.

- (1) The occupancy fee imposed pursuant to section 3.650(1) of this code shall be payable in advance on a quarterly basis. The quarters to which this fee applies shall commence January 1, 2001, and every April 1, July 1, October 1, and January 1 thereafter.
- (2) The occupancy fee imposed pursuant to section 3.650(2) of this code shall be payable in advance on a quarterly basis. The quarters to which this fee applies shall commence on October 1, 2000, and every January 1, April 1, July 1 and October 1, thereafter.
- (3) Payments shall be submitted, together with the occupancy fee report form, by no later than the 10th day of the first month of each quarter.
- (4) Payments submitted after the due date, or submitted without the required occupancy report form shall be subject to a delinquency penalty and interest as set forth in section 3.665 of this code. Payments shall be considered timely submitted if personally delivered to the address indicated on the occupancy report form or postmarked on or before the due date.

(Section 3.660 added by Ordinance No. 19965, enacted on May 18, 1994, effective July 1, 1994; amended by Ordinance No. 20092, enacted September 17, 1997; Ordinance No. 20197, enacted June 26, 2000, effective July 26, 2000.)

3.665 Special Services District Occupancy Fee - Penalties and Interest.

- (1) Interest at the rate of one and one-half percent per month from the first day of the quarter to the date paid shall be imposed on payments not received by the due date established in section 3.660.
- (2) A person who has not been granted an extension of time under section 3.675 of this code and who fails to file the occupancy fee report and pay the fee due by the date due, or by the end of a granted extension of time, shall be required to pay a late penalty of an additional ten percent on the total fee, plus interest.
- (3) A penalty in the amount of 15 percent of the actual amount due during a quarter shall be imposed for failure to correct an underestimated payment prior to the end of the quarter.
- (4) In addition to the interest and/or any penalties imposed under subsections (1), (2) or (3) of this section, or section 3.670, the city manager or designee may impose an administrative civil penalty pursuant to section 2.018 of this code for failure to file required reports, failure to pay the required occupancy fee, repeated uncorrected estimated occupancy fee payments, filing a fraudulent occupancy fee report, or failure to comply with the change of ownership or occupancy notice requirements of section 3.680.
- (5) Any interest or penalties imposed pursuant to this section shall be due and payable within ten days from the date of delivery of the notice. For purposes of this subsection, the notice shall be deemed delivered on the date personally left with the owner, or three days from the date

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mailed, if mailed to an owner within the city, and five days from the date mailed, if mailed to an owner not residing within the city.

(Section 3.665 added by Ordinance No. 19965, enacted on May 18, 1994, effective July 1, 1994; and amended by Ordinance No. 20092, enacted September 17, 1997.)

3.670 Special Services District Occupancy Fee - Penalty for Fraud.

- (1)** Upon a determination by the city manager or designee that the nonpayment of a remittance due under sections 3.650 to 3.680 of this code is due to fraud or intent to evade a requirement of those sections, there shall be added to the amount of fee due a fraud penalty of 25 percent of the amount of fee due for the quarter during which the fraud or intent to evade occurs. This penalty shall be in addition to any other penalties imposed pursuant to section 3.665.
- (2)** In the event a person fails or refuses to pay the occupancy fee, makes a fraudulent return, or otherwise attempts to evade the requirements of sections 3.650 to 3.680 of this code, or rules or regulations adopted by the city manager, the city manager or designee shall obtain the necessary facts and information upon which to base a determination of the amount of occupancy fee due. Notice of the amount so determined, together with any interest or penalties thereon shall be given to the person responsible for payment thereof. The amount so determined becomes due upon receipt of the notice, and the determination becomes final within ten days after the receipt of the notice, unless prior thereto a petition for reconsideration is filed with the city manager pursuant to subsection (4) of this section. Failure to petition for reconsideration or pay the amount due within the ten day period may subject the person to an additional penalty of \$50.00 per day for each day thereafter the amount remains unpaid.
- (3)** A determination under this section shall be made and the notice mailed within three years of the date the city manager or designee discovers the fraud, intent to evade, or failure or refusal to pay the occupancy fee.
- (4)** A person against whom a determination is made under this section, or a person financially interested in the determination may, within ten days from the date the notice is received, petition the city manager or designee for a review of the determination. The review of the determination shall be heard and considered by a hearings official pursuant to the procedures of section 2.021 of this code. The decision of the hearings official is final.
- (5)** The petition for review must be accompanied by the amount declared due under the notice subject to review, together with a hearing fee established by the city manager pursuant to section 2.020 of this code.

(Section 3.670 added by Ordinance No. 19965, enacted May 18, 1994, effective July 1, 1994; amended by Ordinance No. 20092, enacted September 17, 1997.)

3.675 Special Services District Occupancy Fee - Extension of Time. Prior to the delinquency of a fee due under section 3.650, the city manager or

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designee may, for good cause, extend the time for filing an occupancy fee return and making payment of the fee due thereunder, for a specific period of time not to exceed 30 days. A person to whom such an extension is granted shall pay interest at the rate of one and one-half percent per month on the amount of fee due, without proration for a fraction of a month. If the report is not filed, or the fee and interest due is not paid by the end of the extended time, the interest shall become a part of the fee for computation of any penalty under section 3.665.

(Section 3.675 added by Ordinance No. 19965, enacted May 18, 1994, effective July 1, 1994; amended by Ordinance No. 20092, enacted September 17, 1997.)

3.680 Special Services District Occupancy Fee - Exemptions.

- (1)** No occupancy fee shall be imposed or levied under section 3.650 where a certificate of exemption has been issued pursuant to subsection (2) of this section.
 - (a)** The following qualify for a certificate of exemption under section 3.650(1):
 1. Publicly owned property occupied by any public agency; or
 2. That portion of property occupied by an organization exempt from the payment of taxes pursuant to 26 USC 501(c)(3); or
 3. That portion of property occupied for residential purposes.
 - (b)** The following qualify for a certificate of exemption under section 3.650(2):
 1. Publicly owned property occupied by any public agency; or
 2. That portion of property owned by a non-profit corporation which is used for overnight lodging purposes; or
 3. That portion of property occupied for residential purposes; or
 4. The basement portion of property.
- (2)** In order to qualify for an exemption under subsection (1) or (2) of this section, the owner of the property for which the exemption is sought shall file with the city manager or designee a statement listing the property, or portion thereof, claimed to be exempt, and the basis for the exemption. Upon finding that the property qualifies for the exemption, the city manager or designee shall issue a certificate of exemption from the occupancy fee for that portion of the property that qualifies for the exemption.
- (3)** During the period of exemption, the owner of any property for which a certificate of exemption is issued shall notify the city manager or designee of any change in ownership, occupancy, or use of the premises within 30 days of the date of such change. If the change results in the property no longer being qualified for exemption, within ten days from the date notice is provided to the city, the owner or person responsible for payment must file an occupancy fee report form, and pay the occupancy fee due from the date of the change to the end of that quarter.

