

CHAPTER 8 BUSINESS

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CHAPTER 8 BUSINESS

REVENUE PROVISIONS

General Occupational Taxing

8.000 Definitions.

- (1) In Sections 8.000 to 8.035 of this code, the word "business" means any trade, profession, occupation, or pursuit conducted for gain and includes fraternal organizations, clubs, lodges, and similar places or establishments employing full- or part-time employees in any business for gain. The word "business" shall not include any corporation or organization conducted solely for charitable, religious, community, or public purpose. Additional definitions of those doing business within the city are the following:
 - (a) Those persons who cater to the general public by selling of merchandise, rendering professional or nonprofessional services. Some examples being a shoe store, doctor's office, public accountant, welding shop, cannery, etc.
 - (b) Those persons whose physical plants or facilities are located outside of the city but whose business requires use of the city's streets or services and such services or materials are rendered or delivered within the city. Some examples being a bakery truck operator delivering wares originating from outside of the city but delivered within the city, and other wholesalers.
 - (c) In addition to the above, the following persons shall also be subject to an occupational tax, to wit: those persons who receive the services of the city, such as fire and police protection, etc., but who conduct their business or render services outside the city on behalf of special clients or customers. Some examples being bar pilots and towboat operators.
- (2) Public utilities covered by franchise ordinances and making payments of taxes under such franchises are exempted from Sections 8.000 to 8.035 of this code.

- (3) In Sections 8.000 to 8.035 of this code, each branch establishment of a business or a separate business located and conducted by any person shall be considered a separate business and subject to the occupation tax in Section 8.015 of this code.
- (4) Warehouses used solely as incidental to a business taxed pursuant to the provisions of Sections 8.000 to 8.035 of this code and operated by the person conducting such business shall not be a separate place of business or branch establishment. Physically segregated parts of a business, the use of which is a necessary function toward the complete operation of the business, shall not be considered a branch establishment.
- (5) For the purpose of Sections 8.000 to 8.035 of this code, no person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall be considered a person transacting and carrying on a business. The intention of the city council is that all occupational taxes levied by Sections 8.000 to 8.035 of this code shall be borne by the employer or proprietor for the privilege of doing business. *[Section 8.000 as amended by Ordinance No. 72-06, passed April 17, 1972.]*

8.005 Purpose of Occupational Tax.

- (1) It is necessary that occupation taxes be levied and fixed for the purpose of securing revenue to assist in defraying the cost of police and fire protection and cost of other necessary municipal services.
- (2) The tax required by Sections 8.000 to 8.035 of this code shall be in addition to general ad valorem taxes now or hereafter levied pursuant to law, and shall be in addition to license taxes prescribed in the other parts of the Astoria Code. *[Section 8.005 as amended by Ordinance No. 72-06, passed April 17, 1972.]*

8.010 Payment Required.

- (1) No person may engage in, prosecute, or carry on any business without first paying the occupation tax required in Section 8.015 of this code.
- (2) An agent or nonresident proprietor engaged in business shall pay the required occupation tax in Section 8.015 of this code, and shall pay the penalties for failing to pay the occupation tax to the same extent as if the agent or nonresident proprietor were a resident proprietor.

- (3) A person representing or exhibiting a sign or advertisement that such person is engaged in any business for which payment is required by this section is deemed to be engaged in such business and shall pay such an occupation tax required by Section 8.015 of this code. *[Section 8.010 as amended by Ordinance No. 72-06, passed April 17, 1972.]*

8.015 Occupational Taxes.

- (1) A person licensed under Section 8.010 of this code shall pay an annual occupational tax of the following amount:
- (a) If a business is carried on by one to 10 individuals, the license fee shall be \$35.00, plus \$12.50 per individual in excess of one.
 - (b) For individuals in excess of 10, but not over 20, the license fee shall be \$147.50, plus \$8.75 per individual.
 - (c) For individuals in excess of 20, but not over 30, the license fee shall be \$235.00, plus \$6.25 per individual.
 - (d) For individuals in excess of 30, but not over 50, the license fee shall be \$297.50, plus \$5.00 per individual.
 - (e) For individuals in excess of 50, the license fee shall be \$397.50, plus \$2.50 per individual. *[Subsection 1 of Section 8.015 as amended by Ordinance No. 79-15, passed November 5, 1979.]*
- (2) In arriving at the number of individuals carrying on a business, the finance director shall count the proprietors, officers, partners, and associates actively engaged in such business and the individuals employed regularly or on a part-time basis. Individuals employed by an owner or proprietor of a business who work entirely outside the corporate limits of the city shall not be counted. Individuals engaged in distributing, peddling, or selling newspapers after or before public school hours or trade apprentices receiving no compensation shall not be counted.
- (3) The monthly average number of such individuals shall be the number considered carrying on such business. Such monthly average shall be computed from the 12 months' period prior to December 1 preceding the year for which the tax is due, or such portion thereof as such business has existed. A new business shall declare the number of individuals to be actively engaged or employed by the business.

Fractional numbers of one-half or over shall be considered as the next highest whole number. Where, during any one month, one employee has been replaced by another, only one employee shall be counted.

- (4) All taxes required by this section shall be for a calendar year, or any part thereof, and shall expire on December 31. Said taxes, for persons who have not engaged in or carried on a business nor paid the tax for the previous year, shall be due on or before the first day business is transacted with customers. Thereafter, the taxes are due annually on or before February 1 of the calendar year for which the tax is due.
- (5) Nothing in Section 8.000 to Section 8.035 of this code shall be construed as vesting any right in persons subject to Chapter 8 of this code, under a contract obligation on the part of the city for the amount or character of a business tax. Such a tax may be increased or decreased at any time. *[Section 8.015 as amended by Ordinance No. 71-11, passed November 22, 1971; Ordinance No. 72-06, passed April 17, 1972; and Ordinance No. 73-16, passed November 19, 1973.]*

8.020 Procedures.

- (1) On or before the date due, a person transacting or engaging in a business shall pay the occupational tax as set forth in Section 8.015.
- (2) The finance director shall issue a temporary receipt upon payment of the tax. Every person shall keep the receipt on the premises where he customarily transacts or engages in business and shall exhibit the receipt to the police chief or other police officer upon demand.
- (3) Each business subject to Chapter 8 of this code shall apply for determination of tax. The application shall set forth the business for which the application is made, together with the location of the business and the amount of the tax paid.
- (4) When properly signed by the finance director, the receipt shall be transmitted to the taxpayer. The receipt shall specify the name of the person to whom the receipt is issued and the business for which the receipt is issued, together with the location thereof and the amount of tax paid. *[Section 8.020 as amended by Ordinance No. 72-06, passed April 17, 1972; and Section 2 of Ordinance No. 73-16, passed November 19, 1973.]*

8.025 Examination of Business Premises. The police chief and police officers are directed to investigate and examine all places of business taxed or subject to tax under Sections 8.000 to 8.035 of this code at any reasonable time for the purpose of determining whether such place of business is complying with the terms of Sections 8.000 to 8.035 of this code. *[Section 8.025 as amended by Ordinance No. 72-06, passed April 17, 1972.]*

8.030 Transfer or Assignment of Tax Receipt.

- (1) No transfer or assignment of any tax receipt issued under Sections 8.000 to 8.035 of this code is valid or permitted.
- (2) Whenever a person sells or transfers in whole a business for which such tax has been paid, the vendee is not required to pay an additional business tax for the balance of the calendar year. *[Section 8.030 amended by Ordinance No. 72-06, passed April 17, 1972.]*

8.035 Additional Remedies.

- (1) In addition to the penalties provided in this code and as separate and distinct remedies, the city may sue in any court of competent jurisdiction to obtain a judgment and enforce collection thereof by execution for any tax due under Sections 8.000 to 8.030 of this code.
- (2) The city may seek an injunction prohibiting a person from engaging in any business.
- (3) In any action or suit authorized by this section, the city, if it prevails, shall recover a reasonable attorney's fee to be set by the court in addition to its costs and disbursements.
- (4) Whenever any tax required by Sections 8.000 to 8.030 of this code is not paid when due, the finance director shall add to the tax as a penalty an amount equal to 10 percent of the tax for each month or part thereof during which the tax and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed 100 percent of the original tax.
- (5) No business receipt required by Sections 8.000 to 8.030 of this code may be issued unless the tax and all penalties are paid in advance. *[Section 8.035 added by Ordinance No. 72-06, passed April 17, 1972.]*

Transient Room Taxes

8.045 The term "ordinance" in the following sections refers to sections 8.045.1 to 8.045.18 of the Astoria Code.

8.045.1 **Definitions.** Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

- (a) **Transient Lodging Facility:** Any structure or portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, bed and breakfast establishment, home stay lodging, vacation rental, or other such transient lodging facility (such as Airbnb, VRBO, etc.). Transient Lodging Facility also means space in mobile home or trailer parks, or similar structure of space or portions thereof so occupied, provided such occupancy is for less than a 30-day period. [Subsection (a) amended by Ordinance No. 90-07, Section 1, passed April 16, 1990; amended by Ordinance No. 18-11, passed December 3, 2018.]
- (b) **City Council:** The City Council of the City of Astoria, Oregon.
- (c) **Occupancy:** The use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a Transient Lodging Facility, or space in a mobile home or trailer park or portion thereof. [Section 8.045.1.c amended by Ordinance No. 18-11, passed December 3, 2018]
- (d) **Operator:** The person who is the proprietor of the Transient Lodging Facility in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provision of this ordinance by either the principal or the managing agent shall be considered to be compliance by both. [Section 8.045.1.d amended by Ordinance No. 18-11, passed December 3, 2018]
- (e) **Person:** Any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust,

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

- (f) Cash Accounting: The operator does not enter the rent due from a transient on his records until rent is paid.
- (g) Accrual Accounting: The operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.
- (h) Rent: The consideration charged, whether or not received by the operator, for the occupancy of space in a Transient Lodging Facility, valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction. [Section 8.045.1.h amended by Ordinance No. 18-11, passed December 3, 2018]
- (i) Rent Package Plan: The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

The amount applicable to rent for determination of transient room tax under this ordinance shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package, and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

- (j) Tax: Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.
- (k) Tax Administrator: The Finance Director of the City of Astoria, Oregon or his designee.
- (l) Transient: Any individual who exercises occupancy or is entitled to occupancy in a Transient Lodging Facility for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient guest checks out of the Transient Lodging Facility shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a Transient Lodging Facility shall be deemed to be a transient until the period

of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient. [Section 8.045.1 added by Section 1 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

- (m) Transient Lodging Facility Intermediary: A person, firm, or other third-party entity other than a lodging provider that facilitates the retail sale of lodging and charges and collects the consideration charged including tax for occupancy of the lodging facility. [Section 8.045.1.m added by Ordinance No. 18-11, passed December 3, 2018]
- (n) Transient Lodging Tax Collector: An Operator or a Transient Lodging Facility Intermediary. Transient Lodging Tax Collector may also be referred to as "Operator". [Section 8.045.1.n added by Ordinance No. 18-11, passed December 3, 2018]

8.045.2 Tax Imposed.

For the privilege of occupancy in any Transient Lodging Facility on or after January 1, 2018, each transient shall pay a tax in the amount of 11 percent of the rent charged by the Transient Lodging Tax Collector. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the Transient Lodging Tax Collector to the City. The transient shall pay the tax to the Transient Lodging Tax Collector of the Transient Lodging Facility at the time the rent is paid. The Transient Lodging Tax Collector shall enter the tax on his records when the rent is collected, if the operator keeps his records on the cash accounting basis, and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the Transient Lodging Tax Collector with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services, commodities, other than the furnishings of rooms, accommodations and space occupancy in mobile home parks or trailer parks." [Section 8.045.2 added by Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 81-04, passed May 18, 1981; and Ordinance No. 90-07, passed April 16, 1990; amended by Ordinance No.

01-13, passed November 19, 2001; *amended by Ordinance No. 17-11, passed August 7, 2017; amended by Ordinance No. 18-11, passed December 3, 2018.*]

8.045.3 Collection of Tax by Transient Lodging Tax Collector; Rules for Collection.

- (a) Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this ordinance, shall collect a tax from the occupant. The tax collected or accrued by the Transient Lodging Tax Collector constitutes a debt owed by the Transient Lodging Tax Collector to the City. [Section 8.045.3.a amended by Ordinance No. 18-11, passed December 3, 2018.]
- (b) In all cases of credit or deferred payment of rent, the payment of tax to the Transient Lodging Tax Collector may be deferred until the rent is paid, and the Transient Lodging Tax Collector shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles. [Section 8.045.3.b amended by Ordinance No. 18-11, passed December 3, 2018.]
- (c) The tax administrator shall enforce provisions of this ordinance and shall have the power to adopt rules and regulations, approved by the City Manager, not inconsistent with this ordinance, as may be necessary to aid in the enforcement.
- (d) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted. [Section 8.045.3 added by Section 3 of Ordinance No. 75-05, passed June 2, 1975.]
- (e) In the case of the tax collection and payment by other than the Operator, the Transient Lodging Facility Intermediary shall enter into a written agreement with the City for said tax collection and payment prior to start of operation as a third-party tax collector. Such agreement shall not preclude State collection of taxes and other rights of the City in Federal, State, or local laws, rules, and regulations. [Section 8.045.3.e added by Ordinance No. 18-11, passed December 3, 2018.]

8.045.4 Transient Lodging Tax Collector's Duties.

Each Transient Lodging Tax Collector shall collect the tax imposed by this ordinance at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the Transient Lodging Tax Collector's records and any receipt rendered by the Transient Lodging Tax Collector. No Transient Lodging Tax Collector of a Transient Lodging Facility shall advertise that the tax or any part of the tax will be assumed or absorbed by the Transient Lodging Tax Collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this ordinance. [Section 8.045.4 added by Section 4 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.5 Exemptions.

