

Klamath Falls City Code

7. BUSINESS

REVENUE

BUSINESS LICENSE TAX

- 7.005 Short Title
- 7.010 Purpose of Business Tax
- 7.015 Definitions
- 7.020 Operation Without Securing License or Payment of Fee
- 7.025 License Duration
- 7.030 Application for License
- 7.035 Application Review
- 7.040 Information From Applicant
- 7.045 Issuance of License
- 7.050 Denial of Application
- 7.055 License Renewal and Late Penalty
- 7.060 Review of Renewal
- 7.065 Denial of Renewal
- 7.070 Revocation of License
- 7.075 Suspension of License
- 7.080 Appeal
- 7.085 Posting of License
- 7.090 Contents of License
- 7.095 Business License Fee
- 7.100 Transfer or Assignment of License

PARKING DISTRICT TAX

- 7.125 Purpose and Scope
- 7.130 Definitions
- 7.135 Boundaries of District
- 7.140 Business Prohibited
- 7.145 Return Payment and Charge Period
- 7.147 Late Penalty
- 7.155 Two or More Business Premises; Two or More Businesses on the Same Premises
- 7.160 Amount of Fee or User Charge
- 7.165 Credit For Employer Provided Parking
- 7.170 Part-time Employees
- 7.175 Evidence of Doing Business
- 7.180 Use of Charges
- 7.185 Returns
- 7.187 Permits
- 7.188 Fees and Charges Established

IMPOSITION OF LIEN SEARCH FEES

- 7.200 Lien Search Fees

Klamath Falls City Code

CITY ENTERPRISE ZONE ACT

- 7.300 Policy & Intent
- 7.305 Zone Boundaries
- 7.310 Definition of Business
- 7.315 Fast-Track Processing
- 7.320 Fee Waiver
- 7.325 CDO Application Fees
- 7.330 Local Improvement Districts
- 7.335 Sewer Connection Fees
- 7.340 Construction Assistance and City Services

TELECOMMUNICATION ACT

GENERAL

- 7.370 Purpose
- 7.371 Definitions
- 7.373 Telecommunications License
- 7.374 Telecommunications Franchise
- 7.375 Cable Television Franchise
- 7.376 Application to Existing Franchise Ordinances and Agreements
- 7.377 Penalties
- 7.378 Other Remedies
- 7.379 Severability

TELECOMMUNICATIONS LICENSE

- 7.387 Telecommunications License
- 7.388 License Application
- 7.389 Determination by the City
- 7.390 Agreement
- 7.391 Nonexclusive Grant
- 7.392 Rights Granted
- 7.393 Term of License
- 7.394 License Route
- 7.395 Location of Facilities
- 7.396 Construction Permits
- 7.397 Compensation to City
- 7.398 Service to City Users
- 7.399 Amendment of Grant
- 7.400 Renewal Applications
- 7.401 Renewal Determinations
- 7.402 Obligation to Cure As a Condition of Renewal

Klamath Falls City Code

TELECOMMUNICATIONS FRANCHISE

- 7.405 Telecommunications Franchise
- 7.406 Franchise Application
- 7.407 Determination by the City
- 7.408 Agreement
- 7.409 Nonexclusive Grant
- 7.410 Term of Franchise
- 7.411 Rights Granted
- 7.413 Location of Facilities
- 7.414 Construction Permits
- 7.415 Compensation to City
- 7.417 Service to the City
- 7.419 Renewal Applications
- 7.420 Renewal Determinations
- 7.421 Obligation to Cure As a Condition of Renewal

CABLE FRANCHISE FEES AND COMPENSATION

- 7.440 Purpose
- 7.441 Application and Review Fee
- 7.443 Compensation for Public Ways
- 7.444 Compensation for City Property
- 7.445 Construction Permit Fee
- 7.447 Cable Fees
- 7.448 Regulatory Fees and Compensation Not a Tax

CONDITIONS OF GRANT

- 7.451 Location of Facilities
- 7.452 Compliance with K.U.C.C.
- 7.453 Construction Permits
- 7.454 Interference with the Public Ways
- 7.455 Damage to Property
- 7.456 Notice of Work
- 7.457 Repair and Emergency Work
- 7.458 Maintenance of Facilities
- 7.459 Relocation or Removal of Facilities
- 7.460 Removal of Unauthorized Facilities
- 7.461 Emergency Removal or Relocation of Facilities
- 7.462 Damage to Grantee's Facilities
- 7.463 Restoration of Public Ways, Other Ways and City Property
- 7.464 Facilities Maps
- 7.465 Duty to Provide Information
- 7.467 Grantee Insurance
- 7.468 General Indemnification