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- (4) In addition to any penalties or interest imposed pursuant to section 3.665, an administrative civil penalty may be imposed pursuant to section 2.018 of this code for failure of an owner to comply with the provisions of subsection (3) of this section.
- (5) A decision of the city manager or designee denying a request for exemption may be appealed to a hearings official pursuant to the provisions of section 2.021 of this code. The appeal must be filed within ten days from the date of the decision and must be accompanied by any required appeal fee.
- (6) Publicly owned property occupied by a commercial tenant shall not be exempt from the fees imposed pursuant to section 3.650(1).

(Section 3.680 added by Ordinance No. 19965, enacted on May 18, 1994, effective July 1, 1994; amended by Ordinance No. 20092, enacted September 17, 1997.)

Hazardous Substances User Fee

3.690 **Hazardous Substances User Fee – Purpose.** Sections 3.690 through 3.696 contain the procedures for payment by certain businesses that use hazardous substances of the hazardous substance user fees, as established in section 3.694 of this code, in a manner consistent with article VII of amendment IV to the Eugene Charter of 2002 (the “amendment”), taking into consideration the mandate of the courts in the litigation involving the amendment.

(Section 3.690 added by Ordinance No. 20189, enacted February 28, 2000, effective March 29, 2000; and administratively amended by Ordinance 20199, enacted July 24, 2000, effective August 23, 2000; and amended by Ordinance No. 20551, enacted February 23, 2015, effective March 27, 2015.)

3.692 **Hazardous Substances User Fee- Definitions.** Notwithstanding any definitions contained in the amendment, as used in sections 3.690 through 3.696 of this code, the following words and phrases mean:

Facility. All buildings, equipment, structures and other stationary items that are located and operated on a single site or on contiguous or adjacent sites that are owned or operated by the same person(s) and relate to a common product or service, except state and federal facilities and public educational institutions.

FTE. A full-time equivalent employee. For purposes of section 3.694, the number of FTEs shall be calculated by dividing the number of paid hours worked at the facility by all employees during the calendar year preceding payment of the fee by 2,080.

Hazardous substance user. Any business that operates a stationary facility within the city limits of Eugene that:

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- (a) Has 10 or more FTEs;
- (b) Has a SIC code between 2000 and 3999 inclusive; and
- (c) Uses any quantity of hazardous substances (above zero) in its manufacturing processes.

SIC. Standard Industrial Classification categories as listed in *Standard Industrial Classification Manual* (Office of Management and Budget, 1987).

Material Accounting Threshold. The quantity of total inputs of a particular chemical during a calendar year, below which a full accounting of inputs and outputs of that chemical is not required. Should total inputs of a chemical fall between this threshold and the reporting threshold, the total input quantity is required to be reported.

Reporting Threshold. The quantity of total inputs of a particular chemical during a calendar year, below which that chemical is not required to be reported. Should total inputs of a chemical fall between this threshold and the material accounting threshold, the total input quantity is required to be reported.

(Section 3.692 added by Ordinance No. 20189, enacted February 28, 2000, effective March 29, 2000; and amended by Ordinance No. 20199, enacted July 24, 2000, effective August 23, 2000.)

3.694 Hazardous Substances User Fee – Imposed. A fee is hereby imposed upon hazardous substance users. The fee shall be an amount per FTE and shall be paid annually no later than May 1 of each year, except that the first fee due under this section shall be paid by May 1, 2000 or within 30 days of the date the city mails an invoice setting forth the amount due, whichever is later. Notwithstanding the provisions of section 2.020 of this code, the specific amount of the fee shall be established by resolution of the city council.

(Section 3.694 added by Ordinance No. 20189, enacted February 28, 2000, effective March 29, 2000.)

3.696 Hazardous Substances - Addition and Removal of Chemicals to Hazardous Substances List and Changes to Reporting and Accounting Thresholds.

- (1) Within 60 days of learning that a chemical has been added to or removed from one or more of the lists described in Article III, section E, subsections 1(a), (b), (c), (f) and (g), 2, 3, and 4, of Amendment IV to the Eugene Charter of 2002, the city manager shall request advice from the toxics board as to whether the new chemical should be added to or removed from the list of substances required to be reported under Amendment IV to the Eugene Charter of 2002. If the chemical is to be added, the city manager shall also request the toxics board's advice on

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the appropriate reporting threshold and materials accounting threshold for each chemical in question.

- (2) After obtaining the advice of the toxics board as provided in subsection (1) of this section, and after following the procedures described in section 2.019 of this code, the city manager may adopt an administrative rule that adds or removes a chemical or chemicals to the list of chemicals subject to the requirements of Amendment IV to the Eugene Charter of 2002 and, for added chemicals, establishes reporting and materials balancing thresholds for that chemical or those chemicals if the manager determines that such a rule is consistent with the purpose and intent of Amendment IV to the Eugene Charter of 2002. The rules adopted by the manager shall also establish a date when the additional chemical(s) shall be subject to the reporting and materials accounting requirements.
- (3) Within 60 days of learning that the federal reporting threshold for any chemical reportable under Amendment IV to the Eugene Charter of 2002 is reduced so as to fall below the materials accounting threshold established locally for that chemical, the city manager shall request the toxics board's advice on the appropriate reporting threshold and materials accounting threshold for that chemical.
- (4) After obtaining the advice of the toxics board as provided in subsection (3) of this section, and after following the procedures described in section 2.019 of this code, the city manager may adopt an administrative rule that changes the reporting and materials accounting thresholds for chemicals meeting the conditions described in subsection (3) of this section. The rules adopted by the city manager shall also establish a date when the new thresholds shall apply.
- (5) If the city manager declines to adopt an administrative rule that implements the toxics board's advice as described in subsections (2) or (4) of this section, the city manager shall explain to the city council and the toxics board in writing the reasons for the decision not to implement the toxics board's advice. However, the city manager may remove a chemical pursuant to subsection (2) of this section only if the toxics board has recommended its removal.

(Section 3.696 added by Ordinance No. 20199, enacted July 24, 2000, effective August 23, 2000; amended by Ordinance No. 20213, enacted October 23, 2000; and Ordinance No. 20551, enacted February 23, 2015, effective March 27, 2015.)

