

# City of Grants Pass Municipal Code



## Title 4

### TAXATION AND LICENSES

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- 4.05 Lodging Tax
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## Chapter 4.04

### OCCUPATIONAL TAX

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## 4.04.010 Purpose

- A. It is necessary that taxes be levied and fixed for purposes of deferring the cost of police and fire protection and the cost of other necessary municipal services to the businesses, professions, trades, callings and occupations taxed by this chapter.
- B. The taxes imposed by this chapter shall be in addition to general ad valorem taxes now or hereafter levied pursuant to law. (Ord. 3837 §3, 1972)

## 4.04.020 Definitions

- A. "Business" means any trade, profession, occupation, calling or regular pursuit which is physically situated within the City of Grants Pass or which has employees who enter the City of Grants Pass to provide services or products (including but not limited to installation of a product purchased outside the City) to customers within the City. Note: A product purchased from a business located outside the City and delivered (but not installed) within the City by the business' employees, does not come within the parameters of this definition. The word "business" shall include the operation of rental units, but only when three or more rental units within the City are owned by any one operator. The word "business" shall not include any non-profit corporation or organization which has been granted tax-exempt status by the Internal Revenue Service. (Ord. 3837 §2(1), 1972; Ord. 4401 §1, 1981, Ord. 5402 5/16/07)
- B. "Flea Market" means a business where booths, tables, or spaces are sold or rented for the purpose of conducting sales of personal property. These general sales include, but are not limited to, sales entitled "flea markets," "bazaars," and "rummage sales." Personal property is that which is owned by the individual conducting the sale, is purchased for resale, or is obtained on consignment. Licenses for flea markets shall be applied for and issued in accordance with the special event provisions of Grants Pass Municipal Code Chapter 4.07. (Ord. 4540 §1, 1985)
- C. "Licensee" is one who has paid the occupational tax in accordance with Chapter 4.04.
- D. "License" is evidence documenting payment of the occupational tax.
- E. "Person" means a person, firm or corporation, association, club, co-partnership or society, or any other organization. (Ord. 2977 §2, 1961)
- F. "Special Events" is defined in Section 4.07.010.

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## 4.04.025 Applications

- A. Applications shall be submitted on forms to be provided by the Finance Director. Every application shall be signed by the owner or a duly authorized agent and shall contain the following information:
1. Name of person or persons owning business;
  2. Assumed business name, if any;
  3. Address of business premises, and business mailing address;
  4. Nature of business;
  5. Number of employees;
  6. Where the business premises of an applicant are situated outside of the City, the number of employees to be engaged in the transaction of the business within the City. The license issued on the basis of the application shall be valid only to permit the specified number of employees to transact business within the City at any one time;
  7. Proof of the applicant's possession of any licenses, certificates, or registrations that are required by state or federal law to conduct the type of business listed on the application;
  8. The date of application, and the amount of money tendered by the applicant; or
  9. Such other information the Finance Director deems appropriate.
- B. Fees shall be computed on the basis of information contained in the application.
- C. No person shall knowingly sign or submit a business tax application containing false information.

## 4.04.027 Review of Application

- A. The Finance Department shall refer each application to the appropriate departments of the City for review. The application will be denied where:
1. The activity to be taxed would not comply with City ordinances, or

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state, or federal law;

2. The applicant fails to supply the information required, or submits misleading or false information; or
3. The premises to be used by the business do not comply with City ordinances, codes or requirements.

## 4.04.030 Exemptions

Public utilities covered by franchise ordinances or subject to the utility right-of-way license provisions of Chapter 4.18 and making payments of fees under such franchises or licenses are exempted from the provisions of this chapter. Individuals engaged in distributing, peddling or selling newspapers after or before public school hours, and trade apprentices receiving no compensation are also exempt from the provisions of this chapter. (Ord. 3837 §2(2), 1972; Ord. 4540 §1, 1985, Ord. 5530 § 17, 2010)

## 4.04.040 Branch Establishment Considered Separate Business

Each branch establishment of a business or a separate business located and conducted by any person shall be considered a separate business and subject to the tax imposed by this chapter. Physically segregated parts of a business, the use of which part is a necessary function toward the complete operation of the business, shall not be considered a branch establishment. (Ord. 3837 §2(3), 1972)

## 4.04.045 Two or More Businesses on Same Premises

If two or more but substantially related businesses are carried on in the same premises by the same owner, one license issued in the name of the business to which the premises are primarily appropriated and based upon the total number of individuals on the whole premises shall be sufficient for all such activities. Otherwise, each business must pay the business tax. Any business activity leased, under concession to, or owned wholly or in part by a different person or persons on the same premises must be separately taxed. (Ord. 4540 §1, 1985)

## 4.04.050 Payment of Tax--Required

- A. No person may engage in, prosecute, conduct, or carry on any business without first having paid the tax provided for by this chapter.
- B. An agent or nonresident proprietor engaged in business shall pay the required tax in this chapter and shall pay the penalties for failing to pay the tax to the same extent as if the agent or nonresident proprietor were a proprietor.

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- C. A person who made a public presentation, by way of advertisement by newspaper, radio, television, or similar media or by signs conspicuously displayed for public view, that such business was being conducted, expressly or impliedly offering to sell goods or services in the course of such business to the public or any segment thereof, shall constitute prima facie evidence that that person was transacting the business suggested by such public representation, within the City on the date or dates during which such representations were made.
- D. No license shall be issued to any person hereunder if such person has, prior to making application conducted a business within the City without a current, valid license issued hereunder, unless such person pays an additional amount as set out by resolution for the period during which such business was conducted. (Ord. 3837 §4, 1972; Ord. 4540 §1, 1985)

### 4.04.060 Payment of Tax--Established by Resolution

Unless specifically exempted, all businesses shall pay a tax to operate a business in Grants Pass. This tax shall be set by resolution of the Grants Pass City Council. The resolution shall be kept on file with the City Finance Department and may be amended from time to time, as the Council considers appropriate. (Ord. 3837 §5(1), 1972; Ord. 4358 §1, 1980; Ord. 4456 §1, 1982)

### 4.04.065 Special Events

- A. A special events business license may be issued (in lieu of the annual occupational tax) for such special events as trade shows, fairs, art shows, hobby shows, flea markets, and educational or cultural events at which several businesses may sell goods from temporary booths or stalls in accordance with Grants Pass Municipal Code, Chapter 4.07. A special events license shall be issued to the organization sponsoring the event and shall cover all businesses authorized by the sponsor to participate therein. The sponsor may either be a non-profit organization as defined in Section 4.04.020 or an organization that will realize a profit from the event. Where the sponsor is a tax exempt organization, a special license fee is only required to be paid where one or more temporary booths or stalls are a business as defined in Section 4.04.020.
- B. The sponsoring organization shall provide the City with a list of all participating businesses or organizations not later than 48 hours prior to the scheduled starting date and time of the special event. Such licenses shall be limited to a period of not more than five consecutive days. The fee for licenses authorized by this section shall be set by resolution. (Ord. 4540 §1, 1985)

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## 4.04.067 Temporary License

When 4.04.065 is not applicable, and an activity qualifies under this ordinance for payment of a tax, an applicant that intends to conduct a business for less than 8 days may purchase a temporary license. The fee for a temporary license, authorized by this section, shall be set by resolution. (Ord. 4540 §1, 1985)

## 4.04.070 Estimate of Number of Individuals Carrying on Business

The purpose of this section is to include, for business tax purposes, all persons actively engaged in the business operation. In arriving at the number of individuals carrying on a business, the Finance Director shall count the proprietors, partners, associates, officers and owners of the corporation actively engaged in such business and the individuals employed regularly or on a part-time basis. Individuals employed by an owner or proprietor of a business who work entirely outside the corporate limits of the City shall not be counted. (Ord. 3837 §5(2), 1972; Ord. 4540 §1, 1985)

## 4.04.080 Monthly Average of Individuals

The monthly number of such individuals shall be the number considered carrying on such business. Such monthly average shall be computed from the twelve months' period directly preceding the tax year or such portion thereof as such business has existed. A new business shall declare the number of individuals to be actively engaged or employed by the business. Any employer or proprietor, partner or associate who works less than 20 hours per week for more than one month is a part-time employee or proprietor. Fractional numbers of one-half or over shall be considered as the next highest whole number. Where during any one month one employee has been replaced by another, only one employee shall be counted. (Ord. 3837 §5(3), 1972; Ord. 4540 §1, 1985, 17-5722, 2017)

## 4.04.100 Due Date of Payment

(Ord. 4540 §1, 1985, 17-5722, 2017)

The tax shall be due upon verification and/or approval of the proposed business by the Parks & Community Development Department, or on the first day of business if land use approval is not required. A tax certificate will be issued for the 12-month period beginning on the first day of doing business in the city and ending on the first day of the anniversary month of next calendar year. Annual renewals are due by the last day of the month in which the certificate expired.

No licensee who has paid the tax required under this ordinance shall be entitled to any refund. This includes a business who pays the tax prior to receiving all other required approvals. Active businesses who fail to renew by the grace period of the last day in the month in which the certificate expired will be required to pay 1/12th of the annual amount due for each month late and pay a full annual renewal at the time of application.

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This will reset the renewal date for said business to the first day of the month renewed in the following calendar year.

### 4.04.110 Civil Penalty

In any action or suit authorized by this section, the City if it prevails shall recover a reasonable attorney's fee to be set by the courts, in addition to its costs and disbursements. (Ord. 3837 §7(2), 1972)

### 4.04.120 Penalty for Past Due Payment

Whenever any tax required by this chapter is not paid when due, the Finance Director shall add to the tax as a penalty an amount equal to ten percent of the tax for each month or part thereof during which the tax remains unpaid. The total amount of penalties shall not exceed one hundred percent of the original tax. Any such monies tendered to the City shall first be credited to pay the past penalty, and past principal, the current penalty and current principal, in that order. (Ord. 4540 §1, 1985)

### 4.04.135 Tax Transfer

A business which has a current occupational license that relocates within the City limits of Grants Pass, or changes ownership, and carries on the same business, with the same name, is allowed to transfer the occupational license. A fee for this transfer will be set by resolution. (Ord. 4456 §2, 1982; Ord. 4540 §1, 1985)

### 4.04.137 Evidence of Doing Business

In the trial of any alleged violation of Sections 4.04.010 to 4.04.150, evidence that the defendant made a public presentation, by way of advertisement by newspaper, radio, television, internet or similar media or by signs conspicuously displayed for public view, that such business was being conducted, expressly or impliedly offering to sell goods or services in the course of such business to the public or any segment thereof, shall constitute prima facie evidence that the defendant was transacting the business suggested by such public representation, within the City on the date or dates during which such representations were made. (Ord. 4540 §1, 1985, Ord. 17-5722, 2017)

### 4.04.150 Additional Remedies

In addition to the penalties provided in this chapter as above set forth, and also in addition to any other remedy available by the law of the state to the City, and as a separate and distinct remedy, the City may sue in any court of competent jurisdiction to obtain a judgment and enforce the collection of the tax, as well as any applicable penalties thereunder as provided in this chapter, imposed by this Chapter, in the manner provided by law. (Ord. 3837 §7(1), 1972)



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## Chapter 4.05

### LODGING TAX

#### Sections:

- 4.05.010 Definitions
- 4.05.020 Lodging Tax Imposed
- 4.05.030 Rules for Collection of Lodging Tax by Lodging Tax Collector
- 4.05.040 Lodging Tax Collector's Duties
- 4.05.050 Exemptions
- 4.05.060 Lodging Facility's Registration Form
- 4.05.070 Certificate of Authority
- 4.05.080 Collections, Returns and Payments
- 4.05.090 Delinquency Penalties
- 4.05.100 Deficiency Determinations
- 4.05.110 Redemption Petition
- 4.05.120 Fraud--Refusal to Collect--Evasion
- 4.05.130 Notice of Determinations
- 4.05.140 Lodging Tax Collector Delay
- 4.05.150 Re-determinations
- 4.05.160 Security for Collection of Lodging Tax
- 4.05.170 Liens
- 4.05.180 Refunds by City to Lodging Tax Collector
- 4.05.190 Refunds by City to Occupant
- 4.05.200 Refunds by Lodging Tax Collector to Tenant
- 4.05.210 Records Required from Lodging Tax Collectors
- 4.05.220 Examination of Records
- 4.05.230 Confidentiality
- 4.05.240 Disposition and Use of Lodging Tax Funds
- 4.05.250 Appeals to Council
- 4.05.260 Violations

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## 4.05.010 Definitions

(Ord. 17-5722, 2017; Ord. 19-5763, 2019)

For purposes of this chapter, the following mean:

- A. "Accrual accounting" means a system of accounting in which the Lodging Tax Collector enters the rent due from an occupant on his records when the rent is earned, whether or not it is paid.
- B. "Cash accounting" means a system of accounting in which the Lodging Tax Collector does not enter the rent due from an occupant on the records until rent is paid.
- C. "City" means the City of Grants Pass, Oregon.
- D. "Tax Administrator" means the City Manager or the City Manager's delegate in charge of the enforcement of the Lodging Tax.
- E. "Lodging facility" means any structure, or any portion of any structure, which is occupied or intended or designed for short-term occupancy for dwelling, lodging or sleeping purposes and includes any hotel, motel, inn, condominium, house, cabin, apartment, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, tent camping locations, or similar structures or spaces or portions thereof so occupied; provided such occupancy is for 27 consecutive days or less.
- F. "Occupancy" means the use or possession, or the right to use or possess, a lodging facility.
- G. "Lodging Tax Collector" means the person who is engaged in the activity of providing or facilitating lodging and includes:
  - 1. Lodging provider- a person that furnishes lodging and
  - 2. Lodging intermediary- a person other than a lodging provider that facilitates the retail sale of lodging and charges for occupancy of the lodging and:
    - (a) charges for occupancy of the lodging; or
    - (b) collects the consideration charged for occupancy of the lodging; or
    - (c) receives a fee or commission and requires the lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the lodging.

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- H. "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- I. "Rent" means the consideration charged, whether or not received by the tax collector, for the occupancy of space in a lodging valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction.
- J. "Lodging Tax" means the tax assessed by the City of Grants Pass on occupants in lodging facilities whether the tax is payable by the occupant or referring to the aggregate amount of taxes due from an Lodging Tax Collector during the period for which required to report collections.
- K. "Tenant" means an individual who occupies or is entitled to occupy space in a lodging facility for a period of twenty-eight consecutive days or more, counting portions of days as full days.
- L. "Occupant" means an individual who occupies or is entitled to occupy space in a lodging facility for a period of twenty-seven consecutive days or less, counting portions of days as full days. The day an occupant checks out of the lodging facility shall not be included in determining the twenty-seven-day period if the occupant is not charged rent for that day by the Lodging Tax Collector. An individual occupying space in a lodging facility shall be considered an occupant until the period of twenty-seven days has expired unless there is an agreement in writing between the Lodging Tax Collector and the occupant providing for a longer period of occupancy or the occupant actually extends occupancy more than twenty-seven consecutive days triggering tenant status. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be considered an occupant. (Ord. 4412 §1, 1981)

## 4.05.020 Tax Imposed

For the privilege of occupancy in a lodging facility in the City each occupant shall pay a lodging tax in the amount of the retail rent charged by the lodging tax collector. The lodging tax constitutes a debt owed by the occupant to the City, which is extinguished only by payment to the Lodging Tax Collector of the lodging facility at the time the rent is paid. The Lodging Tax Collector shall enter the lodging tax on its records when rent is collected (if the Lodging Tax Collector keeps his records on the accrual accounting basis). If rent is paid in installments, a proportionate share of the lodging tax shall be paid by the occupant to the Lodging Tax Collector with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services or

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commodities. (Ord. 4412 §2, 1981; Ord. 4548 §1, 1985; Ord. 4798 §1, 1994; Ord. 5033 §1, 2000, 17-5722, 2017)

## 4.05.030 Rules for Collection of Tax by Operator

(Ord. 17-5722, 2017)

- A. Every Lodging Tax Collector renting rooms or space for lodging or sleeping purposes, whether publically or privately owned, the occupancy of which is not exempted under the terms of this Chapter, shall collect a lodging tax from the occupant. The lodging tax collected or accrued by the Lodging Tax Collector constitutes a debt owed by the Lodging Tax Collector to the City.
- B. In cases of credit or deferred payment of rent, the payment of lodging tax to the Lodging Tax Collector may be deferred until the rent is paid, and the Lodging Tax Collector shall not be liable for the lodging tax until credits are paid or deferred payments are made. When a Lodging Tax Collector utilizes the accrual basis of accounting, adjustments may be made for uncollectible accounts.
- C. The Tax Administrator shall enforce this chapter and may adopt rules and regulations necessary to aid in the enforcement.  
(Ord. 4412 §3, 1981)

## 4.05.040 Lodging Tax Collector's Duties

A Lodging Tax Collector shall collect the lodging tax when the rent is collected from the occupant. The tax shall be collected by the lodging [tax collector that receives] provider or lodging intermediary that collects the consideration charged for occupancy of the lodging, or a lodging intermediary described in 4.05.010(G)(2), as applicable. The amount of lodging tax shall be separately stated on the Lodging Tax Collector's records and on the receipt given by the Lodging Tax Collector. A Lodging Tax Collector shall not advertise that the lodging tax or any part of it will be assumed or absorbed by the Lodging Tax Collector, or that it will not be added to the rent, or that, when added, a part will be refunded, except in the manner provided by this Chapter. (Ord. 4412 §4, 1981, Ord. 17-5722, 2017; Ord. 16-5763, 2019)

## 4.05.050 Exemptions

(Ord. 17-5722, 2017)

This lodging tax shall not be imposed upon:

- A. A tenant, or any occupant for 28 or more consecutive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed an occupant for purposes of the lodging tax) where the rent is paid by the same person

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throughout the consecutive period, and all dwelling units occupied are within the same facility.

- B. A person who rents a portion of a private home on a monthly basis from an owner who personally resides in such private home. (Ord. 4412 §5, 1981)
- C. Any occupant whose dwelling unit is in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered, or certified by the Department of Human Services or Oregon Health Authority.
- D. Any occupant in a facility providing treatment for drug or alcohol abuse or providing mental health treatment.
- E. Any occupant who is a federal employee or an employee of a federal instrumentality (i.e., Red Cross) on official business and show proof of such by providing the official federal exemption certificate or an official travel authorization voucher to the lodging facility. Presentation of federal identification without one of these documents will be not sufficient to authorize an exemption. State and local government employees on official business must continue to pay the Lodging Tax.
- F. Persons with diplomatic immunity.

No exemption shall be granted except upon a claim therefor made at the time rent is collected, and under penalty of perjury, upon a form presented by the tax administrator.

## 4.05.060 Lodging Tax Collector's Registration Form

(Ord. 17-5722, 2017)

- A. A Lodging Tax Collector, for each lodging facility in the City, shall register with the Tax Administrator on a form provided by the Tax Administrator within fifteen days after beginning business, or within thirty calendar days after the passage of the ordinance codified in this chapter. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax, regardless of registration.
- B. Registration shall set forth the name under which a lodging tax collector transacts or intends to transact business, the location of her or his place or places of business, and such other information to facilitate the collection of the tax as the tax administrator may require. The registration shall be signed by the lodging tax collector.
- c. Failure to register does not relieve the Lodging Tax Collector from

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collecting the lodging tax nor a person from paying the lodging tax. (Ord. 4412 §6, 1981)

## 4.05.070 Certificate of Authority

(Ord. 17-5722, 2017)

- A. Within thirty days after registering, the Tax Administrator shall issue a certificate of authority to the registrant.
- B. Certificates are non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer.
- C. Each certificate shall state the place of business to which it applies and shall be prominently displayed.
- D. The certificate shall state:
  1. The name of the lodging facility;
  2. The address of the lodging facility;
  3. The date when the certificate was issued; and
  4. "This Lodging Tax Collector Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lodging Tax Ordinance of the City of Grants Pass by registration with the Tax Administrator for the purpose of collecting from occupants the lodging tax imposed by the City of Grants Pass and remitting the lodging tax to the Tax Administrator. This certificate does not authorize any person to conduct any lawful business in an unlawful manner, or to operate a lodging facility 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." (Ord. 4412 §7, 1981)

## 4.05.080 Due Date, Collections, Returns and Payments

(Ord. 17-5722, 2017; (Ord. 16-5763, 2019)

- A. The tax imposed by this Chapter shall be paid by the occupant to the lodging tax collector at the time that rent is paid. All amounts of such taxes collected by any lodging tax collector are due and payable to the tax administrator on a quarterly basis on the last day of the month following the end of the calendar quarter. The lodging provider or lodging intermediary that collects the consideration charged for occupancy of

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lodging is responsible for collecting any lodging tax and shall file a return of the tax with the tax administrator, reporting the amount of tax due during the reporting period to which the return relates.

