

**TITLE 3
BUSINESS AND LICENSING PROVISIONS**

**CHAPTER 1
GENERAL LICENSING PROVISIONS**

3-1-1: PURPOSE:

In order that business be carried on and conducted in a peaceful and profitable manner within the City, it is necessary that the same be regulated and that the City provide police and other services.

3-1-2: DEFINITIONS:

When used in this Chapter, the following words and terms shall have the meanings herein ascribed to them:

BUSINESS: Any activity carried on with the intent that a profit be realized therefrom.

ENGAGE IN or CARRY ON BUSINESS: Any act or series of acts performed within the City in the course or pursuit of a business activity.

PERSON: Any individual, firm, partnership, association, corporation, agent or representative of such. (Ord. 486, 7-19-82)

3-1-3: BUSINESS LICENSE REQUIRED:

- A. No person shall engage in or carry on any business within the corporate limits of the City without having first obtained a license from the City by filling out the business license application form.
- B. The agent or agents of nonresident proprietor engaged in any business in which a license is required by this Title, shall be liable for the penalties for failure to obtain a license, to the same extent as if such were themselves proprietors.
- C. Any person who represents to the public, by advertisement or other means, that he/she is engaged in any business in the City for which a license is required shall be deemed to be actually engaged in such business.
- D. If any person shall engage in or carry on more than one business within one place of business, one license shall be issued to cover each business.
- E. Any person which has more than one location shall be deemed a separate business at each location.

3-1-4: CONTENTS OF LICENSE:

Every business shall specify:

- A. The name of the person to whom it is issued.
- B. The particular place at which the business shall be carried on.
- C. The dates within which the license is valid.

3-1-5: ADMINISTRATIVE PROVISIONS:

- A. Term of License: The license provided for in this Title shall be valid for a period of one year, such period to begin on July 1 and end on June 30 of the following year.
- B. Nontransferable: The license is not transferable or assignable.
- C. Application Period: All license applications shall be completed within thirty (30) days of the beginning of the license period.
- D. Fees:
 - 1. Fees paid under this Title shall be in addition to fees required by other existing City ordinances and fees required by County and State agencies.
 - 2. The schedule of license fees¹⁵ to be charged by this Title shall be set by resolution of the City Council. Such schedule shall be reviewed and updated annually.

3-1-6: PENALTY:

- A. Any person who shall within the corporate limits of the City engage in or carry on any business, for which a license is required by this Title without first obtaining such a license or who shall in any manner fail to comply with any of the requirements of this Title shall be considered to have committed a Class B civil violation.
- B. The civil violation procedures of Section 1-4-1 of this Code, are hereby incorporated and made a part of this Title.

CHAPTER 2
COIN-OPERATED AMUSEMENT DEVICES
(Rep. by Ord. 627, 2-21-1995)

CHAPTER 3
SOLICITORS AND CANVASSERS

3-3-1: DEFINITION:

A canvasser or solicitor is defined as any individual, whether resident of the City, or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, person property of any nature whatsoever for future

delivery, or for service to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether collecting advance payments on such sales or not; provided, that such definition shall include any person who, for himself, or for any other or for any other person hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or any other place within the City for the sole purpose of exhibiting sample and taking orders for future delivery. Provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise and services to merchants of this City, nor to newspaper vendors. (Ord. 212, 6-6-49)

3-3-2: PERMIT AND LICENSE REQUIRED:

It shall be unlawful for any solicitor or canvasser as defined in Section 3-3-1 of this Chapter to engage in such business within the corporate limits of the City without first obtaining a permit and license therefor in compliance with the provisions of this Chapter. (Ord. 212, 6-6-49)

3-3-3: APPLICATION FOR PERMITS AND LICENSES:

Applicants for permits and licenses under this Chapter must file with the City Recorder a sworn application in writing (in duplicate) on a form to be furnished by the City Recorder, which shall give the following information:

- A. Name and description of applicant.
- B. Permanent home address and full local address of the applicant.
- C. A brief description of the nature of the business and goods to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the right to do business is desired.
- F. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- G. A photograph of the applicant taken within sixty (60) days immediately prior to the date of filing the application, which picture shall be a two inch by two inch (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishing manner. The fingerprints of the applicant, and names of at least two (2) reliable property owners in the County of Umatilla, State of Oregon, who will certify as to the applicant's good character and business respectability, or in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigation to properly evaluate such character and business responsibility.

- H. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any Municipal ordinance, the nature of the offense and the punishment of the penalty assessed therefor.

At the time of filing the application, a fee as may be set by resolution 16 shall be paid to the City Recorder to cover the cost of investigation of the facts stated therein. (Ord. 212, 6-6-49; amd. Ord. 518, 10-21-85)

3-3-4: LICENSE FEES; EXCEPTIONS:

- A. License Fees: License fees to be paid by each licensee prior to the issuance of any license shall be as provided in Section 1-12-4 of this Code and as set by resolution.
- B. Exceptions:
1. No fee shall be required of one selling products of the farm or orchard actually produced by the seller.
 2. No fee shall be required of one soliciting for any regularly and permanently established merchant of the City.
 3. No fee shall be required of one selling goods or merchandise or performing services on a purely nonprofit basis for charitable, educational or religious benefit; provided, such facts are established by the applicant to the satisfaction of the City Recorder.
- C. Right to Solicit Without Payment: Any and all persons claiming to have the right under State or Federal law to solicit or canvass in the City without payment of license fee, shall nevertheless, apply for and secure a solicitor's or canvasser's license in the manner set forth in this Chapter and it shall be the duty and responsibility of such person to establish their right to receive such license without payment of fees herein set forth to the satisfaction of the City Recorder, or the Chief of Police of said City in event of the absence of the City Recorder from said City.
- D. Assistants: For each helper or assistant to those who must procure the permit and license for soliciting or canvassing, said helpers or assistants must procure the permit and license as herein provided for soliciting and canvassing. (Ord. 212, 6-6-49; amd. Ord. 518, 10-21-85)

3-3-5: INVESTIGATION AND ISSUE:

Upon receipt of such application, the same shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as deemed necessary for the protection of the public good, and who shall make a report thereof to the City Recorder within a period of ten (10) days from the date of the filing of the application.

- A. Disapproved: If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the

City Recorder, who shall notify the applicant that his application is disapproved and that no permit will be issued.