No tax imposed under this ordinance shall be imposed upon:

- (a) Any occupant for more than 30 successive calendar days. (A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.)
- (b) Any occupant whose rent is of a value less than \$2.00 per day.
- (c) [Section 8.045.5(c) deleted by Ordinance No. 18-11, passed December 3, 2018]
- (d) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for the aged people, or to a public institution owned and operated by a unit of government. [Section 8.045.5 added by Section 5 of Ordinance No. 75-05, passed June 2, 1975.]

8.045.6 Registration of Operator; Form and Contents; Execution; Certification of Authority.

- (a) Every person engaging or about to engage in business as an operator of a Transient Lodging Facility in this City shall register with the tax administrator on a form provided by him. Operators engaged in business at the time this ordinance is adopted must register not later than 30 calendar days after passage of this ordinance. Operators starting business after this ordinance is adopted must register within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.

[Section 8.045.6.a amended by Ordinance No. 18-11, passed December 3, 2018.]

- (b) Registration sets forth the following:
- (1) Name under which the operator transacts or intends to transact business; and
 - (2) Location of his place or places of business; and
 - (3) Name and address of the real property owner of the business location; and
 - (4) Third-party identification number if utilizing a Transient Lodging Facility Intermediary; and
 - (5) Such other information to facilitate the collection of the tax as the tax administrator may require.

[Section 8.045.6.b amended by Ordinance No. 18-11, passed December 3, 2018.]

- (c) The registration shall be signed by the operator.
- (d) The tax administrator shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable, and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.
- (e) Said certificate shall, among other things, state the following:
- (1) The name of the operator.
 - (2) The address of the Transient Lodging Facility. [Section 8.045.6.e.2 amended by Ordinance No. 18-11, passed December 3, 2018.]
 - (3) The date upon which the certificate was issued.

- (4) "This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient lodgings tax ordinance of the City of Astoria by registration with the tax administrator for the purpose of collecting from transients the lodging tax imposed by said city and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a Transient Lodging Facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Astoria. This certificate does not constitute a permit." [Section 8.045.6 added by Section 6 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.7 Due Date; Returns and Payments.

- (a) The tax imposed by this ordinance shall be paid by the transient to the Transient Lodging Tax Collector at the time that rent is paid. All amounts of such taxes collected by any Transient Lodging Tax Collector are due and payable to the tax administrator on a monthly basis on the 15th day of the following month and are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify and/or district the Transient Lodging Tax Collectors for determination of applicable tax periods and shall notify each Transient Lodging Tax Collector of the due and delinquent dates for the Transient Lodging Tax Collector's returns. The initial return under this ordinance may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable monthly period. [Section 8.045.7.a amended by Ordinance No. 18-11, passed December 3, 2018.]
- (b) On or before the 15th day of the month following each month of collection, a return for the preceding month's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every Transient Lodging Tax Collector liable for payment of tax. [Section 8.045.7.b amended by Ordinance No. 18-11, passed December 3, 2018.]
- (c) Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of Transient Lodging Tax Collector for such

period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any. [Section 8.045.7.c amended by Ordinance No. 18-11, passed December 3, 2018.]

- (1) If the return is submitted by a Transient Lodging Facility Intermediary, the return shall list the identification number of the Transient Lodging Facility and the amount remitted for that specific facility. [Section 8.045.7.c.1 added by Ordinance No. 18-11, passed December 3, 2018.]
- (d) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (e) For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. Any Transient Lodging Tax Collector to whom an extension is granted shall pay interest at the rate of one-half of 1 percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this ordinance. [Section 8.045.7.e amended by Ordinance No. 18-11, passed December 3, 2018.]
- (f) The tax administrator, if he deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in an individual case, may require returns and payment of the amount of taxes for other than monthly periods. [Section 8.045.7 added by Section 7 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.8 Penalties and Interest.**(a) Original delinquency.**

Any Transient Lodging Tax Collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this ordinance prior to delinquency shall pay 10 percent of the amount of the tax due in addition to the amount of the tax. [Section 8.045.8.a amended by Ordinance No. 18-11, passed December 3, 2018.]

(b) Continued delinquency.

Any Transient Lodging Tax Collector who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15 percent of the amount of the tax due plus the amount of the tax and the 10 percent penalty first imposed. [Section 8.045.8.b amended by Ordinance No. 18-11, passed December 3, 2018.]

(c) Fraud.

If the tax administrator determines that the nonpayment of any remittance due under this ordinance is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in Subsections (a) and (b) of this section.

(d) Interest.

In addition to the penalties imposed, any Transient Lodging Tax Collector who fails to remit any tax imposed by this ordinance shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due exclusive of penalties from the date on which the remittance first became delinquent, until paid. [Section 8.045.8.d amended by Ordinance No. 18-11, passed December 3, 2018.]

(e) Penalties merged with tax.

Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(f) Petition for waiver.

Any Transient Lodging Tax Collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the Transient Lodging Tax Collector may petition the City Council for waiver and refund of the penalty or any portion thereof, and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. [Section 8.045.8 added by Section 8 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.9 Deficiency Determinations; Evasion; Transient Lodging Tax Collector Delay.

- (a) Deficiency determinations. If the tax administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determination may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 8.045.8.
- (1) In making a determination, the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 8.045.8.
- (2) The tax administrator shall give to the Transient Lodging Tax Collector or occupant a written notice of his determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the Transient Lodging Tax Collector at his address as it appears on the records of the tax administrator. In case of service by mail of any notice required by this ordinance, notice shall be served by registered mail, postage prepaid, return receipt requested. [Section 8.045.9.a.2 amended by Ordinance No. 18-11, passed December 3, 2018.]
- (3) Except in the case of fraud or intent to evade this ordinance or authorized rules and regulations, every deficiency

determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later. [Section 8.045.9.a.3 amended by Ordinance No. 18-11, passed December 3, 2018.]

- (4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the Transient Lodging Tax Collector may petition redemption and refund if the petition is filed before the determination becomes final as herein provided. [Section 8.045.9.a.4 amended by Ordinance No. 18-11, passed December 3, 2018.]

- (b) Fraud; refusal to collect; evasion.

If any Transient Lodging Tax Collector shall fail or refuse to collect said tax or to make, within the time provided in this ordinance, any report or remittance of said tax or any portion thereof required by this ordinance, or makes a fraudulent return or otherwise willfully attempts to evade this ordinance, the tax administrator shall proceed in such manner as he may deem best to obtain the facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this ordinance from any Transient Lodging Tax Collector who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such Transient Lodging Tax Collector the tax, interest and penalties provided for by this ordinance. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable upon receipt of notice and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the Transient Lodging Tax Collector may petition for redemption refund if the petition is filed before the determination becomes final as herein provided. [Section 8.045.9.b amended by Ordinance No. 18-11, passed December 3, 2018.]

- (c) Transient Lodging Tax Collector delay.

If the tax administrator believes that the collection of any tax or any

amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount to be determined, as herein provided, shall be immediately due and payable, and the Transient Lodging Tax Collector shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the Transient Lodging Tax Collector may petition, after payment has been made, for redemption and refund of such determination if the petition is filed within 20 days from the date of service of notice by the tax administrator. [Section 8.045.9 added by Section 9 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.10 Redeterminations.

- (a) Any person against whom a determination is made under Section 8.045.9, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in Section 8.045.9. If a petition for redetermination and refund is not filed within the time required in Section 8.045.9, the determination becomes final at the expiration of the allowable time.
- (b) If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing, and shall give him 20 days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.
- (c) The tax administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, such increase shall be payable immediately after the hearing.
- (d) The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the transient lodgings tax review committee within the 20 days after the service of such notice.
- (e) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the Transient Lodging Tax Collector has first complied with the payment provisions hereof.

[Section 8.045.10 added by Section 10 of Ordinance No. 75-05 passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.11 Security for Collection of Tax.

- (a) The tax administrator, whenever he deems it necessary to insure the compliance with this ordinance, may require the Transient Lodging Tax Collector subject thereto to deposit with him such security in the form of cash, bond or other security in the amount of 25% of the quarterly average or higher as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the Transient Lodging Tax Collector's estimated average applicable monthly liability for the period for which he files returns, determined in such a manner as the tax administrator deems proper, or \$5,000.00, whichever amount is less. The amount of security may be increased or decreased by the tax administrator subject to limitations herein provided. The Transient Lodging Tax Collector has a right to appeal to the City Council any decision of the tax administrator made pursuant to this section. The Transient Lodging Tax Collector's right to appeal is pursuant to Section 8.045.16 herein. [Section 8.045.11.a amended by Ordinance No. 18-11, passed December 3, 2018.]
- (b) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, the tax administrator may bring any action in the courts of this State, or any other state, or of the United States, in the name of the City, to collect the amount delinquent, together with penalties and interest. [Section 8.045.11 added by Section 11 of Ordinance No. 75-05, passed June 2, 1975.]

8.045.12 Lien.

- (a) The tax imposed by Sections 8.045.1 to 8.045.17, together with the interest and penalties therein provided, and advertising costs which may be incurred when the same becomes delinquent, as set forth herein, shall be and, until paid, remain a lien from the date of its recording in the lien docket of the City and superior to all subsequent recorded liens on all real and tangible personal property, used in the Transient Lodging Facility of an operator within the City of Astoria, and may be foreclosed on and sold as may be necessary to discharge said lien. A lien shall be recorded

by the tax administrator or his deputy whenever the Transient Lodging Tax Collector is in default in payment of said tax and the lien is ordered by a resolution of the City Council. The lien shall be entered in the lien docket and on an electronic lien service provider such as "Net Assets" for the full value with separate amounts for tax and penalty. Interest shall commence from the date of entry in the lien docket. Interest shall accrue on the tax portion of the lien at 1 percent per month or fraction thereof without proration for portion of month. [Section 8.045.12.a amended by Ordinance No. 18-11, passed December 3, 2018.]

- (b) In addition to the lien against the operator's property as noted in Section 8.045.12(a), the tax imposed by this Chapter, together with the interest and penalties provided in this Chapter, shall be and until paid remain a lien from the date of its docketing with the City Manager of the City against the real property occupied by the Transient Lodging Facility, regardless of the ownership of said property. Recording of the lien shall be in accordance with Section 8.045.12(a). [Section 8.045.12.b added by Ordinance No. 18-11, passed December 3, 2018.]
- (c) In the case of a Transient Lodging Facility Intermediary, the tax imposed by this Chapter, together with the interest and penalties provided in this Chapter, shall be and until paid remain a lien from the date of its docketing with the City Manager of the City against all property of the Transient Lodging Facility Intermediary as authorized by local, State or Federal law. This lien shall have priority over all other liens and encumbrances of any character. The lien may be foreclosed on as provided by local, State or Federal law. Recording of the lien shall be in accordance with Section 8.045.12(a). [Section 8.045.12.c added by Ordinance No. 18-11, passed December 3, 2018.]
- (c) Other Remedies. Nothing herein contained shall prevent the City from exercising any right or seeking any remedy to which the City might otherwise be entitled or from filing a complaint with any appropriate governmental agency. This ordinance is in addition to any Federal, State, and other laws, rules and regulations, and methods of tax collection. [Section 8.045.12.d added by Ordinance No. 18-11, passed December 3, 2018.]
- (d) The lien shall be enforced as provided in Sections 2.185(3) to 2.185(5) of this code. [Section 8.045.12 added by Section 12 of Ordinance No. 75-05, passed June 2, 1975; and amended by Ordinance No. 79-02, passed February 5, 1979; renumbered by

Ordinance No. 18-11, passed December 3, 2018.]

8.045.13 **Refunds.**

- (a) Refunds by the City to the Transient Lodging Tax Collector.

Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this ordinance, it may be refunded; provided, a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded, or may be credited on any amount then due and payable from the Transient Lodging Tax Collector from whom it was collected or by whom paid; and the balance may be refunded to such Transient Lodging Tax Collector, his administrators, executors, or assignees. [Section 8.045.13.a amended by Ordinance No. 18-11, passed December 3, 2018.]

- (b) Refunds by City to transient.

Whenever the tax required by this ordinance has been collected by an Transient Lodging Tax Collector and deposited by Transient Lodging Tax Collector 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; provided, a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the tax administrator within three years from the date of payment. [Section 8.045.13.b amended by Ordinance No. 18-11, passed December 3, 2018.]

- (c) Refunds by Transient Lodging Tax Collector to tenant.

Whenever the tax required by this ordinance has been collected by the Transient Lodging Tax Collector and it is later determined that the tenant occupies the Transient Lodging Facility for a period exceeding 30 days without interruption, the Transient Lodging Tax Collector shall refund to such tenant the tax previously collected by the Transient Lodging Tax Collector from that tenant as a transient. The Transient Lodging Tax Collector shall account for such collection and refund to the tax administrator. If the Transient Lodging Tax Collector has remitted the tax prior to the refund or

credit to the tenant, he shall be entitled to a corresponding refund under this section. [Section 9.045.13 added by Section 13 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.14 Collection Fee.

Every Transient Lodging Tax Collector liable for collection and remittance of the tax imposed by this ordinance may withhold 5 percent of the net tax herein collected, to cover the Transient Lodging Tax Collector's expense in collection and remittance of said tax. [Section 9.045.14 added by Section 14 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance 18-11, passed December 3, 2018.]

8.045.15 Administration.

- (a) [Subsection (a) repealed by Ordinance No. 87-10, passed May 18, 1987.]
- (b) Records required from Transient Lodging Tax Collectors, etc.

Every Transient Lodging Tax Collector shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the Transient Lodging Tax Collector for a period of three years and six months after they come into being. [Section 8.045.15.b amended by Ordinance No. 18-11, passed December 3, 2018.]

- (c) Examination of records; investigations.

The tax administrator, or any person authorized in writing by him, may examine during normal business hours the books, papers and accounting records relating to room sales of any Transient Lodging Tax Collector, after notification to the Transient Lodging Tax Collector liable for the tax, and may investigate the business of the Transient Lodging Tax Collector in order to verify the accuracy of any return made or, if no return is made by the Transient Lodging Tax Collector, to ascertain and determine the amount required to be paid. [Section 8.045.15.c amended by Ordinance No. 18-11, passed December 3, 2018.]