- B. On or before the last day of the month following each quarter, a return for the preceding quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every lodging tax collector liable for payment of tax.
- C. Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of lodging tax collector for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- D. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at her or his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- E. 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 shall be granted, except by the City Manager. Any lodging tax collector to whom an extension is granted shall pay interest at the rate of 1 percent 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 described elsewhere in this Chapter.
- F. The tax administrator, if she or he 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 quarterly periods.

Accept as provided in this Section (4.05.080-G), lodging tax collectors for camping and recreational vehicles spaces may hold the tax collected until the amount of the money held equals or exceeds \$100. Once the amount held by the lodging tax collector equals or exceeds \$100, or by December 31<sup>st</sup> of each year if the \$100 threshold is not met, the lodging tax collector shall remit the tax collected at the next calendar quarter end. No penalty or interest will be assessed against a lodging tax collector that withholds payments pursuant to this Section (4.05.080-G).

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## 4.05.090 Delinquency Penalties

- A. The lodging tax is delinquent on the first working day of the month following each quarterly payment due date.
- B. *Original delinquency.* Any Lodging Tax Collector who has not been granted an extension of time for remittance of lodging tax due and who fails to remit the lodging tax prior to delinquency shall pay a penalty of 10% of the lodging tax due in addition to the lodging tax.
- C. *Continued delinquency.* Any Lodging Tax Collector whose remittance is delinquent, and who fails to secure an extension, shall pay, commencing 1 month after the remittance became delinquent, a second delinquency penalty of 15% of the lodging tax due, the amount of the lodging tax and the 10% penalty first imposed.
- D. *Fraud.* If the Tax Administrator determines that the non-payment of a remittance is due to fraud or intent to evade the lodging tax, a penalty of 25% of the lodging tax shall be added in addition to the penalties stated in Subsections B and C.
- E. *Interest.* In addition to the penalties imposed by this section, Lodging Tax Collector who fails to remit the required lodging tax shall pay interest at the rate of 1% per month, without proration for portions of a month, on the lodging tax due, exclusive of penalties, from the date on which the lodging tax first became delinquent until paid.
- F. *Penalty merged with tax.* Each penalty imposed and the interest accrued under the provisions of this section shall be merged with and become a part of the lodging tax required to be paid.
- G. *Petition for waiver.* A Lodging Tax Collector who fails to remit the lodging tax within the required time may petition the Council for waiver and refund of the penalty or any portion of it. The Council may, if good cause is shown, direct a refund of the penalty or a portion of it. (Ord. 4412 §9, 1981)

## 4.05.100 Deficiency Determinations

(Ord. 17-5722, 2017)

If the tax administrator determines that the returns are incorrect, she or he 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 her or his possession or that may come into her or his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period; and the amount so determined shall be due and payable immediately upon service of notice, as provided in





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this Chapter; after which, the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 4.05.090.

- A. In making a determination, the Tax Administrator may offset overpayments, which may have been previously made against a deficiency for a subsequent period, or against penalties and interest on the deficiency. The interest on the deficiency shall be computed as provided in Section 4.05.090. (Ord. 4412 §10, 1981)
- B. The tax administrator shall give to the lodging tax collector a written notice of her or his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the lodging tax collector at her or his address as it appears in the records of the tax administrator. In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.
- C. Except in the case of fraud, intent to evade the provisions of this Chapter or authorized rules and regulations, 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 amount is proposed to be determined, or within three years after the return is filed, whichever period expires the later.

### 4.05.110 Redemption Petition

A determination becomes payable immediately upon receipt of notice and becomes final within ten days after the Tax Administrator has given notice. However, the Lodging Tax Collector may petition for redemption and refund if the petition is filed before the determination becomes final. (Ord. 4412 §11, 1981, Ord. 17-5722, 2017)

### 4.05.120 Fraud-Refusal to Collect-Evasion

(Ord. 17-5722, 2017)

- If any lodging tax collector shall fail or refuse to collect said tax or to make, within the time provided in this Chapter, any report and remittance of said tax or any portion of the tax required by this Chapter, or makes a fraudulent return or otherwise willfully attempts to evade the provisions of this Chapter, the tax administrator shall proceed in such manner as she or he may deem best to obtain facts and information on which to base an estimate of the tax due.
- B. The determination and notice shall be made and mailed within three years after discovery by the Tax Administrator of fraud, intent to evade, or failure or refusal to collect the lodging tax, or failure to file a return. The determination becomes payable immediately upon receipt of notice and

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becomes final within ten days after the Tax Administrator has given notice.

- C. The Lodging Tax Collector may petition for redemption and refund if the petition is filed before the determination becomes final. (Ord. 4412 §12, 1981)

### 4.05.130 Notice of Determinations

(Ord. 17-5722, 2017)

- A. The Tax Administrator shall give the Lodging Tax Collector a written notice of the determination. If the notice is mailed, the notice shall be addressed to the Lodging Tax Collector at the address that appears on the records of the Tax Administrator. In case of service by mail, the service is complete when it is deposited in a mail receptacle.
- B. Except in the case of fraud or intent to evade the lodging tax, a deficiency determination shall be made and notice mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever is later. (Ord. 4412 §13, 1981)

### 4.05.140 Lodging Tax Collector Delay

If the Tax Administrator believes that the collection of a lodging tax will be jeopardized by delay, or if a determination will be jeopardized by delay, he shall determine the lodging tax required to be collected, noting the fact upon the determination. The determined amount is payable immediately after service of notice. However, after the payment has been made, the Lodging Tax Collector may petition for redemption and refund of the determination, if the petition is filed within ten days from the date of service of notice by the Tax Administrator. (Ord. 4412 §14, 1981, Ord. 17-5722, 2017)

### 4.05.150 Redeterminations

(Ord. 17-5722, 2017)

- A. A Lodging Tax Collector against whom a determination is made under Section 4.05.100, or any person directly interested, may petition for a redetermination, redemption and refund within the time required in Section 4.05.140. If a petition for redetermination and refund is not filed within the time required, the determination is final at the expiration of the allowable time.
- B. If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination and, if the Lodging Tax Collector has requested in his petition, shall grant the Lodging Tax Collector an oral hearing and give him seven days' notice of the time and place of the hearing. The Tax Administrator may continue the hearing if necessary.

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- C. The Tax Administrator may change the amount of the determination as a result of the hearing. If an increase is determined, the increase is payable immediately after the hearing.
- D. The decision of the Tax Administrator on a petition for redetermination becomes final ten days after service upon the petitioner of notice unless appeal of the decision is filed with the Council within ten days after service of the notice.
- E. A petition for redetermination or an appeal is not effective unless the Lodging Tax Collector has first complied with the payment provisions.  
(Ord. 4412 §15, 1981)

### 4.05.160 Security for Collection of Lodging Tax

(Ord. 17-5722, 2017)

- A. The tax administrator, whenever she or he deems it necessary to insure compliance herewith, may require any lodging tax collector subject thereto to deposit with her or him such security in the form of cash, bond, or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the lodging tax collector's estimated average quarterly liability for the period for which she or he files returns, determined in such manner as the tax administrator deems proper, or \$50,000, whichever amount is the lesser. The amount of the security may be increased or decreased by the tax administrator, subject to the limitations provided in this Chapter.
- B. Within three years after the lodging tax becomes payable, or within three years after a determination 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. (Ord. 4412 §16, 1981)

### 4.05.170 Liens

(Ord. 17-5722, 2017)

- A. The lodging tax, interest, penalty, and advertising costs which may be incurred when the lodging tax becomes delinquent shall be and until paid remain a lien from the date of its docketing with the City Manager of the City against all real property occupied by the lodging facility as well as any tangible personal property used in the lodging facility. This lien shall have priority over all other liens and encumbrances of any character. The lien may be foreclosed and the property sold as may be necessary to discharge the lien in the manner specified by ORS 223.505 through 223.595.

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- B. The tax imposed by this Chapter, together with the interest and penalties provided in this Chapter, shall be and until paid remain a lien from the date of its docketing with the City Manager of the City against all property of the lodging tax collector intermediary as authorized by local, state or federal law. This lien shall have priority over all other liens and encumbrances of any character. The lien may be foreclosed on as provided by local, state or federal law.
- C. Notice of the lien shall be issued by the Tax Administrator when the Lodging Tax Collector has defaulted in the payment of the lodging tax, interest, and penalty. A copy of the notice shall be sent by certified mail to the Lodging Tax Collector.
- D. The personal property subject to the lien may be sold at public auction after notice of such sale is published two times in a newspaper of general circulation within the City. Such notices shall be published not less than seven days apart with the first notice being published not more than twenty-five days before the date of the auction and the last notice published not less than seven days before the auction.
- E. A lien for the lodging tax, interest and penalty shall be released by the Tax Administrator when the full amount has been paid to the City. The Lodging Tax Collector or person making the payment shall receive a receipt stating that the full amount of the lodging tax, interest and penalty has been paid, that the lien is released and that the record of the lien is satisfied. (Ord. 4412 §17, 1981)

### 4.05.180 Refunds by City to Operator

When the lodging tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided that within three years from the date of payment, a written verified claim is filed stating the specific reason upon which the claim is founded. The claim shall be written on forms provided by the Tax Administrator. If the claim is approved, the excess amount may be refunded or may be credited on an amount then payable from the Lodging Tax Collector from whom it was collected and the balance refunded to the Lodging Tax Collector, her or his administrators, executors, or assignees. (Ord. 4412 §18, 1981, Ord. 17-5722, 2017)

### 4.05.190 Refunds by City to Occupant

If the lodging tax has been collected by the Lodging Tax Collector and deposited with the Tax Administrator, and it is later determined that the lodging tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded to the occupant, provided that within three years from the date of payment a written verified

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claim stating the specific reason on which the claim is founded is filed with the Tax Administrator. (Ord. 4412 §19, 1981, Ord. 17-5722, 2017)

## 4.05.200 Refunds by Lodging Tax Collector to Tenant

If the lodging tax has been collected by the Lodging Tax Collector and it is later determined that the occupant occupies the lodging facility for a period exceeding twenty-seven days without interruption, and thereby becomes a tenant, the Lodging Tax Collector shall refund to the tenant the lodging tax previously collected. The Lodging Tax Collector shall account for the collection and refund to the Tax Administrator. If the Lodging Tax Collector has remitted the lodging tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund. (Ord. 4412 §20, 1981, Ord. 17-5722, 2017)

## 4.05.210 Records Required from Operators

Every Lodging Tax Collector shall keep guest records, accounting books, records of the room sales and copies of federal exemption travel vouchers/certificates for a period of three years and six months after they come into being. (Ord. 4412 §21, 1981, Ord. 17-5722, 2017)

## 4.05.220 Examination of Records

The Tax Administrator may examine during normal business hours the books, papers and accounting records relating to room sales of a Lodging Tax Collector, after notification to the Lodging Tax Collector. The Tax Administrator may investigate the business of the Lodging Tax Collector in order to verify the accuracy of a return made or, if no return is made by the Lodging Tax Collector, to determine the amount required to be paid. The Tax Administrator may contract with an independent external auditor to examine the records required to be maintained by lodging tax collectors. (Ord. 4412 §22, 1981, Ord. 17-5722, 2017)

## 4.05.230 Confidentiality

(Ord. 17-5722, 2017)

The Tax Administrator or a person having an administrative or clerical duty under the provisions of this chapter shall not make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment of a person required to file a return, or pay a lodging tax, or a person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, or expenditures contained in a statement or application, or to permit a statement or application, or a copy of either, or a book containing an abstract or particulars to be seen or examined by any person. However, nothing in this section shall be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by, a City official, employee or agent for collection of lodging taxes for the sole

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purpose of administering or enforcing the provisions or collecting the lodging taxes imposed by this chapter.

- B. The disclosure, after filing a written request, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid lodging tax, unpaid lodging tax or amount of lodging tax required to be collected, or interest and penalties. However, the City Attorney shall approve each disclosure, and the Tax Administrator may refuse to make a disclosure referred to in this subsection when in the Tax Administrator opinion the public interest would suffer.
- C. The disclosure of the names and addresses of persons making returns.
- D. The disclosure of general statistics regarding lodging taxes collected or business done in the City. (Ord. 4412 §23, 1981)

## 4.05.240 Disposition and Use of Lodging Tax Fund

All revenues received from the lodging tax shall be deposited into the Lodging Tax Fund. (Ord. 4412 §24, 1981; Ord. 4553 §1, 1985; Ord. 5033 §1, 2000; Ord. 5052 §1, 2001, Ord. 17-5722, 2017)

The Lodging Tax rate of 9% shall be distributed as follows:

- A. Of the first 77.8% of such funds receipted, 80% shall be subsequently transferred from the Lodging Tax Fund to the City General Fund for 25% funding to Public Safety, 25% funding to Parks Maintenance, and 30% funding to the Tourism program. The remaining 20% of the first 77.8% shall be transferred from the Lodging Tax Fund to the City General Fund for promoting the City's economic development and downtown area program activities. (Ord. 4412 §24, 1981; Ord. 4553 §1, 1985; Ord. 5033 §1, 2000; Ord. 5052 §1, 2001)
- B. Of the remaining 22.2% of Lodging Tax receipts, 30% shall be subsequently transferred to the Tourism program and 70% shall be transferred to the Lands and Building fund for the acquisition and development of park property or other tourism-related facilities. (Ord. 4412 §24, 1981; Ord. 4553 §1, 1985; Ord. 5033 §1, 2000; Ord. 5052 §1, 2001; Ord 16-5669 § 2016)

## 4.05.250 Appeals to Council

Any person aggrieved by any deficiency determination of the Tax Administrator may appeal to Council of the City by filing a notice of appeal with the Tax Administrator within 10 days of receiving the notice of the deficiency from the Tax Administrator. The tax administrator shall transmit said notice of appeal, together with the file of said

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appealed matter, to Council, who shall fix a time and place for hearing such appeal from the determination of the Tax Administrator. Council shall give the appellant not less than 10 days' written notice of the time and place of hearing of said appealed matter. Action by Council on appeals shall be decided by a majority of the members of Council present at the meeting where such appeal is considered. (Ord. 17-5722, 2017)

## 4.05.260 Violations

It is unlawful for any lodging tax collector or other person so required to fail or refuse to register as required by this Chapter, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator, or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this Chapter. (Ord. 17-5722, 2017)

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Chapter 4.07

SPECIAL EVENTS

Sections.

- 4.07.010 Definitions
- 4.07.020 License Required
- 4.07.030 License Application and Fee
- 4.07.040 Departmental Review and Cost Analysis—Insurance and Issuance of License
- 4.07.050 Standards for Denial of License
- 4.07.060 Save Harmless Agreement
- 4.07.070 Limitation of Liability
- 4.07.080 Public Announcements Required
- 4.07.090 Security, Sanitation and Clean-up
- 4.07.100 Revocation of Special Event License
- 4.07.110 Appeal Procedure
- 4.07.120 Community Events/ Extraordinary Charges Waivers
- 4.07.130 Neighborhood Block Parties





4.07.010 Definitions

- A. Special Events License. Except as provided in this ordinance, a temporary business license shall be issued for special events. The license shall be issued to the organization sponsoring the event and shall cover all businesses authorized by the sponsor to participate therein. The fee for licenses authorized by this section shall be set by resolution.
- B. Extraordinary Personnel, Materials and Services Charge. The sponsoring organizations shall be responsible to the City of the sum total of the costs related to the management by the City of the special event that is in excess of the ordinary management costs of the City for the ordinary and usual use of public property, parks, public streets, rights-of-way and sidewalks. The extraordinary personnel, materials and services charge does not include the nonrefundable application fee. The extraordinary personnel, materials and services charge shall be calculated pursuant to the procedures outlined in Section 4.07.040.
- C. Special Event. Any organized group activity that occurs upon public property and that will affect the ordinary use of public property, public streets, rights-of-way or sidewalks, or will require the City to incur extraordinary costs for personnel, materials, and service. An activity will be considered to affect the ordinary use of public property, public streets, rights-of-way or sidewalks if it will generate impacts greater than the impacts generated from the normal and customary use of such property, parks, streets, rights of way or sidewalks. Impacts may include such things as significantly increased volume of vehicular or pedestrian traffic, trash, noise and refuse and as a result may generate the need for traffic control, security, trash disposal, sanitation, sewage disposal, fire protection or other services. A special event includes, but is not limited to, fairs, art shows, hobby shows, flea markets, and educational or cultural events, festivals, and block parties. Demonstrations and other lawful assemblies, including but not limited to private social gatherings that will make no use of City streets or rights-of-way other than for lawful parking, are not included.
- D. Neighborhood Block Party. A neighborhood block party is considered a small-scale special event involving the closure of no more than one block of a local street and a gathering of less than 150 persons. A block party permit shall be required which shall be issued in accordance with Section 4.07.130.

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## 4.07.020 License Required

- A. No person shall establish, maintain or operate a special event within the City unless a license for that use is obtained from the City. Each licensee shall meet the standards set forth in this ordinance and Grants Pass Municipal Code Section 4.04.065.
- B. If the special event is to include a parade, then a parade permit shall also be obtained in accordance with Chapter 6.18 of the Grants Pass Municipal Code.
- C. The City may require other licenses or permits if the special event will include other activities requiring permits or licenses under the applicable sections of the Grants Pass Municipal Code. The sponsoring organization shall be responsible for compliance with any federal, state, or local laws or regulations including, without limitation, those that pertain to public health and safety.
- D. The granting of a special event license shall not relieve any person of the responsibility to satisfy all code requirements respecting the manner in which the special event is conducted.

## 4.07.030 License Application and Fee

- A. An application for special event license shall be submitted to the City Manager on a form supplied by the City. If the City receives an application less than 30 days before the scheduled event, the applicant waives all time periods and appeal rights referenced in this chapter.
- B. Each application submitted shall be evaluated on its own merits, and there shall be no presumption that special events occurring annually or otherwise periodically will qualify for a subsequent special event license, except as may otherwise be authorized by Subsection G below.
- C. The application shall be completed in its entirety by the applicant prior to any review of it. Additional information may be required by the City.
- D. If the sponsoring organization is a tax exempt organization under Section 501 of the Internal Revenue Code, no special event license fee shall be required unless one or more temporary booths, stalls or vendors participating in the special event is a business as defined in Section 4.04.020 of the Municipal Code. A sponsoring organization under this Subsection D shall be responsible for any extraordinary personnel materials and service charges determined in accordance with Section 4.07.040.

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- E. The sponsoring organization may request as part of its application that it be granted an exclusive right to designate vendors or concessionaries who may operate within the defined venue of the special event.
- F. Any facilities or structures to be constructed or erected in conjunction with the special event shall comply with all applicable federal, state or local laws, regulations, codes and ordinances.
- G. Nothing contained in this section shall limit the authority of the City Council to enter into multi-year contract with tax exempt organizations to conduct a special event, subject to the terms and conditions of any such contract.

### 4.07.040 Departmental Review and Cost Analysis—Insurance and Issuance of License

- A. Upon receipt of an application, the City Manager or designee shall route copies of the completed application to the following departments for review, comment and any proposed conditions: Public Safety, Public Works, Parks & Community Development, Finance and Administration.
- B. The City Manager shall review the application for evidence of sufficient insurance and shall require additional insurance for the proposed special event as the City Manager determines is reasonable and necessary. Any such insurance shall name the City as an additional insured. The insurance requirement shall be set by the City Manager during the application review process.
- C. If alcoholic beverages will be available at other than regularly licensed and permanently located establishments, the applicant shall be required to obtain required federal, state, or local permits or licenses and additional insurance to that otherwise required, and in an amount to be determined and set by the City Manager during the application review process.
- D. Each department shall determine the departmental activity, if any, required for the special event and shall itemize the projected extraordinary expenses that the City will incur for the departmental activity that is in addition to the expenses incurred for the management of the ordinary and usual uses of public property, public streets, rights-of-way or sidewalks. The itemized extraordinary expenses shall include but not be limited to the expenses incurred in connection with providing traffic control, security service, signage, on-call first aid, street cleaning, litter pick up, adequate sanitation maintenance or personnel services. Costs shall only reflect those activities related to management of extraordinary use of the public property, public streets, rights-of-way or sidewalks. The extraordinary personnel, materials and services charge shall be the sum of each

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department's costs.