- B. Approval: If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the City Recorder who shall, upon payment of the prescribed fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer, and shall show the name, address and photograph of said licensee, the fee paid, the date of issuance, and the length of time the same shall be operating, as well as license number and other identifying description of any vehicle used in such soliciting or canvassing. The Recorder shall keep a permanent record of all licenses issued.
- C. Bond in Lieu of Investigation: If any applicant for a permit and license shall be unwilling to receive a license only upon the conclusion of a ten (10) day period of investigation as provided herein, and desires the issuance immediately upon application for such permit, the applicant may deposit with the City Recorder a cash or good and sufficient surety bond in the sum of one thousand dollars (\$1,000.00) conditioned upon the making of final delivery of the goods ordered or services to be performed in accordance with the terms of such order or failing therein, that the advance payment of such order be refunded and thereupon such license or licenses may immediately be issued. Any person aggrieved by the action of any solicitor or canvasser shall have a right of action on the bond for recovery of money or damages or both. Such bond shall remain on deposit for a period of ninety (90) days after the expiration of such license, unless sooner released by the City Council of the City. (Ord. 212, 6-6-49)

3-3-6: EXHIBITION OF LICENSE:

Solicitors and canvassers are required to exhibit licenses at request of any citizen. (Ord. 212, 6-6-49)

3-3-7: DUTY OF POLICE TO ENFORCE:

It shall be the duty of any police officer of the City to require any person seen soliciting or canvassing, or who is not known by such officer to be duly licensed, to produce a solicitor's or canvasser's license and to enforce the provisions of this Chapter against any person found to be violating the same. (Ord. 212, 6-6-49)

3-3-8: REVOCATION OF LICENSE:

- A. Revocation: Permits and licenses issued under the provisions of this Chapter may be revoked by the City Recorder, after notice and hearing, for any of the following causes:
1. Fraud, misrepresentation, or false statement contained in the application for license;
 2. Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or canvasser;

3. Any violation of this Chapter;
4. Conviction of any crime or misdemeanor involving moral turpitude; or
5. Conducting the business of soliciting or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice of Hearing: Notice of hearing for revocation of a license shall be given in writing, setting forth specifically, the grounds of complaint and the time and place of hearing. Such notice will be mailed, postage prepaid, to the licensee, at his/her last known address at least five (5) days prior to the date set for hearing. (Ord. 212, 6-6-49)

3-3-9: APPEAL:

Any person aggrieved by the action of the Chief of Police or the City Recorder in the denial of a permit or license as provided in Section 3-3-4 of this Chapter, or the action of the Mayor in assessing the fee as provided in Section 3-3-5 this Chapter, shall have the right to appeal to the Council, within fourteen (14) days, after notice of the action complained of has been mailed to such person's last known address, written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided in Section 3-3-8 of this Chapter for notice of hearing on revocation. The decision and order of the Council on such appeal shall be final and conclusive. (Ord. 212, 6-6-49)

3-3-10: RECORDS:

The City Recorder shall maintain a record for each license issued and record the reports of conviction for violations of this Chapter therein. (Ord. 212, 6-6-49)

3-3-11: PENALTY:

Any person violating any of the provisions of this Chapter shall, upon conviction, be punished by the imposition of a Class B civil fine¹⁷. (Ord. 513, 2-4-85; 1993 Code)

CHAPTER 4 SECONDHAND DEALERS

3-4-1: PURPOSE:

The purpose of this Chapter is to provide strict regulation of certain business activities that the Council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of goods and materials that are processed in such businesses. Therefore, this Chapter is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The Council finds that the regulations provided herein are necessary and the need for the regulations outweighs any anti-competitive effect that may result from adoption. (Ord. 488, 11-1-82)

3-4-2: DEFINITIONS:

When used in this Chapter, the following words and terms shall have the meanings herein ascribed to them:

PERSON: Any real person, partnership, association or corporation.

PURCHASE: To transfer property from a person, not representing a bona fide business, to any dealer regulated by this Chapter, for any valuable consideration. Purchase does not include a consignment of property for sale.

SECONDHAND DEALER: Any person, engaged in, conducting, managing or carrying on a business that purchases used:

- A. Air conditioners;
- B. Amplifiers, video recording equipment and accessories;
- C. Cameras, projectors and accessories;
- D. Citizen's band and walkie-talkie equipment;
- E. Clocks and watches;
- F. Electronic testing, regulating and repair equipment;
- G. Guns and equipment;
- H. Hi-fi, stereo, radios, tape recorders/players;
- I. Jewelry;
- J. Microwave ovens;
- K. Office equipment including typewriters, calculators, recorders, transcribers and computers;
- L. Sewing machines;
- M. Silverware;
- N. Telephones;
- O. Televisions;
- P. Tools; and

Q. Items of a similar nature, from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business, and required to have a business license. (Ord. 488, 11-1-82)

3-4-3: RECORD FORMS:

- A. All secondhand dealers shall, at the time of purchasing any article in the business which is regulated by this Chapter from any person not representing a bona fide, licensed business who appears with such article at the dealer's place of business, place the description of the article purchased upon a form which shall be provided by the Police Department 18.
1. In lieu of the use of forms supplied by the Police Department, the dealer may utilize his own forms if such forms have been approved by the Chief or his designee. The form provided for herein shall be of such size, shape and color and shall require such information relating to the regulations of this Chapter, as the Chief of Police or his designee may direct.
 2. The description of an article so purchased shall be of such description as may be called for by the form. The dealer shall fill in all of the blank spaces on such form with such data as is required by the form and require the person selling any article regulated by this Chapter to sign his name on such form.
 3. Such form shall be filled out in clear legible printing.
 4. Further, property regulated pursuant to this Chapter shall only be purchased by the dealer after the seller has presented proper identification.
 5. Since the information that is required to be furnished pursuant to this Section to aid in the investigation of the theft of property is of a confidential nature and related to the privacy of persons doing business with such dealers, such information shall be considered to be confidential and privileged from disclosure to the maximum extent possible under applicable law.
- B. The dealer's copy of all such forms shall be retained for a period of not less than one year.
- C. Every person regulated by the provisions of this Section shall mail or deliver to the Chief of Police or his designee, not later than Thursday of each week, all of such forms, or legible copies thereof, describing articles purchased by him during that business week. (Ord. 488, 11-1-82)

3-4-4: DISPOSITION OF PROPERTY:

- A. No property purchased by any secondhand dealer, as regulated by this Chapter, shall be sold for a space of ten (10) full days after purchase. Such property shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during this ten (10) day holding period. Notwithstanding this requirement, the Chief of Police, or his designee, may authorize, in cases in which it is shown that extreme

financial hardship will result from holding an item for the ten (10) day period, the sale or transfer of such item before the expiration of this period.