- (d) Confidential Character of Information Obtained.

City will comply with the Public Records Law of the State of Oregon relating to the confidentiality of and allowable disclosure of records,

reports or returns submitted pursuant to this transient room tax ordinance. [Subsection 8.045.15(d) repealed and replaced by Ordinance No. 1010, passed November 1, 2010.]

[Section 8.045.15 added by Section 15 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 87-10, passed May 18, 1987]

8.045.16 Appeals to City Council.

Any person aggrieved by any decision of the tax administrator may appeal to the City Council by filing notice of appeal with the tax administrator within 20 days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator shall transmit said notice of appeal together with the file of said appealed matter to the council, who shall fix a time and place for hearing such appeal from the decision of the tax administrator. The council shall give the appellant not less than 20 days' written notice of the time and place of hearing of said appealed matter. Action by the council on appeals shall be decided by a majority of the members of the council present at the meeting where such appeal is considered. [Section 8.045.16 added by Section 16 of Ordinance No. 75-05, passed June 2, 1975.]

8.045.17 Violations; Criminal and Civil Penalties and Remedies.

(a) Failure to Register or Report.

It is unlawful for any Transient Lodging Tax Collector or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this ordinance. Any person willfully violating any of the provisions of this ordinance shall be subject to the penalties provided in Section 1.010 of this Code. [Section 8.045.17.a amended by Ordinance No. 18-11, passed December 3, 2018.]

(b) Nonpayment – Civil and Criminal Remedies and Penalties.

An Transient Lodging Tax Collector who, having collected transient room tax, and failing to remit them to the City, may, in addition to

the penalties and lien imposed by this ordinance, be subject to the penalties provided in Section 1.010 of this Code, and be subject to civil action in a court of competent jurisdiction for conversion, money had and received or any other available civil remedy. At the City's discretion, the City may prosecute or have the Transient Lodging Tax Collector prosecuted for a misdemeanor or felony, as the facts may warrant, when it appears the Transient Lodging Tax Collector has committed theft as defined by Oregon statutes.

[Section 8.045.17 added by Sections 18 and 19 of Ordinance No. 75-05, passed June 2, 1975; amended by Ordinance No. 10-10, passed November 1, 2010; amended by Ordinance No. 18-11, passed December 3, 2018.]

8.045.18 Distribution and Management of Funds.

The transient room tax collected will be deposited as follows:

- (a) Fifty-three and nine tenths (53.9%) of the total taxes collected shall be deposited into the General Fund to fund City services.
- (b) Forty-six and one tenth percent (46.1%) of 9% of transient room tax collections shall be deposited into the Promote Astoria Fund.
- (c) Thirty percent (30%) of 2% of transient room tax collections adopted in Ordinance 17-11 shall be deposited into the General Fund to fund City services.
- (d) Seventy percent (70%) of 2% of transient room tax collections adopted in Ordinance 17-11 shall be deposited into the Promote Astoria Fund.

The tax transferred to the Promote Astoria Fund shall be used for tourism promotion and tourism-related facilities as defined in ORS 320.300 for the City of Astoria and immediate-surrounding areas.

Organizations receiving funds from the Promote Astoria Fund shall enter into a contract with the City that will include a scope of work and budget to be approved annually by the Astoria City Council. The contract will designate how the funds will be expended by contracting organizations.

Contracting organizations shall provide semi-annual financial reports, by August 1 and February 1, covering the six months ended June 30 and December 31, respectively, of each year. These reports shall provide a verified listing of the expenditures with adequate narrative, so the City can

be satisfied as to the appropriateness of the expenditures. In addition, the Budget Committee of the City shall review such reports during the budget process and recommend to the City Council the continuance, discontinuance, or changes to a contract each year.

[Section 8.045.18 added by Section 2 of Ordinance No. 81-04, passed May 18, 1981; amended by: Ordinance No. 87-10, passed May 18, 1987; Ordinance No. 90-07, section 3, passed April 16, 1990; Ordinance No. 91-15, passed June 17, 1991; Ordinance No. 92-05; passed July 6, 1992; Ordinance No. 93-06, passed July 19, 1993; Ordinance 95-07, passed May 15, 1995; Ordinance No. 95-11, passed July 17, 1995; Ordinance No. 99-12, passed July 6, 1999; Ordinance No. 02-08, passed June 17, 2002; and Ordinance No. 04-09, passed October 18, 2004; Repealed and replaced Ordinance No. 18-03, passed February 26, 2018]

Utility Taxes

8.050 **Purpose.** The provisions of Sections 8.050 to 8.085 of this code are an exercise of the power to license for revenue.

8.055 **License Required.** A person engaged in the business of selling or furnishing electrical energy shall obtain a license and pay the license fee required in Section 8.060 of this code.

8.060 **License Fee.**

- (1) The license fee for a license issued under Section 8.055 of this code is an amount equal to 3-1/2 percent of the gross revenue collected by the licensee from its customers within the city. Gross revenue shall be computed by taking the total billings of the licensee and deducting the net write-off of uncollectible accounts.
- (2) All license fees due or payable under this section shall be paid for the preceding quarter on or before the 15th day of January, April, July and October following the quarter billed. *[Section 8.060 as amended by Ordinance No. 70-01, passed January 5, 1970.]*

8.065 **Application.** On or before January 1 every year, a person required to obtain a license under Section 8.055 of this code shall apply to the finance director for a license upon forms furnished by the city, and such license shall thereafter be issued upon payment of the license fee.

8.070 **Books, Records and Return of Taxpayer.**

- (1) Every person licensed under Section 8.055 of this code shall keep and enter in a proper set of books or records an account which shall reflect accurately the amount of gross income from the licensee's business within the city. Such books and records shall be open to the inspection of the finance director or his assistants at all reasonable times.
- (2) Every person licensed under Section 8.055 of this code shall file with the finance director a sworn statement every three months accurately setting forth and showing the gross income of the business within the city for the preceding quarter. The sworn statement shall accompany and be filed with the remittance of the license fee.

8.075 **Overpayment or Underpayment of Tax.** If the finance director finds that the license fee paid is more than the amount required, the finance director shall refund the amount overpaid. If the finance director finds that the license fee

paid is less than required, the finance director shall send a statement to the licensee showing the balance due. The balance due shall be paid within three days after receipt of the statement.

8.080 **Remedy for Nonpayment of Tax.** If any business licensed under Section 8.055 of this code fails to comply with Sections 8.050 to 8.085 of this code, then on the eleventh day of noncompliance, the finance director shall ascertain the amount of the fee due and shall notify the licensee of such default. The finance director shall notify the city attorney in writing of the name of such delinquent licensee and the amount due. The city attorney with the assistance of the finance director shall collect the license fee due by any appropriate means or by suit or action in the name of the city.

8.085 **Manager to Make Rules.**

- (1) The city manager shall adopt, publish and enforce rules and regulations consistent with this code or with other applicable laws for the purpose of carrying out Sections 8.050 to 8.085 of this code. The city manager shall follow the provisions of Section 3.100 of this code in promulgating such regulations.
- (2) No person may violate or fail to comply with any such rule or regulation.

Marijuana Retail Tax**8.090 Definitions.**

- (1) Marijuana item has the meaning given that term in ORS 475B.015(16).
- (2) Marijuana retailer means a person who sells marijuana items to a consumer in this state.
- (3) Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

8.091 Tax Imposed. As described in ORS ~~475B.345~~475B.491 the City of Astoria imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the City of Astoria. [ORS updated by Ordinance 18-12, passed December 17, 2018]

8.092 Collection. Every marijuana retailer shall collect this tax at the point of sale at the time at which the retail sale occurs.

8.093 Tax Returns. Every marijuana retailer shall pay the taxes collected to the Oregon Department of Revenue and shall file all returns reporting this tax as required by any rules and procedures established by the Oregon Department of Revenue.

8.095 Interest and Penalty.

- (1) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.
 - (2) If a marijuana retailer fails to file a return with the Oregon 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 ORS 314.400.
 - (3) 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 Oregon Department of Revenue.
 - (4) Taxes, interest and penalties transferred to the City of Astoria by the Oregon Department of Revenue will be distributed to the City's General
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- (5) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City of Astoria under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

8.097 **Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

[Sections 8.090 through 8.097 added by Ordinance No. 17-02, passed January 17, 2017]

Motor Vehicle Fuel Tax

8.102 Definitions. As used in this Ordinance, unless the context requires otherwise, the following words and phrases shall mean:

- (1) City. The City of Astoria, Oregon.
 - (2) Dealer. Any person who:
 - (a) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in the city, but "dealer" does not include any person who imports into the city motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer hereunder if that dealer assumes liability for the payment of the applicable license tax to the city; or
 - (b) Produces, refines, manufactures or compounds motor vehicle fuels in the city for use, distribution or sale in the city; or
 - (c) Acquires in the city for sale, use or distribution in the city motor vehicle fuels with respect to which there has been no license tax previously incurred.
 - (3) Distribution. In addition to its ordinary meaning, the delivery of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.
 - (4) Highway. Every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.
 - (5) Motor Vehicle. All vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.
 - (6) Motor Vehicle Fuel. Includes gasoline, diesel, mogas, methanol and any other flammable or combustible gas or liquid, by whatever name such gasoline, diesel, mogas, methanol, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas, diesel, mogas, methanol or liquid, the chief use of which, as determined by the tax administrator, is for purposes other than the propulsion of motor vehicles upon the highways.
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- (7) Person. Includes every natural person, association, firm, partnership, corporation, joint venture or other business entity.
- (8) Service Station. Any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
- (9) Tax Administrator. The city manager, the city manager's designee, or any person or entity with whom the city manager contracts to perform those duties.
- (10) Weight Receipt. A receipt issued by the Oregon Department of Transportation, stating the combined weight of each self-propelled or motor-driven vehicle.

8.104 Tax Imposed. A business license tax is hereby imposed on every dealer. The tax imposed shall be paid monthly to the tax administrator. The tax administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the business license tax, including all powers specified in ORS 319.010 to 319.430.

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

- (1) Not later than the 25th day of each calendar month, render a statement to the tax administrator on forms prescribed, prepared and furnished by the tax administrator of all motor vehicle fuel sold, used or distributed by him/her in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month.
- (2) Pay a license tax computed on the basis of \$.03 (three cents) per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this code.

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

8.110 License. Applications and Issuance.

- (1) Every person, before becoming a dealer in motor vehicle fuel in this city, shall make application to the tax administrator for a license authorizing such person to engage in business as a dealer.
- (2) Applications for the license shall be made on forms prescribed, prepared and furnished by the tax administrator.
- (3) Applications shall be accompanied by a duly acknowledged certificate containing:
 - (a) The business name under which the applicant transacts business.
 - (b) The address of applicant's principal place of business and location of distributing stations in and within three miles of the city.
 - (c) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership or, if a corporation, the name under which the corporation is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.
- (4) If an application for a motor vehicle fuel dealer's license is complete and accepted for filing, the tax administrator shall issue to the dealer a license in such form as the tax administrator may prescribe to transact business in the city. A license issued hereunder is not assignable, and is valid only for the dealer in whose name it is issued.
- (5) The tax administrator shall retain all completed applications with an alphabetical index thereof, together with a record of all licensed dealers.

8.112 Failure to Secure License.

- (1) If a dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and obtaining the license required by Section 8.110 of this ordinance, the license tax on all motor vehicle fuel sold, distributed or used by that dealer shall be immediately due and payable.
- (2) The tax administrator shall proceed forthwith to determine, from as many available sources as the tax administrator determines reasonable, the amount of tax due, shall assess the dealer for the tax in the amount found due, together with a penalty of 100 percent of the tax, and shall make its

certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty or both, the certificate shall be prima facie evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty stated.

- (3) Any tax or penalty assessed pursuant to this section may be collected in the manner prescribed in Section 8.120 of this ordinance with reference to delinquency in payment of the fee or by an action at law.
- (4) In the event any suit or action is instituted to enforce this section, if the City is the prevailing party, the City shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

8.114 Revocation of License. The City or its authorized agent shall revoke the license of any dealer refusing or neglecting to comply with any provision of this Ordinance. The City or its authorized agent shall mail by certified mail addressed to such dealer or at his last known address appearing on the files, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within 10 days from the mailing of the notice the dealer or fuel-handler has not made good its default or delinquency.

8.116 Cancellation of License.

- (1) The tax administrator may, upon written request of a dealer, cancel a license issued to that dealer. The tax administrator shall, upon approving the dealer's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the license shall no longer be effective.
- (2) The tax administrator may, after 30 days' notice has been mailed to the last known address of the dealer, cancel the license of dealer upon finding that the dealer is no longer engaged in the business of a dealer.

8.118 Remedies Cumulative. Except as otherwise provided in Sections 8.120 and 8.124, the remedies provided in Sections 8.112 through 8.116 of this Ordinance are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this code.

8.120 Payment of Tax and Delinquency.

- (1) The license tax imposed by Sections 8.102 to 8.150 of this chapter shall be paid to the tax administrator on or before the 25th day of each month.

- (2) Except as provided in subsections (3) and (5) of this section, if payment of the license tax is not paid as required by subsection (1) of this section, a penalty of 1 percent of such license tax shall be assessed and be immediately due and payable.
- (3) Except as provided in subsection (5) of this section, if the payment of the tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (2) of this section and shall be immediately due and payable.
- (4) If the license tax imposed by Sections 8.102 to 8.150 of this code is not paid as required by subsection (1) of this section, interest shall be charged at the rate of .0329 percent per day until the tax, interest and penalties have been paid in full.
- (5) Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to Section 8.112. The tax administrator may for good cause shown waive any penalties assessed under this section.
- (6) If any person fails to pay the license tax, interest, or any penalty provided for by this section, the tax, interest, and/or penalty shall be collected from that person for the use of the city. The tax administrator shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.
- (7) In the event any suit or action is instituted to collect the business license tax, interest, or any penalty provided for by this section, if the City is the prevailing party, the City shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

8.122 Monthly Statement of Dealer. Every dealer in motor vehicle fuel shall provide to the tax administrator on or before the 25th day of each month, on forms prescribed, prepared and furnished by the tax administrator, a statement of the number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.