Retail Tax on Marijuana Items

3.700 **Retail Tax on Marijuana Items - Definitions.** The following words and phrases as used in this Chapter shall have the following meanings:

City Manager. The city manager or the city manager's designee.

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Tax Administrator. The person designated by the city manager.

Consumer. A person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

Marijuana item. Marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.

Marijuana retailer. A person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.

Person. Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

Retail sale price. The total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

(Section 3.700 added by Ordinance No. 20566, enacted July 25, 2016, effective January 1, 2017.)

3.702 Retail Tax on Marijuana Items - Tax Imposed. The city hereby imposes a tax on each marijuana item sold to a consumer within the city by a marijuana retailer to be used for general government purposes. The tax shall equal three percent of the retail sale price for each marijuana item sold.

(Section 3.702 added by Ordinance No. 20566, enacted July 25, 2016, effective January 1, 2017.)

3.704 Retail Tax on Marijuana Items - Collection. The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The marijuana retailer shall remit the tax to the tax administrator.

(Section 3.704 added by Ordinance No. 20566, enacted July 25, 2016, effective January 1, 2017.)

3.706 Retail Tax on Marijuana Items - Accounting and Records. Every marijuana retailer must keep, preserve and make available to the tax administrator detailed records of all sales made and all taxes collected consistent with administrative regulations adopted by the city manager pursuant to section 2.019 of this code.

(Section 3.706 added by Ordinance No. 20566, enacted July 25, 2016, effective January 1, 2017.)

3.708 Retail Tax on Marijuana Items - Penalties and Interest. The city manager shall adopt administrative rules pursuant to section 2.019 of this code to specify the amount of penalties and interest that a retailer must pay if the

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retailer fails to timely remit any tax imposed by this code. The amount of penalties and interest established by administrative regulation shall be consistent with comparable provisions of state law.

(Section 3.708 added by Ordinance No. 20566, enacted July 25, 2016, effective January 1, 2017.)

3.710 Retail Tax on Marijuana Items - Appeal. Any person aggrieved by any decision of the tax administrator under this code may appeal the decision in the manner provided in section 2.021 of this code. The appeal shall be heard and determined as provided in section 2.021 of this code. However, if the city manager contracts with the State of Oregon to administer the tax, then in lieu of processing an appeal as provided in section 2.021, the city manager may provide that the appeal shall be processed in accordance with procedures adopted by the State.

(Section 3.710 added by Ordinance No. 20566, enacted July 25, 2016, effective January 1, 2017; amended by Ordinance No. 20574, enacted February 27, 2017, effective April 1, 2017.)

Transient Room Tax

3.770 Transient Room Tax - Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of sections 3.770 to 3.804 of this Code.

- (a)** Hotel means any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, or similar structure or portion thereof so occupied, provided the occupancy is for less than a 30-day period.
- (b)** Council means the city council of the City of Eugene, Oregon.
- (c)** Occupancy means the use or possession, or the right to use or possession, for lodging or sleeping purposes, of any room in a hotel, or space in a mobile home or trailer park or portion thereof.
- (d)** Operator means the person who is proprietor of a hotel in any capacity and, where the operator performs the operator's functions through a managing agent other than an employee, the managing agent who shall have the same duties and liabilities as the managing agent's principal. Compliance with the provisions of sections 3.772 to 3.804 of this Code by either the principal or the managing agent shall be considered to be compliance by both.
- (e)** Person means any individual, firm partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust,

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business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

- (f) Cash accounting means a system of accounting in which the operator does not enter on the operator's records the rent due from a transient until the rent is paid.
- (g) Accrual accounting means a system of accounting in which the operator enters on the operator's records the rent due from a transient when the rent is earned, whether or not it is paid.
- (h) Rent means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel whether or not valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction.
- (i) Rent package plan means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of the transient room tax under section 3.772 of this Code shall be the same charge made for rent when not a part of a package plan.
- (j) Tax administrator means the finance director of the City of Eugene.
- (k) Transient means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be deemed a transient.
- (l) Tax means either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which the operator is required to report the operator's collections.

(Section 3.770 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.772 Transient Room Tax - Levy. For the privilege of occupancy in any hotel each transient shall pay a tax of four and one-half percent (4.5%) of the rent charged by the operator for the occupancy. The tax shall constitute a debt owed by the transient to the city and be extinguished only by payment to the operator or the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on the operator's records when the rent is collected, if the operator keeps the operator's records on the cash accounting basis, and when earned, if the operator keeps the operator's records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax

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due is not paid to the operator of the hotel, the tax administrator may require that the tax be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude amounts received for the sale of goods, services or commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.

(Section 3.772 added by Ordinance No. 17282, enacted March 24, 1975, amended by Ordinance No. 19108, enacted March 14, 1983; Ordinance No. 19486, enacted June 22, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.774 Transient Room Tax - Collection.

- (1)** Every operator renting a room in this city, the occupancy of which is not exempted under the terms of section 3.778 of this Code, shall collect a tax from the occupant of the room. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.
- (2)** In all cases of credit or deferred payment of rent, the payment of the tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until the credit is paid or the deferred payment is made.
- (3)** The tax administrator shall enforce sections 3.772 to 3.804 of this Code and may adopt rules and regulations consistent with those sections and necessary to aid in the enforcement.

(Section 3.774 added by Ordinance No. 17282, enacted March 24, 1975, amended by Ordinance No. 19108, enacted March 14, 1983; and Ordinance No. 19486, enacted June 22, 1987.)

3.776 Transient Room Tax - Operator's Duties. Each operator shall collect the tax imposed by section 3.772 of this Code on a transient at the same time as the operator collects rent from the transient. The amount of the tax shall be separately stated upon the operator's records and on any receipt for the rent rendered by the operator to the transient. No operator shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded.

(Section 3.776 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.778 Transient Room Tax - Exemptions. No tax may be imposed upon:

- (a)** Any occupant for more than 30 successive calendar days;
- (b)** Any person who pays for lodging on a monthly basis, irrespective of the number of days in the month;
- (c)** Any occupant whose rent is of a value less than \$2.00 per day;
- (d)** Any person who rents all or a portion of a private home, vacation cabin or like facility from any owner who rents out the facility incidentally to the owner's own use thereof, and who does not rent out the facility on a regular or continuous basis.

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- (e) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home, or home for aged people.
- (f) Any occupant whose rent is paid by a local agency, either directly or through a voucher, in response to a local disaster or declared emergency.

(Section 3.778 added by Ordinance No. 17282, enacted March 24, 1975, amended by Ordinance No. 19164, enacted July 13, 1983; and Ordinance No. 20094, enacted October 13, 1997, effective November 12, 1997.)

