TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

Cross-reference:

Offenses Concerning Alcoholic Beverages, see §§ 131.35 et seq.

§ 110.01 PURPOSE.

This chapter is enacted, except as otherwise specified, to provide revenue for municipal purpose and to provide for the health, safety, and welfare of the citizens of the city through regulation of businesses, occupations, and trade.
(Ord. 97, passed 3-7-1996)

§ 110.02 EXEMPTIONS.

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

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

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

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

(E) Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than $1,500, is exempt from this chapter.
(Ord. 97, passed 3-7-1996)

§ 110.03 DEFINITIONS.

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

APPLICANT. Agent or owner of the named business.

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

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

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

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

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

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

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

REVOCATION. In reference to any business license, withdrawal of approval to operate a business.

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

SUSPENSION. In reference to a business license, an official order to suspend business operations pending correction or ceasing of certain conditions or practices.

TRANSIENT MERCHANT. One who occupies a temporary fixed location, sells and delivers from stock on hand, and does business in much the same manner as a permanent business.
(Ord. 97, passed 3-7-1996)

§ 110.04 LICENSE REQUIRED.

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

(B) The agent, or agents, of a non-resident proprietor engaged in any business for which a license is required by this chapter shall be liable for any failure to comply with the provisions of this chapter, or for any penalty assessed under this chapter, to the extent, and with like effect, as if the agent or agents were themselves the proprietors or owners of the business.

(C) A person engaged in business in more than 1 location, or in more than 1 business licensed under this chapter, shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

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

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

(F) The City Council reserves the right to waive or reduce the fee for non-profit organizations having tax exempt status.
(Ord. 97, passed 3-7-1996) Penalty, see § 10.99

§ 110.05 APPLICATION.

(A) Application for a new business license, or for renewal of an existing business license, shall be made to the City Manager upon forms furnished by the city.

(B) Each application shall state:

(1) The name of the proposed business;

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

(3) The name and address of the applicant;

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

(5) The amount of the license fee tendered with application;

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

(7) The date of application;

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

(9) The year for which application is made; and

(10) Hazardous material on premises identified.

(C) The City Manager may require the applicant to supply any additional information necessary to determine under § 110.07 of this code the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.
(Ord. 97, passed 3-7-1996) Penalty, see § 10.99

§ 110.06 LICENSE FEES.

All business license fees shall be determined by resolution of the City Council.
(Ord. 97, passed 3-7-1996)

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

(A) *Approval of application.*

(1) The City Council shall issue a decision on an application for a new business license within 30 days of the submission of a complete application and the required fee upon a finding that the applicant has met all requirements of federal, state, and county law and this chapter.

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

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

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

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

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

(3) The applicant's past or present violation of law or ordinance presents a reasonable doubt of his or her ability to perform the licensed activity without endangering property or the public health or safety;

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

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

(C) *Notice.* The City Manager shall provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice shall state the reason of the action taken and shall inform the applicant of the right to appeal under § 110.08 of this code. The notice shall be given at least 15 days before the revocation becomes effective. If the violation ends within the 15 days, the City Manager may discontinue the revocation proceedings.

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

(E) *Disqualification.* A person whose application for any business license has been denied, or whose license has been revoked for a total of 2 times within 1 year, or who has a total of 4 denials or revocations, shall be disqualified from applying for a license for a period of 2 years from the date of the revocation or denial.

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

of the provisions for appeal under § 110.08 of this code. Within 10 days of a summary suspension the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether those facts deem it necessary to continue the suspension in order to protect the health, safety, and welfare of the citizens of the city, or to otherwise ensure that the requirements of this chapter are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under § 110.08 of this code. (Ord. 97, passed 3-7-1996) Penalty, see § 10.99

§ 110.08 APPEAL.

In the event an applicant for a license under this chapter is denied the license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Manager within 15 days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regards to the appeal at its next regular meeting immediately following the filing of the notice of appeal. The decision of the City Council on the appeal shall be final and conclusive. (Ord. 97, passed 3-7-1996)

§ 110.09 DISCLAIMERS AND EXCEPTIONS.