8.124 Failure to File Monthly Statement. If a dealer fails to file any statement required by Section 8.122, the tax administrator shall proceed forthwith to determine from as many available sources as the tax administrator determines reasonable the amount of motor vehicle fuel sold distributed or used by such

dealer for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of fuel sold, distributed or used. The tax administrator shall immediately assess the dealer for the license tax upon the amount determined, adding thereto a penalty of 10 percent of the tax. The penalty shall be cumulative to other penalties provided in this code.

8.126 Billing Purchasers. Dealers in motor vehicle fuel shall render bills to all purchasers of motor vehicle fuel. The bills shall separately state and describe the different products sold or shipped there under and shall be serially numbered except where other sales invoice controls acceptable to the tax administrator are maintained.

8.128 Failure to Provide Invoice or Delivery Tag. No person shall receive and accept motor vehicle fuel from any dealer, or pay for the same, or sell or offer the motor vehicle fuel for sale, unless the motor vehicle fuel is accompanied by an invoice or delivery tag showing the date upon which motor vehicle fuel was delivered, purchased or sold and the name of the dealer in motor vehicle fuel.

8.130 Transporting Motor Vehicle Fuel in Bulk. Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such motor vehicle fuel, an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall, at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

8.132 Exemption of Export Fuel.

- (1) The license tax imposed by Section 8.104 shall not be imposed on motor vehicle fuel:
 - (a) Exported from the city by a dealer; or
 - (b) Sold by a dealer for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.
- (2) In support of any exemption from license taxes claimed under this section other than in the case of stock transfers or deliveries in the dealer's own

equipment, every dealer must execute and file with the tax administrator an export certificate in such form as shall be prescribed, prepared and furnished by the tax administrator, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as the tax administrator may require. The tax administrator may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The tax administrator may, in a case where the tax administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate.

- (3) Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.
- (4) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the tax administrator and the dealer from whom the motor vehicle fuel was originally purchased of his/her act.
- (5) No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.
- (6) In support of any exemption from taxes on account of sales of motor vehicle fuel for export by the purchaser, the dealer shall retain in his/her files for at least three years, an export certificate executed by the purchaser in such form and containing such information as is prescribed by the tax administrator. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

8.134 Sales to Armed Forces Exempted. The license tax imposed by Sections 8.104 and 8.106 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States, including the U. S. Coast Guard and the Oregon National Guard, for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the tax administrator in such detail as may be required. A certificate by an authorized officer of such

Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

8.136 Fuel in Vehicles Coming Into City Not Taxed. Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle, motor vehicle fuel for his/her own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in Sections 8.104 and 8.106 or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the city shall be subject to all the provisions herein applying to dealers.

8.138 Refunds.

- (1) Refunds of tax on motor vehicle fuel will be made pursuant to any refund provisions of Chapter 319 of the Oregon Revised Statutes, including but not limited to ORS 319.280 and 319.831. Claim forms for refunds may be obtained from the Tax Administrator's office.
- (2) A holder of a weight receipt that certifies to the city that the motor vehicle fuel upon which the tax was imposed will be used only for fueling vehicles subject to the State of Oregon's weight-mile tax, may apply for a refund of 80 percent of the tax imposed by Section 8.106 of this code on motor vehicle fuel purchased in bulk for distribution at the weight receipt holder's facility located within the city. This subsection applies only to motor vehicle fuel purchased by the weight receipt holder on or after February 23, 2005.
- (3) All claims for refund under subsection (2) of this section shall be filed within 15 months of the date that the fuel was purchased and may not be filed more frequently than quarterly. The minimum claim for refund filed under subsection (2) of this section shall be not less than \$25.00.

8.140 Examinations and Investigations. The tax administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of dealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of Sections 8.102 through 8.150. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the tax administrator pursuant to the requirements herein, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, the tax administrator may make such

changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigation. The dealer shall reimburse the city for the reasonable costs of the examination or investigation if the action discloses that the dealer paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the city, such additional payment shall be subject to interest at the rate of .0329 percent per day from the date the original tax payment was due.

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

- (1) Except as otherwise provided in this code, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within three years after the date on which the overpayment was made to the city.
- (2) Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this code shall be served on dealers within three years from the date upon which such additional taxes become due, and shall be subject to penalty as provided in Section 8.120.

8.144 Examining Books and Accounts of Carrier of Motor Vehicle Fuel. The tax administrator or duly authorized agents of the tax administrator may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for the purpose of enforcing the provisions of this code.

8.146 Records to be Kept by Dealers. Every dealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the tax administrator of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the tax administrator or authorized officers or agents of the tax administrator.

8.148 Records to be Kept Three Years. Every dealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the tax administrator. In the event such records are not kept within the state of Oregon, the dealer shall reimburse the tax administrator for all travel, lodging, and

related expenses incurred by the tax administrator in examining such records. The amount of such expenses shall be assessed in addition to the tax imposed by Section 8.104.

8.150 Use of Tax Revenues.

- (1) For the purpose of this section, net revenue shall mean the revenue from the tax and penalties imposed by Sections 8.102 through 8.150 remaining after providing for the cost of administration and any refunds and credits authorized herein.
- (2) The net revenue shall be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation, and use of city owned roads and streets within the city, roads and streets for which the city is contractually or legally obligated to operate and maintain, or roads and streets for which the city has accepted responsibility under intergovernmental agreement.

8.152 When Tax Shall Take Effect. The tax imposed pursuant to Section 8.104 shall take effect only after the Tax Administrator has developed the necessary forms and documents to administer the tax. The Tax Administrator shall declare when the tax shall take effect, and give not less than 15 days notice of the date before the tax may take effect. The Tax Administrator's decision as to the effective date of the tax and the type of notice to provide shall be final and not subject of review.

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

[Sections 8.102 through 8.154 added by Ordinance No. 07-02, passed August 20, 2007; Code Section 8.102 through 8.154 readopted by Ordinance No. 16-06, passed October 3, 2016.]

SPECIAL PROVISIONS**Amusement Devices**

[Sections 8.100 through 8.255 renumbered to Sections 8.200 through 8.250 by Ordinance No. 07-03, passed August 20, 2007.]

8.200 Amusement Device Defined.

- (1) In Section 8.200 through 8.208 of this code, the term "amusement device" means any coin or token-operated mechanical, electronic, mechanical-electronic or nonmechanical mechanism which is designed for the amusement of the player or operator and is complete in itself, having as its purpose the production or creation of a game or skill, amusement, entertainment, or test of strength, including, but not limited to, shuffleboards, coin-operated devices utilizing tables, boards video screens or cases of any size whatever, balls, sticks, cues, pegs or marbles, and whether or not any motivating force involved is furnished by the player or the device.
- (2) Amusement devices shall not include devices used exclusively for the purpose of selling tangible personal property such as cold drinks, tobacco products, candies, postage stamps, or other merchandise; or services such as music machines, pay telephones, parking meters, money changing machines, gas and electric meters, machines which measure pulse rate or blood pressure, and other distributors of goods or services for public use. *[Section 8.100 as amended by Ordinance No. 83-15, Section 1, passed December 19, 1983.]*

8.202 License Required. No person may maintain, operate or permit the operating or playing of any amusement device without first obtaining a license and paying the license fee required in Section 8.206 of this code.

8.204 Licensing Procedures.

- (1) A person may obtain a license to operate or maintain an amusement device by applying at the office of the finance director on blanks furnished for that purpose. The applicant shall describe the place of business or premises where such machine or device is to be operated or maintained and the number and kind of machines sought to be licensed. Each license application shall be approved by either the city manager or the finance director before a license is issued for a particular machine.
- (2) An amusement device license is issued to one person to permit the

operation or maintenance of amusement devices upon one definitely described premises. The number of machines licensed upon a single premises shall be stated on the license. The license shall be displayed conspicuously on the licensed premises at all times. The license is not transferable and is not valid for any premises other than those described in the license.

- (3) Each shuffleboard shall have printed or written plainly thereon a notice to the effect that no minors may be allowed to use or play the same.

8.206 License Fee.

- (1) Amusement device license fees are as follows:
 - (a) \$25.00 a month or part thereof for each amusement device which rewards the player with free games.
 - (b) \$6.00 a month or part thereof for each amusement device which gives a certain amount of play, which may be extended by the player's skill, but does not reward the player with additional free games, and after the game the player must deposit an additional coin or coins for more playing time.
 - (c) \$5.00 a month or part thereof for each nonmechanical amusement device, such as a shuffleboard, pool table, billiards, foosball or similar device.
- (2) An amusement device license expires at the end of the last calendar month for which the license is issued.
- (3) Amusement device license fees shall be paid in advance of the period for which the license is issued.
- (4) In addition to the license fee specified in this section, a penalty of an additional one month's license fee shall be paid for an amusement device operated without the fee having been paid. *[Section 8.115 as amended by Ordinance No. 83-15, Section 2, passed December 19, 1983.]*

8.208 Unlicensed and Confiscated Devices.

- (1) No person may display for public use an amusement device for which a license is not issued.
- (2) No person may display for use an amusement device as a gambling device wherein the player receives a cash payment based on a score or accumulated free plays.
- (3) The police department may seize any amusement device which is on display and which is not licensed.
- (4) The police department may seize any amusement device which is on display and which they have probable cause to believe is being used or operated as a gambling device, as defined by this code or the laws of this state.
- (5) The owner of an amusement device which has been seized shall pay, in addition to the license and penalty, the cost of loading, handling and transporting said amusement device to a place within the city where it shall be stored. Also, the owner shall pay a storage fee of \$25.00 for each device plus \$1.00 per device for each day or fraction thereof the device is stored. *[Section 8.120 as amended by Ordinance No. 73-16, Section 3, passed November 19, 1973; and Ordinance No. 83-15, Section 3, passed December 19, 1983.]*

Amusement Places

8.210 Amusement Place Defined.

- (1) In Section 8.210 to 8.232 of this code the words "amusement place" mean a business establishment or premises where persons may take part in entertainment with amusement devices. The words "amusement place" include a theater, a theater being a place wherein admission is being charged for entrance thereto and only confectioneries are sold public cardroom, poolroom, billiard room, shooting gallery, bowling alley, museum, circus, merry-go-round, tent show; other places wherein admission is free but a charge is made to see specific movies shown by manually operated projectors, or by coin operated motion picture projectors; miscellaneous concessions, novelty devices and magazines.
- (2) In Sections 8.125 to 8.180 of this code the words "amusement place" do not include shows or other activities sponsored by any school or publicly owned theater. *[Section 8.125 as amended by Ordinance No. 73-03, Section 1, passed May 7, 1973.]*

8.212 License Required.

- (1) No person may engage in or conduct an amusement place without first obtaining a license and paying the license fee required in Section 8.214 of this code.
- (2) If more than one amusement place is carried on in the same building or premises by the same person, a separate license is not required. A license fee shall be obtained and paid for each amusement place.
- (3) The operation of an amusement place at two or more locations shall be deemed two or more amusement places and each is subject to the license fee required by this code.

8.214 Amusement Place License Fees.

- (1) An amusement place license fee is as follows:

Daily License Fees

Circuses.....	\$100.00
Merry-go-round, ferris wheel or similar device	5.00
Miscellaneous concessions, including a ball and bucket game, ball throwing game, cane rack,	

cut rack, country store, doll rack, spot-the-spot game, striking machines or other similar concessions, whether operated alone or in connection with a circus, sideshow or other exhibition	10.00	a game or device
Museums, exhibitions or shows	25.00	
Tented shows or exhibitions not part of a circus.....	25.00	

Monthly License Fees

Amusement arcades	1.50	
Billiard rooms.....	1.50	a billiard table
Cardrooms.....	2.50	a card table
Poolrooms	1.50	a pool table
Coin operated motion picture projecting machines and specific movies on manually operated motion picture projectors.....	5.00	each

Quarterly License Fees

Museums, exhibitions or shows	50.00
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Annual License Fees

Bowling alleys.....	10.00	for the first alley
.....	1.00	a year for each additional alley
Movie theater.....	50.00	
Shooting galleries.....	30.00	

- (2) Annual licenses expire December 31; quarterly licenses expire March 31, June 30, September 30 and December 31; monthly licenses expire at the end of a calendar month; and weekly licenses expire at 12 midnight on Saturday. Daily licenses are for a 24-hour period ending at 12 midnight. No amusement place license may be issued except for a full term thereof. All amusement place licenses, except weekly and daily licenses, shall be dated from the first day of the month.
- (3) No license is required of educational or religious, tented shows or exhibitions when operated on a nonprofit basis.
- (4) Quarterly license fees are due 30 days after the beginning of the quarter. Annual license fees are due February 1 of the calendar year when due.

- (5) Any organization which is supported by budgeted funds of the city at the discretion of the city council may or may not be required to have a license under Section 8.214(1). *[Section 8.135 as amended by Section 13 of Ordinance No. 64-20, passed December 21, 1964; Ordinance No. 66-02, passed July 5, 1966; and Section 2 of Ordinance No. 73-03, passed May 7, 1973.]*

8.216 Licensing Procedures.

- (1) Any person desiring to obtain an amusement place license shall apply therefor at the office of the finance director on a form provided by the city for that purpose. The form shall be filled in and signed by the person desiring to secure such license.
- (2) Where special investigation of an applicant for an amusement place license is necessary, the city council, city manager, or both may require the applicant to present himself personally before the city council or city manager as a condition of granting the license,
- (3) All applications for an amusement place license shall be routed to the city manager and the police chief. If the city manager or police chief considers it advisable, he shall refer the application to the city council with recommendations, after which, if the application for said license is granted and approved by said city council, the finance director shall issue a license upon the receipt of the license fees.
- (4) If the application for an amusement place license is disapproved by the city council, the finance director shall notify the applicant immediately in writing. The applicant may appeal to the city council and demand a hearing before the city council at its next regular meeting thereafter. The city council shall proceed to hear and determine the appeal and its decision shall be final.
- (5) A license issued for an amusement place shall be posted conspicuously at all times in the licensee's place of business, or, if he has no place of business, the licensee shall have the license on his person.
- (6) An amusement place license may be revoked by the city council for failure of the licensee to comply with any of the provisions of this code providing for regulation of amusement place businesses. No amusement place license shall be issued to any person whose amusement place license has been revoked, without first obtaining the approval of the city council expressed by resolution.