3.780 Transient Room Tax - Registration. Every person engaging in business as an operator of a hotel in this city shall register with the tax administrator on a form provided by the tax administrator within 15 calendar days after commencing the business. Nonregistration under this section shall not relieve any person from the obligation to pay the tax. The registration shall set forth the name under which the operator transacts or intends to transact business, the location of the operator's place or places of business, and such other information to facilitate the collection of the tax as the tax administrator requires. The registration shall be signed by the operator. The tax administrator shall, within 10 days after the registration, issue without charge a certificate of authority to the registrant to collect the tax from the occupants of the hotel, together with a duplicate thereof for each additional place of business of the registrant. Such a certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named on the certificates or upon sale or transfer of the business. Each such certificate and duplicate thereof shall state the place of business to which it is applicable and shall be prominently displayed so as to come to the notice readily of all occupants and persons seeking occupancy therein. The certificate shall, among other things state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date when the certificate is issued;
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient room tax ordinance of the City of Eugene by registration with the tax administrator for the purpose of collecting from transients the city's room tax and remitting the tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of the city. This certificate does not constitute a permit."

(Section 3.780 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.782 Transient Room Tax - Returns.

- (1) The tax imposed by section 3.772 of this Code shall be paid by the transient to the operator when the transient pays rent to the operator. All such taxes collected by any operator are due and payable to the tax administrator on the fifteenth day of the month for the preceding month and are delinquent on the last day of the month in which they are due.
- (2) On or before the fifteenth day of the month following each month of collection by an operator, he or she shall file a return for that month's tax collections with the tax administrator. The return shall be filed in such form as the tax administrator prescribes.
- (3) A return shall show the amount of tax collected or otherwise due for the period for which the return is filed. The total rentals upon which the tax is collected or otherwise due, gross receipts of the operator for the period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- (4) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, with the tax administrator at the tax administrator's office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery.
- (5) For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension may be granted, except by the city manager. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due, without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties prescribed in section 3.784 of this Code.
- (6) The tax administrator, if he or she deems it necessary in order to insure payment or facilitate collection by the city of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than monthly periods.

(Section 3.782 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.784 Transient Room Tax - Penalties and Interest.

- (1) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by section 3.772 of this Code prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.
- (2) Any operator who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance

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on or before a period of 30 days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

- (3) If the tax administrator determines that the nonpayment of any remittance due under section 3.772 of this Code is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this section.
- (4) In addition to the penalties imposed, any operator who fails to remit any tax imposed by section 3.772 of this Code shall pay interest at the rate of one half of one percent per month or fractions thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.
- (5) Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with, and become a part of, the tax required to be paid.

(Section 3.784 added by Ordinance No. 17282, enacted March 24, 1975.)

3.786 Transient Room Tax - Deficiencies, Fraud, Evasion, Delay.

- (1) If the tax administrator determines that a tax return required by section 3.782 of this Code is incorrect, the tax administrator may compute and determine the amount required to be paid, upon the basis of the facts contained in the return or returns or upon the basis of any information within the tax administrator's possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined shall be delinquent. Penalties on deficiencies shall be applied as set forth in section 3.784 of this Code.
 - (a) In making a deficiency determination the tax administrator may offset overpayments, if any, which may have been previously made against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. The interest on underpayment shall be computed in the manner set forth in section 3.784.
 - (b) The tax administrator shall give to the operator or occupant a written notice of the tax administrator's determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at the operator's address as it appears in the records of the tax administrator. In case of service by mail of any notice required by this section, the service shall be complete at the time of deposit in the United States Post Office.

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- (c) Except in the case of fraud or intent to evade sections 3.772 to 3.804 of this Code or rules and regulations pursuant to it, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the deficiency is proposed to be determined or within three years after the return is filed, whichever period expires the later.
 - (d) Any deficiency determination shall become due and payable immediately upon receipt of notice by the operator and shall become final within ten days after the tax administrator gives notice thereof, but the operator may petition for redemption and refund if the petition is filed before the determination becomes final.
- (2)** If any operator fails or refuses to collect the tax or to make, within the time required by section 3.782 of this Code, any report and remittance of the tax or any portion thereof required by section 3.722 of this Code, or makes a fraudulent return or otherwise willfully attempts to evade section 3.772 of this Code, the tax administrator shall proceed in such manner as the tax administrator deems best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator determines the tax due from any operator who has failed or refused to collect the same and to report and remit said tax, the tax administrator shall proceed to determine and assess against the operator the tax, interest, and penalties provided for by sections 3.772 and 3.784 of this Code. In case such a determination is made, the tax administrator shall give a notice, in the manner prescribed by section 3.786(1) of the amount so assessed. The determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade, or failure or refusal to collect the tax, or failure to file a required return. Any deficiency determination shall become due and payable immediately upon receipt of the notice and shall become final within 10 days after the tax administrator gives notice thereof. The operator may, however, petition for redemption and refund if the petition is filed before the determination becomes final as provided in subsection (1) of this section.
- (3)** If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city by section 3.772 of this Code is jeopardized by delay, or if any deficiency determination made under this section is jeopardized by delay, the tax administrator shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as provided in this section shall be immediately due and payable, and the operator shall immediately pay the determined amount to the tax administrator after service of notice thereof. The operator may petition, however, after payment is made, for redemption and refund of the determination, if the

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petition is filed within 10 days from the date of service of notice by the tax administrator.

(Section 3.786 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.788 Transient Room Tax - Redeterminations.

- (1) Any person against whom a determination is made under section 3.786 of this Code or any person directly interested in the determination may petition for a redetermination and redemption and refund, within the time required in section 3.786 of this Code. If a petition for redetermination and refund is not filed within the time required in section 3.786, the determination shall become final at the expiration of the allowable time.
- (2) If a petition for redetermination and refund is filed within the allowable time period, the tax administrator shall reconsider the determination, and, if the person has so requested in the person's petition, shall grant the person an oral hearing and shall give the person 10 days notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as necessary.
- (3) The tax administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, the increase shall be payable immediately after the hearing.
- (4) The order or decision of the tax administrator upon a petition for redetermination and redemption and refund shall become final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the city manager within the 10 days after service of such notice.
- (5) No petition for redetermination and redemption and refund or appeal therefrom shall be effective for any purpose unless the operator first complies with the payment provisions hereof.

(Section 3.788 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.790 Transient Room Tax - Security for Collection.