- B. Whenever the Chief of Police, or his designee, upon reasonable belief that the specific property is the subject of theft, notifies in writing, any secondhand dealer not to dispose of any specifically described property purchased, the property shall be retained in substantially the same form and shall not be sold, exchanged, dismantled, or otherwise disposed of for a period of time, not to exceed thirty (30) days, as determined by the Chief of Police or his designee. (Ord. 488, 11-1-82)

3-4-5: ARTICLES TO BE TAGGED:

Any antique dealer, precious metal and gem dealer, or secondhand dealer purchasing any article in the business which is regulated by this Chapter from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business, shall affix to the article a tag upon which shall be written a number in legible characters, which number shall correspond to the number on the record forms required to be kept by Section 3-4-3 of this Chapter. (Ord. 488, 11-1-82)

3-4-6: INSPECTION OF ARTICLES AND RECORDS:

All persons licensed to do business as a secondhand dealer, and any person employed by such dealer, shall permit the Chief of Police or his designee, upon presentation of official identification, entry to such business premises for the limited purpose of inspecting any articles purchased in the business as regulated by this Chapter and currently being held pursuant to Section 3-4-4 and/or the records incident thereto, to ensure compliance with the provisions of this Chapter. Any such inspection shall only be authorized during normal business hours. (Ord. 488, 11-1-82)

3-4-7: PENALTIES:

The violation of or participation in the violation of any section of this Chapter, by any person engaged in a business regulated under this Chapter, is punishable, upon conviction, by the imposition of a Class C civil fine¹⁹. (Ord. 488, 11-1-8; 1993 Code)

**CHAPTER 5
TRANSIENT ROOM TAX**

3-5-1: DEFINITIONS:

For purposes of this Chapter, the following shall mean:

ACCRUAL ACCOUNTING: A system of accounting in which the operator enters the rent due from a transient into the record when the rent is earned, whether or not it is paid.

CASH ACCOUNTING: A system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

MOTEL: A part of a structure that is occupied or designed for occupancy by transients for lodging or sleeping, including a hotel, inn, tourist home or house, motel, studio hotel, bachelor

hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure.

OCCUPANCY: Use or possession of, or the right to use or possess, a room in a motel or a space in a recreation park for lodging or sleeping.

OPERATOR: A person who is the proprietor of a motel or recreation park in any capacity. When an operator's functions are performed through a managing agent of a type other than an employee, the managing agent shall also be considered an operator. For purposes of this Chapter, compliance by either the operator or the managing agent shall be considered by both.

PERSON: 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 another group or combination acting as a unit.

RECREATION PARK: Any area designated by the person establishing, operating, managing, or maintaining the same for overnight camping by the general public. "Recreation park" shall mean only those areas available for use through the payment of a fee, and shall include spaces for recreational vehicles under the general heading of "camping".

RENT: The gross rent, exclusive of other services.

TAX: Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR: The City Finance Officer²¹ and/or Administrator as appointed by the City Council.

TRANSIENT: An individual who occupies or is entitled to occupy space in a motel or a recreation park for a period of thirty (30) consecutive days or less, counting portions of days as full days. The day a transient checks out of a motel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day. A person occupying space in a motel shall be considered a transient until a period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or the tenant actually extends occupancy more than thirty (30) consecutive days. A person who pays for lodging on a monthly basis regardless of the number of days in the month, shall not be considered a transient.

TRANSIENT ROOM TAX REVIEW COMMITTEE (Referred to as Committee): A five (5) member advisory committee appointed to review and recommend expenditures of revenue from the transient room tax and to hear appeals. (Ord. 563, 10-2-89)

3-5-2: TAX IMPOSED:

- A. A transient shall pay a tax in the amount of one dollar (\$1.00) per room per day for the privilege of occupancy in a motel in the City, and fifty cents (\$0.50) per space per day for the privilege of occupancy of a space in a recreation park.
- B. Hereafter, unless otherwise specified, references to "motel" and "rooms" shall be deemed to include "recreation parks" and "spaces" respectively. The tax constitutes a debt owed by the transient to the City, and the debt is extinguished only when the tax is remitted by the operator to the City. The transient shall pay the tax to the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the cash accounting basis and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services or commodities.
- C. The amount of tax imposed shall be reviewed and subject to request for modification at least every five (5) years by a majority of members of the Transient Room Tax Review Committee as set forth hereinafter. In the event the tax is to be decreased, it shall be brought before the Council for approval and made part of this Chapter. In the event the tax is to be increased, the Council shall prepare a measure and the tax shall not be increased unless the tax measure is approved by a majority vote of the people. (Ord. 563, 10-2-89)

3-5-3: COLLECTION OF TAX:

- A. Every operator renting space for lodging, sleeping, or camping shall collect a tax from the occupant. The tax collected or accrued constitutes a debt owed by the operator to the City.
- B. In the cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.
- C. The Tax Administrator shall enforce this Chapter and may adopt rules and regulations necessary for enforcement. (Ord. 563, 10-2-89)

3-5-4: OPERATOR'S DUTIES:

An operator shall collect the tax when the rent is collected from the transient. The amount of tax shall be stated separately in the operator's records and on receipt given by the operator. An operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the operator, or that a portion will be refunded, except in the manner provided by this Chapter. (Ord. 563, 10-2-89)

3-5-5: EXEMPTIONS:

The tax shall not be imposed on:

- A. An occupant staying for more than thirty (30) consecutive days.

- B. An occupant whose rent is less than ten dollars (\$10.00) per day, with the exception of spaces in a recreation park.
- C. A person who rents a private home, vacation cabin, similar facility, or camping space, from an owner who personally rents the facility incidentally to the owner's personal use. (Ord. 563, 10-2-89)

3-5-6: REGISTRATION REQUIREMENTS:

- A. Operator's Registration Required: An operator of a motel shall register with the Tax Administrator, on a form provided by the Administrator, within fifteen (15) days after beginning business or within thirty (30) days after passage of this Chapter.
- B. Contents of Registration: The registration shall include:
 - 1. The name under which the operator transacts or intends to transact business.
 - 2. The location of the motel.
 - 3. Any other information the Tax Administrator may require to facilitate collection of the tax.
 - 4. The signature of the operator.
- C. Failure to register does not relieve the operator from collecting the tax or a person from paying the tax.
- D. Certificate of Authority:
 - 1. The Tax Administrator shall issue a certificate of authority to the registrant within ten (10) days after registration.
 - 2. Certificates are nonassignable and nontransferable and shall be surrendered immediately to the Tax Administrator on cessation of business at the location named or when the business is sold or transferred. However, in the event the business is transferred to a partnership or corporation wherein the proprietor still retains a majority interest, then the operator is only required to register the new name and other required information with the Tax Administrator.
 - 3. Each certificate shall state the place of business to which it applies and shall be prominently displayed.
 - 4. The certificate shall state:
 - a. The name of the operator.
 - b. The address of the motel.
 - c. The date when the certificate was issued.
 - d. "This transient occupancy registration certificate signifies that the person named on the certificate has fulfilled the requirements of the Transient Room Tax Ordinance of

the City by registering with the Tax Administrator for the purpose of collecting the room tax imposed by the City and remitting the tax to the Tax Administrator." (Ord. 563, 10-2-89)