- (7) Before an amusement place license is revoked or suspended, the city council shall provide that notice be given by the finance director by certified mail to the licensee that his license will be suspended or cancelled unless the licensee within said three days after receiving notice demands, in writing, a hearing before the city council that shall be held at the next city council meeting. After the hearing the city council shall determine whether to revoke or suspend the license. If no hearing is demanded, the license is automatically revoked or suspended upon the expiration of three days after notice is mailed. An amusement place license issued for a period of less than 10 days may be revoked without hearing by motion of the city council or by the city manager at the time of conviction of the licensee under this code.
- (8) No amusement place license is assignable or transferable, nor does such a license authorize any person other than the named licensee to conduct the business for which the license is granted. No person licensed to operate an amusement place may attempt to conduct an amusement place in any location other than that designated in the license without first obtaining permission of the finance director.

8.218 Inspection.

- (1) The police, fire and health officers of the city have the power and authority to visit amusement places at all reasonable hours and examine the same for the purpose of determining whether the amusement place is maintained and conducted in a lawful, safe and sanitary manner.

Any infraction of law or unsafe or unsanitary condition shall be reported to the city council.

8.220 Obstructions.

- (1) All back rooms and other parts of cardrooms, poolrooms, billiard rooms, bowling alleys and shooting galleries shall be open to the inspection of any officer of the city or of any other peace officer of the state. The doors to the same shall be kept unlocked during the hours when the business is kept open, except in the case of rooms used exclusively for storage purposes and which are plainly marked and labeled "storeroom" on the door thereof. This section shall not dispense with the necessity of procuring a search warrant where such a search warrant is necessary under the law.
- (2) No person may maintain in any cardroom, poolroom or billiard room any screen, interior swinging doors, window blinds or any obstruction whatever.

which will obstruct the view of the interior of such establishment to passers-by.

8.222 Moral Character.

- (1) All applicants for amusement place licenses shall be of good moral character and shall not have been convicted of the sale or possession of intoxicating liquor, opium, morphine, cocaine or other narcotic drugs, or of gambling or permitting gambling in their place of business, or of violation of any state or other law regulating the operation of an amusement place.
- (2) No person licensed under Section 8.212 of this code may employ or permit to work in the place of business so licensed any person who has been convicted of the sale or possession of intoxicating liquor, opium, morphine, cocaine or other narcotic drugs, or of gambling, or of any violation of any state or other law involving moral turpitude, or of any ordinance or code provisions of the city regulating the operation of an amusement place.

8.224 Sanitation. All places of business requiring an amusement place license shall be kept in a clean and sanitary condition. If the health officer of the city reports the licensed premises to be unsanitary, the business shall be cleaned immediately to the satisfaction of the city health officer.

8.226 Physical Facilities Regulated. The basement and any other unoccupied rooms or enclosures of amusement places shall be partitioned off completely and entirely and separated from all other occupied basements and rooms in the building. All of the basements, rooms and other enclosures shall be accessible only through the licensed establishment or licensed place of business. Except for doors opening into entryways used in common with other occupants of the building any doors existing in the partitions shall be fastened securely and barred on the inside so that they cannot be unlocked or opened from outside the licensed place of business. If a door opens into an unoccupied basement, room or other enclosure, the door shall be kept fastened securely with nails or in some other manner satisfactory to the police chief, so that the unoccupied basement, room or other enclosure cannot be used under any circumstances by any person from the licensed place of business. No person licensed under Section 8.212 of this code may occupy or use any basement, room or other enclosure jointly with any other person.

8.228 Minors. The person operating a cardroom, poolroom or billiard room shall keep on file in each licensed place a written statement, signed by the parents of persons who are age 21 to 25 and whose age is not revealed by physical appearance, giving the person's date of birth. There shall be posted at the

entrance of all cardrooms, poolrooms or billiard rooms a sign reading "No Minors Allowed" in letters not less than two inches high.

8.230 Shooting Galleries.

- (1) No person may discharge firearms in any shooting gallery where the noise resulting from such discharge can be heard more than 300 feet from the shooting gallery.
- (2) All shooting galleries shall be enclosed securely in such a manner that persons on the outside thereof shall not be in danger of, or annoyed by, the discharge of the firearms therein.

8.232 Hours Regulations. All cardrooms, poolrooms, billiard rooms, bowling alleys and shooting galleries and all parts used in connection therewith shall remain closed between the hours of 2:00 a.m. and 6:00 a.m.

8.234 Recreational Facility.

- (1) In this section, the words "recreational facility" mean an area, enclosure or room in which facilities are offered to the public to play billiards or pool for amusement only and
 - (a) Which is clean, adequately lighted and ventilated,
 - (b) In which no alcoholic liquor is served,
 - (c) Access to which does not require passing through a room where alcoholic liquor is served, and
 - (d) Which is in compliance with all applicable laws.
- (2) No person may open, operate or make available to the public a recreational facility without first obtaining a license.
- (3) The owner, lessee, proprietor, operator or employee of a recreational facility who has obtained a license from the city may permit a minor to play billiards or pool in such facility.
- (4) A person desiring to open, operate or make available to the public a recreational facility shall submit an application to the finance director on forms provided by the city.

- (5) The finance director shall refer the application for a recreational facility to the police chief for investigation and report. The finance director upon the receipt of the license fee shall issue a license if the police chief finds the applicant is of good moral character.
- (6) No person under the age of 18 years may be employed in a recreational facility.
- (7) No person may be employed in a recreational facility without first obtaining a permit from the police chief. The provisions of Section 8.222(2) of this code apply to persons employed in a recreational facility.

General Licensing

8.240 Boxing or Wrestling License Required.

- (1) No boxing or wrestling match or exhibition may be held without a license issued by the city.
- (2) Each boxing or wrestling promoter shall first obtain the approval of the city boxing and wrestling commission for an annual license to act as a boxing and wrestling promoter.
- (3) The boxing and wrestling promoter shall pay an annual license fee of \$10.00, together with an additional license fee of 6 percent of the gross receipts, less any federal taxes imposed upon the boxing or wrestling event, for each exhibition or match held or staged by such promoter. The city boxing and wrestling commission shall supervise and conduct the collection of such 6 percent exhibition license fee.

8.242 Exempted Matches and Exhibitions. Section 8.240 of this code shall not apply to any boxing or wrestling match held by any established local school, or charitable or fraternal organization at which no admission is charged, or in which the participants are under the control of the Amateur Athletic Union of America.

8.244 Outdoor Advertising.

- (1) Any person engaged in the business of outdoor advertising shall obtain a city license and pay an annual license fee of \$50.00 or a quarterly license fee of \$15.00. Every person who erects a billboard, sign, poster or advertising device of any character and who keeps and maintains the same for the purpose of renting space thereon to advertise products publicly shall be deemed to be engaged in the outdoor advertising business within the meaning of this section.

- (2) Nothing in this section applies to a billboard, sign, poster or other advertising structure kept or maintained on any premises by the owner or occupant for the purpose of advertising the business of such owner or occupant or to advertise products manufactured, raised or sold upon such premises.

8.246 Auctioneers.

- (1) An auctioneer shall obtain a license and pay an annual license fee of \$25.00. Every person who engages in offering goods, wares, merchandise or property for sale by public outcry is an auctioneer within the meaning of this section.
- (2) This section shall not apply to any sheriff, police chief, administrator, executor or other officer or person making sales pursuant to any judgment, decree or order of court, or under warrant to enforce collection of taxes, or assessments, or to execute or complete any judicial or legal processes.

8.248 Pawnbrokers.

- (1) A pawnbroker shall obtain a license and pay an annual license fee of \$25.00. Every person who takes or receives by way of pawn or pledge, or who accepts any goods, wares or merchandise or personal property of any character, for repayment or security of money lent is a pawnbroker within the meaning of this section.
- (2) A pawnbroker shall keep a register in which shall be entered in legible writing a description of all property purchased or taken as a pledge, pawn or security for any money loaned thereon whether such property be new or secondhand, and shall further register the name and residence of each person from whom any such property is purchased or received. The register shall be kept in the English language and shall be subject at all reasonable times to the examination of the police chief, the city attorney or any city police officer.

8.250 Licensing Procedures.

- (1) The licensing procedures of Sections 8.020 to 8.030 of this code and Sections 8.204 to 8.218 of this code apply to licenses issued under Sections 8.244 to 8.248 of this code.

- (2) Quarterly license fees required by Sections 8.240 to 8.248 of this code are due 30 days after the beginning of the quarter. Annual license fees required by Sections 8.240 to 8.248 of this code are due on February 1 of the year when due.

REGULATORY PROVISIONS

Peddlers and Transient Photographers

[Sections 8.300 through 8.345 repealed by Ordinance No. 02-09, passed August 5, 2002.]

Dances

8.380 **Definitions.** In Sections 8.380 to 8.470 of this code the following words mean:

- (a) Dance hall. Any room, place, space, pavilion or premises, except a private residence, in which a dance is held or instruction in dancing is given for compensation, either directly or indirectly.
- (b) Known. When used in connection with the words "prostitute," "male or female procurers" or "vagrant " means known to the manager, owner or lessee of the dance hall or to the person conducting a dance or to the police or other authorities regulating or supervising a dance hall or a dance, who has such reputation or character, or who has pleaded guilty to or has been convicted of being a prostitute, male or female procurer or vagrant.

8.385 **License Required.**

- (1) No person may open or operate or participate in the opening or operation of a dance hall without first obtaining a dance hall license and paying the license fee required by Section 8.405 of this code. No person who holds a license and no officer, agent or employee of the licensee may violate or allow a violation of any of the rules and regulations of this code during a dance held under such license.
- (2) No person may give, hold, conduct, manage or operate a dance except at a place or premises for which a license is issued and is in force and effect.

8.390 **Application of Regulations.** Sections 8.380 to 8.470 of this code shall apply to all dances including dances given by the management of hotels, restaurants, private clubs, lodges, bars and cafes, or any agent, employee, representative or concessionaire of such person. No dancing shall be allowed or permitted in any of the places mentioned in this section except as is authorized under the terms and conditions of this code.

8.395 **Application for License.** No dance license may be issued to any person under 21 years of age, or to any person who during the past five years from date of application has been convicted of either a crime or violation of any city ordinance involving the following: assault, disorderly conduct, fraud, gambling, narcotics, sex violations, riots, civil disorder or unlawful dance license may be issued unless the applicant executes a written verified application presented to the police chief showing the following facts:

- (a) The name and residence of the applicant or applicants and, if the applicant is a firm, association or corporation, the names and residences of the partners, officers and directors thereof.
- (b) The particular location for which the license is desired at which a dance is to be held.
- (c) The name of the owner of the place or premises in or at which the dance is to be held.
- (d) The names of the persons who are to be in charge of the dance and who will be responsible for order and due observance of the provisions of this code.
- (e) The number and the dates of any dances to be held under the license, or the length of time for which the license is desired which shall not, in any event be for a longer period than three months.
- (f) A statement that the applicant is the sole party, or the applicants are the sole parties, either directly or indirectly, who are interested in the dance or dance hall for which a license is sought, and that no other person is or will in any manner be interested therein, directly or indirectly, during the continuance of the license.
- (g) A covenant and promise by the applicant to comply with the terms of this code, to consent to the entry by police officers upon the premises at which the dance is held, and a statement granting the city permission to cause the dance hall to be vacated if this code is violated. *[Section 8.395 as amended by Ordinance No. 70-05, passed July 6, 1971; and Ordinance No. 77-14, Section 1, passed October 3, 1977.]*

8.400 **Licensing Procedures; Appeal.**

- (1) The finance director, upon payment of the license fee, shall issue the license if the police chief finds the following:

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- (a) The premises for which the license is sought are sufficiently soundproof so that the residents living nearby, or the patrons of any hotel, motel or lodging house, will not be disturbed.
 - (b) The applicant is not in violation of the requirements set forth in Section 8.395 of this code.
 - (c) The premises for which the license is sought comply with this code and any other law applicable thereto.
 - (d) The premises for which the license is sought comply with statutes concerning fireproofing and are ventilated properly and supplied with separate and sufficient toilet conveniences for each sex within the premises in which the dance is to be located.
 - (e) The premises are safely constructed for use as a dance hall.
[Subsection 1 as amended by Ordinance No. 77-14, Section 2, passed October 3, 1977.]
- (2) If the police chief finds the applicant does qualify in all respects, he shall notify the finance director, who shall issue the license.
 - (3) If the police chief finds the applicant does not qualify and the license is not granted, the applicant may appeal directly to the city manager by filing a written notice thereof. The city manager shall, in his sole discretion, have the power to deny or grant the license, and he need not set forth any reason for his action; the city manager's decision shall be given not later than three days from date of said written notice. The city manager shall have the right to waive any of the requirements set forth in Section 8.395 and of Subparts (a) through (e) of Subsection (1) of Section 8.400.
 - (4) If the city manager denies the license, the applicant may appeal the decision to the city council by filing his notice of appeal; thereupon, the council shall hear the matter at a regular or special meeting to be held within 30 days of said notice of appeal; the council shall render its decision within 10 days of the hearing; the council shall have the right to affirm or disaffirm the decision of the city manager; and the council shall have the right to waive any of the requirements set forth in Section 8.395 and Subparts (a) through (e) of Subsection (1) of Section 8.400, and grant the license. The city council need not set forth any reasons for its decision.
[Section 8.400 as amended by Ordinance No. 71-05, passed July 6, 1971.]
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8.405 **License Fees.**

- (1) The license fee for a dance or dance hall is \$25.00 a quarter year or fraction thereof. The quarter year begins on January 1, April 1, July 1 and October 1 of each year. At the expiration of any license because of the lapse of time, the license may be renewed by filing an application with the police chief and by paying the quarterly license fee in advance. The license fee for a single dance is \$15.00 payable in advance. *[Subsection (1) as amended by Ordinance No. 77-14, 3, passed October 3, 1977.]*
- (2) No license fee is required for any dance when the income from the dance, over and above a sufficient sum to pay the actual expenses of the dance, is devoted to public charity. A public charity is a charity under the control or supervision of a public or general organization created and existing for the purpose of administering relief and charity to needy people generally, and without regard to its affiliation with any particular organization.
- (3) No license fee is required for any dance held under the auspices of a parochial or public school.