- (1) The tax administrator, whenever he or she deems it necessary to insure compliance with sections 3.770 to 3.788 of this Code, may require any operator subject to the transient room tax to deposit with the tax administrator such security in the form of cash, bond, or other assets as the tax administrator determines. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which the operator files returns, determined in such manner as the tax administrator deems proper, or five thousand dollars (\$5,000), whichever amount is the lesser. The amount of the security may be

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increased or decreased by the tax administrator subject to the limitations herein provided.

- (2) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination by the tax administrator under sections 3.772 to 3.804 of this Code becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States, in the name of the city, to collect the amount delinquent, together with penalties and interest.

(Section 3.790 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.792 **Transient Room Tax - Lien.** The tax imposed by section 3.772 of this Code, together with the interest and penalties provided by section 3.784 and the filing fees paid to the Department of Records of Lane County, Oregon, and advertising costs which may be incurred when the tax becomes delinquent under section 3.782 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 tangible personal property used in the hotel of an operator within Eugene 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 tax, interest and penalty, and shall be recorded with the Department of Records and a copy sent to the delinquent operator. 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.

Any such lien as shown on the records of the Department of Records shall, upon the payment of the taxes, 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 operator or person making the payment shall receive a receipt therefor stating that the full amount of the taxes, penalties, and interest have been paid and that the lien is thereby released and the record of lien satisfied.

(Section 3.792 added by Ordinance No. 17282, enacted March 24, 1975.)

3.794 **Transient Room Tax - Refunds.** Whenever the amount of any tax imposed under section 3.784 has been paid more than once or has been erroneously or illegally collected or received by the tax administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the tax administrator approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected

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or by whom paid, and the balance may be refunded to the operator, or the operator's administrators, executors or assignees. All refunds shall be charged to the fund receiving room tax revenues.

(Section 3.794 added by Ordinance No. 17282, enacted March 24, 1975; and amended by Ordinance No. 19651, enacted November 20, 1989.)

3.796 Transient Room Tax - Collection Fee. Every operator liable for the collection and remittance of the tax imposed by section 3.772 of this Code may withhold five per cent (5%) of the net tax due to cover the operator's expense in the collection and remittance of the tax.

(Section 3.796 added by Ordinance No. 17282, enacted March 24, 1975; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.798 Transient Room Tax - Administration.

- (1) The tax administrator shall deposit all money collected pursuant to section 3.772 to 3.792 of this code to the credit of the fund receiving room tax revenues.
- (2) Every operator shall keep guest records of room rentals and accounting books and records of the rentals. All these records the operator shall retain for three years and six months after they come into being.
- (3) The tax administrator or any person authorized in writing by the tax administrator may examine during normal business hours the books, papers, and accounting records relating to room rentals of any operator liable for the tax, after notification to the operator and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid by the operator.
- (4) Neither the tax administrator nor any person having an administrative or clerical duty under sections 3.776 to 3.804 of this Code may make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate, or pay a transient room tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof, to be seen or examined by any person. Nothing in this subsection shall prevent, however:
 - (a) The disclosure to, or the examination of records and equipment by another City of Eugene official, employee, or tax-collecting agent for the sole purpose of administering or collecting the tax.
 - (b) The disclosure, after the filing of a written request to that effect, to the taxpayer or the taxpayer's receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any such tax paid, any such tax unpaid or the

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- amount of any such tax required to be collected, together with interest and penalties thereon provided the city attorney approves each such disclosure. The tax administrator may refuse to make any such disclosures referred to in this paragraph when in the tax administrator's opinion the public interest would suffer thereby.
- (c) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.
 - (d) The disclosure of general statistics regarding taxes collected or business done in the city.

(Section 3.798 added by Ordinance No. 1782, enacted March 24, 1975; amended by Ordinance No. 19651, enacted November 20, 1989; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.800 **Transient Room Tax - Appeal to City Manager.** Any person aggrieved by any decision of the tax administrator may appeal to the city manager by filing a notice of appeal with the tax administrator within 10 days of the serving or mailing of the notice of the decision. The tax administrator shall fix a time and place for hearing the appeal and shall give the appellant 10 days' written notice of the time and place of the hearing.

(Section 3.800 added by Ordinance No. 17282, enacted March 24, 1975.)

3.802 **Transient Room Tax - Appeal to Council.** Any person aggrieved by any decision of the city manager under section 3.800 of this Code may appeal to the council by filing a notice of appeal with the tax administrator within 10 days of the serving or the mailing of the notice of the decision given by the city manager. The tax administrator shall transmit the notice together with the file of the appealed matter, to the council, who shall fix a time and place for hearing the appeal. The council shall give the appellant not less than 10 days written notice of the time and place of hearing of the appeal.

(Section 3.802 added by Ordinance No. 17282, enacted March 24, 1975.)

3.804 **Transient Room Tax - Violations.** No operator or other person required to do so may fail or refuse to register as required by section 3.780 of this Code or to furnish any return required to be made under section 3.782 or to furnish a supplemental return or other data required by the tax administrator. No person may render a false or fraudulent return under section 3.782. No person required to make, render, sign, or verify any report regarding the transient room tax may make any false or fraudulent report.

(Section 3.804 added by Ordinance No. 17282, enacted March 24, 1975.)

Patron User Fee

3.810 Patron User Fee.

- (1) For purposes of sections 3.810 and 3.812, the following words and phrases mean:

Admission fee. The dollar amount charged directly or indirectly, whether or not received, for entry to an event.

Event. A performance, presentation, demonstration, exhibition, or meeting at the Hult Center for the Performing Arts or Cuthbert Amphitheater.

Person. As defined in subsection (e) of section 3.770 of this chapter.

- (2) For the privilege of attending a ticketed event there is hereby assessed to each attendee a patron user fee in an amount as established by the city manager pursuant to the provisions of section 2.020 of this code. The patron user fee shall be separately stated on each ticket.
- (3) The following are exempt from the patron user fee:
- (a) Owner's tickets as designated in the licensing agreement;
 - (b) Licensee's promotional tickets as designated in the licensing agreement;
 - (c) Any admission established by the city manager or the manager's designee to be a complimentary admission; and
 - (d) Resident company youth educational events, as determined by the city manager or the manager's designee.

(Section 3.810 added by Ordinance No. 18961, enacted May 10, 1982; amended by Ordinance No. 19155, enacted June 27, 1983; Ordinance No. 19353, enacted September 18, 1985; Ordinance No. 19647, enacted November 6, 1989; Ordinance No. 20095, enacted November 10, 1997, effective December 10, 1997; and Ordinance No. 20125, enacted June 8, 1998.)