Klamath Falls City Code

- 7.469 Performance and Construction Surety
- 7.471 Construction and Completion Bond
- 7.472 Coordination of Construction Activities
- 7.475 Revocation or Termination of Grant
- 7.476 Notice and Duty to Cure
- 7.477 Hearing
- 7.478 Standards for Revocation or Lesser Sanctions

CONSTRUCTION STANDARDS

- 7.481 General
- 7.482 Construction Codes
- 7.483 Construction Permits
- 7.484 Applications
- 7.485 Engineer's Certification
- 7.486 Traffic Control Plan
- 7.487 Issuance of Permit
- 7.488 Construction Schedule
- 7.489 Compliance with Permit
- 7.490 Display of Permit
- 7.491 Survey of Underground Facilities
- 7.492 Non-complying Work
- 7.493 Completion of Construction
- 7.494 As-Built Drawings
- 7.495 Restoration of Improvements
- 7.496 Landscape Restoration
- 7.497 Construction Surety
- 7.498 Exceptions
- 7.499 Responsibility of Owner

REGULATORY LICENSES

GENERAL

- 7.500 Applicability and Definitions
- 7.501 Purpose
- 7.502 Licenses Required
- 7.503 License Duration
- 7.504 License Renewal and Late Penalty
- 7.505 Review of Renewal
- 7.506 Application Requirements
- 7.507 Application Review
- 7.508 Information From Applicant
- 7.509 Criteria for or Denial
- 7.510 Issuance or Denial by the Manager

Klamath Falls City Code

- 7.511 Issuance or Denial by the Council
- 7.512 Revocation of License
- 7.513 Suspension of License
- 7.514 Appeal
- 7.515 Posting of License
- 7.516 Applicability to Persons Exempt by State or Federal Law
- 7.517 Transfer or Assignment of License
- 7.518 Prorating of License Fee

CIRCUSES AND TENT SHOWS

- 7.530 Purpose
- 7.532 License Required
- 7.534 License Fee
- 7.536 Exemptions
- 7.538 Exhibition of Prices

SOCIAL GAMING

- 7.550 Definitions
- 7.552 License Required
- 7.554 License Investigation
- 7.562 License Not Transferable
- 7.566 Regulations
- 7.570 License Fees

SPECIAL EVENTS

- 7.580 Definitions
- 7.582 Assembly Prohibited
- 7.584 Permit Required; Fee
- 7.586 Application Procedure
- 7.588 Sanitary Facilities
- 7.590 Fire Protection Standards
- 7.592 Medical Services
- 7.594 Public Safety
- 7.596 Parking Facilities
- 7.598 Park Capacity
- 7.600 Inspection of Required Facilities
- 7.602 Bond of Indemnity
- 7.604 Insurance
- 7.606 Permit-Issuing Body
- 7.608 Permit Approval
- 7.610 Permit Denial
- 7.612 Permit Information
- 7.614 Appeal
- 7.616 Inspection

Klamath Falls City Code

- 7.618 Hours of Operation
- 7.620 Intoxicating Liquor
- 7.622 Crowd Limitation
- 7.624 Duty to Preserve Order Placed on Operator
- 7.626 Rules and Regulations
- 7.628 Revocation of Permit
- 7.630 Exclusion

RESIDENTIAL DOOR-TO-DOOR SOLICITATIONS

- 7.770 Purpose
- 7.772 Definitions
- 7.774 Registration Required
- 7.776 Manner of Registration

TAXICABS

- 7.810 Title
- 7.812 Definition
- 7.814 Compliance with Act
- 7.816 Council Review
- 7.820 Liability Insurance
- 7.826 Rates and Meters
- 7.830 Drivers' Permit
- 7.834 Identification Card and Permit Badge
- 7.836 Information Files

SECOND HAND STORES

- 7.851 Licenses - Requirements
- 7.852 License - Application
- 7.855 Records
- 7.856 Restriction on Sales
- 7.857 Pawnbrokers

GARAGE SALES

- 7.860 Definitions
- 7.863 Regulation of Garage Sales
- 7.868 Persons and Sale Excepted
- 7.872 Signs

PENALTIES AND ENFORCEMENT

- 7.990 Penalties
- 7.992 Confiscation
- 7.994 Evidence of Doing Business
- 7.996 Additional Remedies

Klamath Falls City Code

Klamath Falls City Code

Klamath Falls City Code

7. BUSINESS

REVENUE

BUSINESS LICENSE TAX

7.005 Short Title. The provisions of Sections 7.010 to 7.100 shall be known as the Business License Act.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.010 Purpose of Business Tax.

(1) It is necessary that business fees be levied and fixed for securing revenue to assist in defraying the cost of police and fire protection and other necessary municipal services. The fee required by this Act shall be in addition to general ad valorem taxes now or hereafter levied under law and the license shall be in addition to licenses prescribed in other parts of this Code.