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

(B) Nothing herein contained shall be taken or construed to vest any right in any license as a contract obligation on the part of the city. Business license fees, as set by Council resolution, may be increased or decreased, and additional fees may be levied, increased, or decreased, at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

(C) None of the fees, bonds, or insurance requirements provided for in this chapter or the rules adopted under this chapter shall be required if the applicant is a municipality.
(Ord. 97, passed 3-7-1996)

§ 110.10 GENERAL LICENSE REQUIREMENTS.

In addition to any other requirement of this chapter, each licensee shall:

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

(B) Notify the city within 10 days of any change in material information contained in the application, related materials, or license; and

(C) Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to an officer or employee of the city.
(Ord. 97, passed 3-7-1996) Penalty, see § 10.99

CHAPTER 111: SIDEWALK RETAIL SALES

Section

§ 111.01 PERMIT REQUIRED.

No person shall conduct a business offering sidewalk retail sales as defined in § 111.02 without first obtaining a permit from the city. It is unlawful for any person to provide sidewalk retail service on any sidewalk within the city except as provided by this code.
(Ord. 163-2015, passed 1-12-2015)

§ 111.02 DEFINITIONS.

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

COMMERCIAL ZONE. Property which is zoned Commercial "C" pursuant to this code, or any other zone which may be created as a successor zone to such existing commercial zones.

SIDEWALK. That portion of the street, intended for use by pedestrians, which is between the curb lines or the lateral lines of a roadway and adjacent properties.

SIDEWALK RETAIL SERVICE. The sale of goods or services, including the sale of prepared or unprepared food, from a business to patrons passing, standing or seated on or next to any sidewalk.
(Ord. 163-2015, passed 1-12-2015)

§ 111.03 PERMIT FEE.

The permit fee for sidewalk retail sales shall be set by Council Resolution.
(Ord. 163-2015, passed 1-12-2015)

§ 111.04 PERMIT APPLICATION.

Application for a retail or sidewalk retail sales permit shall be made on a form to be provided by the city. Such application shall include, but not be limited to, the following information:

(A) Name and address of the applicant;

(B) The expiration date of applicant's city business license;

(C) A drawing showing the location and dimensions of the applicant's business in relation to the sidewalk area proposed to be used; including any proposed established paths of ingress/egress; the location of doorways; the width of sidewalk (distance from curb to building face); the location of trees and the location of any bus shelters, sidewalk benches, trash receptacles, or other improvement or sidewalk obstruction in the vicinity of the area to be used for sidewalk retail sales.

(D) A drawing showing the area requested for use as a sidewalk retail or restaurant with any nonpermanent items included and drawn to scale. Examples include tables, stands, racks, or chairs. Also include the location and size of any features used to delineate the area. This may be done in the same drawing required under division (C) of this section;

(E) Commencement date and hours of operation during which sidewalk retail sales will be offered.

(F) If the applicant is not the property owner, a letter signed by the property owner consenting to the provision of sidewalk retail sales adjacent to the fronting property on which the business is located.

(G) Other information as required by the City Manager to confirm ADA accessibility shall be maintained along with conformance with the standards of this section.
(Ord. 163-2015, passed 1-12-2015)

§ 111.05 LOCATION, RULES AND REVIEW.

(A) The area served by sidewalk retail sales shall not occupy more than 50% of the total sidewalk area and width and shall preserve at least 36 inches of pathway for pedestrians at all times; including any proposed paths of ingress/egress to a public right of way. The retail sales area shall not interfere with the Americans with Disabilities Act standards for clearance.

(B) Sidewalk retail sales shall be limited to the sidewalk area directly fronting upon the associated business.
(Ord. 163-2015, passed 1-12-2015)

§ 111.06 LIABILITY AND INSURANCE.

(A) Before a sidewalk retail sales permit shall be issued, the permittee shall sign an agreement releasing, indemnifying and holding the city harmless from and against all claims arising out of the permitted area, in a form provided by the city.

(B) Permits shall only be issued upon proof that the applicant possesses a certificate of insurance for public liability, food products liability (if applicable), and property damage insurance in such amounts as may be set by the city from time-to-time. The city shall be named as additional insured. Such insurance shall not terminate or be cancelled without 30 days' advance written notice to the city.
(Ord. 163-2015, passed 1-12-2015)

§ 111.07 FORM AND CONDITIONS OF PERMIT.