3.812 Patron User Fee - Administration and Collection.

- (1) Collection of admission fees and patron user fees for all events shall be under the direction and control of the city manager. The city manager may contract with persons to collect admission fees and patron user fees. The city manager may adopt rules and regulations on the charging, administration, collection and payment of patron user fees.
- (2) Except to the extent such disclosure is required by law, no official or employee of the city may disclose any information regarding the business of a person required to pay or collect the patron user fee prescribed in section 3.810. Nothing in this subsection shall prevent:
- (a) The disclosure to, or the examination of records and equipment by a city official, employee, or agent for the sole purpose of administering, collecting, or auditing the patron user fee;

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- (b) The disclosure of general statistics regarding taxes collected or business done in the city; or
- (c) The disclosure of information necessary to enforce the provisions of sections 3.810 and 3.812.

(Section 3.812 added by Ordinance No. 18961, enacted May 10, 1982; amended by Ordinance No. 19353, enacted September 18, 1985; and Ordinance No. 19647 enacted November 6, 1989.)

Uniform Business Practices Procedures

3.820 **Uniform Business Practices - Procedures Generally.** The procedures and requirements of sections 3.820 to 3.840 of this code apply to all persons regulated by the uniform business practices set out in this chapter, unless otherwise provided.

(Section 3.820 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)

3.825 **Uniform Business Practices - Investigations.**

- (1) When it appears that a person has engaged in, is engaging in, or is about to engage in any activity in violation of the uniform business practices set out in this chapter, the city may cause to be served a written investigative demand upon any person believed to have information, documentary material, or physical evidence relevant to the alleged or suspected violation. An investigative demand may require the person to testify under oath, to answer written interrogatories, or to produce relevant documentary material or physical evidence for examination, at a reasonable time and place.
- (2) Prior to the time required to answer an investigative demand, or within 20 days after the demand's service, whichever period is shorter, a petition to extend the return date, or to modify or set aside the demand may be filed in the Municipal Court.
- (3) Service of any investigative demand under subsections (1) and (2) of this section shall be made in accordance with the laws of the State of Oregon governing service of summons in an action, or as otherwise directed by the municipal court.
- (4) If any person after being served with an investigative demand under this section fails or refuses to obey the investigative demand, the city may, after notice, apply to the Municipal Court and, after hearing, request an order:
 - (a) Granting injunctive relief to restrain the person from engaging in any aspect of the business or activity that involved the alleged violation;
 - (b) Granting such other relief as may be required, until the person obeys the investigative demand.
- (5) Any disobedience of any order of the Municipal Court under this section shall be punished as contempt of court.

(Section 3.825 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)

3.830 **Uniform Business Practices - Injunctive Relief.**

- (1) When the city attorney has probable cause to believe that a person is engaging in, has engaged in, or is about to engage in any activity in violation of the uniform business practices set out in this chapter, the city attorney may bring suit in the name of the city in the

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Municipal Court to restrain the person from engaging in the alleged unlawful business practice.

- (2) Except as provided in subsections (5) and (6) of this section, before filing a suit under subsection (1) of this section, the city attorney shall notify the person charged in writing of the alleged violation and the relief to be sought. Such notice shall be served in the manner set forth in section 3.825 of this chapter for the service of investigative demands. The person charged shall have 10 days to execute and deliver to the city attorney an assurance of voluntary compliance. Such assurance shall set forth what actions, if any, the person charged intends to take with respect to the alleged violation. The assurance of voluntary compliance shall not be considered an admission of a violation for any purpose. If the city attorney is satisfied with the assurance of voluntary compliance, it may be submitted to the Municipal Court for approval and if approved shall be filed with the clerk of the court and the city manager.
- (3) The city attorney may reject any assurance:

 - (a) Which does not contain a promise to make restitution in specific amounts or through arbitration to persons who suffered any ascertainable loss of money or property as a result of the alleged violation; or
 - (b) Which does not contain any provision, including but not limited to the keeping of records, which the city attorney reasonably believes to be necessary to insure the continued cessation of the alleged violation.
- (4) Violation of any of the terms of an assurance of voluntary compliance which has been approved and filed with the court shall constitute a contempt of court.
- (5) If, within two years prior to the filing of a suit, the person charged with the violation submitted to the city attorney an assurance of voluntary compliance which was accepted by and filed with the Municipal Court, the city attorney need not comply with the provisions of subsection (2) of this section before filing suit. The city attorney shall, however, serve notice on the defendant in accordance with the procedure set forth in section 3.825 of this chapter at least 10 days prior to filing suit.
- (6) If the city attorney alleges that he or she has reason to believe that the delay caused by complying with the provisions of subsection (2) or (5) of this section would cause immediate harm to the public health, safety or welfare, the city attorney may immediately institute a suit under subsection (1) of this section.
- (7) A temporary restraining order may be granted without prior notice to the person if the Municipal Court finds there is a threat of immediate harm to the public health, safety or welfare. The court shall fix a time not to exceed 10 days after which the temporary

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restraining order shall expire by its terms, unless within the time fixed, the order, for good cause shown, is extended for a like period or unless the person restrained consents that it may be extended for a longer period.

(Section 3.830 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.835 Uniform Business Practices - Remedial Power of Court. The municipal court may make any additional orders or judgments necessary to restore to any person any money or property of which the person was deprived by any violation of the uniform business practices set out in this chapter, or necessary to insure cessation of unlawful business practices.

(Section 3.835 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

3.840 Uniform Business Practices - Administrative Powers of the City Manager. The city manager may adopt rules for the efficient enforcement, administration and interpretation of the uniform business practices set out in this chapter, including but not limited to rules regarding the application procedure for certification cards required by this chapter. The rules shall be adopted in accordance with section 2.019.

(Section 3.840 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

3.842 Uniform Business Practices - Certification Cards; Procedures Generally. Application, issuance, denial, revocation and suspension of certification cards required under this chapter shall be governed by the procedures and requirements set out in sections 3.015 to 3.075 of this chapter.