3-5-7: COLLECTION, RETURNS AND PAYMENTS:

- A. The taxes collected by an operator are payable to the Tax Administrator on a quarterly basis on the fifteenth day of the following month for the preceding three (3) months and are delinquent on the last day of the month in which they are due. The initial return may be for less than the three (3) months preceding the due date. The quarters are:
 - 1st Quarter: January, February, March
 - 2nd Quarter: April, May, June
 - 3rd Quarter: July, August, September
 - 4th Quarter: October, November, December
- B. A return showing tax collections for the preceding quarter shall be filed with the Tax Administrator, in a form prescribed by the Tax Administrator, by the thirtieth day of the month following each collection quarter.
- C. Returns shall show the amount of tax collected or due for the related period. The Tax Administrator at its discretion may require returns to show the total rentals on which the tax was collected or is due, a detailed explanation of any discrepancy between the amounts, and the amount of rentals exempt.
- D. The operator shall deliver the return and the tax due to the tax administrator's office. 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 the time for filing a return or paying the tax for not more than one month. Further extension may be granted only by the Committee. An operator to whom an extension is granted shall pay interest at the rate of one and five-tenths percent (1.5%) per month on the amount of tax due, without proration for a fraction of a month. If a return is not filed and if the tax and interest due are not paid by the end of the extension granted, the interest shall become a part of the tax for computation of penalties prescribed in Section 3-5-8 of this Chapter.
- F. The Tax Administrator may require returns and payment of the taxes for other than quarterly periods in individual cases to ensure payment or to facilitate collection by the City upon good cause and approval by the Committee. (Ord. 563, 10-2-89)

3-5-8: DELINQUENCY PENALTIES:

- A. An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of ten percent (10%) of the tax due in addition to the tax.

- B. An operator who has not been granted an extension of time for remittance of tax due and who fails to pay a delinquent remittance before the expiration of thirty one (31) days following the date of which the remittance became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the tax due, the amount of the tax, and the ten percent (10%) penalty first imposed.
- C. If the Committee determines that nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of twenty five percent (25%) of the tax shall be added to the penalties stated in subsections A and B.
- D. In addition to the penalties imposed by this Section, an operator who fails to remit the required tax shall pay interest at the rate of one and five-tenths percent (1.5) per month, without proration for portions of a month, on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.
- E. Each penalty imposed and the interest accrued under provisions of this Section shall be merged with and become part of the tax required to be paid.
- F. An operator who fails to remit the tax within the required time may petition the Committee for waiver and refund of the penalty or a portion of it. The Committee may, if good cause is shown, direct a refund of the penalty or a portion of it. (Ord. 563, 10-2-89)

3-5-9: DEFICIENCY DETERMINATIONS; NOTICE:

- A. Deficiency Determinations: The Tax Administrator shall review returns filed in accordance with this Chapter. In doing so, he shall have the power to determine if the returns are incorrect and the amount required to be paid on the basis of the facts contained in the return or on the basis of any other information.
 - 1. A deficiency determination may be made on the amount due for one or more than one period. The determined amount shall be payable immediately on service of notice, after which the determined amount is delinquent. Penalties on deficiencies shall be applied as provided in Section 3-5-8 of this Chapter.
 - 2. In making a determination, the Tax Administrator may offset overpayments that have been 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 3-5-8 of this Chapter.
- B. Notice of Determination:
 - 1. The Tax Administrator shall give the operator a written notice of the determination either personally or by mail. If the notice is mailed it shall be done by certified mail, return receipt requested and addressed to the operator at the address that appears on the records of the Tax Administrator, and service is complete when the notice is received by the operator.

2. Except in the case of fraud or intent to evade the tax, a deficiency determination shall be made and notice mailed within three (3) years after the last day of the month following the close of the quarterly period for which the determination has been made or within three (3) years after the return is filed, whichever is later. (Ord. 563, 10-2-89)

3-5-10: FRAUD; REFUSAL TO COLLECT; EVASION:

- A. If an operator fails or refuses to collect the tax, make the report, or remit the tax, or makes a fraudulent return or otherwise willfully attempts to evade the tax payment, the Tax Administrator shall obtain facts and information on which to base an estimate of the tax due. After determining the tax due and the interest and penalties, the Tax Administrator shall give notice of the total amount due.
- B. Determination and notice shall be made and mailed by certified mail return receipt requested within three (3) years after discovery of fraud, intent to evade, failure or refusal to collect the taxes, or failure to file a return. The determination becomes payable immediately on receipt of notice and becomes final ten (10) days after the operator has received notice.
- C. The operator may petition for redemption and refund if the petition is filed before the determination becomes final as set out in this Section. (Ord. 563, 10-2-89)

3-5-11: REDETERMINATIONS:

- A. Redetermination Petition: A determination becomes payable immediately on receipt of notice and becomes final within ten (10) days after the operator has received notice. However, the operator may petition for redetermination and refund by filing a petition before the determination becomes final as set forth herein.
- B. Redetermination:
 1. An operator against whom a determination is made under Section 3-5-9 of this Chapter, or a person directly interested, may petition the Committee for a redetermination, redemption and refund within the time required in subsection A hereinabove, on forms provided by the Tax Administrator. If a petition for redetermination and refund is not filed within the time required, the determination is final on expiration of the allowable time.
 2. If a petition for redetermination and refund is filed within the allowable period, the Committee shall reconsider the determination and, if the operator requested a hearing in the petition, shall grant the hearing and give the operator fifteen (15) days' notice of the time and place of the hearing. The Tax Administrator may continue the hearing if necessary.
 3. The Committee 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.

4. The decision of the Committee on a petition for redetermination becomes final twenty (20) days after service of notice on the petitioner unless appeal of the decision is filed with the City Council by the Tax Administrator within twenty (20) days after notice is served per Section 3-5-16 of this Chapter. (Ord. 563, 10-2-89)

3-5-12: SECURITY FOR COLLECTION OF TAX:

- A. The Committee may require an operator to deposit security in the form of cash, bond, or other security in the event an operator is found to be delinquent in taxes pursuant to any portion of this Chapter. However, this Section shall not apply if the operator has filed a form of petition affecting payment or any amount of tax due. The amount of security shall be fixed by the Committee and shall be not greater than twice the operator's estimated average quarterly liability for the period for which the operator files returns or five thousand dollars (\$5,000.00), whichever amount is less.
- B. Within three (3) years after the tax becomes payable or within three years after a determination becomes final, the Tax Administrator may bring an action in the name of the City in the courts of this State, another state, or the United States to collect the amount delinquent and penalties and interest. (Ord. 563, 10-2-89)

3-5-13: LIENS:

- A. The tax, interest, penalty and filing fees paid to the Tax Administrator and any advertising costs incurred when the tax becomes delinquent shall be a lien from the date of its recording with the County Clerk until the tax is paid. The lien shall be superior to all subsequently recorded liens on all tangible personal property in the operator's motel. The lien may be foreclosed and the necessary property may be sold to discharge the lien.
- B. Notice of the lien shall be issued by the Tax Administrator when the operator has defaulted in payment of the tax, interest and penalty. A copy of the notice shall be sent by certified mail to the operator.
- C. Personal property subject to the lien may be foreclosed in the same manner as a nonpossessory chattel lien as set forth in ORS Chapter 87.
- D. A lien for the tax, interest and penalty shall be immediately released by the Tax Administrator when the full amount has been paid to the City. The operator or person making the payment shall receive a receipt stating that the full amount of the tax, interest and penalty has been paid, that the lien is released and that the record of the lien is satisfied. (Ord. 563, 10-2-89)

3-5-14: REFUNDS:

- A. Refunds by City to Operator: When the 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 if a written claim stating the specific reason for the claim is filed within three (3)

years from the date of payment. The claim shall be submitted on forms provided by the Tax Administrator. If the claim is approved by the Committee the excess amount may be refunded to the operator or it may be credited to an amount then due and payable by the operator at the option of the Committee and any balance refunded.

- B. Refunds by City to Transient: If the tax has been collected by the operator and deposited with the Tax Administrator and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded to the transient if a written verified claim by the transient stating the specific reason for the claim is filed with the Tax Administrator within three (3) years from the date of payment. Notice of the refund available shall be mailed to the transient at the address the operator has on file or is known to the operator. The City shall give the transient thirty (30) days from the date of mailing in which to file a verified claim for refund. In the event a claim is not made within the thirty (30) day period or in the event the City is unable to locate the transient, said amount shall be deposited into the Transient Room Tax Fund. The City is authorized to pay over any refund to an employer of the transient employee or to the transient's agent or successor upon filing the verified claim as herein set forth.
- C. Refunds by Operator to Transient: If the tax has been collected by the operator and it is later determined that the transient occupied the motel for a period exceeding thirty (30) days without interruption, the operator shall refund the tax to the transient. The operator shall account for the collection and refund to the Tax Administrator. If the operator has remitted the tax prior to refund or credit to the transient, the operator shall be entitled to a corresponding refund. (Ord. 563, 10-2-89)

3-5-15: ADMINISTRATION OF REGULATIONS:

- A. Records Required from Operators: Every operator shall keep guest records, accounting books, and records of room rentals for a period of three (3) years and six (6) months.
- B. Examination of Records: During normal business hours and after seventy two (72) hour notice to the operator, the Tax Administrator may examine books, papers, and accounting records related to room rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. In the event the operator refuses to turn over the books, then the Tax Administrator shall be entitled to injunctive relief.
- C. Confidentiality: 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 transient occupancy 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 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:

1. Disclosure to or examination of records and equipment by a City official, employee or agent for collecting taxes for the purpose of administering or enforcing the provisions or collecting the taxes imposed by this Chapter.
2. Disclosure, after filing a written request, to the taxpayer, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, in information concerning tax paid, unpaid tax, amount of 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's opinion, the public interests would suffer.
3. Disclosure of names and addresses of persons making returns.
4. Disclosure of general statistics regarding taxes collected or business done in the City. (Ord. 563, 10-2-89)

3-5-16: APPEALS TO THE COUNCIL:

A person aggrieved by a decision of the Committee may appeal to the City Council in the form prescribed by the Tax Administrator within twenty (20) days of service or mailing by certified or registered mail a copy of the decision. The Council shall consider the matter at its next regular meeting but may adjourn the matter for a maximum period of one month from the date of that meeting in order to fully investigate the facts. They shall render their decision in writing and no other appeals shall be heard. If not paid within thirty (30) days after the decision is made, collection procedures may begin. The lien mentioned herein becomes effective upon the initial determination. (Ord. 563, 10-2-89)

3-5-17: TRANSIENT ROOM TAX FUND:

- A. All revenues received from the tax shall be deposited into a special fund known as the City Transient Room Tax Fund. The Tax Administrator's office may be allocated not more than five percent (5%) of the revenue collected for administration of the Chapter. The remaining revenue shall be spent in the following manner:
- B. It is the intent that fifty percent (50%) of the revenue from this Chapter be used in the promotion, acquisition, construction, operation, and maintenance of the Old Town Site and river frontage development, and fifty percent (50%) of the revenue from this Chapter be transferred to the Umatilla Chamber of Commerce.
- C. Any unused revenues may be invested by the City at the highest rate available and such revenues and interest shall be allocated to the Transient Room Tax Fund to be used for the purposes of this Chapter. (Ord. 563, 10-2-89)

3-5-18: SOLE TAX:

In the event any other tax of this nature is assessed upon the operation affected by this Chapter, then from the effective date of the new, this tax shall cease and this Chapter shall be of no further force and effect. (Ord. 563, 10-2-89)

3-5-19: APPROPRIATING MONEY FOR MUSEUM SUPPORT; LIMITING EXPENDITURES AND PROVIDING OVERSIGHT:

- A. Notwithstanding Section 3-5-17 of this Chapter, there is appropriated to the Umatilla Museum and Historical Foundation beginning July 1, 1995 the amount of three thousand six hundred dollars (\$3,600.00) annually from the Transient Room Tax Fund for support of a museum to help provide for property acquisition and operating expenses to house the history of the community.
- B. The appropriation will be paid as follows:
 - August 15 \$900.00
 - November 15 900.00
 - February 15 900.00
 - May 15 900.00The money shall be used for property acquisition or rental of a building within the City limits, utilities for the building and the purchase of materials for the upkeep and maintenance of the building and museum inventory.
- C. The Umatilla Museum and Historical Foundation will provide the City with an accounting of how the money is spent on or before August 1, November 1, February 1, and June 1. Vouchers for all disbursements must be filed with the accounting.
- D. The museum may share building space with other tenants, but a significant portion of the building must be used for museum purposes.
- E. The Transient Room Tax Committee shall review the accounting and operation of the museum for compliance with this Section. It will provide the City Council with quarterly reports and recommendations to continue the quarterly payments, to increase the quarterly payments or to reduce or eliminate the quarterly payments.
- F. The City Council may reduce or terminate any of the quarterly payments in subsection B above after written notice of the reasons therefor and an opportunity for a hearing is provided to the Umatilla Museum and Historical Foundation.
- G. This appropriation shall be allocated from that portion of the Transient Room Tax Fund set aside for the Old Town Site and river frontage development. (Ord. 633, 6-20-95)

3-5-20: PENALTIES:

Failure to register pursuant to this Chapter is punishable, upon conviction, by the imposition of a Class C civil fine²³, in addition to the penalties assessed for nonpayment as set forth herein. (Ord. 563, 10-2-89; 1993 Code)

**CHAPTER 6
SOCIAL GAMBLING**

3-6-1: DEFINITIONS ADOPTED:

The definitions for ORS 167.117 to 167.162, as now constituted, are adopted by reference as definitions for use in this Chapter, unless the context requires otherwise. A copy of ORS 167.117 is incorporated herein by this reference and available for inspection in the office of the City Recorder. (Ord. 551, 7-18-88)

3-6-2: SOCIAL GAMBLING AUTHORIZATION:

Private businesses, private clubs and places of public accommodation within the City may conduct social games or allow social games on their premises, subject to the other sections of this Chapter. (Ord. 551, 7-18-88)

3-6-3: LICENSE, REGULATIONS AND FEES:

The City Administrator shall prepare license forms which permit the conducting of social games upon the licensee's premises. The license shall run from January 1 to December 31 of each year. The license fee shall be set by resolution²⁴ of the City Council. The City Council is delegated the authority to amend the rates by resolution and to also make periodic adjustments of the rates by resolution. (Ord. 551, 7-18-88)

3-6-4: PROHIBITIONS:

- A. No private business, private club or place of public accommodation shall allow or permit a social game on its premises without first obtaining a license from the City and paying the necessary license fees.
- B. No social game shall be played or permitted in any private business, private club or any place of public accommodation except in a designated unlocked portion of said establishment.
- C. No private businesses, private clubs or places of public accommodation shall refuse inspection by law enforcement officers at any time.
- D. No social games shall be played or permitted in any private business, private club or place of public accommodation between the hours of two thirty o'clock (2:30) A.M and eight o'clock (8:00) A.M.
- E. No social games shall be played or permitted in any private business, private club or any place of public accommodation unless such business, club or place exists for the purpose of providing other, substantial, legitimate commercial services which are not otherwise associated with gambling or social games.
- F. No private business or private club may operate for the sole purpose of providing a place at which social games are conducted.
- G. No wager in a social game shall exceed twenty dollars (\$20.00). (Ord. 551, 7-18-88)

3-6-5: REVOCATION OF LICENSE:

A license for social games may be revoked or not renewed by the City if the holder of said license is convicted of any Federal, State or City law, statute or ordinance relating to gambling, after hearing by the City Council. (Ord. 551, 7-18-88)

3-6-6: PENALTY:

Violation of Section 3-6-4 of this Chapter is punishable, upon conviction, by the imposition of a Class B civil fine²⁵. (Ord. 551, 7-18-88; 1993 Code)

**CHAPTER 7
ALARM SYSTEM CONTROL**

3-7-1: TITLE:

This Chapter shall be known as ALARM SYSTEM CONTROL ORDINANCE FOR THE CITY OF UMATILLA ("City") and may be so pleaded and shall be referred to herein as "this Chapter". (Ord. 593, 10-20-92)

3-7-2: PURPOSE:

- A. The public interest requires the enactment of rules, regulations, standards and procedures to regulate and control the private alarm business within the corporate limits of the City for the following purposes:
1. Those alarm users who are responsible for excessive false alarms and who fail or refuse to remedy the cause of excessive false alarms demonstrate their indifference to limited police resources being devoted to unnecessary emergency responses, and such users should be treated by punitive measures.
 2. This Chapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency responses to false alarms and thereby protect the emergency response capability of the City from misuse.
 3. Except where otherwise expressly provided, this Chapter governs all alarm systems eliciting a police response, requires annual permits, establishes fees and charges and provides for the enforcement of violations. (Ord. 593, 10-20-92)

3-7-3: DEFINITIONS:

For the purpose of this Chapter, the following definitions apply:

ALARM BUSINESS: A person, or other legal entity, engaged in the profit-oriented selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing of any alarm system in or on any building, structure, facility or portion thereof.

ALARM SYSTEM: An assembly or equipment, mechanical or electrical or both, designed and used to signal the occurrence of an illegal or unauthorized entry or attempted entry or other illegal activity on the premises of the alarm user, which requires or solicits urgent attention and to which the police are expected to respond.

ALARM USER: A person, or other legal entity in control of a building, structure, facility or portion thereof within the City wherein an alarm system is used.

AUTOMATIC DIALING DEVICE: A device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and to transmit by voice message or code signal an emergency message indicating a need for emergency response. An automatic dialing device is an alarm system.

COORDINATOR: The individual, designated by the City Administrator to issue permits and administer the provisions of this Chapter.

COUNCIL: The Umatilla City Council, the governing body of the City of Umatilla, Oregon.

EXCESSIVE FALSE ALARM: A false alarm which occurs following three (3) previous false alarms within a one year period.

FALSE ALARM: Signal or activation by an alarm system which elicits a response by the Umatilla Police Department ("UPD") when a situation requiring a response by the police does not in fact exist. False alarm does not include an alarm signal by an alarm system, which is caused by violent and extraordinary conditions of nature or other extraordinary circumstances not reasonably anticipated or subject to control by the alarm business operator or the alarm user.

GOVERNMENTAL POLITICAL UNIT: Any tax supported public agency.

HANDICAP: A physical or mental impairment which for the individual constitutes or results in a functional limitation to one or more major life activities, as defined in ORS 443.580 (2).

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

MONITORING CENTER: A facility used to received emergency and general information from an alarm user and to direct an emergency response.

PERMIT: An alarm user permit, issued by the City under this Chapter.

PERMIT RENEWAL: The act of applying for a new permit to take the place of an expired permit, where the alarm system under both permits is designed and used for substantially the same building, structure, facility or portion thereof.

PRIMARY TRUNK LINE: A telephone line serving the police dispatch center that is designed to receive police calls. (Ord. 593, 10-20-92)

**3-7-4: ALARM USER PERMITS REQUIRED; PAYMENT OF PERMIT FEES
REQUIRED:**

- A. Every alarm user shall obtain an alarm user permit for each alarm system proposed to be used by the alarm user from the City within thirty (30) days after the effective date hereof or at the time an alarm system is activated.
- B. Every alarm user shall complete and submit an application form and pay all required fees and charges as established by the City Council by resolution.
- C. The City Administrator shall prescribe the form of the permit application, but it shall consist of at least the following parts. Additional parts may be inserted for administrative purposes.
 - 1. The name of the alarm user;
 - 2. The address of the alarm user and the address where the alarm system has been or will be installed and used;
 - 3. The name of the current emergency notification person(s) and their telephone numbers(s);
 - 4. The justification, if any, for requesting a waiver of application fee and renewal fees; and
 - 5. The name of the current alarm business responsible for operating a monitoring center for the alarm system, if any.
- D. Each permit shall be valid for one year from the date of issuance. The permit will show the date of expiration on its face.
- E. The permit shall be physically kept upon the premises where the alarm system is located and shall be available for inspection upon request. An alarm permit is valid only for the permittee and is not transferable from one person to another or from one address to another.
- F. A residential alarm user who lives on the premises, who owns or is the named lessee on the property in which the alarm system is located, who conducts no profit-oriented business on the premises and who is sixty five (65) years of age or older or is handicapped, shall be entitled to a waiver of application and renewal fees but not excessive alarm and late charges. An alarm user permit shall be obtained.
- G. A business alarm user whose business license is paid up shall be entitled to a waiver of application fees and renewal fees but not excessive alarm and late charges. An alarm user permit shall be obtained.
- H. It is an offense, punishable as a violation for any person to use, operate or maintain an alarm system within the City without obtaining and maintaining a current, valid alarm user permit, paying all required fees and charges and complying with all provisions of this Chapter.