- E. The review and cost analysis estimate shall be completed within 30 days of the receipt of a completed application by the City Manager or designee. A written notice of this estimate shall be provided to the applicant.
- F. Unless additional conditions need to be satisfied or the application is denied, the written notice to the applicant shall include a notice of the estimated amount of the calculated extraordinary personnel, materials and services charge. This amount shall be deposited with the City prior to the issuance of a special events license.
- G. Within 10 days of the conclusion of the event, the City shall mail the actual personnel, materials and services charge by certified mail to the applicant. All extraordinary personnel, materials and services shall be paid by the applicant within 30 days following the event. To the extent that the amount deposited by the applicant exceeds the actual charges, any excess shall be refunded to the applicant within 30 days following the event.
- H. All special event permits shall be temporary and do not vest any permanent rights. Each special event permit shall indicate the period of time for which the permit is valid.

## 4.07.050 Standards for Denial of License

- A. Reasons for denial of a special event permit include:
  - 1. The event alone or as a result of any other special event(s) scheduled on the same date or time will disrupt traffic within the City beyond practical solution;
  - 2. The event alone or as a result of any other special event(s) scheduled on the same date or time will interfere with access to fire stations or fire hydrants;
  - 3. The event alone or as a result of any other special event(s) scheduled on the same date or time will cause undue hardship to adjacent businesses, public buildings or residences;
  - 4. The event alone or as a result of any other special event(s) scheduled on the same date or time will require the diversion of so many public employees that allowing the event would unreasonably deny service to the remainder of the City;
  - 5. The application contains incomplete or false information;
  - 6. The applicant fails to comply with all terms of this article including but not limited to failure to satisfy additional conditions established during the departmental review process, failure to remit all fees, or

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failure to provide proof of insurance, and a save harmless agreement to the City, failure to obtain and provide to the City copies of required federal, state or county permits; or

7. The applicant fails to pay the extraordinary personnel, materials and services charge for a prior special event.
  
- B. If a license is denied, the City Manager shall notify the applicant of the denial by certified mail that contains a summary of the appeal procedures found in this ordinance.
  
- C. The City shall approve or deny a license within 45 days of receipt by the City of a completed application. Failure to approve or deny a license within 45 days shall be deemed to be approval of the application.

### 4.07.060 Save Harmless Agreement

Every applicant shall be required to provide a save and hold harmless agreement on a form supplied by the City in which the applicant agrees to defend, pay, save and hold harmless the City, its officers and employees, from any and all claims or lawsuits for personal injury or property damage arising from or in any way connected to the special event, except any claims arising solely out of the negligent acts of the City, its officers and employees.

### 4.07.070 Limitation of Liability

This ordinance shall not be construed as imposing upon the City or its officials or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which the permit has been issued. The City and its officials and employees shall not be deemed to have assumed any liability responsibility by reasons of inspections performed the issuance of any permit, or the approval of any use of the right of way.

### 4.07.080 Public Announcements Required

The City Manager may require the applicant to specifically notify and inform adjoining private property and business owners who might be adversely affected by the special event. The City Manager may also require the applicant to publish announcements of the special event prior to the event. All costs associated with informing and announcing the special event shall be paid by the applicant.



4.07.090 Security, Sanitation and Clean-up

A special event license may be issued only after the applicant has demonstrated that adequate security, first aid, sanitation and waste disposal facilities have been identified and obtained by the applicant. The applicant shall clean the right of way of rubbish and debris, returning it to its previous pre-event condition, within 24 hours of the conclusion of the event. If the applicant fails to clean up the refuse, the clean up shall be arranged by the City and the costs charged to the applicant. The costs shall be in addition to the amount of the extraordinary personnel, materials and services charge.

4.07.100 Revocation of Special Event License

- A. The City Manager may revoke a special event license at any time after the special event license has been issued. Reasons for revocation of a special event license include, but are not limited to, the following: the special event will or may create a public safety hazard; the application contained incomplete or false information; the applicant does not comply with all terms and conditions of the license; the applicant fails to arrange for or adequately remit all fees, extraordinary personnel, materials and services charge, deposits, insurance or bonds to the City; or a disaster, public calamity, riot or other emergency exists.
- B. There shall be no appeal of any revocation made during the special event.

4.07.110 Appeal Procedure

Any applicant whose special event license application has been denied or revoked prior to the special event may appeal the decision to the City Council by filing a written notice of appeal. The City Council shall set a hearing date within 21 days of receiving the appeal request. At the hearing, the applicant may be heard and present evidence in his or her behalf. The City Council shall determine whether the denial or revocation of the permit shall be upheld.

4.07.120 Community Events/ Extraordinary Charges Waivers (Ord. 5536, §16, 2011)

- A. Any applicant who believes that the special event is a community event that will significantly contribute to and benefit the Grants Pass community or are indigent applicants or applicants from nonprofit entities that qualify for tax exemption under Section 501 of the Internal Revenue Code may appeal to the City Council for a partial or total waiver of the extraordinary personnel, materials and services charge. The applicant shall appeal to the City Council, in writing, within 10 business days of being notified pursuant to Section 4.07.040 of the determination of the calculated extraordinary personnel, materials and services charge. If the City Council

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determines that the occurrence of the special event will significantly and substantially benefit the Grants Pass community, the City Council may waive all or part of the extraordinary personnel, materials and services charge.

- B. The decision of the City Council is final and binding on the applicant. The failure of the City Council to grant or deny an appeal under this section within 21 days following the date on which an applicant submits its written appeal shall be deemed to be a denial of the waiver request. There shall be no right to appeal the decision; provided, however, nothing in this section shall preclude a license from being denied or revoked despite a decision to reduce or waive the extraordinary personnel, materials and services charge.
- C. Certain special events shall be exempt from the extraordinary personnel, materials and services charges set forth in Section 4.07.010 B. For an organization to be exempt from such charges, each of the following conditions must be satisfied:
1. The special event has been conducted by the organization claiming the exemption on an annual basis for at least forty consecutive years; and
  2. The organization conducting the special event has demonstrated its significant and substantial benefit to the community by distributing at least \$35,000 per year to community service organizations and other charitable causes serving the needs and interests of Grants Pass and Josephine County residents. Recognizing that from time to time, the amount of distribution may fall below this threshold level, the demonstration of benefit distribution amount shall be calculated using the average amount of distributions actually made over the immediately preceding three-year period.

In addition, organizations and events which are exempt under this subsection must do the following:

1. Maintain its organizational good standing under the laws of the State of Oregon;
2. Maintain its tax-exempt status under the rules and regulations of the Internal Revenue Service;
3. Be a party to a multi-year contract with the City of Grants Pass relating to the special event. The contract will specify the exemption described above;
4. Make no significant change in the nature, character, size or scope of the special event or any change that would increase the level of City

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required services or resources without the prior approval of the City Council; and

5. On an annual basis, provide the City Manager with a copy of its IRS Form 990 as filed with the Internal Revenue Service.

- D. Local, state and federal units of government are not eligible for waiver or exemption under this section 4.07.120.

### 4.07.130 Neighborhood Block Parties

- A. Permit Required. Persons interested in hosting a Neighborhood Block Party must submit an application for a permit either in the form of a petition or application. The application must be submitted to the City Manager at least 30 days prior to the proposed date of the block party. There shall be no fee for the block party application or permit.
- B. The application shall contain the following information:
  1. Identify the name and address of all applicants;
  2. State the purpose of the event;
  3. Identify the number of participants expected to attend;
  4. Describe what rest room facilities will be provided;
  5. Identify the portion of the local street which is proposed to be closed. A map showing the location of barricades, any stage, or any other objects or structures to be placed in the street shall be provided;
  6. Identify the date and hours during which the block party will be conducted;
  7. Provide written consents to the block party from at least 75 percent of all residents living along the portion of the street to be closed;
  8. Indicate whether any sound amplification will be utilized, and if so, indicate the means by which applicants will control volumes to minimize interference and disturbance of nearby residents.
- C. Rules Applicable to Neighborhood Block Parties.
  1. No block party shall commence prior to 10:00 a.m. or continue past 11:00 p.m. on any day. No sound amplification shall be permitted after 10:00 p.m.;
  2. No block party may be held within 500 feet of any school, church, hospital, nursing home or similar operation unless endorsed by the management of such institution;
  3. Public rights-of-way will be cleaned and left free of litter and debris;
  4. Residents consenting to the occurrence of the block party shall by their consent agree to indemnify and hold harmless the City, its

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officers, and employees from any and all liability or obligation, claims, lawsuits of any kind or nature whatsoever, for personal injury or property damage related to or arising in any way from the block party or related activities;

5. The issuance of a block party permit shall not be construed to permit or condone the consumption of alcoholic beverages on public property;
  6. Public rights-of-way must remain accessible to emergency vehicles;
  7. The provisions of the Grants Pass Municipal Code shall apply to the block party, including, without limitation, those that pertain to noise;
  8. The failure to comply with any other foregoing rules shall constitute adequate grounds upon which future applications for a permit may be denied.
- D. Permit Approval/Denial. The City Manager shall approve or deny the block party request no later than 7 days prior to the date of the block party as set forth in the application. Any denial shall state the reasons therefore. The decision of the City Manager shall be final with no appeal available.

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Chapter 4.08

SOLICITOR/PEDDLER, MOBILE VENDING, MOBILE DELIVERY, AND  
TEMPORARY MERCHANT LICENSES

Sections:

- 4.08.010 Purpose
- 4.08.020 Definitions
- 4.08.030 License – Required
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# City of Grants Pass Municipal Code



## 4.08.010 Purpose

The purpose of this ordinance is to provide guidance and regulation for the orderly operation of those uses, which are commonly referred to as “temporary” or “itinerant.” The Mobile Vending, Mobile Delivery ordinance (Grants Pass Municipal Code, Chapter 4.08) provides location and performance criteria for the aforementioned uses in an attempt to better regulate the operation of those uses that are not fixed to one location. The ordinance also provides for the licensing of said uses and persons to further protect all residents from illegal, inferior or misrepresented products and services provided by uses or persons operating on a temporary or itinerant basis within the City. (Ord. 16-5690 2016)

## 4.08.020 Definitions

(Ord. 16-5690 2016)

For the purposes of this chapter, unless the context clearly requires otherwise, the singular includes the plural and the following words shall have the meanings set forth below: (Ord. 15-5645 2015)

- A. *“Business”* shall have the meaning set forth in Grants Pass Municipal Code Section 4.04.020.
- B. *“Ice Cream Truck”* means a motor vehicle utilized as the point of retail sales of pre -wrapped or prepackaged ice cream, frozen yogurt, frozen custard, or similar frozen dessert products.
- C. *“Mobile Vending Cart”* means a push cart movable under human power that is operated by a vendor standing on the sidewalk for the sale of food ready to eat.
- D. *“Mobile Vending Trailer”* means a mobile trailer operated by a vendor standing on or within the frame of the trailer operating either as a temporary use or within an off-street mobile vending zone.
- E. *“Mobile Food Truck”* means a motorized vehicle operated by an operator standing on or within the frame of the vehicle either on the public rights-of-way between the curb lines in a designated on-street mobile vending/delivery zone for the sale or delivery of food served ready to eat.
- F. *“Mobile Food Vehicle”* shall mean the collective of Ice Cream Trucks, Mobile Vending Carts, Mobile Food Trucks and Mobile Vending Trailers.
- G. *“Mobile Vending Zone, Off-street”* means a private property or designated public property where mobile food trucks, mobile vending trailers or mobile vending carts may operate compliant with standards contained within this title, health code and other applicable codes, ordinances and regulations.

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- H. *"Mobile Vending/Delivery Zone, On-street"* means an area of public right-of-way between the curb lines designated by ordinance where only those operators or vendors licensed as mobile food trucks may operate compliant with standards contained within this title, health code and other applicable codes, ordinances and regulations.
- I. *"Mobile Vending Zone, Sidewalk"* shall mean an area of improved public sidewalk designated by ordinance where only those operators or vendors licensed as mobile vending carts may operate compliant with standards contained within this title, health code and other applicable codes, ordinances and regulations.
- J. *"Sidewalk Vending"* means the peddling, vending, selling, displaying, or offering for sale any item of tangible personal property or other thing of value from a mobile vending cart by a vendor to persons on the public rights of way including sidewalks.
- K. *"Solicitor/Peddler"* is defined as an individual, including an employee or agent of a group of individuals, partnership, or corporation, whether a resident of the City or not, who is taking or attempting to take, whether in person or by telephone, orders for sale of food, beverages, goods, merchandise or services to be furnished or performed in the future, whether he is collecting advance payments on such sales or not.
- L. *"Street Vending"* means the peddling, vending, selling, displaying, or offering for sale any item of tangible personal property or other thing of value from a mobile food truck situated on the public rights of way between the curb lines by a licensed mobile food truck vendor to persons on the sidewalk.
- M. *"Temporary Merchant"* is defined as any person, whether owner or otherwise, whether a resident of the City or not, who, for a time limited to 10 days per calendar month, engages in a temporary business of selling and delivering goods, wares, merchandise and services within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any private property within the City for the exhibition and sale of food, beverages, goods, merchandise or services.

### 4.08.030 License--Required

No individual, including an employee or agent of a group of individuals, partnership, or corporation, whether a resident of the City or not may engage in the operation of any business, operation, event or activity described, whether implicit or implied, within this ordinance without first obtaining a license as provided in this chapter. (Ord. 2977 §1, 1961)

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## 4.08.040 License Application – General

An applicant is responsible for submitting an application and obtaining the appropriate license for the type of business being conducted in the City and Urban Growth Boundary. In addition to the specific license activity, an applicant is responsible for applying for and paying the appropriate annual fees for a City occupation (business) tax in accordance with Section 4.04 of the Municipal Code.

## 4.08.041 License Application – Solicitor/Peddler and Ice Cream Truck

An applicant for a Solicitor/Peddler and Ice Cream Truck license shall submit to the Parks & Community Development Department the applicable fees and an application which shall contain the following information:

- A. The applicant's true name, permanent address, and an address the City may use for purposes of notifying the applicant.
- B. The true name and address of a person for whom the applicant is an employee or acting as an agent. If the applicant is acting as the agent of a corporation:
  1. The address of the registered office of the corporation in Oregon or other state.
  2. The name and address of the registered agent of the corporation in Oregon or other state.
- C. A brief description of the nature of the business and the goods to be sold or services to be provided;
- D. The length of time for which the right to do business is desired;
- E. If a vehicle is to be used, a description of the same, together with license number or other means of identification, and evidence of insurance covering the vehicle;
- F. Personal identifying information of the applicant as necessary for the Public Safety Department to conduct a limited background check.
- G. Past criminal convictions of the applicant and for any person acting as an employee or agent of the applicant involving unlawful trade practices as defined by ORS 646.608, fraud, or crimes involving moral turpitude (Solicitor/Peddler);
- H. Known consumer complaints made to local or state consumer agencies against the applicant or against any person acting as an employee or

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agent of the applicant (Solicitor/Peddler);

- I. Proof of compliance with all relevant federal, state and local bonding and licensing requirements (Solicitor/Peddler);
- J. A copy of the applicant's certificate of liability insurance naming the City as an additional insured (Ice Cream Truck). The amount required shall be in accordance with the most recently adopted number as per Ordinance 5517 and Resolution 5682.
- K. A copy of a valid Oregon motor vehicle operator's license

## 4.08.042 License Application – Mobile Vending Cart and Mobile Food Truck

An applicant for a Mobile Vending Cart or Mobile Food Truck license shall submit to the Parks & Community Development Department the applicable fees and an application which shall contain the following information:

- A. A completed Planning Application form;
- B. A scaled site plan of the proposed area for sidewalk vending showing the following at a minimum:
  - 1. Location in a designated off-street mobile vending zone (cart or truck),
  - 2. Location in a designated on-street mobile vending zone (truck only),
  - 3. The dimensions of the site area being used for the mobile vending vehicle and circulation,
  - 4. Sidewalk width and fixtures such as fire hydrants, street furniture, utility poles etc. that are located on the sidewalk (cart only),
  - 5. The dimensions of the mobile vending vehicle including any awnings or umbrellas,
  - 6. Minimum of four (4) feet of clear and unobstructed passageway between the mobile vending cart and other fixtures or obstructions on the sidewalk (cart only),
  - 7. Number and location of waste receptacles,
  - 8. Location of any attached signage (a separate sign permit is required)
  - 9. The number and location of seating areas (only permissible on off-street mobile vending zones on designated public or private property),
  - 10. Location of restrooms for employees or patrons

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- C. A brief description of the nature of the business and the goods to be sold;
- D. Personal identifying information of the applicant necessary for the Public Safety Department to conduct a limited background check;
- E. A copy of the applicant's certificate of liability insurance naming the City as an additional insured. The amount shall be in accordance with the most recently adopted number as per Ordinance 5517 and Resolution 5682.
- F. A copy of a valid Oregon motor vehicle operator's license.

### 4.08.043 License Application – Temporary Merchant

An applicant for a Temporary Merchant license shall submit to the Parks & Community Development Department the applicable fees and an application which shall contain the following information:

- A. The applicant's true name, permanent address, and an address the City may use for purposes of notifying the applicant,
- B. A brief description of the nature of the business and the goods to be sold or services to be provided,
- C. Location and zoning district where the use will take place,
- D. Signature of the property owner granting permission of the property for the proposed use,
- E. Personal identifying information of the applicant necessary for the Public Safety Department to conduct a limited background check,
- F. Provide the specific days within a calendar month when the use will be occurring (time frame is limited to ten (10) days in a calendar month),
- G. Identify the hours of operation,
- H. A copy of the applicant's certificate of liability insurance naming the City as an additional insured. The amount required shall be in accordance with the most recently adopted number as per Ordinance 5517 and Resolution 5682.

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## 4.08.044 License Renewal

(Ord. 17-5722, 2017)

- A. Active Licensees will be mailed a renewal application prior to the expiration of the license. All licenses in this chapter will be issued for the 12-month period beginning on the approval of the license and ending on the first day of the anniversary month of next calendar year. Annual renewals are due by the last day of the month in which the license expired. All applicable fees must be submitted at the time of the renewal application.
- B. Active Licensees who fail to renew by the grace period of when renewals are due will be required to pay 1/12th of the annual amounts due for each month late and pay a full annual renewal at the time of renewal application. This will reset the renewal date for said licensee to the first day of the month renewed in the following calendar year.

## 4.08.050 Exempt

The following uses are exempt from the provisions of this Chapter:

- A. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to, or solicit orders for future delivery from local retailers, local businesses, local governments, local schools or local wholesale firms;
- B. The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
- C. The occasional sales of goods and services, including admission to local events, by local school students to a function of their school; or fund raising sales by local service clubs or groups such as Elks, Kiwanis, Lions, Boy Scouts or Girl Scouts;
- D. Any political group seeking funds or membership;
- E. Garage, yard, or similar sales by individuals at their residence that are regulated by 9.08;
- F. Any organization exempt from taxation as provided by 26 U.S.C. 501 and meeting all the requirements for the exemptions provided by U.S.C. 503;
- G. The sale of goods, merchandise or food on a public sidewalk directly adjacent to the licensed brick and mortar business conducting the sale;



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- H. Any activity conducted pursuant to a Special Events Permit.

## 4.08.060 Location for Various Uses

(Ord. 15-5645 2015)

- A. Mobile Food Trucks are restricted from all public rights of ways and public access easements including streets, alleys or other access ways except where specifically designated within on-street mobile vending zones.
- B. Mobile Vending Trailers are restricted from all public rights of way and public access easements including streets or other access ways and shall only be permitted to operate on private property according to the temporary merchant standards or only on public rights of way as a community event, pursuant to a valid permit.
- C. Mobile Vending Carts are restricted from public rights of way and public access easements including sidewalks except where specifically designated within off-street mobile vending zones.
- D. Temporary Merchants are permitted on private property in the General Commercial, Central Business District, Neighborhood Commercial, Business Park, Industrial Park, Industrial, and High Rise Density Residential (R-4) zoning districts. Temporary Merchants are permitted in R-4 zones when the primary use of the property is not residential.
- E. Ice Cream Trucks are limited to public rights of way and public access easements with a speed limit of 25 miles per hour or less located within residential districts and shall not operate within 1,000 feet of any public or private school, pre-school or day-care during school hours and one hour before and after school throughout the entire curriculum school year. Ice cream truck shall not stop at any time for the purpose of making sales in any area where parking is prohibited.
- F. Ice cream trucks are prohibited in City Parks unless in conjunction with a Special Event permit.

## 4.08.070 General Standards of Operation

(Ord. 16-5690 2016)

- A. All uses licensed under this chapter shall comply with all relevant standards contained in this section.
  - 1. Hours of operation. Vendors, operators and temporary merchants except ice cream trucks and solicitors shall be allowed to engage in

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their licensed business between 7:00 a.m. and 11:00 p.m., Monday - Sunday.