(Section 3.842 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

Commercial Solicitor

- 3.845 Commercial Solicitor - Requirements.** A commercial solicitor shall:
- (a) If under 18 years of age, hold a valid employment certificate issued by the Oregon Wage and Hour Commission in accordance with state law;
 - (b) Carry an identification card that contains the commercial solicitor's name, address, telephone number, and photograph, and if employed, the business name, address, and telephone number of the solicitor employer and shall display the identification card at the request of any person;
 - (c) Reduce each order for goods or services to writing, and shall provide one copy of each order to the purchaser. Each order shall state the name and address of the commercial solicitor, the name and address of the solicitor employer, if any, the terms of the order and the amount paid in advance;
 - (d) Upon the request of the purchaser, provide a receipt for payment for goods or services supplied. The receipt shall state the amount paid, the goods or services purchased or provided, the date of purchase, and the name, address and telephone number of the commercial solicitor;
 - (e) Comply with all applicable federal, state and local laws and regulations.
- (Section 3.845 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)*

- 3.847 Commercial Solicitor - Responsibilities of Solicitor Employer.** A employer shall:
- (a) Be strictly liable for any violation of this chapter committed by an agent or employee;
 - (b) Comply with all applicable federal, state and local laws and regulations.
- (Section 3.847 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)*

First Aid and Medical Transport Vehicles

3.862 First Aid and Medical Transport Vehicles - Responsibilities of Owner.

- (1) No person shall operate a first aid or medical transport vehicle or business within the jurisdictional limits of the city of Eugene, including the Eugene Airport, without first registering with the city and paying the required fees. The provisions of this section shall not apply to first aid and medical transport vehicles operating from a business location, office or headquarters outside the cities of Eugene or Springfield, that are transporting a person from outside the Eugene-Springfield area to a health care facility within the city or are picking up persons from within the city for transport outside the Eugene-Springfield area, or vehicles that are passing through the city of Eugene without a destination within the city. First aid and medical transport vehicle owners shall:
- (a) Ensure that vehicles are clean, present a good appearance, are equipped as required herein, and maintained in a safe condition and according to manufacturer's instructions;
 - (b) Maintain for a period of three years and make available to the city upon request:
 - 1. Records of the supplies and equipment carried in each first aid or medical transport vehicle;
 - 2. Complete maintenance records for each vehicle; and
 - 3. Customer service records including the name of the customer the date and time of transport, and the origin and destination of transport. First aid vehicle owners shall also indicate the nature of the injury, illness or disability, and the assistance rendered.
 - (c) Equip each first aid and medical transport vehicle only with supplies and equipment that fully comply with state and local law;
 - (d) Equip each medical transport vehicle with a fire extinguisher, of a 1A10BC or 2A10BC, 2 2 pound type, readily accessible to the driver in the area of the front seat, which shall be serviced annually and immediately after each use;
 - (e) Not use or permit to be used a first aid or medical transport vehicle which:
 - 1. Is equipped with rotating beacons, light bars, sirens, or any other type of emergency warning device except standard four-way hazard flashers;
 - 2. Is equipped to provide oxygen administration. A first aid or medical transport vehicle may transport persons requiring constant oxygen administration due to chronic respiratory conditions who use their own oxygen apparatus but who do not require any observation, care or services that the vehicle is not permitted to provide under this chapter;

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3. Is equipped with any type of stretcher, gurney, or cot.
 - (f) Employ as first aid or medical transport vehicle operators only persons who are currently certified by the State of Oregon at a minimum as an emergency medical technician B, first responder, or certified nursing assistant.
 - (g) Not use, cause to be used or permit any advertising, signing or other communication relating to a first aid or medical transport vehicle which contains any reference to, or which uses words, symbols or other devices which cause or are likely to cause confusion as to the identity of the vehicle as an ambulance.
 - (h) Comply with all applicable federal laws and regulations, including the Americans with Disabilities Act, state and local laws and regulations, including rules promulgated by the city manager. Such rules may include, but not be limited to, the type and level of insurance required, the form of hold harmless agreement required, the maintenance and inspection of records, and other inspection or vehicle requirements.
 - (i) First aid vehicle owners shall retain a local physician advisor who is licensed to practice medicine by the State of Oregon and make the physician advisor's name, address and telephone number available to the city upon request.
 - (j) Provide the city, at the time of registration, and at least ten days prior to any change thereto, a list setting forth the fares or charges, and post a copy of the same inside the first aid or medical transport vehicle.
- (2)** When transporting persons in wheelchairs, a first aid or medical transport vehicle owner shall:
- (a) Equip each first aid and medical transport vehicle with wheelchair immobilization apparatus that maintains the wheelchair in a stationary position;
 - (b) Maintain wheelchair immobilization apparatus according to manufacturer's instructions;
 - (c) Maintain records for a period of three years of all repairs and maintenance performed on wheelchair immobilization apparatus and make all records available to the city for inspection upon request;
 - (d) Transport or allow transport of persons only in an upright sitting position or in a reclining position when the angle of recline is not more than 45 degrees.
- (3)** All owners shall be strictly liable for any violation of this chapter by an agent or employee.

(Section 3.862 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004.)

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3.864 First Aid and Medical Transport Vehicles - Responsibilities of Operator.

A first aid or medical transport vehicle operator shall:

- (a) At a minimum, be currently certified by the State of Oregon as an emergency medical technician B, first responder, or a certified nursing assistant.
- (b) If transporting a person in a wheelchair, transport or allow transport of persons only in an upright sitting position or in a reclining position when the angle of recline is not more than 45 degrees.
- (c) Comply with all applicable federal, state and local laws and regulations.
- (d) A first aid vehicle operator shall also carry on his or her person while on duty the name, address and telephone number of the physician advisor.

(Section 3.864 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004.)

3.866 First Aid and Medical Transport Vehicle - Prohibited Activities.

No person who is subject to the provisions of section 3.862 of this code shall:

- (a) Use a medical transport vehicle to provide ambulance services or to transport a person who requires or may require transportation in the recumbent position.
- (b) Use a first aid vehicle to provide ambulance services, except for first aid care, or to transport a person who requires or may require transportation in the recumbent position.

(Section 3.866 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; and Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004.)

Limousines

3.868 Limousines - Registration Required.

- (1) No person or business shall operate a limousine vehicle or business within the corporate limits of the city without first registering for operation with the city and paying the required fee. However, an unregistered limousine operating outside the jurisdictional limits of Eugene and Springfield may deliver a fare from outside those limits to a location within the limits, and if the vehicle waits for the person, retrieve the person for the return trip back outside the jurisdictional limits. No unregistered limousine business may solicit or accept any passenger within the city limits except as provided in this subsection. No limousine vehicle or limousine business may operate at the Eugene Airport unless authorized by the Airport to do so. A limousine business shall offer or provide at a minimum, the following:

 - (a) A uniformed chauffeur;
 - (b) Amenities such as luxury upholstery;
 - (c) A large, expensive vehicle that is either a late model, low mileage, or classic model in restored condition, that is specifically designed to accommodate passengers desiring luxury transportation.
- (2) A limousine may not be utilized by its owner or operator as a taxicab or shuttle.
- (3) No limousine business may locate any part of its operation in a residential zone unless expressly authorized by the city manager or designee pursuant to this code or the Springfield Code.
- (4) All limousine businesses shall comply with all federal, state and local laws and rules, including rules promulgated by the city manager. Such rules shall be consistent with this code and be designed to ensure that the public safety is protected, the public needs are met, and the public convenience is promoted, and may include, but are not limited to, the type and level of insurance required, the form of hold harmless agreement required, the maintenance and inspection of records, and other inspection or vehicle requirements.
- (5) In addition to requirements established by rule, each limousine company must designate a registered agent who may be served with any process, notice or demand required or permitted by law to be served upon the company. The registered agent shall be an individual or business located in Eugene or Springfield, and must be available for service of legal process during all hours that the limousine company is in operation.