- I. A late charge in an amount adopted by Council resolution will be imposed and added to the permit fee and paid by an alarm user who fails to obtain a permit within thirty (30) days after such permit is required or by an alarm user who fails to renew a permit within thirty (30) days after a permit has expired.
- J. An alarm user which is a governmental political unit shall obtain and maintain a permit and is subject to the requirements of this Chapter; however, permit application and renewal fees shall be waived but not excessive false alarm and late charges. (Ord. 593, 10-20-92)

3-7-5: DUTY TO MAINTAIN ALARM SYSTEM; PERMIT INFORMATION:

- A. It shall be the duty of an alarm user to maintain its alarm system in good operating condition and free of false alarms.
- B. It shall be the duty of the alarm user to provide the coordinator with current information on the permit application. Any changes in the information contained on the permit application shall be promptly submitted to the coordinator within ten (10) days of such change.
- C. An alarm user whose alarm system generates ten (10) or more false alarms within the period of a year violated this Chapter. (Ord. 593, 10-20-92)

3-7-6: USER INSTRUCTIONS:

Every Alarm business, which operates as such on behalf of alarm users within the City shall furnish the user with instructions which enable the user to operate the alarm system properly without false alarms and to obtain service for the alarm system. (Ord. 593, 10-20-92)

3-7-7: AUTOMATIC DIALING DEVICE; CERTAIN INTERCONNECTIONS PROHIBITED:

- A. Except as provided in subsection D of this Section, it is unlawful for any person to program an automatic dialing device to select a primary trunk line or any 911 trunk line, capable of signaling a need for police response; and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line within twelve (12) hours of receipt of written notice from the Umatilla Police Department, directing that such disconnection or reprogramming occur.
- B. Within sixty (60) days after the effective date hereof, all existing automatic dialing devices programmed to select a primary trunk line shall be reprogrammed or disconnected.
- C. Except as provided in subsection D of this Section, it is unlawful for any person to program an automatic dialing device which selects any telephone line assigned to the City, and it is unlawful for an alarm user to fail to disconnect or reprogram such a device within twelve (12) hours of receipt of written notice from the Umatilla Police Department that such automated dialing device should be disconnected or reprogrammed.

- D. The City and other governmental providers of emergency and critical Municipal services, including but not limited to water, sewer and streets, are exempt from the provisions of this Section. (Ord. 593, 10-20-92)

3-7-8: FALSE ALARMS; HEARINGS; DETERMINATION:

- A. An alarm user, whose alarm system has four (4) or more false alarms within a year shall be subject to and pay at or before permit renewal in addition to any other charges a charge for excessive false alarms in an amount established by City Council resolution. Excessive false alarms charges shall be paid by the alarm user notwithstanding an agreement or claim of liability which holds an alarm business responsible for such changes. Excessive false alarm charges shall be established in an amount designed to encourage correction in an alarm system or in the operation of an alarm system, to discourage false alarms and to reimburse the City for the use of its police resources. No permit for substantially the same alarm system or for a different alarm system which is designed and used for substantially the same building, structure, facility or portion thereof, shall be issued or renewed for the same alarm user or related alarm user thereof, unless such excessive false alarm charge is first paid.
- B. After each of the first two (2) false alarms during the period of a year, the alarm coordinator shall send by regular mail a notice of false alarm to the alarm user and the alarm business at the addresses listed on the user's permit. The notice shall advise the alarm user and the alarm business of the date and time of the false alarm and the specific number of false alarms recorded by the coordinator for the alarm system during the current permit year. The notice shall also advise that upon the occurrence of a fourth false alarm during the permit year, the alarm user will be charged a fee upon renewal of the permit for each excessive false alarm.
- C. If the Umatilla Police Department responds to a third false alarm during the period of a year, the alarm coordinator shall forward by certified mail return receipt requested and a copy by regular mail, a notice to the alarm user and the alarm business at the addresses listed on the user's permit that the police have responded to three (3) false alarms at the address where the alarm system is located. This notice shall also advise that the occurrence of any additional false alarms at the address where the alarm system is located during the permit year, the alarm user will be charged a fee upon renewal of the permit for excessive false alarms.
- D. If the police responds to a fourth or subsequent false alarm during the period of a year, the alarm coordinator shall forward by regular mail a notice to the alarm user and the alarm business at the addresses listed on the alarm user's permit a notice which advises the alarm user and the alarm business that the police have responded to excessive false alarms at the alarm location, and as a result the alarm user shall upon renewal of the alarm system permit be charged in accordance with a schedule of charges for excessive false alarms, established by the City Council by resolution.
- E. The City Administrator shall prescribe the form of the notices to be used in this Section. For purposes of determining which form of mailing and notice to use, any alleged false alarm, which is disputed as provided in this Section and for which a final determination has not been made, shall be treated as having occurred. The Police Chief shall provide for sufficient

information to the coordinator to ensure that accurate records of notices are being sent to alarm users and alarm businesses. Failure of a person to receive a notice shall not invalidate any proceeding in connection with a false alarm or in the imposition of additional charges upon license renewal resulting therefrom.