8.410 **Revocation of License.** A dance hall license may be revoked by the city manager after giving five days' notice to the holder thereof. Such license may be revoked for violation of any of the provisions of Sections 8.380 to 8.470 of this code or for violation of any other law relating to such places, or rules or regulations promulgated thereunder. If any dance license is revoked, no new license may be granted to the person whose license was revoked or to any person who was an agent or employee of such person at the time of such violation, or at the time of the application for a new license.

8.415 **Violations a Nuisance.** Any condition caused or permitted to exist in violation of any of the provisions of Sections 8.380 to 8.470 of this code is a public nuisance and may be abated.

8.420 **Dance Hall Rules and Regulations.** No person may open, conduct, carry on, manage or operate a dance in violation of Sections 8.380 to 8.470 of this code. No person may dance in a dance hall in violation of Sections 8.380 to 8.470 of this code.

8.425 **Admission Fee.** The fee charged for admission to any dance hall entitles the persons paying the fee to participate in all dances or dancing exhibitions conducted at the dance hall until 2:00 a.m. the next morning.

8.430 Separate Fees; Jitney Dances Not Permitted. No separate or individual fee may be charged or collected for participation in any individual dance. No jitney dances are allowed or permitted. A jitney dance is a dance where a separate charge or fee is imposed and collected for single or individual dances.

8.435 Disorderly Conduct. No known prostitute, pimp, vagrant or procurer may attend or remain at a dance. No dancing is permitted where the owner, manager or proprietor of the dance hall undertakes to furnish or provide males or females for dancing partners or instructors.

8.440 Enforcement. Any police officer or special peace officer shall be admitted free of charge to any dance hall and shall have the power and the duty to cause any dance hall to be vacated whenever any provisions of Sections 8.380 to 8.470 of this code or of any other regulation or law concerning dance halls is violated; or whenever any indecent act is committed, or any vulgar dance indulged in, or whenever any disorder or conduct of a gross, violent or vulgar character takes place therein; or whenever any known prostitute, pimp or procurer is found to be present in such place.

8.445 Posting License Required.

- (1) Every person obtaining a dance hall license under Section 8.385 of this code shall place the license in a conspicuous location on the premises named in the application for the license.
- (2) Every person shall show such dance hall license whenever required to do so by any peace officer who may make demand at or in a dance hall to see the license.
- (3) Every person with a dance hall license shall allow a peace officer to enter said place or premises at all times during the continuance of any dance for which such license is granted.

8.450 Special Officers.

- (1) The holder of the dance hall license, or some person designated in the application for the dance hall license, shall be present at all times on the dance floor. In addition, the holder of the license shall appoint a responsible person to act as a special police officer who shall be present at all times during the dance and whose duty it is to enforce the provisions of this code relating to the conduct of such dances and the persons

attending dances. *[Subsection (1) amended by Ordinance No. 77-14, Section 4, passed October 3, 1977.]*

- (2) The approval of the police chief shall be obtained before the appointment of each person as a special police officer. The police chief may withdraw his approval if any such special police officer does not perform his duties to the satisfaction of the police chief.

8.455 House for Dancing Sunday Dances.

- (1) Except as provided in Subsection (2) of this section, no person may dance in a dance hall between the hours of 2:00 a.m. and 9:00 a.m.
- (2) No person may hold or participate in any dance on Sunday after 2:00 a.m., except that the city council may grant approval for a dance on Sunday when application for such dance has been received by the city council at the regular council meeting preceding the day of the dance. *[Subsection (2) amended by Ordinance No. 77-14, Section 5, passed October 3, 1977.]*

8.460 Smoking in Dance Hall. No person may smoke in any dance hall except in the part thereof set aside and designated for smoking purposes.

8.465 Restrictions of Persons Under 18 Attending Dance.

- (1) Persons between the ages of 16 years and 18 years may take part or attend dances until the hour of midnight. *[Subsection (1) amended by Ordinance No. 85-14, passed August 19, 1985.]*
- (2) No person may make any misrepresentation or false statement of his age or the age of any other person to obtain admission to a dance hall or permission to remain therein.
- (3) No person may represent himself falsely to be a parent or guardian of any other person to obtain admission to a dance hall or permission to remain therein.

8.470 Dances for Minors and Juveniles.

- (1) When a dance hall is reserved solely for persons under 21 years of age, then persons under 21 years of age may attend or take part in any dance or remain at such dance until 12:00 midnight.

- (2) No person may make any misrepresentation or false statement of his age or the age of any other person to obtain admission to a dance hall or permission to remain therein.

Junk Yards

8.475 Licensing Junk Dealers.

- (1) A person desiring to operate or maintain a yard, place or building within permitted districts in the city for the junking, storage or dismantling of any vehicle, device or machinery shall apply for a license to engage in the business of "junk dealer" and file such application with the finance director on forms provided by the city.
- (2) Each application for a junk dealer license shall be approved by the city manager.

8.480 Used Auto Exclusion. Sections 8.475 to 8.520 of this code shall not apply to any bona fide secondhand automobile establishment used or conducted solely and exclusively for the sale of used automobiles.

8.485 License Fees. An applicant for a license to conduct or maintain a junk yard or establishment shall pay an annual license fee of \$50.00. Such fee shall accompany each application. Licenses for junk dealers are for a calendar year.

8.490 Bond Required. Every application for a license as a junk dealer shall be accompanied by a bond to the city in the penal sum of \$1,000.00, with surety approved by the city manager. The bond shall be conditioned upon due observance of this code and all laws applicable to junk dealers for the term of the license.

8.495 Itinerant Junk Dealers. Every person who does not maintain a yard or premise for the storage or handling of junk but who goes from place to place or house to house purchasing or otherwise acquiring junked or abandoned materials shall apply for a license as an itinerant junk dealer and shall pay an annual license fee of \$50.00. The application shall be filed by the applicant, accompanied by the license fee and a bond in like amount and character as provided in Section 8.490 of this code. The bond and the application shall be approved by the city manager.

8.500 Purchase Records. A junk dealer conducting an establishment or an itinerant junk dealer shall keep a daily record, written in ink or indelible pencil, in the English language, of all junk or articles purchased, including a description

thereof, name and address from whom purchased or acquired, day and hour purchased and price paid. Such record shall be open for inspection by any police officer at all reasonable times. No entry in such records may be changed, erased, obliterated or defaced.

8.505 Revocation of License. Any junk dealer license may be revoked by the city council for cause at any time and no refund of the license fee of any revoked license is permitted.

8.510 Regulation of Premises.

- (1) The premises and structures of a junk dealer shall be kept in a sanitary manner.
- (2) The city police officers may go upon and inspect the premises at all reasonable times.
- (3) The premises upon which the business of junk dealer is carried on shall be enclosed by a proper fence or other structure not less than seven feet high above the street level constructed so that no dust or other material may pass through, and kept properly painted and in good repair.
- (4) No material or article shall be piled so as to protrude above the fence.
- (5) No street, sidewalk or portion thereof may be used at any time to store, pile or maintain any junk material except as necessary in the actual moving of such material.

8.515 Hours and Conduct of Business.

- (1) No junk dealer may purchase any junk or other articles mentioned in Section 8.475 of this code between sunset and 7:00 a.m. of the following day.
- (2) No junk dealer may purchase or acquire from any person under 18 years of age any junk or other article except old rags or paper, without the written consent of the parents or guardian of such person.
- (3) All junk or other articles purchased or received shall be retained for five days before disposal, except old rags or paper.

8.520 **Retention of Articles**. Whenever any junk dealer is notified by a police officer to retain any article purchased by such dealer so that the police can ascertain whether the article is stolen, the dealer, upon receipt of the notice, shall retain in his place of business such articles for 15 days after receipt of the notice.

Taxicabs

8.535 **Definitions**. In Sections 8.535 to 8.610 of this code the following words mean:

- (a) Certificate. A certificate of public convenience and necessity.
- (b) Driver. Every person in direct and immediate possession or charge of operating any transportation services vehicle, either as agent, employee or otherwise, of the owner, as owner or under the direction of the owner.
- (c) Owner. Every person having use or control of any transportation services vehicle, whether as owner, lessee or otherwise, and all persons with a financial interest in the business.
- (d) Street. Any street, alley, avenue, road, land, highway or public place in the city commonly used for the purpose of public travel.
- (e) Taxi. A transportation services vehicle that is equipped with a taximeter.
- (f) Taximeter. Any mechanical or electrical instrument, appliance, device or machine, by which the charge for hire of a taxi is mechanically registered or calculated or both, either for distance traveled or time consumed, or both, and upon which instrument, appliance, device or machine such charge is indicated by figures.
- (g) Transportation Services Vehicle. Every vehicle for hire that operates on the streets to pickup and transport passengers irrespective of whether the operations extend beyond the boundary limit of the city. Transportation Services Vehicle includes taxis.

8.540 **Certificate Required: Application**.

- (1) No person shall engage in the business of operating any transportation services vehicle without first obtaining a certificate of public convenience and necessity as provided in this code and paying the required business license fees and taxes.

- (2) No vehicle shall be granted a certificate of public convenience and necessity unless the vehicle conforms with all the provisions of this code.
- (3) An application for a certificate to operate one or more transportation services vehicles shall be filed with the city manager on a form provided by the city. Each application shall provide the following information.
 - (a) The name, business address, business telephone number residential address and residential telephone number of the owner or owners of the business.
 - (b) The number of transportation services vehicles owned and the number of transportation services vehicles operated by the business on the date of application.
 - (c) The number of transportation services vehicles for which a certificate is requested.
 - (d) The make, model, year of manufacture and passenger seating capacity of each transportation services vehicle to be operated under the certificate.
 - (e) Whether or not the vehicle will be operated as a taxi and, if the vehicle is to be operated as a taxi, that an operating taximeter is installed.
 - (f) A description of the proposed color scheme, insignia, style and other distinguishing features of the transportation services vehicle markings or design.
 - (g) A statement whether the owner and any officers of the business have been convicted of any crime, the nature of the crime and the penalty assessed.
 - (h) A statement providing the reasons the applicant believes there is a need for additional transportation services vehicles to be operated within the city.
 - (i) Such other information as the police chief deems necessary.

8.545 Investigation of Application; Public Hearing.

- (1) Before any transportation services vehicle application is approved by the city manager, the police chief shall conduct an investigation within 30 days from the date the application is received by the city manager. The police chief may require any person named in the application to be fingerprinted or photographed or both when he considers such action necessary to complete the investigation.
- (2) Upon completion of the investigation the police chief shall transmit to the city manager his findings in writing on the following:
 - (a) The demand for additional transportation services vehicle service.
 - (b) The experience of the applicant.
 - (c) The number, type of vehicles and color scheme to be used on the applicant's transportation services vehicles.
 - (d) The effect that additional transportation service vehicles may have upon traffic congestion and parking.
 - (e) Such other relevant facts as the city manager may deem necessary.
- (3) In determining whether the public convenience and necessity require the operation of a transportation services vehicle for which application is made, the city manager may hold a public hearing.

8.550 Transfer, Cancellation, Suspension or Revocation of Certificate.

- (1) No certificate may be sold, assigned, mortgaged or otherwise transferred without the written consent of the city manager.
- (2) An application for transfer of any certificate is subject to the same terms, conditions and requirements as the application for an original certificate.
- (3) If a person sells his transportation services business or discontinues the operation of transportation services vehicles for more than 45 consecutive

days, the certificate is automatically canceled and may be reissued only in accordance with this ordinance.

- (4) Any certificate may be suspended or revoked by the city manager at any time whenever any one or more of the following conditions exist:
 - (a) The owner fails to operate the transportation services vehicle in accordance with the provisions of the city code or any other law or ordinance.
 - (b) The owner ceases to operate any transportation services vehicle for more than 45 consecutive days without obtaining permission from the city manager.
 - (c) The owner fails to pay all of the fees or payments required to be paid by him by the provisions of this code.

8.555 Surrender of Certificate. Any certificate suspended or revoked by the city manager shall be surrendered to the police chief and the operations of any transportation services vehicle authorized by such certificate shall cease. Any owner who permanently retires any transportation services vehicle service and does not replace it within 45 days shall immediately surrender the certificate granted for the operation of such vehicle to the police chief and the owner may not secure an additional certificate for the operation of any transportation services vehicle without making application therefore in the manner provided in this code.

8.560 Additional Transportation Services Vehicles. An owner holding a valid certificate who desires to add one or more additional transportation services vehicles may do so upon obtaining a certificate therefore from the city manager in the same manner required for obtaining the original certificate.

8.565 License Fees. No certificate shall be issued or continue in operation until the applicant has paid to the finance director, in advance, an annual license fee established by the city council.

8.570 Operating Requirements.

- (1) There shall be displayed in the passenger compartment of each transportation services vehicle in full view of the passenger a card not less than two inches by four inches in size which shall have printed

plainly thereon the name of the owner, the business address and telephone number, the rated capacity of the vehicle and the correct schedule of the rates charged.

- (2) Each transportation services vehicle shall bear a device or devices provided by the city on the outside of the vehicle at such places and of the type and design approved by the police chief indicating that the vehicle is certified to operate in the city.
- (3) Unless otherwise directed by the passenger, any transportation services vehicle driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his destination safely and expeditiously.
- (4) Every transportation services vehicle, if requested, shall give a correct receipt upon payment of the correct fare.
- (5) No driver of a transportation services vehicle may accept, take into his vehicle or transport more adult passengers than allowed by the rated seating capacity of the vehicle.
- (6) No driver of any transportation services vehicle may accept, take into his vehicle or transport any person as an unpaid fare.
- (7) No transportation services vehicle shall display a sign or marking indicating that the vehicle is a taxi unless the vehicle is equipped with an operating taximeter.