(Section 3.868 added by Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993.)

Social Gambling

3.870 Social Gambling - Authorization. Social games, as defined in this chapter, are hereby authorized to be played within the corporate limits of the city.
(Section 3.870 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)

3.872 Social Gambling - Administrative Powers of the City Manager.

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

(2) The rules shall be adopted in accordance with section 2.019.

(Section 3.872 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

3.874 Social Gambling - Owner of Social Gambling Premises. An owner of a social gambling premises shall:

- (a) Clearly designate the areas set aside for social gambling.
- (b) 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.
- (c) Be strictly liable for any violation of the provisions of this chapter by a person in charge, agent, employee or designate

(Section 3.874 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

3.876 Social Gambling - Responsibilities of Owner and Person in Charge. An owner of a social gambling premises and any person in charge shall:

- (a) Inform the city in writing within 24 hours of any reasonable suspicion of improper play;
- (b) Comply with all applicable federal, state and local laws and regulations;
- (c) Make all social gambling premises available to the city for inspection upon request;
- (d) Not permit improper play;
- (e) Not cause or permit there to be a house bank, house odds, house player, or house income from the operation of social games;
- (f) Not participate in social games while on the social gambling premises;
- (g) 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;

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- (h)** Not accept any payment, fee, service or gratuity as consideration for the participation in, or for the privilege of participating in social games;
- (i)** Not permit social games to be played in any area which cannot be observed from the main portion of the social gambling premises;
- (j)** Not permit social games to be played in violation of the rules adopted under this chapter;
- (k)** Not permit social games to be played unless the owner or person in charge is actively supervising the play. The supervisor shall not participate in any social game;
- (l)** Not permit disorderly persons on a social gambling premises.

(Section 3.876 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)

Weapons Dealer

- 3.892** **Weapons Dealer - Requirements.** A weapons dealer shall not:
- (a) Violate any applicable federal, state or local law or regulation;
 - (b) Sell, deliver or otherwise transfer a firearm capable of being concealed on the person to a person whom the dealer has cause to believe is an alien or who has been convicted of a felony;
 - (c) Sell, deliver or otherwise transfer a dangerous weapon to a person under the age of 18 years unaccompanied by a parent or guardian;
 - (d) Sell, deliver or otherwise transfer a weapon to any person who does not present proper identification;
 - (e) Deliver a pistol or revolver to a purchaser until 120 hours after application for the purchase has passed and until the register entries required by ORS 166.420 have been completed;
 - (f) Deliver any firearm that is not unloaded and securely wrapped;
 - (g) Sell or dispose of any firearm without keeping a record of the sale on a register prescribed in ORS 166.420(1) and required by ORS 166.420(6). The duplicate of the register shall be mailed to the chief of police as required by ORS 166.420(3);
 - (h) Sell, deliver or otherwise transfer a firearm or dangerous weapon to a person who is incapacitated as defined in ORS 126.003(4) or who is under the influence of drugs or intoxicating liquor.

(Section 3.892 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)

Penalties

3.990 Penalties - Specific.

- (1) Violation of section 3.500 is punishable by a fine not to exceed \$500 for each day that the violation exists.
- (2) Violation of sections 3.510 to 3.515 is punishable by:
 - (a) A fine not to exceed \$200 for the first violation;
 - (b) A fine not to exceed \$350 for the second violation occurring within a period of 24 months from the date of the first violation;
 - (c) A fine not to exceed \$500 each for a third or subsequent violation occurring within a period of 24 months from the date of the first violation.
- (3) Violation of section 3.812 is punishable by a fine not to exceed \$500 or confinement in jail not to exceed 100 days, or both fine and imprisonment.
- (4) Violation of sections 3.105 to 3.115 is punishable as follows:
 - (a) 3.105(1) - Fine of not less than \$50 nor more than \$500;
 - (b) 3.105(2)(a) - \$500 fine or 30 days in jail, or both;
 - (c) 3.105(2)(b) - Fine of not less than \$50 nor more than \$500;
 - (d) 3.115 - Fine of not less than \$50 nor more than \$500.
 - (e) Violation of any provisions of section 3.105 to 3.115 not specifically referenced in subparagraphs (a) through (g) above are subject to the penalties provided in administrative rules or orders of the city manager, including imposition of an administrative civil penalty pursuant to section 2.018 of this code as referenced in section 3.110(1).
- (5) A first violation of section 3.866 is punishable by a fine of not less than \$50, nor more than \$100; a second violation of section 3.866 is punishable by a fine of not less than \$100, nor more than \$500; a third or subsequent violation of section 3.866 is punishable by a fine of not more than \$1,000 or confinement in jail not to exceed 100 days, or both a fine and imprisonment.

(Section 3.990 amended by Ordinance No. 18186, enacted May 22, 1978; Ordinance No. 18961, enacted May 10, 1982; Ordinance No. 19294, enacted November 19, 1984; Ordinance Nos. 19337 and 19338, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19802, effective October 23, 1991; Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; Ordinance No. 20211, enacted September 25, 2000, effective October 26, 2000; Ordinance No. 20233, enacted August 6, 2001, effective September 5, 2001; Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004; and Ordinance No. 20324, enacted July 21, 2004, effective August 20, 2004.)

3.995 Penalties - General. Violation of any other provision in this chapter shall be punishable by a civil penalty not to exceed \$500.00 or imposition of an

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administrative civil penalty pursuant to section 3.045 of this code. Each day that a violation continues to exist shall constitute a separate offense.

(Section 3.995 amended by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19603, enacted February 13, 1989; and Ordinance No. 19719, enacted October 8, 1990, with an effective date of October 17, 1990, set by Ordinance No. 19722.)

3.997 **Transient Room Tax - Penalties.** Any person willfully violating any provision of sections 3.772 to 3.804 of this Code shall be guilty of a misdemeanor and be punishable therefor by a fine of not more than \$500.00 or by imprisonment for not more than six months or by both such fine and imprisonment.

(Section 3.997 added by Ordinance No. 17282, enacted March 24, 1975.)