2. Removal of mobile vending/delivery vehicle during non-operating hours. All mobile vending vehicles must be removed from public or private property during non-vending hours. If a Special Event Permit is sought in accordance with Title 4 of the Municipal Code, the City may make an exception to the usual hours of operation and the requirement to remove vending vehicles each night.
3. Public health codes. Vendors, operators, solicitors, and temporary merchants shall comply with all applicable Josephine County Department of Public Health requirements.
4. Building and fire codes. Vendors, operators, solicitors, and temporary merchants shall comply with all applicable City Building and Fire Code.
5. General location. Unless positioned on private property, a mobile vending vehicle shall not be located:
  - a. Where the public sidewalk is less than five feet wide;
  - b. In an alley not designated as an off street mobile vending zone
  - c. Within a midblock crosswalk area;
  - d. On the portion of a public sidewalk crossed by a public or private driveway or within ten feet of either side of the driveway;
  - e. Within any street corner area.
  - f. Within five (5) feet from a perpendicular line drawn to the curb from either side of a doorway;
  - g. In a manner in which the movement or visibility of vehicles using the street or other public rights of way, including alley ways, is obstructed in accordance with all state and municipal vehicle codes.
6. ADA. The proposed vending activity shall not violate the Americans with Disabilities Act.
7. Waste receptacle. Vendors, operators, solicitors, and temporary merchants shall keep the area of operation free of debris. Vendors or operators selling or delivering food or beverages must provide trash receptacles and removal of associated waste adjacent to or as a part of their operations. All spilled food, beverages, grease, or other trash or debris accumulating within twenty (20) feet of any mobile vending/delivery vehicle shall be cleaned and collected by the vendor or operator and deposited in the vendor's or operator's trash receptacle. The vendor or operator is prohibited from depositing its

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waste, ice, and any grey or waste water into sidewalk waste receptacles, privately owned dumpster, City planters, gutters or the street drainage system.

8. Maintenance of vehicle. Mobile vending/delivery vehicles shall be maintained in such a manner that prevents the spilling or splattering of grease, water, food, or trash on any public right of way where the vehicle is located. The vehicle owner shall be responsible for the cleaning and repair of any public right of way affected by their use.
9. Alcoholic beverages. Vendors, operators and temporary merchants shall not offer alcoholic beverages for purchase except as licensed by a special event permit or community event license.
10. Display of license. The permittee shall obtain and maintain in effect all required permits and business licenses and display the permit or license at the vending site in a manner approved by the Finance Department.
11. Amplified music. Vendors, operators and temporary merchants shall not use amplified music in conjunction with their use.
12. Cooking mechanism. Mobile vending/delivery vehicles must have the BBQ grill, stove or other cooking mechanism enclosed and permanently built into the structure of the mobile vending/delivery vehicle.
13. Pedestrian zone. A mobile food truck and associated customer queues and approved accessory units shall not impair pedestrian passage and shall be sited to provide at least four feet of clear pedestrian path through sidewalks.
14. Mobile vending/delivery operations shall be prohibited from employing flashing, blinking or strobe lights or any other light emitting devices that are designed to draw attention to the use from the public rights of way, including sidewalks.
15. Mobile vending/delivery vehicle support equipment must not extend more than four (4) feet from the edge of the mobile vehicle and shall only be located on the sidewalk side for mobile food trucks.
16. Signs advertising the mobile vending/delivery vehicle, Christmas tree lots, and fireworks stands are subject to current sign standards.

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## 4.08.080 Ice Cream Trucks

- A. The Parks & Community Development Department may issue an Ice Cream Truck permit authorizing the use of city streets for the peddling of frozen dessert treats.
- B. In addition to the applicable General Standards of Operation contained in Section 4.08.070 of this title, Ice Cream Trucks shall be subject to the following standards:
  - 1. Length of Stop. No ice cream truck shall stop for the purpose of making sales for more than 15 minutes in a single location.
  - 2. Manner of Stops. Ice cream trucks shall pull as far as practicable to the right side of traffic when stopping for the purpose of making sales and shall operate four-way flashers when so stopped. In no event shall an ice cream truck stopped for the purpose of making sales prevent the passage of other motor vehicles on the rights of way.
  - 3. Rubbish Receptacle Required. Each ice cream truck shall provide a rubbish receptacle for use of its customers. Prior to leaving each stop, the operator of the ice cream truck shall remove any litter left at the stop by customers.
  - 4. Hours of Operation. Ice cream trucks may stop for the purpose of making sales only between the hours of 11:00 a.m. and 9:00 p.m. Monday – Sunday.
  - 5. Limits on Products Sold. Only pre-wrapped or pre-packaged food items may be sold from an ice cream truck. Non-frozen items such as pre-packaged soft drinks, candy, chewing gum and snack food may be sold from an ice cream truck provided the principal product sold is ice cream and/or similar frozen dessert products.

## 4.08.090 Mobile Vending Cart

- A. The Parks & Community Development Department may issue a Mobile Vending Cart permit authorizing the use of sidewalk within approved sidewalk vending zone for vending food served ready to eat and nonalcoholic beverages.
- B. In addition to the applicable General Standards of Operation contained in Section 4.08.070 of this title, Mobile Vending Carts shall be subject to the following standards:

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1. The permittee shall only sell food and beverages that are capable of immediate consumption;
2. Mobile vending carts must be movable by the power of the operator alone and may not exceed five (5) feet by nine (9) feet by seven (7) feet high;
3. The mobile vending cart must have at least two functioning rubber tired wheels, complete with an operable braking mechanism. The use of "tie downs" as the sole means of braking is prohibited;
4. All signage, lights and other appurtenances ancillary to the mobile vending cart for the purpose of display are required to be securely attached to the outside of the cart. All associated vending activity, excluding customer queues and a rubbish/recycling can, shall be prohibited from being located on the sidewalk;
5. Mobile vending carts shall not be locked or chained to a parking meter, tree, street light or other street furniture;
6. Mobile vending carts shall not be left unattended on city streets or sidewalks for more than fifteen (15) consecutive minutes;
7. Utility service connections are not permitted;
8. Generators are not permitted to be used with mobile vending carts on sidewalks.

### 4.08.100 Mobile Food Truck

(Ord. 16-5690 2016)

- A. The Parks & Community Development Department may issue a permit for a Mobile Food Truck authorizing use of a street side curb parking space for vending food or nonalcoholic beverages within approved on-street mobile vending zones.
- B. In addition to the applicable General Standards of Operation contained in 4.08.070, Mobile Food Trucks shall be subject to the following standards:
  1. Vending/delivery shall only occur from a street side curb parking space where an on-street mobile vending/delivery zone has been authorized by ordinance of the City Council; or, at approved off-street locations;
  2. The permittee shall only sell food and beverages that are capable of immediate consumption;

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3. All signage, lights and other appurtenances ancillary to the mobile food truck for the purpose of display are required to be either displayed from inside of the vehicle or securely attached to the outside of the vehicle. All associated activity, excluding customer queues and a refuse/recycling can, shall be prohibited from being located on the sidewalk;
4. Vending/delivery shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb;
5. A mobile food truck shall comply with all state and municipal vehicle codes and posted parking standards in mobile vending/delivery zones and shall not locate on-street in one place for more than a maximum of three hours;
6. Vehicles shall not be locked or chained to a parking meter, tree, street light or other street furniture;
7. Utility service connections are not permitted;
8. Mobile food truck generators shall be fully contained within the vehicle.

## C. Grouping of Mobile Food Trucks

The Parks & Community Development Department may issue a permit for a grouping of mobile food trucks authorizing use of private or public property for vending/delivery food or nonalcoholic beverages within approved off-street mobile vending/delivery zones.

1. Notwithstanding anything to the contrary in 4.08.120 (B), and in conjunction with the General Standards of Operation contained in 4.08.070, a group of mobile food trucks may operate on private or public property subject to the following standards.
2. Submit an application for a Minor Site Plan Review to the Parks & Community Development Department when the private or public property either contains a primary business or is paved if the site is vacant.
3. Submit an application for a Major Site Plan Review to the Parks & Community Development Department when the private or public property is vacant and is not paved at a minimum.
4. Mobile food truck groups shall:
  - a. Be limited to sales/or delivery of food and produce served ready to

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- eat.
  - b. Provide facilities on site for dining associated with the group of mobile food trucks.
  - c. Be limited to improved lots where applicable transportation system development charges fees have already been paid.
  - d. Provide accessibility for patrons by foot, motor and bicycle and shall provide facilities for parking of motor vehicles and bicycles.
  - e. Be required to remove each individual mobile food truck prior to 11:00 PM every day, or at the close of business.
  - f. Be allowed to utilize utility connections for power only.
  - g. Be required to provide restroom facilities for vendors, employees and patrons.
  - h. Provide adequate on-site parking and circulation for vehicles entering and exiting the site.
5. Mobile food truck groups may operate without restriction on the frequency of the days of operation within a given month.
6. The number of mobile food trucks grouped together on public or private property may be limited based on site conditions of the proposed property.

## 4.08.110 Temporary Merchant

- A. The Parks & Community Development Department may issue a permit for a Temporary Merchant for the use of private property for the temporary sale and exhibition of goods and wares.
- B. In addition to the applicable General Standards of Operation contained in 4.08.070, Temporary Merchant shall be subject to the following standards:
  - 1. Temporary Merchants shall be limited to no more than ten (10) days per month, to be specified at time of application, per location;
  - 2. Temporary uses may only operate on private property and shall vacate premises no later than 11:00 PM each night unless as otherwise specified in this ordinance;
  - 3. Notwithstanding 4.08.110(A1) temporary uses may, by virtue of the City Council, operate on public property through a lease agreement of said public property;
  - 4. Private lots containing temporary uses must meet the most basic requirements for site accessibility of pedestrians and motorists.
- C. Christmas tree sales and fireworks stands (Fireworks stands can only be located on property in the Urban Growth Boundary) shall be permitted under the Temporary Merchant license with the following exceptions:

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1. A Temporary Merchant license for Christmas tree sales is valid from Thanksgiving to New Year's Day.
2. A Temporary Merchant license for Fireworks Stands is valid for no more than twenty-one (21) consecutive days preceding and following the Fourth of July. The days of operation shall be provided on the application.
  - a. The applicant shall comply with all State permitting requirements to operate a fireworks stand.
3. The temporary structure housing the trees or fireworks may remain on the property for the duration of the license.
4. A security guard or night watchman may remain on the property overnight in order to guard the merchandise for tree lots or fireworks stands.

### 4.08.120 Soliciting/Peddling

- A. The Finance Customer Service Department may issue a permit for a Solicitor/Peddler for the purpose of the solicitation of products from door to door.
- B. In addition to the applicable General Standards of Operation contained in Section 4.08.070 of this title, Solicitors/Peddlers shall be subject to the following standards:
  1. Solicit before 9 a.m. or after 8 p.m.;
  2. Solicit without first having obtained the appropriate City licenses, permits and having paid City business tax fees;
  3. Solicit after a City solicitation license or permit has been revoked or has expired;
  4. Allow, suffer, or permit any person soliciting commit any act prohibited by this chapter;
  5. Provide false or fraudulent information on an application; or
  6. Leave written materials or solicit upon real property where a sign conforming to the requirements of Section 4.08.120(E) is posted.
- C. A solicitor/peddler shall not:
  1. Solicit before 9 a.m. or after 8 p.m.;
  2. Solicit without first having obtained the appropriate City licenses, permits and having paid City business tax fees;
  3. Solicit after a City solicitation license or permit has been revoked or has expired;
  4. Allow, suffer, or permit any person soliciting commit any act prohibited by this chapter;
  5. Provide false or fraudulent information on an application; or
  6. Leave written materials or solicit upon real property where a sign conforming to the requirements of Section 4.08.120(E) is posted.
- D. A solicitor/peddler shall display the license issued by the City on their person within plain view while engaging in activities pursuant to their license.
- E. Peddling/solicitation in violation of signs.
  1. Any owner or occupant of a private residence may post a plainly visible sign at its principal entrance prohibiting solicitation.
  2. Any person who solicits at a private residence where a sign is posted in accordance with this Subsection is guilty of a violation of this title.





4.08.140 Mobile Vending/Delivery Zones

- A. The City Council may, from time to time, review designated mobile vending/delivery zones and sidewalk vending zones and may, at their discretion, reduce, add or amend mobile vending/delivery and sidewalk vending zones by ordinance.
- B. A citizen or business owner may request the review of mobile vending/delivery and sidewalk vending zones by the City Council for addition.
- C. Creation of mobile vending/delivery zones:
  - 1. The following criteria shall be used for the designation of mobile vending/delivery zones:
    - a. The proposed area is located on an arterial or collector street with public street parking adjacent to the curb line;
    - b. The proposed public parking area does not have parking restrictions of 30 minutes or less;
    - c. The proposed area has adequate sidewalks in good repair and no less than five feet in width for service of food from the mobile food truck;
    - d. The proposed area is not located adjacent to property zoned R-1 or R-2.
- D. Creation of sidewalk vending zones.
  - 1. The following criteria shall be used for the designation of sidewalk vending zones:
    - a. The sidewalk width is a minimum of eight (8) feet wide with a minimum four (4) foot clear pedestrian path;
    - b. The site is located in a pedestrian alley where there is adequate space to site a cart and provide a minimum four (4) foot clear pedestrian path;
    - c. Only two (2) sidewalk vending locations shall be permitted on any street block. (An example of a street block for purposes of this Section is 6<sup>th</sup> Street between 'G' and 'H' Streets); or
    - d. Other site criteria such as distances from curbs, driveways, street furniture, and business entrances will be considered by the City Council when creating a sidewalk-vending zone.
- E. Mobile Food Zones Established. (Ord. 5565 §5, 2012)

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1. On Street Zones:
  - a. West side of Mill Street (between J Street and driveway of Masterbrand Cabinets)
  - b. E Street (between 9<sup>th</sup> and Mill Streets)
  - c. F Street (between 9<sup>th</sup> and Mill Streets)
  - d. Ramsey Avenue (between Nebraska and Union) only where parking is permitted.
2. Sidewalk Vending Zones: None.
3. Other Off-Street Vending Zone:
  - a. Growers' Market parking lot Monday-Friday (less than 1/8 of the lot shall be occupied by mobile vending vehicles)

## 4.08.150 Use of Streets

No solicitor/peddler, mobile vending/delivery vehicle, or temporary merchant has an exclusive right to a particular location on permitted public rights of way, sidewalks, or designated public property, or shall operate in a congested area where the operations impede or inconvenience the public. For the purpose of this chapter, the judgment of the Department of Public Safety Department is conclusive as to whether the area is congested, the public impeded or inconvenienced. (Ord. 2977 §7, 1961, Ord. 16-5690)

## 4.08.160 Denial or Revocation of License

### A. Grounds for Denial of a License

1. A license application may be denied by the City for the following reasons:
  - a. Fraud, misrepresentation, or false statement contained in the application for a license;
  - b. Applicant has a pending citation violating this title and/or the parking regulations in Title 6 of the Municipal Code;
  - c. Applicant does not possess a valid Oregon motor vehicle operator's license (when applicable to the license being sought);
  - d. Conviction of any of the following crimes or any similar crimes in any degree:
    - i. Any felony crime committed against another person (ORS 163 & OAR 213-003-0001)
    - ii. Any person who is a registered sex offender
    - iii. Any felony crime involving use of a weapon
    - iv. Any felony property crime (ORS 164) within ten (10) years of the date of the application
    - v. Any drug crime within five (5) years of the date of the application

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- vi. Any misdemeanor property crime (ORS 164) within five (5) years of the date of the application
- vii. Any misdemeanor crimes against public order (ORS 166) within two (2) years of the date of the application
- viii. The ORS citations above may be amended from time to time and are listed for convenience only.

## B. Grounds for Revocation of a License

1. A license application may be revoked for the following reasons:
  - a. Fraud, misrepresentation, or false statement contained in the application for a license;
  - b. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed activity;
  - c. Two or more violations of this ordinance within a twelve month period;
  - d. Two or more violations of the parking regulations in Title 6;
  - e. Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public. (Ord. 2977 § 11(1), 1961)

### 4.08.170 Appeal by Applicant

- A. Any person aggrieved by the action of the designated City Department staff in denying or revoking an application for a license as provided in this title shall have the right of appeal to the City Council. The applicant shall file a written statement with the Finance Department identifying the grounds for appeal within twelve (12) days from the date the license was denied or revoked.
- B. The appeal shall be set before the City Council for a public hearing at a regularly scheduled Council meeting. The applicant shall be given at least seven (7) days' notice of the date and time of the scheduled hearing. The applicant has the burden of providing evidence to the City Council regarding why the license should be granted. The City Council shall review all relevant information and criteria in rendering their decision on the granting of a license.

### 4.08.180 Appeal by Others

- A. Any person aggrieved by the approval of a license as set forth herein shall have the right to appeal to the City Council. The aggrieved shall file a written statement to the Finance Department identifying the grounds for appeal.
- B. The appeal shall be set before the City Council for a public hearing at a regularly

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scheduled Council meeting. The appellant and licensee shall be given at least seven (7) days' notice of the date and time of the scheduled hearing. The appellant has the burden of providing evidence to the City Council regarding why the license should be revoked. The City Council shall review all relevant information and criteria in rendering their decision on the revocation of a license.

### 4.08.190 Endorsement of Application

- A. If, as a result of the limited background check, the applicant shall be found without a criminal conviction of the nature specified in Section 4.08.150, then upon payment of the prescribed license fee, the City shall deliver the license to the applicant.
- B. The license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the type of goods to be sold there under or services provided, the amount of fee paid, the date of issuance and length of time the license is operative, the license number and other identifying description of the vehicle to be engaged in the soliciting/peddling, mobile vending, or temporary activities.
- C. The Finance Department shall keep a record of all licenses issued. (Ord. 2977 §4(3), 1961; Ord. 4353 §1(part), 1980)
- D. The Department of Public Safety shall either approve or disapprove of the application within ten (10) business days of receipt of the limited background check paper work. (Ord. 2977 §4(4), 1961; Ord. 4353 §1(part), 1980)
- E. Except as provided below, a person applying for a solicitor/peddler, ice cream truck, mobile vending cart, mobile food truck, temporary merchant, community event or seasonal sales license shall pay a background check fee, application fee, and an annual license fee. The amount of the fees shall be set by Council resolution. (Ord. 2977 §5(1), 1961; Ord. 4353 §2(part), 1980)
- F. No limited background check fee, application fee, or license fee is required of a person selling products of the farm or orchard actually produced by the seller. However, a limited background check, an application and license is required. (Ord. 2977 §5(2), 1961; Ord. 4353 §2(part), 1980)

### 4.08.200 Term of License

(Ord. 17-5722, 2017)

- A. The term of a peddler/solicitor and ice cream truck license is for a full 12-month period from the date of approval of the licensee.
- B. The term of a temporary merchant license on private property is for a maximum of ten (10) days in a calendar month per property unless the temporary merchant

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is operating a Christmas tree lot or fireworks stand.

- C. The term of a mobile vending cart license in a designated approved on-street mobile vending zone is valid for a full 12-month period from the date of approval of the licensee.
- D. The term of a mobile food truck license in a designated off-street or on-street mobile vending zone is valid for a full 12-month period from the date of approval of the licensee.
- E. The term of a seasonal sales license is valid for 90 days in a 12-month period.
- F. The term of the community event license is valid for the days the applicant has identified he or she is participating in the event.

## 4.08.210 Transfer of License

No solicitor/peddler, ice cream truck, mobile vending cart, mobile food truck, temporary merchant, community event or seasonal sales license issued under the provisions of this chapter shall be used by a person other than the one to whom the license is issued. The license issued is non-transferable to other family members, employees, or the like associated with the same business.

## 4.08.220 Other Permits

Nothing in this ordinance shall eliminate the obligation of the solicitor/peddler, ice cream truck, mobile vending cart, mobile food truck, temporary merchant, community event or seasonal sales applicant to comply with other federal, state or local laws or regulations, Nothing in this ordinance shall eliminate the obligation of the applicant to obtain any other license or permits as may be required by any federal, state or local statute, ordinance or regulation, including, without limitation, any liquor license or food handler permits.

## 4.08.230 Enforcement

The Public Safety Department acting on behalf of the City Manager shall be authorized to enforce this ordinance.