- F. An alarm user or alarm business who is aggrieved by the determination that a particular false alarm has occurred may request a hearing. The request shall be made in writing and filed with the City Administrator and the Municipal Court within ten (10) days of the date on which the alarm user is sent the notification of false alarm for which a hearing is requested. Unless a request for a hearing is made in accordance with this Section, an alarm user or alarm business shall have waived any right to challenge the decision whether a particular false alarm occurred and the false alarm shall thereafter be treated as having occurred on the date and time alleged. If a hearing is requested in accordance with this subsection, the Municipal Court shall notify by regular mail the persons requesting the hearing of the time and place of the hearing.
- G. Every hearing to determine whether a false alarm has occurred shall be held before the Umatilla Municipal Court without a jury. The Court may in the interest of justice consolidate hearings which involve the same alarm user or alarm system and false alarms within the same permit year. In addition the hearing provided by this subsection may be consolidated with a hearing on an alleged offense provided the parties in each proceeding are the same, or the alarm system in each case is the same. The person requesting the hearing may be represented by counsel but counsel shall not be provided at public expense. If counsel is to appear, written notice shall be provided to the Municipal Court and Chief of Police not less than five (5) business days prior to the hearing date. The Chief of Police or the City's designated representative and the person requesting the hearing shall have the right to present written and oral evidence. Oral testimony shall be taken only on oath or affirmation and shall be subject to the right of cross-examination. If the person requesting a hearing wishes that witnesses be ordered to testify, they must request the Court to order the desired witness subpoenaed, which request shall be at least five (5) business days prior to the scheduled hearing. A deposit for each witness shall accompany the request and such deposit shall be refunded, if it is determined the alleged false alarm did not occur. The deposit for subpoenas shall be in an amount equal to witness fees provided by statute in other courts of this State. At the hearing any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. However, irrelevant and unduly repetitious evidence shall be excluded. The City shall have the burden of proving that a false alarm occurred by a preponderance of the evidence. Within thirty (3) days after the hearing, the Municipal Court shall determine whether the alleged false alarm has occurred and shall so advise the parties. The decision of the Municipal Court is final.
- H. If a request for a hearing or a decision by the Municipal Court is pending at the time a permit expires and is subject to renewal, the alarm user shall pay the appropriate permit renewal and other charges owing at the time renewal is required together with any then required charges for excessive false alarms. If the Court should determine that a false alarm within the prior permit year has occurred and such determination would have resulted in a higher fee upon renewal than was paid by the alarm user or applicant due to an excessive false alarm, the

alarm user shall pay an appropriate additional false alarm charge upon being notified of the Court's determination. (Ord. 593, 10-20-92)

3-7-9: ALARM TERMINATION:

- A. If a police or fire officer responds to an audible alarm and the alarm system continues to transmit an audible signal for fifteen (15) minutes after:
 - 1. A responsible party or designated person is available to respond; or
 - 2. No responsible party or designated person is available to respond, then the officer may disable the alarm and secure the premises.
- B. Neither the City nor its employees shall be held responsible for damages resulting from:
 - 1. Disabling an alarm; or
 - 2. Securing the premises; or
 - 3. Failing to disable an alarm; or
 - 4. Failing to secure the premises. (Ord. 593, 10-20-92)

3-7-10: CONFIDENTIALITY; STATISTICS:

- A. Except as otherwise required by law, if an alarm user requests that information submitted by the user as part of an application be kept in confidence, such information shall be held in confidence and shall be deemed a public record exempt from disclosure under Oregon law. The City Administrator shall be responsible for maintenance of records created under this Chapter.
- B. Notwithstanding the requirements of subsection A. of this Section, the Umatilla Police Department may develop and maintain statistics for purposes of evaluating alarm systems. (Ord. 593, 10-20-92)

3-7-11: ALLOCATION OF REVENUES:

All fees and charges collected pursuant to this Chapter shall be deposited in the General Fund of the City and are nonrefundable. (Ord. 593, 10-20-92)

3-7-12: VIOLATION OF CHAPTER; PENALTIES:

A violation of any of the provisions of this Chapter is punishable, upon conviction, by the imposition of a Class A civil fine²⁶. Every day that a violation is found to exist constitutes a separate offense. Penalties or forfeitures imposed as a result of court proceedings shall be in addition to any fees and charges required to obtain a permit. (Ord. 593, 10-20-92; 1993 Code)

**CHAPTER 8
YARD SALES**

3-8-1: DEFINITIONS:

The following mean:

CALENDAR YEAR: A year which begins on January 1 and ends on December 31.

PERSONAL PROPERTY: Property which is utilized, owned and maintained by an individual or by members of a residence and acquired in the normal course of living in or maintaining of a residence. It does not include merchandise which was purchased for resale or obtained from closeouts, fire sales, other quantity liquidations, or commercial consignments or motor vehicles.

YARD SALE: Offering or displaying personal property for sale by any person or group of individuals at a private residence within the city. The term "yard sale" includes, but is not limited to, all sales called "garage, moving, lawn, yard, attic, porch, backyard, patio, basement, estate" or other sales of similarly intended nature. (Ord. 740, 12-6-2005)

3-8-2: SALES CONDUCTED BY:

Only individuals and members of fraternal, civic, patriotic, religious, service, charitable or educational organizations may conduct yard sales. (Ord. 740, 12-6-2005)

3-8-3: RULES AND REGULATIONS:

Persons or organizations conducting a yard sale must comply with the following:

- A. No person or organization may hold more than four (4) yard sales in a calendar year.
- B. Yard sales may only be held between the hours of eight o'clock (8:00) A.M. and seven o'clock (7:00) P.M. on Fridays, Saturdays, Sundays and on Monday holidays.
- C. All personal property for sale, displays and display tables must not be left outside at night.
- D. All personal property for sale, displays and display tables must be contained on private property.
- E. Any signs advertising the yard sale must be in compliance with the city's sign code.
- F. Any signs advertising the yard sale must not be placed in the public right of way or attached to power poles, lampposts or public signs.
- G. Any signs advertising the yard sale must be retrieved immediately after the yard sale ends.
- H. Yard sales may not be conducted by an ongoing business or commercial enterprise. (Ord. 740, 12-6-2005)

3-8-4: ILLEGAL SIGNS, DISPOSITION:

Signs found within the city which are unlawfully posted upon utility poles, regulatory signs or posts, or are placed on sidewalks, in the right of way, or any other area not allowed by the sign code may be seized by the city and kept as evidence of unlawful activity in preparation for

prosecution. If no prosecutorial action is taken, the city will make the signs available for return to the presumptive owner. (Ord. 740, 12-6-2005)

3-8-5: OWNER PRESUMPTION:

It is presumed that an address or telephone number listed on any yard sale sign is that of the person or organization responsible for posting the sign. In addition, any signs directing the public by way of arrows or other directional symbols or phrases to a particular residence is presumed to have been erected by the owner(s) or occupant of said residence. (Ord. 740, 12-6-2005)

3-8-6: PENALTIES:

- A. Violation of any of the provisions of this chapter is a class D civil fine.
- B. Second violation of any of the provisions of this chapter in a one year period is a class C civil fine.
- C. Third violation of any of the provisions of this chapter in a one year period is a class B civil fine.
- D. Fourth and subsequent violation of any of the provisions of this chapter in a one year period is a class A civil fine.
- E. Each day of violation constitutes a separate offense. (Ord. 740, 12-6-2005)