The permit shall be in a form designated by the City Manager. In addition to naming the permittee and other information deemed appropriate by the City Manager, the permit shall contain the following conditions:

(A) Each permit issued shall terminate December 31st of the year in which it is issued. Permits are renewable without changes annually by submitting a letter requesting permit renewal together with proof of current, valid insurance required in this section. Should an applicant wish to make material changes to an existing permit at any time during the year, a new application must be filed with all required attachments and fees.

(B) The permit issued shall be personal to the permittee only and is not transferable.

(C) The permit may be temporarily suspended by the City Manager if sidewalk retail sales could interfere with public works operations, community events, parades, or other events.

(D) The permit shall be specifically limited to the area shown on the permittee's application.

(E) The permittee shall ensure that its use of the sidewalk in no way interferes with sidewalk users or limits their free and unobstructed passage, including compliance with state and federal accommodation of disability laws.

(F) The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition; and at such times that the permittee is not utilizing the sidewalk as authorized, that all tables, chairs and other service materials and furniture shall be removed therefrom. If throw-away utensils, cups or plates are used, or if other trash will be generated by the use, trash containers shall be provided on site for use by the patrons.

(G) The permit shall not be issued unless the parties are in compliance with all laws regarding health, food vending and liquor and have obtained all necessary permits.
(Ord. 163-2015, passed 1-12-2015)

§ 111.08 DENIAL, REVOCATION OR SUSPENSION OF PERMIT.

(A) The City Manager or City Council may deny, revoke or suspend the permit for any sidewalk retail sales when:

(1) The permittee or operator of the facility has violated the provisions of this chapter; or

(2) Any necessary health permit has been suspended, revoked or cancelled; or

(3) The permittee does not have insurance as is required in this code.

(B) Upon denial or revocation, the City Manager shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefor. Revocation or suspension of a permit may be appealed to the City Council by filing a written notice of appeal with the City Manager.
(Ord. 163-2015, passed 1-12-2015)

§ 111.09 APPEAL.

If appealed, the City Manager shall place the appeal on the Council calendar for the next Council meeting and shall notify the appellant of the date the matter will be considered. At the hearing upon appeal, the Council shall consider the grounds for the denial or revocation and afford the appellant an opportunity to present evidence on his or her own behalf. The Council shall hear and determine the appeal, and the decision of the Council shall be final.
(Ord. 163-2015, passed 1-12-2015)

CHAPTER 112: MARIJUANA SALES

Section

§ 112.01 DEFINITIONS.

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

MARIJUANA ITEM. Has the meaning given that term in O.R.S. 475B.015(16).

MARIJUANA RETAILER. An OLCC-licensed retailer and/or person who sells marijuana items to a consumer in this state.

RETAIL SALE PRICE. The price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.
(Ord. 168-2016, passed 9-8-2016)

§ 112.02 TAX IMPOSED.

As described in O.R.S. 475B.345 the city hereby imposes a tax of 3% on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.
(Ord. 168-2016, passed 9-8-2016)

§ 112.03 COLLECTION.

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.
(Ord. 168-2016, passed 9-8-2016)

§ 112.04 INTEREST AND PENALTY.

(A) Interest shall be added to the overall amount due at the same rate established under O.R.S. 305.220 for each month, or fraction of a month, from the time the return to the State Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

(B) If a marijuana retailer fails to file a return with the State Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under O.R.S. 314.400.

(C) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the State Department of Revenue.

(D) Taxes, interest, and penalties transferred to the city by the State Department of Revenue will be distributed to the city's general fund.

(E) If at any time a marijuana retailer fails to remit any amount of owed in taxes, interest, or penalties, the State Department of Revenue is authorized to enforce collection on behalf of the city of the owed amount in accordance with O.R.S. 475B.700 to 475B.755, any agreement between the State Department of Revenue and the city under O.R.S. 305.620, and any applicable administrative rules adopted by the State Department of Revenue.
(Ord. 170-2017, passed 6-16-2017)