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Chapter 4.10

COMPETITION PERMITS

Sections:

- 4.10.100 Competition Permit Required
- 4.10.105 Competition Permit Requirements
- 4.10.110 Grant of Event Permit
- 4.10.120 Denial of Competition Permit
- 4.10.130 Appeal
- 4.10.140 Additional Penalties
- 4.10.150 Authority



4.10.100 Competition Permit Required

The sponsor or promoter of any event where 2 or more participants will be engaged in an exhibition or competition where they attempt to achieve dominance over one another with the intent to render a person unable to continue a contest, and which allows all of a variety of permitted techniques including striking, grappling, and submission holds that is not approved by School District 7 or Three Rivers School District must apply for a Competition Permit from the City. This includes, but is not limited to, those combative sporting events commonly referred to as “mixed martial arts,” “ultimate fighting,” or “cage fighting.” (Ord. 16-5689 2016)

4.10.105 Competition Permit Requirements

(Ord. 16-5689 2016)

- A. The non-refundable application fee for a Competition Permit is \$100.00, which shall be increased by \$5 on January 1<sup>st</sup> of each year beginning January 1, 2008. A permit shall not be granted by the City if the applicant currently owes money to the City related to a previous Competition Permit.
- B. An application for a Competition Permit shall be submitted to the City at least 90 days before the event is to be held.
- C. The application shall include a certificate of general liability insurance, naming the City as an additional insured and first loss payee. Liability insurance requirements shall be set forth by resolution. The applicant shall also post a cash deposit to the City in the amount of \$5,000.00 with the application. The deposit shall be retained by the City for the actual costs incurred by the City for any additional Public Safety personnel above the scheduled service level which the City deems necessary to adequately address any safety issues related to the event. Within 15 business days of the conclusion of the event, the City shall return to the applicant any unused portion of the deposit. Payment of the deposit shall not relieve the applicant of liability for additional costs above the deposit amount or any other expenses, injuries, or damages incurred by the City or third persons. The applicant shall be liable for the City’s actual costs incurred (including staffing costs, damages, injuries, or other expenses) that exceed the deposit. In the event such costs exceed the deposit, the City shall invoice the applicant within 15 days of the conclusion of the event. The applicant shall pay the balance of the invoiced amount within 30 days.  
(Ord. 5517/Res 5682 §02, 2010)
- D. The application shall include a security plan providing detailed information demonstrating that safety will be maintained during the event and that the safety of areas immediately surrounding the event are not likely to be

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unreasonably compromised. Any private security provided by the applicant or their agents shall be certified as Security Officers by the Oregon Department of Public Safety Standards and Training. The Public Safety Director or designee shall have the discretionary authority to shut down any event if it is determined that the applicant is not in strict compliance with the approved security plan or if the event is otherwise unsafe for the public or Public Safety personnel. In such event, the applicant shall be liable for all costs as if the event had concluded without early termination.

- E. The application shall include the name, date of birth, and driver's license number of each person hired or volunteering to work the event for any of the following duties: permit applicant, security, crowd control, control of entry or exit points, bodyguard services, search or "pat downs" of attendees, identification checks, parking control, traffic or pedestrian control, or food or beverage services. By supplying the above information, the applicant understands the information will be used for investigative purposes and agrees to indemnify and hold the City of Grants Pass harmless for any claim related to the investigation or disclosure of information provided for or discovered by the investigation.

### 4.10.110 Grant of Event Permit

The City Manager shall review the Competition Permit application with the Public Safety Director. If both the Manager and Director are satisfied that the safety and welfare of the community and attendees are adequately protected based on the application information and criminal history check of persons hired or volunteering, the Manager shall issue a Competition Permit within 30 days from receipt of a completed application. The issuance of a Competition Permit will not relieve applicant's responsibility to comply with any other legal requirements necessary for the event. (Ord. 16-5689 2016)

### 4.10.120 Denial of Competition Permit

- A. If after reviewing the application and examining the criminal records of the persons hired or volunteering for the event, the City Manager or Public Safety Director determines that the permit should not be issued because of the safety and welfare of the community or the attendees, the Manager shall cause the applicant to be notified of the denial either by personal contact or by written notice by first class mail. Said contact or deposit of written notice in the mail to the address provided by the applicant on application shall occur within 30 days from receipt of a completed application and shall include a statement of the reasons for denial. (Ord. 16-5689 2016)



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- B. The City Manager and Public Safety Director may, at their discretion, allow the applicant to cure any application deficits to their satisfaction. If so satisfied a Competition Permit shall be issued by the Manager.

### 4.10.130 Appeal

An applicant who has been denied a Competition Permit may file an appeal with the City Manager specifying the reasons the denial should be overturned by the Council. The appeal shall be filed not less than 30 days prior to the date of the event. The Council shall hear the appeal prior to the date of the event. The applicant shall have the opportunity to provide evidence to the City Council and shall have the burden of proving by clear and convincing evidence the safety and welfare of the community and the attendees are adequately protected and the application should be granted.

### 4.10.140 Additional Penalties

Said event may not occur unless the applicant complies with all of the terms and conditions of any Competition Permit issued. If it is determined that the applicant failed to strictly comply with any terms and conditions within the Competition Application/Permit, in addition to any other penalties, the applicant's right to obtain a Competition Permit shall be suspended for up to 5 years, as determined by the City Council.

### 4.10.150 Authority

To the extent that any portion(s) of City of Grants Pass Municipal Code Sections 4.10.100 – 4.10.140 directly conflicts with existing State law or are otherwise specifically regulated by authority of the State of Oregon, that portion and only that portion of this code shall be superseded by the relevant State law or authority. The remainder of this Chapter shall be enforceable.

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Chapter 4.12

SECONDHAND DEALERS AND PAWNBROKERS

Sections:

- 4.12.005 Definitions
- 4.12.010 Prohibited transactions
- 4.12.020 Premises open to inspection
- 4.12.030 Record keeping requirement
- 4.12.038 Report of secondhand bicycle sales
- 4.12.040 Retention of property prior to resale
- 4.12.100 Coins and bullion

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## 4.12.005 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning set out below:

- A. “Adequate Description” of an item includes, but is not limited to: brand name, model, model number, serial number, owner applied number, color, size, caliber, action type, and unique markings.
- B. “Adequate Description” of a person includes, but is not limited to: full name, address, phone number, personal identification type and number, date of birth, height, weight, sex, color of hair and eyes, and race or ethnicity.
- C. “Adequate Personal Identification.” Adequate Personal Identification shall be current and include a photograph, physical description, and signature on a government issued identification, such as a driver’s license.
- D. "Pawnbroker." A person engaged in the business of loaning money upon regulated property, personal security, pawns or pledges, or the business of purchasing articles of regulated property and reselling or agreeing to resell such articles to the vendors or their assigns at prices agreed upon at or before the time of such purchase.
- E. "Pawnshop." Any place where a pawnbroker is engaged in, carries on, or conducts his business.
- F. “Purchase”. The buying, exchanging, transferring, collecting, consigning or otherwise acquiring of regulated property from another person, business, or corporation (not a used merchandise dealer), for resale, exchange, or transfer by the purchaser. This includes the taking of regulated property with an expressed or implied agreement or understanding to return regulated property at a subsequent time at a stipulated price or for the payment of a storage or handling fee.
- G “Regulated Property”. Any personal, used, or second hand property except “exempt property” as defined in 4.12.005.
- H. "Secondhand Dealer." A person engaged in the business of buying, selling or otherwise dealing in secondhand articles of regulated property.
- I. “Second Hand Dealer” does not include:
  - 1. A person who engages in, conducts, manages, or carries on any

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business that does not buy regulated property outright, but occasionally accepts in trade regulated property as part or full payment for new articles.

2. A person who engages in, conducts, manages, or carries on any business that deals exclusively in the purchase and sale of exempt property.
- J. "Secondhand Store." Any place where a secondhand dealer is engaged in, carries on, or conducts his business.
- K. Exempt property is defined as:
1. Vehicles required to be registered with the state Motor Vehicles Division; boats required to be certified by the state Marine Board; bicycles; books; collectible sports or movie trading cards, glassware; furniture; clothes; refrigerators; stoves, washers, dryers, window air conditioner units, and other similar major household appliances; small kitchen appliances.
  2. Gold bullion bars or rounds (0.995 fine or better), silver bullion bars or rounds (0.995 fine or better), tokens, coins, or money, whether commemorative or an actual medium of exchange, adopted by a domestic or foreign government as part of its currency, or postage stamps, stamp collections and philatelic items.
  3. Clothes valued at less than \$25 per item, purchased or received by any pawnbroker or secondhand dealer.
  4. The purchase or receive articles of regulated property in single item lots of 25 or more items, so long as a record is kept with an adequate description of the transaction, and an adequate description of the seller, as defined herein.
  5. Regulated property purchased at a public auction or publicly advertised or court authorized estate sale.

## 4.12.010 Prohibited Transactions

- A. No secondhand dealer or pawnbroker shall knowingly receive regulated property by purchase, or otherwise, from a minor, without the consent of the minor's parent, parents or guardian in writing.
- B. No secondhand dealer or pawnbroker shall knowingly receive or acquire secondhand goods from any intoxicated person.



- C. No secondhand dealer, pawnbroker, or other person shall knowingly buy, sell, receive, dispose of, or have in his possession any article of personal property from which the manufacturer's serial number or any other identification mark has been removed, defaced, covered up, obliterated or destroyed, provided further, that any secondhand dealer, pawnbroker, or any person shall immediately notify the Public Safety Department of any offer to such dealer or person of any article of personal property defaced in any manner set forth in this section.
- D. No secondhand dealer or pawnbroker shall knowingly receive stolen secondhand goods by purchase, or otherwise.

#### 4.12.020 Premises Open to Inspection

All records of purchases or regulated property shall be kept in an orderly manner on the Pawnbroker or Secondhand Dealers business premises and open for reasonable inspection by peace officers upon their demand.

Upon presentation of official identification, any peace officer may enter onto the business premises of any used merchandise dealer to ensure compliance with the provisions of this chapter. The inspection shall be for the limited purpose of inspecting any regulated property purchased by the dealer, or the records incident thereto. Any inspection pursuant to this section shall only be authorized to occur during normal business hours, unless a search warrant is issued.

#### 4.12.030 Recordkeeping Requirement

- A. At the time of purchase, the Pawnbroker or Secondhand Dealer shall accurately record the description of the regulated property purchased and the approved identification of the person from whom the regulated property was purchased.
- B. At the time of purchase, Pawnbrokers and Secondhand Dealers shall accurately record purchases of regulated property via an automated electronic reporting system approved by the City.
- C. Within 12 hours of a purchase, Pawnbrokers and Secondhand Dealers shall input and transmit the recorded information required using the automated electronic reporting system approved by the City.
- D. Each Pawnbroker or Secondhand Dealer shall keep a paper record of each purchase bearing the signature of the customer for a period of one year

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- E. Only reports containing complete information shall be deemed to comply with this section.
- F. In the event the automated electronic reporting system becomes inoperable, a Pawnbroker or Secondhand Dealer's computer system becomes inoperable or other event that makes reporting within the time allowed by 4.12.030 (C) impossible, the Pawnbroker or Secondhand Dealer shall immediately report the occurrence of such event to the Public Safety Director. The Director may suspend the reporting requirements of 4.12.030 (3) for a reasonable period of time until electronic reporting can resume. Once the Director determines that reporting can resume,
- G. Pawnbrokers and Secondhand Dealers must, within 12 hours, input and transmit the information required for all purchases made during any period reporting was suspended by the Director using the approved automated electronic reporting system.

### 4.12.038 Report of Secondhand Bicycle Sales

A person engaged in the business of buying secondhand bicycles shall report the purchase to the Public Safety Department giving the name and address of the person from whom each bicycle was purchased, the description of each bicycle license purchases, the frame number thereof, and the number of any bicycle license found thereon, if any. A person engaged in the business of selling new or secondhand bicycles shall report all bicycle sales to the Public Safety Department giving the name and address of each buyer, the kind of bicycle sold, together with a description and frame number thereof, and the number of any bicycle license attached hereto, if any. Such reports shall be made within twenty-four hours from the date of such sale.

### 4.12.040 Retention of Property Prior to Resale

All regulated property purchased or received by a secondhand dealer or pawnbroker shall be retained at least 7 full days before disposal if the resale value of the item is greater than \$25.00. Items with a resale value of less than \$25.00 may be disposed of after five working days provided adequate item and personal descriptions have been retained. The Pawnbroker or Secondhand Dealer shall maintain the purchased property in substantially the same form as purchased and shall not co-mingle the property in a manner that precludes identification during this five-day or seven-day holding period. The purchased property shall be retained on the business premises during normal business hours during this holding period so that it can be inspected as provided in 4.12.020.

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## 4.12.100 Report of Coins and Bullion Sales

Notwithstanding any provisions in this chapter to the contrary, persons who purchase secondhand gold or silver bullion are required to have a record of each transaction, by way of adequate description of goods, adequate description and identification of the seller, and a signature of the seller, such information to be furnished to the Public Safety Director or his designee upon request.



Chapter 4.16

VEHICLES FOR HIRE

Sections:

- 4.16.010 Title, Intent, and Purposes of Chapter 4.16
- 4.16.020 Definitions
- 4.16.025 License Required for Operators and Drivers; Regulatory License Fees
- 4.16.030 Driver Requirements
- 4.16.035 Insurance Requirements
- 4.16.040 Operational Requirements
- 4.16.045 Audit
- 4.16.050 Revocation, Suspension
- 4.16.055 License Effective Date
- 4.16.060 Charges for Vehicle for Hire Services
- 4.16.065 Use of Direct Route Required
- 4.16.070 Smoking Prohibited
- 4.16.075 Taximeter Inspection

4.16.010 Title, Intent, and Purposes of Chapter 4.16

This ordinance shall be known and may be cited as the “Vehicle for Hire Ordinance of the City of Grants Pass.” The City Council of the City of Grants Pass finds and declares that the purpose of this ordinance is to promote the safety and welfare of the general public by regulating vehicle for hire operators and their drivers within the City of Grants Pass, as authorized by ORS 221.485 and 221.495. Nothing contained in this ordinance is intended or shall be construed to create any liability on the part of the City, its officers or employees for any injury or damage related to any provision of this ordinance, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this ordinance on the part of the City, its officers, or employees.

4.16.020 Definitions

Words and phrases used in this ordinance shall have the following meanings ascribed to them:

1. “Digital dispatch system” means an internet-based software application, website, platform, or interface that allows for the solicitation, arrangement, or provision of vehicle for hire services and the display of rates, calculation of fares, or acceptance of payment for vehicle for hire services.



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2. “Driver” means any individual person who operates a vehicle for hire within the City.
3. “Limousine” means a luxury motor vehicle for hire whose chassis and wheelbase have been lengthened beyond the original manufacturer’s specifications, whether at the time of production or after.
4. “Limousine Company” means any person operating one or more limousines for hire, other than as a Driver, regardless of the legal form of the entity and regardless of whether the limousines so operated are owned by the company, leased, or owned by individual members of an entity.
5. “Operator” means a business engaged in furnishing or providing one or more vehicles for hire, including taxis, limousines, and transportation network companies, through a digital dispatch system or by any other means, regardless of whether such business has employees or delivers its services through independent contractors.
6. “Taxi” means a motor vehicle for hire, other than a limousine or transportation network vehicle.
7. “Taxi Company” means any person operating one or more vehicles for hire, other than as a Driver, regardless of the legal form of the entity and regardless of whether the taxis so operated are owned by the company, leased, or owned by individual members of an entity. Taxi Companies do not include Transportation Network Companies.
8. “Transportation Network” means one or more Drivers working as independent contractors and utilizing a digital dispatch system, and using personal motor vehicles in the provision of transportation services.
9. “Transportation Network Company or TNC” means a person that operates or facilitates a transportation network.
10. “Transportation Network Vehicle or TNV” means a personal motor vehicle which is used as a vehicle for hire and is part of a transportation network.
11. “Vehicle for Hire” means a motor vehicle used for the ground transportation of passengers for compensation within the City, including taxis, limousines and transportation network vehicles. The following vehicles shall not be considered vehicles for hire for the purposes of this ordinance, and are forbidden from operating as a taxi, limousine, or transportation network vehicle:

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- a. Ambulances equipped and staffed so as to be capable of providing emergency medical services in conjunction with passenger transportation;
- b. Courtesy vehicles used by a hotel, motel, car rental company, residential home, parking facility, or other business to transport that business' clients when transportation is secondary to the business' primary purpose and the transportation is free or contained in the general overhead of the business;
- c. Non-motorized vehicles such as horse-drawn vehicles;
- d. Property delivery vehicles used for delivering property exclusive of passenger transportation;
- e. Shuttle vehicles and buses used for providing passenger transportation over a fixed route and time schedule; and
- f. Volunteer-driven vehicles operated by a driver who is reimbursed for basic mileage expenses and who does not receive wages, salary, or other compensation.

### 4.16.025 License Required for Operators; Regulatory License Fees

1. No Operator shall conduct business in the City without obtaining the applicable regulatory license set forth herein.
2. The City may issue a license to an Operator if the company certifies on a form acceptable to the City that it is in compliance with all requirements of this Chapter, including but not limited to Driver and insurance requirements, criminal and driving background checks, operating standards, and any other code requirements.
3. The City may include conditions, restrictions, or special provisions in the License, including but not limited to conditions related to routes, times of operation, lighting, alternative requirements or means of meeting requirements, or other conditions, if, in the sole discretion of the City, the applicant's vehicles or operations warrant conditions, restrictions, or special provisions.
4. On July 1 of every year, an Operator shall pay the annual renewal fee (as determined by Council), regardless of the date when the initial application was approved. In addition to any penalty for violation of the Municipal Code, the failure by the licensee to pay the renewal fee by the last City business day of July shall result in an additional fee for each month or portion of a month the fee is late. Any renewal must be approved by the City prior to the July 31<sup>st</sup> expiration date in order for the Operator to continue providing vehicle for hire services within the City.

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5. The fees shall be intended to account for the City's costs in administering this code and for the City's costs in operating and maintaining streets within the City. The Council shall establish a fee for Transportation Network Companies and other Operators.
6. The fee shall be paid to the City at the time of submitting both initial and renewal License applications.

### 4.16.030 Driver Requirements

1. Drivers shall be at least 21 years of age and shall possess a valid driver license, proof of motor vehicle registration, and proof of current automobile liability insurance that meets the requirements of this Chapter and state law.
2. Every Operator shall maintain accurate, current records for all Drivers employed by, contracting with, or otherwise affiliated with the company, including all Drivers accessing the company's digital network to operate in the City. The records shall include the Driver's name, date of birth, address, social security number, criminal background check results, driver's license information, motor vehicle registration, and automobile insurance. Operators shall provide to each Driver written notice of compliance with this section, who shall then submit the notice to the City as part of the licensing process in Section 4.16.025.
3. Prior to permitting a person to operate as a Driver, and annually thereafter, the Operator shall conduct, or have a qualified third-party conduct, a criminal background check. The criminal background check shall include a search of no less than seven years of history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and all accessible sex offender registries. Any person who is on a sex offender registry, or any person that has a record of a felony conviction within the previous seven years may not act as a Driver. A record of a conviction of any of the following within the previous seven years will also disqualify a person from acting as a Driver: crimes involving driving under the influence of alcohol or controlled substances, sexual offenses, or crimes involving physical harm or attempted physical harm to a person. The company or its agent shall maintain records of a criminal background checks for a period of at least two years. For purposes of this section, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.
4. An Operator must revoke a Driver's authority to operate as a Driver and

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inform the City if it finds at any time that the Driver no longer meets the standards set forth in this Chapter. The Operator shall only reinstate a Driver upon a finding by the Operator that the Driver again meets all applicable standards of this Chapter.

## 4.16.035 Insurance Requirements

1. Operators shall secure and maintain commercial general liability insurance with limits of not less than \$1 million per occurrence and \$2 million aggregate for claims arising out of, but not limited to, bodily injury and property damage incurred in the course of operating in the City.
2. Operators, except for TNCs, operating any motor vehicles shall secure and maintain commercial automobile liability insurance covering those vehicles, with a combined single limit of not less than \$500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred in the course of operating in the City.  
(Ord. 19-5762, 2019)
3. All TNCs shall maintain the following automobile liability coverages:
  - a. Primary insurance coverage during Period 1 (as defined below) with minimum liability limits of \$50,000 per person for death and injury, \$100,000 per incident for death and injury, and \$25,000 for property damage, plus any other state compulsory coverage.
  - b. Primary insurance coverage during Periods 2 and 3 (as defined below) with minimum liability limits of \$1 million in combined single limit coverage for death, personal injury and property damage per incident; and \$1 million in combined single limit under/uninsured motorist coverage for death, personal injury and property damage per incident.
  - c. The required automobile liability insurance shall specifically recognize the Driver's provision of TNC and vehicle for hire services and shall comply with the laws of the State of Oregon and/or other applicable governing bodies.
4. TNC Service Periods Defined:
  - a. Period 1: The TNC Driver has logged into the App or is otherwise connected to the TNC's digital network but has not yet accepted a request for a ride from a passenger. For example, the App is open, and the Driver is waiting for a match.
  - b. Period 2: A passenger match has been accepted, but the passenger is not yet picked up (for example, the Driver is on the way to pick up the passenger).