8.575 Additional Operating Requirements for Taxis.

- (1) No owner or driver shall operate any taxi in the city unless the vehicle is equipped with a taximeter of a type, style and design approved by the police chief. Every taximeter shall be maintained in operating condition so that the taximeter correctly and accurately indicates the correct charge for the distance traveled and waiting time. The police chief may inspect the taximeter and upon the discovery of any inaccuracy in the taximeter remove or cause the removal of the taxi from the streets of the city until the taximeter is adjusted correctly.
- (2) All charges for transportation of passengers in taxis shall be based on the charges indicated on the taximeter. No owner or driver of any taxi

may charge any passenger any sum in excess of the sum indicated on the taximeter.

- (3) The taximeter shall be placed so that the reading dial showing the amount to be charged is well lighted and readily discernible by the passenger riding in the taxi.
- (4) All taxis shall be equipped with and carry a sign bearing the word "taxi", together with the name of the concern, company, corporation or association operating the taxi.
- (5) Whenever any taxi is occupied by a passenger, the driver shall not permit any other person to occupy or ride in said taxi except with consent of the original passenger.
- (6) Whenever a taxi which is not awaiting employment is parked along the street, or on an off-street parking lot, it shall display a sign indicating that the taxi is not for hire.

8.580 Transportation Service Vehicle Maintenance.

- (1) The police chief, or any member of the police department, may at any time after displaying proper identification, enter any certified transportation services vehicle to ascertain whether any of the provisions of this code are being violated.
- (2) Any transportation services vehicle found to be unsafe or in any way unsuitable for service shall be ordered immediately out of service, and before again being placed in service, shall be placed in a safe condition.
- (3) The interior of every transportation services vehicle shall be kept clean at all times

8.585 Drivers Permit Required. No person may drive or operate any transportation services vehicle without first obtaining a driver's permit from the chief of police or his designee. Each permit shall be valid for the remainder of the calendar year in which it is issued and for two years thereafter, expiring on December 31st of said period. Renewal of a driver's permit shall be accomplished in the same manner as for a new driver's permit.

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- 8.586 Drivers Permit Identification Card.** The driver's permit shall be in the form of a card of a manner and type determined by the chief of police. The driver's permit shall be carried on the person of the driver when he operates a transportation services vehicle. The driver shall be responsible for keeping the card in good condition, and no driver shall have an illegible card. The driver's permit is not transferable.
- 8.587 Application for Drivers Permit.** Each applicant for a drivers permit shall complete a form for the permit furnished by the city and certify that the information on the form is accurate.
- 8.588 Application Fee.** Each application for a drivers permit shall be accompanied by a fee established by the city council. The fee is not refundable.
- 8.589 Police investigation of Applicant.** The police department shall conduct an investigation into the driving record and criminal history and obtain other information to determine the suitability of each applicant for a transportation services vehicle drivers permit.
- 8.590 Eligibility for Permit.** No driver's permit shall be issued to:
- (1) A person under the age of 21 years.
 - (2) A person who has been released from supervision for less than five years for conviction of a crime that is a felony in this state or, if the crime occurred in another state, which would be a felony if committed in this state.
 - (3) A person who has been released from supervision for less than one years for conviction of a crime that is a misdemeanor in this state or, if the crime occurred in another state, which would be a misdemeanor if committed in this state.
 - (4) A person who has three or more convictions, guilty pleas or dispositions other than a not guilty finding by a court for traffic violations within the twelve months immediately preceding the application for the permit.
 - (5) A person who has had his driving privileges suspended or revoked within the 24 months immediately prior to the application for a permit.
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- (6) A person who misrepresents any fact in the application for a permit.
- (7) A person who does not have the appropriate motor vehicle operator's permit issued by the states of Oregon or Washington that is valid in the state of Oregon.

8.595 Revocation or Refusal of Drivers Permits.

- (1) The chief of police or designee may revoke or refuse to issue or renew a drivers permit if the driver or applicant has:
 - (a) While holding a valid drivers permit been convicted, plead guilty or received a disposition other than a not guilty finding by a court for a misdemeanor or felony crime committed in this state or, if the crime occurred in another state, that would be a felony or misdemeanor if committed in this state.
 - (b) While holding a valid drivers permit been convicted, pled guilty or received a disposition other than a not guilty finding by a court for two or more traffic violations within a continuous twelve month period.
 - (c) While holding a valid drivers permit had his driving privileges suspended or revoked.
 - (d) While holding a valid drivers permit been found to have misrepresented any fact in the application for the permit.
 - (e) While holding a valid drivers permit otherwise violated or not met the requirements of sections 8.540 through 8.605 of this code.
[Section 8.595 amended by Ordinance No. 03-02, passed May 19, 2003.]
- (2) The chief of police or designee may revoke a drivers permit if, in his opinion, the driver is unfit to operate a transportation services vehicle, or does not operate such vehicle in the best interests of the public.
- (3) Every driver holding a valid drivers permit is required to notify the chief of police in writing within ten days if, while holding the permit he

- (a) Is convicted, plead guilty or receives a disposition other than a not guilty finding by a court for a misdemeanor or felony crime committed in this state, or if the crime occurred in another state, that would be a felony or misdemeanor if committed in this state; or
- (b) Is convicted, pled guilty or received a disposition other than a not guilty finding by a court for two or more traffic violations within a continuous twelve month period; or
- (c) Has his driving privileges suspended or revoked; or
- (d) Has otherwise violated or not met the requirements of sections 8.540 through 8.605 of this code. *[Section 8.595(3) added by Ordinance No. 03-02, passed May 19, 2003.]*

8.600 Parking of Transportation Service Vehicles.

- (1) No operator of any transportation services vehicle may remain parked anywhere in the central business district while awaiting employment except as follows:
 - (a) Transportation services vehicles may park at a regularly established taxi stand.
 - (b) Between the hours of 10:00 p.m. and 8:00 a.m. of the following day transportation services vehicles may stop, stand or park in any place where the parking of vehicles is otherwise permitted.

8.605 Supplemental Regulations.

- (1) No person may engage in the business of operating a transportation services vehicle without first paying the occupation tax required by Section 8.015 of the Code and other applicable taxes and fees.
- (2) In addition to the penalties provided in this code, any condition caused or permitted to exist in violation of any of the provisions of Sections 8.535 to 8.605 of this code is a public nuisance and may be summarily abated.

[Sections 8.535 through 8.605 amended by Ordinance No. 02-10, passed August 5, 2002.]

8.610 Exceptions to Applicability of Ordinance. Sections 8.535 to 8.605 do not apply to the transportation services vehicles, drivers or operations of any unit of government, their agencies, special districts, or to buses, or any certified ambulance service. *[Section 8.610 amended by Ordinance No. 02-12, passed September 4, 2002.]*

[Sections 8.615 through 8.680 repealed by Ordinance No. 02-12, passed September 4, 2002.]

Lodging Places

8.700 Definitions. In Sections 8.700 to 8.735 of this code the words "lodging place" mean any hotel, motel, rooming house or lodging facility where six or more bedrooms or sleeping units are maintained for the accommodation of guests, whether the guests are transient or permanent. An apartment house is not a lodging place.

8.705 Application for Licenses.

- (1) No person may maintain or operate any lodging place without first obtaining a license and paying the license fee in the manner required by Section 8.715 of this code.
- (2) Any person desiring to obtain a lodging place license shall make and file an application with the finance director on forms provided by the city. Such application shall be filed before January 1 of the year for which such license is desired, or if such business has not been licensed previously, then the application shall be filed and approved before such business may open for operation.
- (3) The application shall set forth the location and name of the business, the name of the person in charge and responsible as head of the business, and in the case of a hotel, motel, rooming house and lodging house, the name of any assistant managers.
- (4) All applications for licenses for a lodging place shall state the number of bedrooms or sleeping units to be maintained therein.
- (5) All applications shall be passed upon by the city manager, the police chief and fire chief. If the application for the license is granted and approved, the finance director shall issue the proper license upon the receipt of the required license fees.

- (6) If the application for a license is disapproved by the city manager, the police chief or the fire chief, the finance director shall notify the applicant in writing, and the applicant may appeal to the city council and demand a hearing before the city council at its next regular meeting thereafter. The city council shall proceed to hear and determine such appeal and its decision is final.

8.710 Qualifications of Applicants.

- (1) All applicants for lodging place licenses shall be of good moral character and shall not have been convicted for violation of any state or other laws involving moral turpitude, or code provisions of the city regulating the operation of any lodging place occupations or callings.
- (2) In order to fix responsibility for the proper conduct of lodging places, the lodging place manager or assistant manager, or both, designated in the application shall be persons of good moral character and shall have ability to operate properly, lawfully and conscientiously and conduct a lodging place in a law-abiding, peaceful and respectable manner. The city manager and the police chief shall pass upon the qualifications of the lodging place manager or assistant manager, or both, so designated in the application and approve or disapprove of the same.
- (3) The lodging place manager or assistant manager designated in the application shall be managers and assistant managers in fact and practice and not merely by name. Whenever it is determined by the city council by resolution that any person is acting in the capacity of lodging place manager or assistant manager of any licensed lodging place who has not been previously approved, the license for such lodging place shall be subject to immediate revocation as provided for in Section 8.735 of this code. *[Subsection (3) of Section 8.710 as amended by Section 18 of Ordinance No. 64-20, passed December 21, 1964.]*

8.715 License Fees.

- (1) The fees required in Subsection (2) of this section shall be collected by the finance director before issuance of any lodging place license. In any case where the applicant desires to carry on more than one lodging place business, a single license may be issued covering all of the businesses upon the payment of the total license fee for all of the businesses for which a license is desired.

- (2) License fees for lodging places shall be \$1.00 per lodging place per year. *[Section 8.715 as amended by Ordinance No. 75-09, passed July 7, 1975.]*

8.720 Licenses to Be Posted.

- (1) All licenses for lodging places shall be posted and remain posted, during the entire period covered by the license, in the front window of such lodging places so that the license may be plainly viewed by the public from the sidewalk or street, or in a conspicuous place in the office of said business. The license shall state the purpose for which the license is issued, the date issued, the date of expiration, the amount paid for the license, the street and number of the building, the names of the owner of the building and the name of any person interested in the ownership of the business for which a license is issued.
- (2) In case the ownership changes before a lodging place license expires, a new license is required. No person may transfer a lodging place license.

8.725 Inspection. All licensed lodging places shall be opened to the inspection of the city manager, city health officer, police officers or firemen at all times.

8.730 Lodging Place Regulations.

- (1) Every person who holds a lodging place license shall keep at all times a standard register in which shall be inscribed the names of all guests or persons occupying rooms in such lodging places. The register shall be signed by the person renting a room or rooms or by someone under his direction. After the name is inscribed or registered, the manager or his agent shall write the number of the room which such guests or persons are to occupy, together with the time when the room is rented. All such information shall be requested before any person is permitted to occupy a room. The register shall be open at all times to inspection by any executive or peace officer of the city or the state of Oregon.
- (2) Any person who holds a lodging place license shall cause each room or apartment in the lodging place to be numbered in a plain and conspicuous manner, the number to be placed on the outside of the door to such room. No doors of separate units may have the same number.

- (3) Where a license is issued to any copartnership, corporation, association or other entity to conduct a lodging place, any person having charge, management or control of such lodging place shall be liable to prosecution for any violation of Sections 8.700 to 8.735 of this code.
- (4) For the purpose of determining the liability of any person for violation of Sections 8.700 to 8.735 of this code, it is sufficient to show that such person, at the time of the act of violation complained of, was the person in actual charge, management or control of the lodging place in which such act is alleged to have been committed.
- (5) All lodging places shall be kept in a clean and sanitary condition. If the health officer or city manager reports the lodging place to be in an unsanitary condition, the lodging place shall be cleaned immediately and repaired to the satisfaction of the health officer and city manager.
- (6) All licensed lodging places shall provide proper and adequate policing so that the business is conducted at all times in a proper, lawful, peaceful and respectable manner. Such special police shall be approved by the city manager and the police chief upon the application of any such licensee. Such special police shall be, in the judgment of the city manager and the police chief, competent and qualified to act as police officers. A special police officer shall make and execute a good and sufficient bond in favor of the city in a sum of not less than \$2,500.00, conditioned to save the city harmless from any acts of such special police while acting in the capacity thereof. Compensation and any bond premium for any such special police shall be paid by the lodging place licensee.

8.735 Revocation of License.

- (1) Any lodging place license may be revoked by the city council at any time, with or without notice, for failure of the licensee to comply with any of the provisions of this code which provide for the regulation of a lodging place.
- (2) No lodging place license may be issued to any person whose lodging place license has been revoked unless the city council approves of the reissuance by resolution. Upon the revocation of any license by the city council, the unearned portion of the license fee paid therefor shall be forfeited.

[Sections 8.750 through 8.810 repealed by Ordinance No. 98-03, passed April 20, 1998.]

Home Stay Lodging License**8.750 Purpose.**

The City's purpose in regulating home stay lodgings is to allow for economic use of underutilized bedrooms in dwellings, and provide financial assistance to preserve both the housing stock and historic properties within the City and to ensure that Home Stay Lodging facilities are appropriately located; are compatible with surrounding allowed uses; are conducive to the public peace, health, safety, and welfare of the City; and do not reduce the number of potential long-term housing units; and support tourism.

8.755 Definitions.

Unless otherwise defined below, definitions in Section 1.400 of the Astoria Development Code apply. For the purposes of Section 8.750 to 8.800, the following definitions also apply:

HOME STAY LODGING: A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. Such facilities may or may not provide a morning meal. Rooms used by transient guests shall not include a kitchen.

KITCHEN: Room for preparation of food and includes a cooking stove or ability to heat food other than with a microwave oven.