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- c. Period 3: The passenger is in the vehicle.
5. TNC Drivers shall be responsible for maintaining all personal automobile liability insurance required by State law.
6. For all required insurance, Operators shall provide certificates of insurance naming the City, its officers, agents, and employees as additional insured parties and give at least 30 calendar days' notice to the City before a policy is canceled, expires, or has any reduction in coverage.

### 4.16.040 Operational Requirements

1. TNCs shall maintain records of all trips made by all Drivers for at least one year from the date of the trip. The data may be aggregated and/or anonymized, and shall include, at minimum, the locations by ZIP code of trip origination and destination, vehicle miles traveled, trip origination and completion times, trip duration, and passenger wait times from a Driver's acceptance of a request to passenger pick-up. The City may require a TNC to enter a data sharing agreement in order to receive a License.
2. All vehicles operating for a TNC shall be marked with the company name or logo. Vehicles operating for a Taxi Company shall include the company name or logo, phone number, and a vehicle identification number in plain sight. Vehicles operated solely for TNC services shall be clearly marked as operating for the TNC, although any vehicle marking requirements imposed by a TNC may apply. The TNC's software application or website shall display for the passenger the make, model, and license plate number of the TNC vehicle.
3. TNC Drivers may not accept street hails and may only accept rides arranged through a TNC's digital network.
4. Operators shall implement and maintain at all times a zero-tolerance policy on the use of drugs or alcohol applicable to all Drivers employed by or affiliated with the company while providing vehicle for hire services. Companies shall provide notice of the zero-tolerance policy on their website and/or have it clearly displayed in each vehicle. The notice must include contact information to report a complaint about a Driver for possible violation of policy. A company shall immediately suspend a Driver upon receipt of a passenger complaint alleging a violation of the zero-tolerance policy, for at least the duration of the investigation of the complaint.
5. Operators must provide reasonable accommodations to passengers with disabilities, including passengers accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices, and must comply with all applicable requirements of the

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## Americans with Disabilities Act.

### 4.16.045 Audit

The City may audit Operators up to twice per calendar year to review compliance with this ordinance. Upon request, an Operator shall provide the City a sample of records for up to thirty (30) Drivers affiliated with the Operator that have operated in the thirty (30) days preceding the audit. An audit shall occur at a time and location designated by the City. In addition to an audit, the City may require an Operator to produce records related to an investigation of a specific allegation of a violation of this ordinance 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.

### 4.16.050 Revocation, Suspension

In addition to the remedies provided for in Section 4.16.080 and ORS 30.315, the City may suspend, revoke, or refuse to issue a license if an Operator or Driver has violated or not met any of the provisions of this Chapter. A violation includes any failure to meet or maintain any of the requirements or qualifications set forth in this Chapter, including the procedures and requirements for obtaining and maintaining the required license, the making of any material misrepresentation, or if an Operator or Driver is otherwise engaged in unlawful activity.

### 4.16.055 License Effective Date

Any Taxicab or Limousine license issued under the repealed GPMC Chapter 4.16 that is current as of the effective date of this ordinance shall remain valid until June 30, 2018, unless the license holder wishes to apply for a new license under this chapter.

### 4.16.060 Charges for Vehicle for Hire Services

1. Calculation and display of charges. All charges for vehicle for hire services shall be calculated and displayed by a taximeter or digital dispatch system. When charges are to be displayed by a taximeter, the taximeter shall be placed in the vehicle for hire so that the reading dial showing the amount to be charged is illuminated and readily discernible to passengers.
2. Charges to be registered only when vehicle for hire is engaged. No taximeter or digital dispatch system shall be operated in any manner so as to cause any charge to be registered thereon except during the time while the vehicle for hire is engaged by a passenger.
3. Taximeter or digital dispatch system to be in continuous operation. No passenger shall be carried in any vehicle for hire unless the taximeter or digital dispatch system is in operation, whether or not the trip is entirely within or partially within and partially without the boundaries of the City.

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The taximeter or digital dispatch system shall be in continuous operation during the entire time that a passenger is being transported for compensation.

4. Specialized charges. An Operator may impose a specialized charge to carry extra passengers or to deliver goods or other items so long as such specialized charge is clearly calculated and displayed before any service is provided.

## 4.16.065 Use of Direct Route Required

A Driver employed to carry a passenger to a definite point shall take the most direct route possible that will carry the passenger safely and expeditiously to his destination.

## 4.16.070 Smoking Prohibited

1. It shall be unlawful for any Driver to smoke in the presence of any passenger without the consent of such passenger.
2. Notwithstanding Subsection (1) of this Section, it shall be unlawful for any person to smoke in a vehicle for hire if oxygen tanks or other devices containing inflammable materials are present in the vehicle.

## 4.16.075 Taxi Meter Inspection

Every Taxi meter shall be inspected and tested for accuracy by the Operator at least once every six months.

## 4.16.080 Penalties

Operators or Drivers in violation of this Chapter are subject to a penalty of up to \$500 per day and revocation of License.

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## Chapter 4.17

### Competitive Franchise Application Rule

#### Sections:

4.17.010	Purpose
4.17.020	Definitions
4.17.030	Competitive Franchise Application Requirements for CFAR Applications
4.17.040	Requisite Information
4.17.050	Affidavit of Applicant
4.17.060	Application Fee
4.17.070	Review Process
4.17.080	Savings Clause



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## 4.17.010 Purpose

- A. The purpose of this chapter is to implement rules for a local competitive cable franchise application process that complies with the new Competitive Franchise Application Rule (CFAR) created by the Federal Communication Commission (FCC) and set forth as 47 CFR §76.41 Franchise Application Process, that will insure the application meets the needs and interests of the public and protects the City's authority to regulate access and use of local rights-of-way and complies with federal, state and local laws.
- B. These Code sections shall be known as City of Grants Pass Competitive Franchise Application Rule - Local Rule (CFAR-LR). Any application for a cable franchise agreement submitted to the City pursuant to 47 CFR §76.41 shall contain the requisite information set forth herein. The City shall evaluate applications and grant franchise licenses on the criteria set forth herein.

## 4.17.020 Definitions

As used in this CFAR-LR, the terms, phrases, and their derivations set forth below shall have the meanings given unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory:

- A. "Affiliated Entity" or "Affiliate" means any entity having ownership or control in common with the Grantee, in whole or in part, including, without limitation, Grantee's Parent Corporations and any subsidiaries or affiliates of such Parent Corporations.
- B. "Applicant" or "Applicant" means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, §76.41, and includes the Parent Corporation, its subsidiaries and Principals.
- C. "City" shall mean the City of Grants Pass.
- D. "City Manager" means the City Manager or his or her designee.
- E. "Control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

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- F. "Interest" includes officers, directors and shareholders owning five percent or more of the Applicant's outstanding stock or any equivalent voting interest of a partnership or joint venture.
- G. "Parent Corporation" includes any entity with ownership or control of the Applicant.
- H. "Principal" includes any person, firm, corporation, partnership, joint venture, affiliates, or other entity, who or which owns or controls five percent or more of the voting stock (or any equivalent voting interest of a partnership or joint venture) of the Applicant.
- I. "Public Way" means any highway, street, road, alley, public right of way, City utility easement or public utility easement, including those controlled by the county and the state governments, within the corporate limits of the City now existing and as annexed during the term of this franchise.
- J. "Regulatory Authority" includes any governmental or quasi-governmental organization or entity with jurisdiction over all or any portion of the Applicant or its operations.

### 4.17.030 Competitive Franchise Application Requirements for CFAR Applications

#### A. Instructions and Definitions.

An Applicant shall include the requisite information set forth below, in writing, in its franchise application, in addition to any information required by 47 CFR §76.41 and applicable state and local laws and the application fee set by resolution of the City. An Applicant shall also provide any additional information requested by the City that is relevant to the evaluation of the application under the criteria adopted herein and applicable law.

The City shall accept and review only those applications that include complete responses to every element of the information required in this application. The time period for granting or denying the application set forth in 47 C.F.R. §76.41(d) shall not commence until an application which includes the requisite information set forth above and the application fee. If the City requests any additional information from the Applicant, the time period set forth in 47 C.F.R. §76.41(d) shall be tolled from the date the information is requested until the date it is received by the City.

Upon request, the Applicant shall immediately submit additional or updated information as necessary to ensure the requisite information provided is complete and accurate throughout the City's review of the

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application.

Upon request, the City will promptly provide access to documents or information in its possession or control that are necessary for the completion of this application, provided the Applicant does not otherwise have access to such documents or information and such documents or information are subject to disclosure under Oregon public records laws.

## 4.17.040 Requisite Information

All Applications under this ordinance shall contain the following information:

- A. Identification and Ownership Information.
  - 1. Identification of Applicant and Proposed Franchisee.
    - a. State the name, address, telephone number and web site (if applicable) of the Applicant and the proposed franchisee (if different from Applicant).
    - b. State the name, address, primary telephone number and primary e-mail address of all individual(s) authorized to represent the Applicant before the City during their consideration of the franchise(s) requested, including the Applicant's primary contact and any additional authorized contacts.
- B. Business Structure.
  - 1. Corporation:
    - a. If Applicant is a corporation, list all officers and members of the Board of Directors, their principal affiliations and their addresses;
    - b. Attach a certified copy of the Articles of Incorporation and Bylaws of the corporation; and
    - c. State whether the Applicant is directly or indirectly controlled by another corporation or legal entity. If so, attach an explanatory statement and respond to questions (B)(1)(a) and (b) above concerning the controlling corporation.

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## 2. Partnership:

- a. If Applicant is a partnership, describe the structure of the partnership, list all of the general partners and their addresses and list the Interests of general and limited partners.
- b. State whether the Applicant is controlled directly or indirectly by any corporation or other legal entity. If so, respond to (B)(1)(a) – (b) or (B)(2)(a) above, as applicable, concerning the controlling entity.

## 3. Experience

### a. Current Franchises.

List whether the Applicant or any Affiliate owns more than five percent of any cable system. For each system include name of system, address, communities served, number of subscribers, (number of homes passed), date of system award, duration (start and end date) of franchise, status of construction, and percent of penetration of homes passed as of most recently available date (indicate date). Also include name, title, and telephone number of system manager.

### b. Potential Franchises.

List communities where the Applicant or any Affiliate currently has a formal or informal request pending for an initial franchise, the renewal of a franchise, or the approval of a transfer of ownership. Include name of communities, date of application, date of expected action, estimated number of homes.

## 4. Management Structure.

Attach a management/organizational chart, showing the management structure of the Applicant. Also, provide a similar chart showing the relationship of the Applicant to all general partners, Parent Corporations, subsidiaries, Affiliates and all other subsidiaries of Parent Corporations, including a brief description of each entity's relationship to the Applicant.

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## 5. Management Agreement.

State whether there are any management agreements existing or proposed between the Applicant and any Parent Corporation or Affiliate related to construction and operation of the Applicant's planned system. If yes, attach a copy of any such agreement.

## 6. Management Fees

List all entities entitled to receive management or other fees for the income produced by the Applicant's planned systems. Identify amounts or percentages of fees for each such entity.

## B. Legal Qualifications.

### 1. Media Cross-Ownership.

State whether the Applicant or an Affiliate directly or indirectly owns, operates, controls or has an Interest or whether the Applicant holds or operates any company or business operating jointly with any of the following:

- a. A national broadcast television network (such as ABC, CBS or NBC, etc.).
- b. A television broadcast station whose predicted Grade B contour, computed in accordance with Section 73.684 of the FCC's rules, overlaps in whole or in part the City's service area, or an application for license to operate such a station.
- c. A telecommunications or telephone company whose service area includes any portion of the City's service area.

If the response to any of the above is affirmative, state the name of the Applicant or Affiliate, the nature and percentage of ownership or Interest and the company that is owned or in which the Interest is held.

### 2. Equal Employment Opportunity and Affirmative Action.

Applicant shall attach any current FCC certification(s) for its existing cable system holdings, if any, or indicate its intention to apply for and abide by same.

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## 3. Franchise Violations.

State whether the Applicant or any Affiliate been found in violation by a Regulatory Authority or franchising authority of any franchise ordinance or agreement, contract or regulation governing a cable system. If so, identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

## 4. Other Violations.

State whether the Applicant been found in violation by a Regulatory Authority of any other type (e.g. utility) of franchise, ordinance, agreement, permit, contract or regulation. If so, identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

## C. Financial Qualifications.

1. For Applicants with existing operations: provide audited financial statements, including statements of income, balance sheets and cash flow statements, together with any notes necessary to the understanding of the financial statements for the last three fiscal years for the Applicant and any Parent Corporation.
2. For Applicants who are new (start-up) entities: provide pro forma projections for the next five fiscal years, if available, but at a minimum the next three fiscal years from the date of the application.

## D. Technical Qualifications Planned Services and Operations.

1. Describe the Applicant's planned initial and proposed cable services geographic area, including a map and proposed dates for offering service to each area;
2. If the Applicant has or asserts existing authority to access the public right of way in any of the initial or proposed service areas listed in (D)(1) above, state the basis for such authority or asserted authority and attach the relevant agreements or other documentation of such authority;
3. Describe with particularity the Applicant's planned residential cable services, including basic cable services, cable programming service tier, and any additional pay-per-view, on-demand or digital services;

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and the projected rates for each category or tier or service;

4. Describe with particularity the Applicant's planned system technical design, upstream and downstream capacity and speed, provision for analog or digital services or packages, distribution of fiber, and planned count of households per residential node;
5. Describe with particularity the Applicant's planned non-residential cable services;
6. Describe the Applicant's planned construction and extension or phase schedule, as applicable, including system extension plans or policy; describe current status of the Applicant's existing or proposed arrangements with area utilities, including pole attachments, vault, or conduit sharing agreements as applicable;
7. Describe the Applicant's plan to ensure that the safety, functioning and appearance of property and convenience and safety of other persons not be adversely affected by installation or construction of the Applicant's facilities, and that property owners are justly compensated for any damages caused by the installation, construction, operation or removal of the facilities; also state the proposed allocation of costs of installation, construction, operation or removal of facilities between the Applicant and the subscriber;
8. Describe the availability and cost of a device to enable a subscriber to block obscene or indecent programming; and
9. Describe the Applicant's plan to comply with the subscriber privacy protections set forth in 47 U.S.C. §551.

## E. Proposed Franchise Terms.

State the franchise terms proposed by the Applicant for each of the following:

1. Term: Duration not to exceed 10 years; and
2. With respect to PEG:
  - a. PEG access, including channel capacity, programming, a description of proposed services, facilities and equipment, and the Applicant's plan for interconnections with existing PEG facilities and designated PEG providers in existing CITY cable franchise areas to provide PEG programming of adequate

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- technical quality; and
- b. PEG capital support;
- 3. With respect to Institutional Networks:
  - a. Capacity and services to be provided, including a description of the network and equipment to be installed, activated, maintained or interconnected with existing institutional networks, potential sites to be served, and proposed technical means of interconnection, where applicable; and
  - b. Institutional network capital support;
- 4. Franchise fee payments, including a statement of all planned categories of cable revenue included in "gross revenues" for purposes of the fee (or a detailed description of the fee base if not based on gross revenues), and any proposed limitation on the City's access to relevant books and records to verify timely and accurate payment;
- 5. Amount of insurance coverage planned for Applicant operations, services and activities on behalf of the City; the scope of the coverage; and the length of time the policy is planned to be effective;
- 6. Amount of performance bond in favor of the City to ensure the Applicant observes, fulfills and performs each term and condition of the franchise; any limitations on the exercise of the bond; and length of time the bond is planned to be effective;
- 7. Terms of indemnity to be provided to the City;
- 8. Existing Public Way authority, if any, and terms of use of the Public Way in the City;
- 9. Technical and operational standards, including performance testing and appropriate sanctions for failure to meet standards; and
- 10. Customer service and consumer protection standards or policies, including but not limited to telephone, billing and repair response times, customer service representative (CSR) ratio to subscriber base, the method of evaluating the adequacy of customer service, reporting procedures and penalties for failure to meet standards;



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11. Compliance with all applicable federal, state and local statutes, regulations or ordinances, including, without limitation, those contained in the Grants Pass Municipal and Development Codes.

For each item listed above, the Applicant shall provide a summary with sufficient detail to demonstrate the manner in which each term proposed by the Applicant compares to any reasonably related terms in any cable franchise currently in effect in the City, the most recent needs ascertainment conducted by or on behalf of the City, and local customer service standards.

## F. Miscellaneous Provisions.

1. State whether the Applicant contemplates the provision of any cable services on its system under an Open Video Systems ("OVS") regulatory regime, within the meaning of Section 653 of the 1934 Communications Act (47 U.S.C. §573).
2. Provide a short narrative describing the Applicant's experience in and plans for providing Equal Employment Opportunity, Affirmative Action and Minority Business Enterprise utilization.
3. Provide a short narrative describing the Applicant's experience in and/or goals for satisfactory cable subscriber customer service.
4. Explain how the Applicant is competitive.

### 4.17.050 Affidavit of Applicant

Each application shall be accompanied by an affidavit substantially in the form set forth below:

- A. This application of the Applicant is submitted by the undersigned who has been duly authorized to make the representations within on behalf of the Applicant and certifies the representations are true and correct.
- B. The Applicant recognizes that all representations are binding on it and that material misrepresentations or omissions, or failure to adhere to any such representation may result in a denial of a CFAR franchise application by the City.
- C. Consent is hereby given to the City, its officers, employees, representatives and agents to make inquiry into the legal, character, technical, financial and other qualifications of the Applicant by contacting any persons or organizations named herein as references, or by any other

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appropriate means.

- D. The Applicant recognizes that information submitted is open to public inspection and subject to the Oregon Public Records Law. City has advised the Applicant to be familiar with the Oregon Public Records Law, and the Applicant has specifically identified any information it considers proprietary.
- E. In the event the City receives a request from another party to disclose any information which the Applicant has deemed proprietary, the City will tender to the Applicant the defense of any request to compel disclosure.
- F. By submitting information which the Applicant deems proprietary or otherwise exempt from disclosure, the Applicant agrees to defend and hold harmless the City from any claim for disclosure including but not limited to any expenses including out-of-pocket costs and attorneys' fees, as well as any judgment entered against the City for the costs and fees including attorney fees of the party requesting disclosure.
- G. Applicant acknowledges that Applicant shall at all times be in compliance with all applicable federal, state and local laws, regulations and ordinances, including, without limitation, those contained in the Grants Pass Municipal and Development Codes.

All Affidavits shall bear the notarized signature of Applicants Authorized representative.

## 4.17.060 Application Fee

An application fee of \$2,500 shall be paid by each Applicant and shall accompany the application. The application fee shall cover the reasonable cost of processing applications under this CFAR-LR, and shall be nonrefundable.

Upon request of the Applicant, the City may reduce or waive the application fee. In evaluating such a request, the City will consider the following factors: (1) the size of the proposed franchise area; (2) the number of potential subscribers in the proposed franchise area; (3) the financial hardship to the Applicant (including any Parent Corporation or affiliate); and (4) other information relevant to the cost of processing the application and/or the Applicant's ability to pay the fee.

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## 4.17.070 Review Process

### A. Acceptance of Application.

Within 7 business days of receipt of an application and fee, the City Manager shall review the application to ensure all requisite information is included in the application.

1. If the application is not complete, staff will immediately notify the Applicant in writing, listing the requisite information that is required to complete the application and notifying the Applicant the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will not begin to run until such information is received.
2. If the application is complete, the City Manager will immediately notify the Applicant in writing that all requisite information has been received.

### B. Review.

City Manager shall review all completed applications based on the review criteria set forth herein. If, during the review of an application, staff requires additional information from the Applicant, staff will promptly request the information from the Applicant, in writing, along with a notification that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will be tolled until such information is received by the City. After completing the review, City Manager shall provide an analysis of the application to the City Council.

### C. Public Hearing.

The City shall hold a public hearing affording participants a process substantially equivalent to that required by 47 U.S.C. §546(c)(2) governing renewal of cable franchises.

### D. Review Criteria.

The City Manager may recommend that the City deny and the City may deny an application if, based on the information provided in the application, at the public hearing and/or any terms of a proposed franchise agreement:

1. The Applicant does not have the financial, technical, or legal qualifications to provide cable service; or

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2. The Applicant will not provide adequate public, educational, and governmental access channel capacity, facilities, or financial support; or
3. The Applicant's proposed terms do not comply with applicable federal, state and local laws and regulations including, but not limited to, local customer service standards, franchise ordinances or relevant existing contractual obligations of the City.

### 4.17.080 Savings Clause

If any portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

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## Chapter 4.18

### Utility Right of Way

#### Sections.

- 4.18.010 Purpose and Intent
- 4.18.020 Jurisdiction and Management of the Public Rights-of-way
- 4.18.030 Regulatory Fees and Compensation Not a Tax
- 4.18.040 Definitions
- 4.18.050 Business Licenses
- 4.18.060 Licenses
- 4.18.070 Construction and Restoration
- 4.18.080 Location of Facilities
- 4.18.090 Leased Capacity
- 4.18.100 City's Use of Operator Facilities
- 4.18.110 Maintenance
- 4.18.120 Vacation
- 4.18.130 Privilege Tax
- 4.18.140 Audits
- 4.18.150 Insurance and Indemnification
- 4.18.160 Compliance
- 4.18.170 Confidential/Proprietary Information
- 4.18.180 Penalties
- 4.18.190 Severability and Preemption
- 4.18.200 Application to Existing Agreements



4.18.010 Purpose and Intent

The purpose and intent of this Chapter is to:

- A. Permit and manage reasonable access to the public rights of way of the City for utility purposes and conserve the limited physical capacity of those public rights of way held in trust by the City consistent with applicable state and federal law;
- B. Assure that the City's current and ongoing costs of granting and regulating access to and the use of the public rights of way are fully compensated by the persons seeking such access and causing such costs;
- C. Secure fair and reasonable compensation to the City and its residents for permitting use of the public rights of way;
- D. Assure that all utility companies, persons and other entities owning or operating facilities and/or providing services within the City register and comply with the ordinances, rules and regulations of the City;
- E. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;
- F. Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the City on a competitively neutral basis; and
- G. Comply with applicable provisions of state and federal law.

4.18.020 Jurisdiction and Management of the Public Rights of Way

- A. The City has jurisdiction and exercises regulatory management over all public rights-of-way within the City under authority of the City Charter, its Municipal Code, and state law.
- B. The City has jurisdiction and exercises regulatory management over each public right of way whether the City has a fee, easement, or other legal interest in the right of way, and whether the legal interest in the right of way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- C. The exercise of jurisdiction and regulatory management of a public right of way by the City is not official acceptance of the right of way, and does not obligate the City to maintain or repair any part of the right of way.

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- D. The provisions of this Chapter are subject to and will be applied consistent with applicable state and federal laws, rules and regulations, and, to the extent possible, shall be interpreted to be consistent with such laws, rules and regulations.

### 4.18.030 Regulatory Fees and Compensation Not a Tax

- A. The fees and costs provided for in this Chapter, and any compensation charged and paid for use of the public rights-of-way provided for in this Chapter, are separate from, and in addition to, any and all federal, state, local, and City charges as may be levied, imposed, or due from a utility operator, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of utility services.
- B. The City has determined that any fee provided for by this Chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners.
- C. The fees and costs provided for in this Chapter are subject to applicable federal and state laws.

### 4.18.040 Definitions

For the purpose of this Chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive.

- A. "Cable Service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- B. "City" means the City of Grants Pass, an Oregon municipal corporation, and individuals authorized to act on the City's behalf.
- C. "City Council" is the elected governing body of the City of Grants Pass, Oregon.
- D. "City Facilities" means City or publicly-owned structures or equipment located within the right of way or public easement used for governmental purposes.

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- E. "License" means the authorization granted by the City to a utility operator pursuant to this Chapter.
- F. "Person" includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint stock company, trust, limited liability company, association or other organization, including any natural person or any other legal entity.
- G. "Private Communications System" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. "Private communications system" includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140.
- H. "Public Utility Easement" means the space in, upon, above, along, across, over or under an easement for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of utilities facilities. "Public utility easement" does not include an easement solely for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of City facilities. "Public Utility Easement" includes City utility easements described in Grants Pass Municipal Code Chapter 9.01. This definition only applies to the extent of the City's right, title and interest in said easement.
- I. "Right of way" for purposes of this ordinance, means any land or interest therein by deed, conveyance, agreement, dedication, usage or other process of law has been reserved or dedicated to the City for use of the general public and which includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks or parkland. This definition applies only to the extent of the City's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.
- J. "State" means the State of Oregon.
- K. "Telecommunications Services" means the transmission for hire, of information in electromagnetic frequency, electronic or optical form, including, but not limited to, voice, video or data, whether or not the transmission medium is owned by the provider itself and whether or not the transmission medium is wireline. Telecommunications service includes all forms of telephone services and voice, data and video transport, but does not include: (1) cable service; (2) open video system service, as

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defined in 47 C.F.R. 76; (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.

- L. “Utility Facility or Facility” means any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the rights-of-way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.
- M. “Utility Service” is the provision, by means of utility facilities permanently located within, under or above the rights-of-way, whether or not such facilities are owned by the service provider, of electricity, natural gas, telecommunications services, cable services, water, sewer, and/or transportation utility to or from customers within the corporate boundaries of the City, and/or the transmission of any of these services through the City whether or not customers within the City are served by those transmissions.
- N. “Utility Operator or Operator” means any person who owns, places, operates or maintains a utility facility within the rights of way of the City.
- O. “Work” means the construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including but not limited to any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation.

## 4.18.050 Business Licenses

- A. Business License Required. Except as provided in Subsection (B) of this Section, every person providing utility services to customers within the City shall be considered a “business” as defined in Chapter 4.04.020 and shall be subject to the requirements set forth therein.
- B. Exceptions. Utility operators that have a valid franchise from the City or that obtain a license pursuant to Section 4.18.060 of this Chapter are exempt from the business license requirement of this Section and Chapter 4.04 with respect to the services provided over the facilities subject to the franchise or license.

# City of Grants Pass Municipal Code



## 4.18.060 Licenses

- A. License Required.
1. Except those utility operators with a valid franchise agreement from the City, every utility operator shall obtain a license from the City prior to constructing, placing or locating any utility facilities in the right of way.
  2. Every person that owns or controls utility facilities in the right of way as of the effective date of this Chapter shall apply for a license from the City within forty-five (45) days of the later of (1) the effective date of this Chapter or (2) the expiration of a valid franchise from the City, unless a new franchise is granted by the City prior to the expiration date or other date agreed to in writing by the City.
- B. License Application. The license application shall be on a form provided by the City, and shall be accompanied by any additional documents required by the application to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, and the facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this Chapter.
- C. License Application Fee. The application shall be accompanied by a nonrefundable application fee or deposit set by resolution of the City Council in an amount sufficient to fully recover all of the City's costs related to processing the application for the license.
- D. Determination by City. The City shall issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination shall include the reasons for denial. The license shall be evaluated based upon the provisions of this Chapter, the continuing capacity of the right of way to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.
- E. Franchise Agreements. If the public interest warrants, the City and utility operator may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this Chapter, consistent with applicable state and federal law. The franchise may conflict with the terms of this Chapter with the review and approval of City Council. The franchisee shall be subject to the provisions of this Chapter to the extent such provisions are not in conflict with the franchise.

## City of Grants Pass Municipal Code



- F. Rights Granted.
1. The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the Municipal Code and other applicable provisions of state or federal law, to construct, place, maintain and operate utility facilities in the rights-of-way for the term of the license.
  2. The license granted pursuant to this Chapter shall not convey equitable or legal title in the rights-of-way, and may not be assigned or transferred except as permitted in Section 4.18.060 (K) of this Chapter.
  3. Neither the issuance of the license 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.
- G. Term. Subject to the termination provisions in Section 4.18.060 (M) of this Chapter, the license granted pursuant to this Chapter will remain in effect for a term of five (5) years.
- H. License Non-Exclusive. No license granted pursuant to this section shall confer any exclusive right, privilege, license or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The City expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the City's right to use the rights-of-way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights-of-way. Nothing in the license shall be deemed to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.
- I. Reservation of City Rights. Nothing in the license shall be construed to prevent the City from grading, paving, repairing and/or altering any right of way, constructing, laying down, repairing, relocating or removing City water, transportation or sewer facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any City facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any right of way, public work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities shall be removed or relocated as provided in Sections 4.18.080 (C), (D) and (E) of this Chapter, in a manner acceptable to the City, and

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# City of Grants Pass Municipal Code



subject to industry standard engineering and safety codes.

## J. Multiple Services.

1. A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and privilege tax requirements of this Chapter for the portion of the facilities and extent of services delivered over those facilities.
2. A utility operator that provides or transmits more than one utility service over its facilities is not required to obtain a separate license for each utility service; provided that it gives notice to the City of each utility service provided or transmitted and pays the applicable privilege tax for each utility service.

## K. Transfer or Assignment. To the extent permitted by applicable state and federal laws, the licensee shall obtain the written consent of the City prior to the transfer or assignment of the license. The license shall not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility system and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee shall become responsible for all facilities of the licensee at the time of transfer or assignment. A transfer or assignment of a license does not extend the term of the license.

## L. Renewal. At least ninety (90), but no more than one-hundred eighty (180), days prior to the expiration of a license granted pursuant to this Section, a licensee seeking renewal of its license shall submit a license application to the City, including all information required in Section 4.18.060 (B) and the application fee required in Section 4.18.060 (C). The City shall review the application as required by Section 4.18.060 (D) and grant or deny the license within ninety (90) days of submission of the application. If the City determines that the licensee is in violation of the terms of this Chapter at the time it submits its application, the City may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the City, before the City will consider the application and/or grant the license. If the City requires the licensee to cure or submit a plan to cure a violation, the City will grant or deny the license application within ninety (90) days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

# City of Grants Pass Municipal Code



## M. Termination.

1. Revocation or Termination of a License. The City Council may terminate or revoke the license granted pursuant to this Chapter for any of the following reasons:
  - (a) Violation of any of the provisions of this Chapter;
  - (b) Violation of any provision of the license;
  - (c) Misrepresentation in a license application;
  - (d) Abandonment of facilities without approval to abandon in place as described in Section 4.18.080 D. 2 (b);
  - (e) Failure to pay taxes, compensation, fees or costs due the City after final determination of the taxes, compensation, fees or costs;
  - (f) Failure to restore rights-of-way after construction as required by this Chapter or other applicable state and local laws, ordinances, rules and regulations;
  - (g) Failure to comply with technical, safety and engineering standards related to work in the rights-of-way; or
  - (h) Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.
  
2. Standards for Revocation or Termination. In determining whether termination, revocation or some other sanction is appropriate, the following factors shall be considered:
  - (a) The egregiousness of the misconduct;
  - (b) The harm that resulted;
  - (c) Whether the violation was intentional;
  - (d) The utility operator's history of compliance; and/or
  - (e) The utility operator's cooperation in discovering, admitting and/or curing the violation.
  
3. Notice and Cure. The City shall give the utility operator written notice of any apparent violations before terminating a license. The notice shall include a short and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than twenty (20) and no more than forty (40) days) for the utility operator to demonstrate that the utility operator has remained in compliance, that the utility operator has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the utility operator is

# City of Grants Pass Municipal Code



in the process of curing a violation or noncompliance, the utility operator must demonstrate that it acted promptly and continues to actively work on compliance. If the utility operator does not respond or if the City Manager or designee determines that the utility operator's response is inadequate, the City Manager or designee shall refer the matter to the City Council, which shall provide a duly noticed public hearing to determine whether the license shall be terminated or revoked.

## 4.18.070 Construction and Restoration.

- A. Utility facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including the National Electrical Code and the National Electrical Safety Code and shall comply with the encroachment provisions set forth in Chapter 6.36 of the Grants Pass Municipal Code.

No person shall construct, install, or perform any work on utility facilities within the rights-of-way without first obtaining all required permits in accordance with Municipal Code Chapter 6.36. The City shall not issue a permit for the construction, installation, maintenance or repair of utility facilities unless the utility operator of the facilities has applied for and received the license required by this Chapter, or has a current franchise with the City, and all applicable fees have been paid.

In the event that an emergency impacts public health or safety or an unplanned interruption in utility service requires repairs, the utility operator shall immediately notify the City of the need for such repair. The utility operator may immediately initiate such immediate repairs and shall apply for appropriate permits within three business days following discovery of the emergency.

- B. Unless otherwise provided in a franchise agreement or as set forth in subparagraph 3 below, a performance bond or other form of surety acceptable to the City equal to at least 100% of the estimated cost of the work within the right of way of the City shall be provided before construction is commenced.
1. The performance bond or other form of surety acceptable to the City shall remain in force until sixty (60) days after substantial completion of the work, as determined in writing by the City, including restoration of rights of way and other property affected by the construction.

## City of Grants Pass Municipal Code



2. The performance bond or other form of surety acceptable to the City shall guarantee, to the satisfaction of the City:
  - (a) Timely completion of the work;
  - (b) That the work is performed in compliance with applicable plans, permits, technical codes and standards;
  - (c) Proper location of the facilities as specified by the City;
  - (d) Restoration of the rights-of-way and other property affected by the work; and
  - (e) Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.
  
3. Upon request by a utility operator, the City Manager may waive the bonding requirement for work performed in the right of way by (i) utility operators regulated by the Oregon Public Commission; or (ii) contractors on such utility's behalf and under the utility's control, when the utility has adequately performed to the City's satisfaction its obligations under prior franchises or licenses with the City for the immediately preceding three (3) years prior to the request. In the event the City determines that measures are required to repair the rights-of-way as a result of work performed by a contractor on behalf of a utility operator, the utility operator shall take necessary corrective measures on behalf of the independent contractor and satisfactory to the City, within 60 days following notice from the City, except in situations corrective measures are in order to protect public health or safety, in which case corrective measures will be made immediately following notice from the City. Any waiver granted shall be effective for the duration of the license issued pursuant to Section 4.18.060 or at such time as the utility or its contractors ceases to adequately perform to the City's satisfaction the utility's obligations under its license, whichever first occurs. In the event of inadequate performance, the City shall notify the utility in writing describing the inadequate performance and specifying a date certain (not less than 30 days) by which the inadequate performance will be remedied to the City's satisfaction or a bond or other form of surety described in Section 4.18.070 B shall be provided.

## City of Grants Pass Municipal Code



- C. A utility operator shall preserve and protect from injury other utility operators' facilities in the rights-of-way, the public using the rights-of-way and any adjoining property, and take other necessary measures to protect life and property, including but not limited to buildings, walls, fences, trees or utilities that may be subject to damage from the permitted work. A utility operator shall be responsible for all damage to public or private property resulting from its failure to properly protect people and property and to carry out the work.
- D. Inspection. Every utility operator's facilities shall be subject to the right of periodic inspection and testing by the City to determine compliance with the provisions of this Chapter and all other applicable state and City codes, ordinances, rules and regulations. Every utility operator shall cooperate with the City in permitting the inspection of utility facilities upon request of the City.
- E. Coordination of Construction. All utility operators are required to make a good faith effort to both cooperate with and coordinate their construction schedules with those of the City and other users of the rights of way.
  - 1. Prior to January 1 of each year, utility operators shall provide the City with a schedule of known proposed large capital construction and/or facility maintenance for that year in, around or that may affect the rights-of-way.
  - 2. Utility operators shall meet with the City annually, or as determined by the City, to schedule and coordinate construction in rights-of-way to minimize public inconvenience or disruption.
  - 3. All construction locations, activities and schedules within rights-of-way shall be coordinated as ordered by the City Manager or designee, to minimize public inconvenience, disruption, or damages.

### 4.18.080 Location of Facilities

- A. Location of Facilities. Unless otherwise agreed to in writing by the City, whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a right of way of the City, any other utility operator with permission to occupy the same right of way shall locate its facilities underground. This requirement shall not apply to:
  - 1. Facilities used for transmission of electric energy at nominal voltages in excess of 35,000 volts;



## City of Grants Pass Municipal Code



2. or to pedestals, cabinets or other above-ground equipment; and
  3. to other new facilities provided that the City grants prior written approval for overhead placement. The City reserves the right to require written approval of the location of any such above-ground equipment.
- B. Interference with Rights-of-way. No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the City, by the general public or by other persons authorized to use or be present in or upon the rights-of-way. All use of the rights-of-way shall be consistent with City codes, ordinances and regulations.
- C. Relocation of Utility Facilities.
1. A utility operator shall, at no cost to the City, relocate its aerial utility facilities underground when requested to do so in writing by the City, consistent with applicable state and federal laws, regulations and tariffs.
  2. A utility operator shall, at no cost to the City, temporarily or permanently remove, relocate, change or alter the position of any utility facility within a right of way when requested to do so in writing by the City. Nothing herein shall be deemed to preclude the utility operator from requiring or requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs, and agreements, or otherwise provided that such reimbursement or compensation shall not delay the utility operator's obligation to comply with this section in a timely manner.
  3. Except in the case of an emergency impacting public health or safety or an unplanned interruption of Utility Service, the City shall provide at least one hundred twenty (120) days prior written notice of the amount of time for removal, relocation, change, alteration or undergrounding. If a utility operator fails to remove, relocate, alter or underground any utility facility as requested by the City and by the date established by the City, the City may cause the utility facility to be removed, relocated, altered or undergrounded at the utility operator's sole expense. Upon receipt of a detailed invoice from the City, the utility operator shall reimburse the City for the costs the City incurred within one hundred twenty (120) days.

# City of Grants Pass Municipal Code



## D. Removal of Unauthorized Facilities.

1. Except in the case of an emergency impacting public health or safety or an unplanned interruption of Utility Service and unless otherwise agreed to in writing by the City Manager or designee, within one hundred twenty (120) days following written notice from the City, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized utility facility within a right of way shall, at its own expense, remove the facility and restore the right of way.
2. A utility system or facility is unauthorized under any of the following circumstances:
  - (a) The utility facility is outside the scope of authority granted by the City under the license, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the City has provided written authorization for abandonment in place.
  - (b) The facility has been abandoned and the City has not been provided prior written notice of such abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of fifteen (15) months. A utility operator may overcome this presumption by presenting plans for future use of the facility.
  - (c) The utility facility is improperly constructed or installed or is in a location not permitted by the license, franchise or this Chapter.
  - (d) The utility operator is in violation of a material provision of this Chapter and fails to cure such violation within thirty (30) days of the City sending written notice of such violation, unless the City extends such time period in writing.

# City of Grants Pass Municipal Code



- E. Removal by City.
1. The City retains the right and privilege to cut or move the facilities of any utility operator or similar entity located within the public rights of way of the City, without notice, as the City may determine to be necessary, appropriate or useful in response to a public health or safety emergency.
  2. If the utility operator fails to remove any facility when required to do so under this Chapter, the City may remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations and the utility operator shall be responsible for paying the full cost of the removal and any administrative costs incurred by the City in removing the facility and obtaining reimbursement. Upon receipt of a detailed invoice from the City, the utility operator shall reimburse the City for the costs the City incurred within thirty (30) days. The obligation to remove shall survive the termination of the license or franchise.
  3. The City shall not be liable to any utility operator for any damage to utility facilities by the City or its contractor in removing, relocating or altering the facilities pursuant to paragraphs (B), (C) or (D) of this Section 4.18.080 or undergrounding its facilities as required by paragraph (A) of this Section 4.18.080, or resulting from the utility operator's failure to remove, relocate, alter or underground its facilities as required by those paragraphs.
- F. As Built Drawings. The utility operator shall provide the City with two updated complete sets of as built plans annually, upon request of the City.

## 4.18.090 Leased Capacity

A utility operator may lease capacity on or in its systems to others, provided that, upon request, the utility operator provides the City with the name and business address of any lessee.

## 4.18.100 City's Use of Operator Facilities

- A. The City shall have the right, at the City's sole expense with prior written notice to and approval of the utility operator to suspend and maintain alarms, wires, control boxes and such other equipment as the City may require for fire, police, emergency or other municipal purposes on poles placed by the utility within the right of way. All City installed overhead and/or underground equipment shall be installed by qualified personnel and shall be in compliance with Oregon State Electrical Codes and the National Electric Safety Code at all times.

## City of Grants Pass Municipal Code



- B. The City shall install such equipment so as not to interfere with the electric power and light service of the utility operator or pose a danger to the public utility's facilities, employees, customers or customers property. The City shall not sell or lease space on the utility operator's poles, conduits, or other equipment to other entities. The City shall indemnify, defend and save the operator harmless from any and all loss sustained by the utility operator on account of any suit, judgment, execution, claim, or demand whatsoever arising out of the City's installation, operation and maintenance of such equipment.