OWNER: For purposes of this chapter the term owner only includes individuals, holding fee simple title to property, the beneficiaries of a revocable living trust, or a purchaser under a recorded instrument of sale. This does not include corporations, limited liability companies or similar organizations, an authorized agent of the owner, or those holding easements, leaseholds, or purchasers of less than fee interest

OWNER OCCUPIED: Occupancy of a residence by an individual owner.

PRIMARY RESIDENCE: Dwelling maintained as the permanent residence of the owner for not less than six months of the year.

TRANSIENT: For purposes of regulating Home Stay Lodgings a transient includes any person entitled to occupy a residence for less than 30 consecutive calendar days. The day a transient guest checks out shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. A person who pays for lodging on a monthly

basis, irrespective of the number of days in such month, shall not be deemed a transient.

8.760 License Required.

- (1) It is unlawful for any person to operate a Home Stay Lodging except as provided in and authorized by this chapter and without having first obtained a license from the City. Licenses required by this chapter shall be in addition to all other licenses and permits required by City ordinance, or State law.
- (2) Licenses are valid for a period not to exceed two years, from the date the license is issued or renewed to December 31 of the second calendar year of the license.
- (3) Licenses granted by this chapter are non-transferable.
- (4) A License shall in no way be a substitute nor eliminate the need to conform with all other Federal, State, and municipal laws, rules, and regulations.
- (5) A person may reapply for a Home Stay Lodging License which has been denied after a period of six (6) months from effective date of the denial.
- (6) A person may apply for a Home Stay Lodging License after a license or the right to apply for a license has been revoked after a period of one (1) year from effective date of the revocation.

8.765 License Requirements.

- (1) Application.

An owner shall apply for a Home Stay Lodging License on the form provided by the City, along with the appropriate filing fee, and shall provide the following information:

- a. The names, addresses, and telephone numbers for all owners.
- b. At least two documents to show proof of owner occupancy such as voter registration, Clatsop County Tax Assessor records, ID/driver's license, and income tax information.
- c. Proof of registration with the City Transient Room Tax Administrator pursuant to Code Section 8.045.6 along with proof that all applicable Transient Room Taxes have been paid.

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- d. Acknowledgement from the Community Development Department that use of the property as a Home Stay Lodging is allowed by the Astoria Development Code.
 - e. Proof of an Occupational Tax (business license) application with the City of Astoria.
 - f. The applicant shall provide listing details for any proposed Transient Lodging Facility Intermediary such as Airbnb, VRBO, realtor, etc. The ID number of the Home Stay Lodging used by the Transient Lodging Facility Intermediary shall be included.
 - g. A scaled site plan drawing including dimensions & location of the dwelling and on-site parking.
 - h. A scaled floor plan showing the location of the rooms to be used including location and size of egress windows in the transient lodging rooms.
 - i. An inspection report prepared within the last 30 days by the City Building Official or an Oregon Certified Home Inspector as defined by ORS 701.005(4) certifying compliance with the following standards:
 - i. One functioning smoke detector in each sleeping room, with a minimum of two functioning smoke detectors in the dwelling and one functioning fire extinguisher at each exit.
 - ii. Working carbon monoxide detector present on each floor with CO producing device or in garage.
 - iii. Exterior doors shall be operations. All passageways to exterior doors shall be clear and unobstructed.
 - iv. Electrical systems shall be serviceable with no visible defects or unsafe conditions.
 - v. All fireplaces, fireplace inserts or other fuel burning heaters and furnaces shall be vented and property installed.
 - vi. Each sleeping room shall have an exterior exit that opens directly to the outside, or an emergency escape or rescue window.
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- vii. The number of sleeping rooms with the residence.
 - viii. The number of parking spaces on the property that meet the standards of Article 7 of the Astoria Development Code.
- (2) Public Notice.

Prior to the issuance of a new Home Stay Lodging License, the City shall provide mailed notice as follows:

- a. Not less than 15 days prior to the issuance of a license, notice shall be sent to all property owners within 100 feet, excluding rights-of-way, of the outside boundary of the Home Stay Lodging facility. Addresses for a mailed notice required by this Code shall be obtained from the County Assessor's real property tax records. Failure of a property owner to receive notice shall not invalidate a license.
 - b. Notice may also be provided to others who may be affected or otherwise interested in the license application.
 - c. Notice is not required for license renewals.
- (3) License Renewal Procedures.

- a. Except as provided below the holder of a Home Stay Lodging license is entitled to renewal upon submission of a proper renewal application and fee. The City shall review every request to renew a Home Stay Lodging License in accordance with the following:
 - i. Applications for license renewal shall be submitted on a form provided by the City with the appropriate filing fee.
 - ii. License renewal requests may be submitted up to sixty (60) days prior to expiration of the previous license. A renewal may be approved prior to expiration of the previous license.
 - iii. The applicant shall provide an inspection report described in Section 8.765(1)(i) prepared within 30 days of the renewal application.
 - iv. The City shall make an appropriate investigation of the

applicant's compliance with the requirements of this chapter prior to approving a renewal application.

- b. The City may deny a request for renewal upon finding one or more of the following:
 - i. An owner's failure to comply with any of the requirements of Section 8.775 or the Astoria Development Code.
 - ii. Providing false information to the City in the original license application or in the application for license renewal.
 - iii. Violation of any State law or City ordinance by the applicant or violation of any State law or City ordinance by a transient guest at the Home Stay Lodging facility.
 - iv. Failure to provide a report certifying compliance with the standards described in Section 8.765(1)(i).

(4) Notice of Decision.

Notice of the City's decision to issue or deny a license or a license renewal shall be provided to the applicant and all parties who provided written comments on the request. The notice of the decision shall include:

- a. A brief description of the decision reached and, if the request is denied, the reasons justifying denial of the license application.
- b. A statement that the decision may be appealed to the City Council by filing an appeal within 10 calendar days of the date that the final decision was mailed; and a description of the requirements for an appeal.
- c. Appeal of a City's decision to issue or deny a license shall be to the Astoria City Council pursuant to Section 1.070.

8.770 Applicability.

- (1) The provisions of this ordinance shall apply to existing and new facilities within the City of Astoria. An existing facility that obtained City approval prior to January 1, 2019 but is not in compliance with the standards of this ordinance may remain operational as an approved, non-conforming Home Stay Lodging facility if compliance with the

following standards is met:

- a. The facility shall comply with the fire/life/safety requirements described in Section 8.765(1)(i).
 - b. The facility shall remain owner-occupied.
 - c. The facility shall maintain the required approved off-street parking spaces.
 - d. The owner shall obtain an Occupational Tax (business license) from the City of Astoria and shall pay the Transient Room Tax.
 - e. The owner shall obtain a Home Stay Lodging license within six months of adoption of this ordinance.
- (2) The right to operate an approved non-conforming Home Stay Lodging facility is subject to revocation and the owner subject to civil fines pursuant to Section 8.800 upon a failure to comply with the provisions of this Section.

8.775 Standards.

- (1) The facility shall be the owner's primary residence and occupied by the owner at the same time as the guest occupancy. In the case of multiple dwelling units in one building such as a duplex or triplex, etc., the owner shall live in the same unit as the guests.
- (2) The owner shall provide accurate listing details for any proposed Transient Lodging Facility Intermediary such as Airbnb, VRBO, realtor, etc. The ID number of the Home Stay Lodging used by the Transient Lodging Facility Intermediary shall be included.
- (3) Rooms used by transient guests may not include a kitchen.
- (4) The Home Stay Lodging facility and all sleeping rooms shall remain in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes, Traveler's Accommodation Statutes, and with the Uniform Housing Code.
- (5) The owner shall maintain compliance with the fire/life/safety requirements of Section 8.765(1)(i).
- (6) The owner shall comply with all City regulations affecting the operation of the facility including but not limited to the following:

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- a. All signs shall conform to the sign requirements for the zone as specified in the Astoria Development Code Article 8.
 - b. The owner of a Home Stay Lodging facility shall maintain an Occupational Tax (business license) from the City of Astoria, and all other City or State licenses or permits related to the operation of the facility.
 - c. The owner shall maintain registration with the Finance Department and pay the Transient Room Tax as required in City Code Section 8.045.
- (7) Unless a Variance is obtained, parking shall be provided in accordance with Development Code Article 7. In addition to the requirements of Article 7, the following shall apply:
- a. The owner shall notify every guest / renter in writing of the required off-street parking and other parking spaces available to serve the transient rental guest.
 - b. Parking shall not, under any circumstances, hinder the path of any emergency vehicle.
 - c. Renters may be cited and fined under existing State and/or City law in the event they park illegally.
- (8) The owner shall include the City Home Stay Lodging license number on all advertising and with all Transient Lodging Facility Intermediaries.
- (9) The owner shall post a notice within the guest entry of the Home Stay Lodging facility or within each guest bedroom advising guests of the location of guest parking spaces, and Astoria City Municipal Code Section 5.025 that prohibits unnecessary noise. Content of the notice shall be reviewed and approved by the City.
- (10) The owner may not, or allow anyone else to, advertise, offer or represent for use, occupancy or rent, a Home Stay Lodging facility without a valid Home Stay Lodging License, advertise for full house rental, or advertise for inclusion of kitchen facilities.

8.800 Enforcement.

- (1) In addition to the penalties provided below, the City may sue in any court of competent jurisdiction and obtain any other relief provided by law.

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- (2) Each of the following activities are declared as public nuisances and punishable by a fine of \$1,000.00, each violation constitutes a separate offense and each day that the violation is committed or permitted to continue constitutes a separate offense:
- a. Operating a Home Stay Lodging facility without having first obtained a license from the City.
 - b. Providing false information in the application for license or license renewal.
 - c. Violation of any provision of Section 8.775.
- (3) In addition to the fine specified above, the court hearing this matter shall revoke the license, right to apply for a license, or right to operate a non-conforming Home Stay Lodging of any person found to have violated any provision of Section 8.800(2) above.
- (4) If it prevails in any action to enforce the provisions of this Section the City shall be entitled to an award of reasonable attorney fees at trial and upon appeal.
- (5) Appeal of an enforcement action filed by the City in municipal court shall be to the Astoria City Council pursuant to Section 1.070.

[Sections 8.750 through 8.880 added by Ordinance No. 18-10, enacted December 3, 2018.]

Licensed Security Guards

- 8.825** **Definitions.** In Sections 8.825 through 8.850 of this code the following terms mean:
- (a) Security Guard. Any person engaged in the business of watching, guarding or protecting any premises, property or persons who is certified by the Oregon Department of Public Safety Standards and Training Department.
- 8.830** **License Required.** It shall be unlawful for any person to own or operate a security guard business or engage in business as a security guard, except as provided in and authorized by this chapter and without having first obtained a license from the city. Licenses as required by this chapter shall be in addition to those required by the Astoria Code Sections 8.000 through 8.035.
- 8.835** **Licenses – Nontransferable.** No business license granted under the provisions of this chapter shall be transferable.
- 8.840** **Periodic Investigations by Chief of Police.** It shall be the duty of the chief of police to make periodic investigations of the activities of any licensee under this chapter and to ascertain any and all information which may be of benefit to the council in determining whether or not such license should be continued in force and effect.
- 8.845** **Rules and Regulations.** The city manager, with the approval of the city council, may issue and promulgate from time to time rules and regulations to protect the health, safety and peace of the citizens of the city in relation to the merchant police business. Such rules may require reports to be furnished to the chief of police concerning the licensee and those employed by the licensee. *[Section 8.875 added by Ordinance No. 66-05, enacted July 18, 1966.]*
- 8.850** **Uniforms, Badges, Buttons, etc.** Every person desiring to provide services of a security guard, as authorized and licensed under provisions of this code, shall provide or cause to be worn at any and all times that such employee is actually engaged in the duties as specified in this code, a distinctive uniform. It shall be unlawful for any security guard regulated under this code, and not a member of the police or fire department, to wear a uniform, cap, badge, or buttons similar to or in imitation of the official uniform, cap, badge, or buttons at the time in use by the members of the police and/or fire department. It shall further be unlawful for any person to wear any officially approved and designated uniform, or part thereof, of any security guard unless such person is actually employed by a bona fide agency license under this chapter or to misrepresent himself as being an agent of such.
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[Sections 8.825. through 8.885 amended and new sections 8.825 through 8.850 added by Ordinance No. 15-02, enacted February 17, 2015.]

Drive-in Restaurants

8.900 Definition of Terms.

- (1) Drive-in restaurant. The term "drive-in restaurant" is defined and described as such business which is primarily engaged in the preparation and selling to the public of sandwiches, ice cream, and soft drinks for consumption off the premises, and usually in automobiles parked on public streets close to said business operation, or for consumption at home or at some place located a substantial distance away from said business; and which restaurant has no facilities for consumption indoors.
[Section 8.900 added by Ordinance No. 69-05, enacted May 19, 1969.]

8.905 Hours of Closure. All drive-in restaurants shall be closed to the public and business therein is prohibited at the times and days as follows:

- (a) On Saturdays and Sundays between 1:00 a.m. to 7:00 a.m.
- (b) On all other days between 12:01 a.m. to 7:00 a.m. *[Section 8.905 added by Ordinance No. 69-05, enacted May 19, 1969.]*

Additional Remedies

8.999 Additional Remedies.

- (1) In addition to the penalties provided in this code and as separate and distinct remedies, the city may sue in any court of competent jurisdiction to obtain a judgment and enforce collection thereof by execution for any license fee due under Chapter 8 of this code.
- (2) The city may seek an injunction prohibiting a person from engaging in any unlicensed business.
- (3) In any action or suit authorized by this section, the city, if it prevails, shall recover a reasonable attorney's fee to be set by the court, in addition to its costs and disbursements.

- (4) Whenever any license fee required by Chapter 8 of this code is not paid when due, the finance director shall add to the license fee as a penalty an amount equal to 10 percent of the license fee for each month or part thereof during which the license fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed 100 percent of the original license fee.
- (5) No business license required by Chapter 8 of this code may be issued unless the license fee and all penalties are paid in advance. *[Section 8.999 added by Ordinance No. 71-06, enacted July 6, 1971.]*