### 4.18.110 Maintenance

- A. Every utility operator shall install and maintain all facilities in a manner that prevents injury to the right of way or public utility easements, the City's property or the property belonging to another person. The utility operator shall, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.
- B. When an underground excavation or construction and installation of facilities has been completed, the utility operator shall remove all debris from the project site and restore the portion of the right of way, property or place to the same condition or as near as practicable to its previous condition prior to such construction work in accordance with restoration standards established by the City Public Works Director. If the utility operator fails to do so within a reasonable time, the City may restore the site at the utility operator's expense.
- C. The City shall provide written notice to the utility operator of any facility that requires maintenance and repair. Unless an emergency condition exists, the maintenance and repair shall be completed within one hundred twenty (120) days following notice. If the utility operator fails to provide necessary maintenance or repair as requested by the City and by the date set by the City, the City may perform such maintenance or repair at the utility operator's sole expense. Upon a detailed invoice from the City, the utility operator shall reimburse the City for the costs the City incurred within one hundred twenty (120) days.

# City of Grants Pass Municipal Code



## 4.18.120 Vacation

If the City vacates any right of way, or portion thereof, that a utility operator uses, the utility operator shall, at its own expense, remove its facilities from the right of way unless the City reserves a public utility easement, which the City shall make a reasonable effort to do provided that there is no cost or expense to the City, or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within one hundred twenty (120) days after a right of way is vacated, or as otherwise directed or agreed to in writing by the City, the City may remove the facilities at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator shall reimburse the City for the costs the City incurred within thirty (30) days.

## 4.18.130 Privilege Tax

### A. Privilege Tax.

1. Except as set forth in Section 4.18.130.B and 4.18.130.C, every utility operator shall pay the privilege tax calculated as a percentage of gross revenues earned from the provision of utility service to customers within the City at the following rates for each service provided during the term of the license:

Electric	5%
Natural Gas	5%
Telecommunications	7%
Cable	5%
Water	5%
Sanitary Sewer	5%

2. Unless otherwise agreed to in writing by the City, the privilege tax shall be paid quarterly, in arrears, for each quarter during the term of the license, within thirty (30) days after the end of each calendar quarter. Each payment shall be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable.
3. Except as set forth in Section 4.18.130.A.4, for purposes of this Section 4.18.130.A, "gross revenues" means any and all revenue, of any kind, nature or form, derived from the provision of retail utility services to customers within the City, less net uncollectibles.
4. For purposes of this Section 4.18.130.A, "gross revenues" for a telecommunications utility, as defined in ORS 759.005, shall be limited to the revenues defined in ORS 221.515.

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- B. **Transmission Line Fee.** A utility operator that does not earn gross revenues from the provision of utility service to customers within the City shall pay the transmission line fee set by Council resolution or set forth in the license granted by the City. The fee may be a flat fee per lineal foot of utility facilities in the City or such other fee determined by the Council after consideration of the utility operator's use or proposed use of the right of way. Unless otherwise agreed to in writing by the City, the fee shall be paid annually, in arrears, for each year during the term of this license within thirty (30) days after the end of each calendar year, and shall be accompanied by information sufficient to illustrate the calculation of the amount payable.
- C. **Attachment Fee.** A utility operator whose only facilities in the right of way are facilities mounted on structures within the right of way, which structures are owned by another person, and with no facilities strung between such structures or otherwise within, under or above the right of way, shall pay the attachment fee set by Council resolution or set forth in the license granted by the City. The fee may be a flat fee per structure or such other fee determined by the Council after consideration of the utility operator's use or proposed use of the right of way. Unless otherwise agreed to in writing by the City, the fee shall be paid annually, in arrears, for each year during the term of this license within thirty (30) days after the end of each calendar year, and shall be accompanied by information sufficient to illustrate the calculation of the amount payable.
- D. **Privilege tax payments required by this section shall be reduced by any franchise fee payments received by the City, but in no case will be less than \$0.**
- E. **The utility operator shall pay interest at the rate of nine percent (9%) per year for any payment due pursuant to this section made after the due date.**
- F. **The calculation of the privilege tax or other fees required by this section shall be subject to all applicable limitations imposed by federal or state law. The City reserves the right to enact any and all other taxes and fees applicable to the utilities subject to the Chapter.**

### 4.18.140 Audits

- A. **Within thirty (30) days of a written request from the City, or as otherwise agreed to in writing by the City, the provider of utility service shall:**

## City of Grants Pass Municipal Code



1. Furnish the City with information sufficient to demonstrate that the utility operator is in compliance with all the requirements of this Chapter and its franchise agreement, if any, including but not limited to the privilege tax payments required by Section 4.18.130 and the franchise fee required in any franchise.
  2. Make available for inspection by the City at reasonable times and intervals all maps, records, books, diagrams, plans and other documents, maintained by the utility operator with respect to its facilities within the public rights of way or public utility easements. Access shall be provided within the City, unless prior arrangement for access elsewhere has been made with the City.
- B. If the City's audit of the books, records and other documents or information of the utility operator demonstrate that the utility operator has underpaid the privilege tax or franchise fee by five percent (5%) or more in any one year, the utility operator shall reimburse the City for the cost of the audit, in addition to any interest owed pursuant to Section 4.18.130 (E) or as specified in a franchise.
- C. Any underpayment, including any interest or audit cost reimbursement, shall be paid within thirty (30) days of the City's notice to the utility service provider of such underpayment.
- D. In the event that the City reasonably estimates that the cost of the audit will exceed \$10,000, the utility operator shall have the option to select a neutral and qualified auditor mutually acceptable to the City and the utility operator to perform the audit.

### 4.18.150 Insurance and Indemnification

- A. Insurance.
1. All utility operators shall maintain in full force and affect the following liability insurance policies that protect the utility operator and the City, as well as the City's officers, agents, and employees:
    - (a) Comprehensive general liability insurance with limits not less than:
      - (i) Three million dollars (\$3,000,000) for bodily injury or death to each person;
      - (ii) Three million dollars (\$3,000,000) for property damage resulting from any one accident; and
      - (iii) Three million dollars (\$3,000,000) for all other types of liability.

## City of Grants Pass Municipal Code



- (b) Motor vehicle liability insurance for owned, non-owned and hired vehicles with a limit of one million dollars (\$1,000,000) for each person and three million dollars (\$3,000,000) for each accident.
  - (c) Worker's compensation within statutory limits and employer's liability with limits of not less than one million dollars (\$1,000,000).
  - (d) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).
2. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The Certificate of Insurance shall provide that the insurance shall not be canceled or materially altered without thirty (30) days prior written notice first being given to the City. If the insurance is canceled or materially altered, the utility operator shall provide a replacement policy with the terms as outlined in this section. The utility operator shall maintain continuous uninterrupted coverage, in the terms and amounts required. The utility operator may self insure any or all of the above coverage.
3. The utility operator shall maintain on file with the City a Certificate of Insurance, or proof of self-insurance acceptable to the City, certifying the coverage required above.
- B. Financial Assurance. The utility operator shall provide a performance bond or other financial security, in a form acceptable to the City, as security for the full and complete performance of the franchise or license, if applicable, and compliance with the terms of this Chapter, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the City. This obligation is in addition to the performance surety required by Section 4.18.070 (B) of this Chapter for construction of facilities. The provisions of this Subsection B shall not apply to utility operators who, in the City's sole discretion, have adequately performed to the City's satisfaction their obligations under prior franchises or licenses with the City for the immediately preceding three (3) years prior to application for a new franchise or license.





C. Indemnification

1. Each utility operator shall defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility operator or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this Chapter or by a franchise agreement. The acceptance of a license under Section 4.18.060 shall constitute such an agreement by the applicant whether the same is expressed or not. Upon notification of any such claim the City shall notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.
2. Every utility operator shall also indemnify the City for any damages, claims, additional costs or expenses assessed against or payable by the City arising out of or resulting, directly or indirectly, from the utility operator's failure to remove or relocate any of its facilities in the rights-of-way or easements in a timely manner, unless the utility operator's failure arises directly from the City's negligence or willful misconduct.

4.18.160 Compliance

Every utility operator shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules and regulations of the City, heretofore or hereafter adopted or established during the entire term of any license granted under this Chapter.



4.18.170 Confidential/Proprietary Information

If any utility operator is required by this Chapter to provide books, records or information to the City that utility operator reasonably believes to be confidential or proprietary, the City shall take reasonable steps to protect the confidential or proprietary nature of the books, records or information, to the extent permitted by Oregon public records laws, provided that they are clearly designated as such by the utility operator at the time of disclosure to the City. The City shall not be required to incur any costs to protect such document, except as to the City's routine internal procedures for complying with Oregon public records law.

4.18.180 Penalties

- A. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs. Fine shall be due and payable no later than thirty (30) days from receipt of the City's notification of the offense. Interest on unpaid fines shall accrue at the rate of nine percent (9%) per annum from the due date.
- B. Nothing in this Chapter shall be construed as limiting any judicial or other remedies the City may have at law or in equity, for enforcement of this Chapter.

4.18.190 Severability and Preemption

- A. The provisions of this Chapter shall be interpreted to be consistent with applicable federal and state law, and shall be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.
- B. If any article, section, subsection, sentence, clause, phrase, term, provision, condition or portion of this Chapter is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this Chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, clause, phrase, term, provision, condition, covenant and portion of this Chapter shall be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision shall be preempted only to the extent required by law and any portion not preempted shall survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to

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end the preemption, such provision shall thereupon return to full force and effect and shall thereafter be binding without further action by the City.

## 4.18.200 Application to Existing Agreements

To the extent that this Chapter is not in conflict with and can be implemented consistent with existing franchise agreements, this Chapter shall apply to all existing franchise agreements granted to utility operators by the City.

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## Chapter 4.20

### OREGON LIQUOR CONTROL COMMISSION LICENSE APPROVALS

#### Sections:

4.20.010	Purpose
4.20.020	Definitions
4.20.025	Applications
4.20.027	Fee
4.20.029	Review of Application

#### 4.04.010 Purpose

- A. To effectively provide written recommendation to the Oregon Liquor Control Commission as directed by Oregon Revised Statutes.

#### 4.20.020 Definitions

- A. For OLCC licenses, Applicant(s) are a corporation, limited liability company (LLC) or limited partnership (LP) designed to operate the business. The applicant will be the name of the legal entity (not the trade name) in most cases. All applicants for the license must be listed. If the business will be operated by two or more general partners, the partners (all general) must be listed as applicants. Any person named as a lessee (i.e. tenant) or buyer of the land, building or equipment used in the business, is also an applicant if that person will participate in the ownership or operation of the business.
- B. "Business" means any trade, profession, occupation, calling or regular pursuit which is physically situated within the City of Grants Pass
- C. Business Location Address - This is the street address of the place where alcohol is served or sold.
- D. Business Mailing Address - This is where OLCC and the City will send your license renewal form and any other official OLCC notices. If you do not want your OLCC mail to go to your business location address, a separate mailing address must be provided
- E. "License" in this chapter refers to OLCC Licenses.
- F. "OLCC" is the Oregon Liquor Control Commission

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## 4.20.025 Applications

- A. The administration of Licenses and the Licensing Process are all managed by the OLCC. Liquor license applications are obtained from OLCC.
- B. The Local Government recommendation is administered on behalf of the City Council by the Finance and Public Safety Departments.

## 4.20.027 Fee

- A. The local fee for liquor license applications is established by Resolution.

## 4.20.029 Review of Application

- A. The Finance Department shall receive Liquor License Applications and receipt applicable fees.
- B. The Finance Department shall refer each application to the Public Safety Department Director.
- C. Public Safety Department Director is designated by Council to review and make recommendations to OLCC for all liquor licenses approval requests for the City.
- D. The Public Safety Director shall recommend denial of liquor licenses if:
  - 1. The applicant has a record of violations of state alcoholic liquor laws; or
  - 2. The applicant has a record of use of controlled substances or excessive use of alcoholic beverages; or
  - 3. The applicant has a record of violations of criminal law or ordinances connected in time, place, or manner with a liquor establishment, or a record of violations of criminal law or ordinances which demonstrate a disregard for law; or
  - 4. There is a history or pattern of illegal or disorderly activity on the proposed premises; or

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5. The applicant has not maintained the premises for which the liquor license is sought in accordance with the building code, fire code, or health regulations of the City of Grants Pass and the State of Oregon; or
  6. The applicant seeks licensing of premises which would not be consistent with City land use ordinances or regulations; or
  7. The applicant has demonstrated an unwillingness or inability to cooperate with the City or neighbors to resolve DUII related concerns or community disputes related to a licensed establishment; or
  8. The applicant is not the legitimate owner of the business to be licensed or has failed to disclose other ownership; or
  9. The application contains false or misleading statements; or
  10. There is any other specific reason consistent with the purposes of these provisions which the Public Safety Director concludes warrants an adverse recommendation, based upon the public health, safety, welfare, or necessity.
- E. If Public Safety Director returns a recommendation for denial, the applicant may request a hearing before Council. The request shall be submitted to the Public Safety Director in writing within ten (10) days of the date that the Public Safety Director issued the recommendation for denial. The Council shall then hold a public hearing within thirty (30) days of the request for hearing. Notice of the public hearing shall be given to the applicant in writing no less than ten (10) days before the hearing. The notice shall contain the time, date, and location of the hearing, as well as a copy of the recommendation of the Public Safety Director and all supporting documentation used to reach the recommendation. Upon request for the hearing, the applicant shall sign a statement consenting to the public discussion of the reasons for the recommendation and denial, including, but not limited to, the applicant's criminal history. The Council shall evaluate the application in accordance with the standards in this section.

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## Exhibit A

### Chapter 4.21 Social Gaming

#### Sections:

- 4.21.000 Title, Legislative Authority and Purpose
- 4.21.010 Social Games Permitted
- 4.21.020 Definitions
- 4.21.030 License Required for Social Games
- 4.21.040 Application for License and Investigation
- 4.21.041 Application Requirements
- 4.21.042 Application Renewal
- 4.21.050 License Fee
- 4.21.060 Standards for Issuance of License
- 4.21.070 License Not Transferable
- 4.21.080 Responsibilities of Licensee
- 4.21.081 Tournament Format Required
- 4.21.090 Terms of License
- 4.21.100 Revocation of License
- 4.21.110 Suspension of License
- 4.21.120 Penalties
- 4.21.130 Savings Clause
- 4.21.140 Periodic Review Date

#### 4.21.000 Title, Legislative Authority and Purpose

These regulations shall be known as the "City of Grants Pass Social Gaming Code" and may be cited as such. ORS 167.180, et seq. defines gambling and provides for the regulation of gambling in the State of Oregon. Pursuant to ORS 167.117(7) "gambling" does not include "social games." ORS 167.121 provides that counties and cities may, by ordinance, authorize the playing or conducting of Social Games in a private business, private club, or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the authorized Social Games. The purpose of this ordinance is to authorize and regulate, in accordance with Oregon state law, the playing or conducting of Social Games. It is not the purpose of this ordinance and this ordinance is not intended to regulate any form of gambling or gaming authorized and regulated under Oregon state law other than Social Gaming as specifically defined in this ordinance.

#### 4.21.010 Social Games Permitted

Social games, other than a lottery, between players in a private business, private

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club or in a place of public accommodation where no house player, house bank or house odds exist and there is no house take (meaning no house income from the operation of the social game), are hereby permitted as provided herein.

## 4.21.020 Definitions

Unless the context requires otherwise, all terms set forth in this Ordinance shall have the same meaning as set forth in ORS 167.117.

“Person” and “Persons” means any individual, firm, partnership, corporation, joint venture, association, social club, fraternal organization, fraternity, sorority, non-profit organization, estate, trust, business trust, receiver, trustee, syndicate or any other group, organization or combination acting as a unit.

“Social Game” and “Social Gaming” means a game, other than a lottery, between players at a Special Event held in a private business or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the Social Game.

## 4.21.030 License Required for Social Games

Any person(s), business, private club, non-profit organization or place of public accommodation desiring to permit patrons or invitees to engage in any social game within the City of Grants Pass shall acquire and maintain a valid license from the City. Licenses shall be granted only upon application to the City and upon approval by the City Manager.

## 4.21.040 Application for License And Investigation

An applicant shall submit an application in a form approved by the City Manager.

## 4.21.041 Application Requirements

Before a license for social gaming may be granted by the City Manager, an applicant must submit an application for a license to the City Manager with the following information and allow an investigation to be made thereon. A completed application form must include the true names, dates of birth, social security numbers and addresses of all persons financially interested in the business and/or all persons who are either on the board of directors of or hold offices in the entity or organization. The term "persons financially interested in the business" shall include all persons who share in the profits of the business where the social gaming activity is located, on the basis of gross or net revenue, including landlords, lessors, lessees, and the owners of the building, fixtures or equipment used in the social game. The application shall also include the names, dates of birth, social security numbers and addresses of all tournament sponsors

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if different from persons financially interested in the business.

## 4.21.042 Application Renewal

The grantee of a social gaming license must notify the City Manager within 10 days of any change in persons financially interested in the business or in the names of any persons who are either on the board of directors of or hold offices in the entity or organization and request a renewal of its license. At the time of such request, the applicant shall submit the information required by Section 4.21.041.

## 4.21.050 License Fee

For each business or other entity or organization licensed, an annual fee shall be required, to be set by resolution of the City Council.

## 4.21.060 Standards For Issuance of License

The City Manager shall either approve the application and grant the license applied for, or deny the application and refuse to grant the license. The license shall not be granted, or it shall be temporarily revoked or suspended, if any applicant or any person(s) financially interested in the business, entity or organization have:

1. Supplied any false or misleading information in the application or omitted any requested information from the application;
2. Pleaded no contest to or been convicted of any felony within the last ten (10) years;
3. Had a license in his/her name which was revoked or suspended three (3) times by the Oregon Liquor Control Commission, either of which was in the last (5) years;
4. Been convicted and is currently on parole for any crime involving or related to gambling;
5. Had two (2) or more convictions within five (5) years for gambling-related activities; or
6. Violated any provision of this Ordinance.

## 4.21.070 License Not Transferable

No license shall be assigned or transferred; any such attempt shall void the license.

## 4.21.080 Responsibilities of Licensee

It shall be the responsibility of the licensee to ensure that:

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1. No form of unlawful gambling is permitted upon the licensed premises.
2. Social games are conducted consistent with the provisions of state law, City ordinances and this section.
3. There shall be no house player, house bank or house odds. All social games shall be open to public inspection during all hours of operation.
4. There are no off-premises signs advertising gambling, card playing, or social games.
5. The playing of all social games shall be so arranged as to provide equal access and visibility to any interested party.
6. No person under the age of eighteen (18) years shall be permitted to enter the licensed premises.
7. No charge, other than an entry fee, shall be collected from a player for the privilege of participating in a game.
8. No participant in a social game shall be charged a price for any consumer goods which is higher or lower than the price charged non-participants.
9. This Chapter, the rules for the social games, and the social gaming licenses are posted in a conspicuous place near the area where the games are being played.
10. The room or enclosure where the social games take place is open to free and immediate access by law enforcement officers. Doors leading into the room or enclosure remain unlocked during all hours of operation.
11. No social game is conducted between the hours of 2:00 am and 9:00 am.

### 4.21.090 Terms of License

All licenses issued hereunder shall be for a period of one (1) year and shall be renewed on the first business day of January of each year. Licenses are nontransferable and must be reapplied for at least thirty (30) days prior to the renewal date each year accompanied by the appropriate fee. All persons securing a license after first business day of January each year shall be required to pay the annual fee. All renewals shall be approved by the City Manager.

### 4.21.100 Revocation of License

A license is subject to revocation at any time for violation of this Ordinance or any of the provisions of state law related to gambling. If at any time facts arise or become known to the City Manager which are sufficient to show violation of this ordinance or state law, the City Manager shall notify the licensee in writing that the license is to be revoked and that all social gaming activities must cease within fifteen (15) days. The violations need not lead to a conviction, but must establish a reasonable doubt about the licensee's ability to perform the licensed activity without danger to property or public health or safety. The notice of revocation shall state the reason for the revocation, set a period of no less than 30 days before social gaming activities can recommence and inform the licensee of the procedures for filing an appeal.

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## 4.21.110 Suspension of License

Upon determining that a licensed activity presents an immediate danger to person or property, the City Manager may suspend the license for the activity. The suspension shall take effect immediately on notice being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended.

The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the procedures for filing an appeal. The City Manager may continue the suspension for as long as the reason for the suspension exists or until a decision by the appellate authority on an appeal regarding the suspension concludes the matter.

## 4.21.120 Penalties

In addition to the suspension or revocation of any license hereunder, any licensee, firm, corporation, association or person(s) associated with licensee who violates any provision of this ordinance, may, upon conviction, be fined in the amount not to exceed Five Hundred Dollars (\$500.00) for each violation. Each day that a violation is permitted to occur is considered a separate violation.

## 4.21.130 Savings Clause

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.