(2) In addition, this licensing act is necessary to assure minimum compliance with local planning, fire and nuisance codes by regulated businesses.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.015 Definitions.

(1) In Sections 7.005 to 7.100, 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:

(a) Corporations, or a community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or education purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activity of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office, including the publishing or distributing of statements; or

(b) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

(2) Additional definitions of those doing business within the City are the following:

(a) Those persons who cater to the general public by selling merchandise or rendering professional or nonprofessional services; for example, a shoe store, doctor's office, public accountant, welding shop, or cannery.

(b) Those persons whose physical plants or facilities are located outside the City, streets or facilities and whose services or materials are rendered or delivered within the City; for example, a bakery truck operator delivering wares

Klamath Falls City Code

originating from outside the City but delivered within the City, and other wholesalers.

(3) Public utilities covered by franchise ordinances and paying taxes under the franchise are exempted from the provisions of this Act.

(4) For purposes of Sections 7.005 to 7.100, 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 business tax under Section 7.095.

(5) If two or more related businesses are carried on at the same premises by the same owners, one license issued in the name of the business for which the premises is primarily used shall be sufficient for all such activities. A business activity leased, under concession to, or owned wholly or in part by a different person or persons on the same premises must be separately licensed. In determining whether different activities on the same premises are related to the primary use within the meaning of this Section, normal and ordinary custom and usage of businesses of like nature shall be considered.

(6) Warehouses used solely incidental to a business taxed pursuant to the provisions of this Act and operated by the person conducting the 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.

(7) For the purpose of this Act, 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 Council is that all business taxes levied by this Act shall be borne by the employer or proprietor for the privilege of doing business.

(8) Nothing in this Act shall be construed to apply to any person transacting and carrying on any business within the City which is exempt from a license fee or tax or regulation by virtue of the Constitution or laws of the United States or the Constitution or laws of the State.

7.020 Operation Without Securing License or Payment of Fee.

(1) No person shall carry on any business, trade, occupation, profession or calling, or transact any business as defined in Section 7.015, without first paying in advance the business fee imposed by Section 7.095 and obtaining a business license.

(2) If the business is owned by a corporation, it shall be the responsibility of the local business manager to obtain the required license.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.025 License Duration. Except for those Temporary Vendor Licenses issued under Section 7.095(2), new licenses shall be valid from the date of issuance to the following June 30 and shall be renewable annually for one year beginning on July 1.

[Amended by Ord. No. 6496, enacted Aug. 19, 1985; Amended by Ord. No. 93-23, enacted Dec. 22, 1993; Amended by Ord. 02-21, enacted July 1, 2003.]

7.030 Application for License. Each person wishing to engage in a new business shall apply for a license to carry on business for the license year. Suitable application forms will be furnished by

Klamath Falls City Code

the City. At the time of filing, the applicant shall pay the license fee required. The application shall be filed with the License Clerk and shall contain:

(1) A description of the trade, shop, business, profession, occupation or calling to be engaged in.

(2) The name and address of the applicant; if a partnership, the names and addresses of the several partners; if a business is a corporation, its name and the address of the home office, the name and address of the designated agent in the State if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the City.

(3) The address where the business will be located or have its City office.

(4) The date of application.

(5) Any other information the Recorder or Council determines that the application should contain for review purposes under Section 7.035.

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

(7) If the applicant is a foreign corporation or a non-resident of this State, and no permanent business location is proposed to be created in the City, the applicant shall appoint a local person, acceptable to the City Manager, as an agent for accepting service of a process, notice, or demand required or permitted service of a process, notice or demand required or permitted by law to be served upon the applicant. The applicant shall submit with the application, the agent's acknowledged consent to acceptance of said service on the form provided by the City.

[Amended by Ord. No. 6592, enacted March 19, 1990;

Amended by Ord. No. 93-23, enacted Dec. 22, 1993.]

7.035 Application Review. The License Clerk shall refer each application to the persons or departments designated by the City Manager for review. The license shall not be issued if the business as described in the application would not comply with the City's:

(1) Uniform Fire Code;

(2) Community Development Ordinance;

(3) Pretreatment Act;

(4) Nuisance Code;

(5) Uniform Code for the Abatement of Dangerous Buildings; and

(6) Geothermal Resource Management Act.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.040 Information From Applicant. A person or department designated to review a license application may require the applicant to supply information necessary to determine, as required under Section 7.035, the business qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended or denied.

7.045 Issuance of License.

(1) After receipt of reports from all persons and departments designated to review an application, the City Manager shall determine whether the business qualifies for issuance of a license. If the business qualifies, the License Clerk shall issue the license.

Klamath Falls City Code

(2) No license shall be issued to a person if the person has, prior to making application, conducted a business within the City while this Act was in effect without current, valid license issued under this Act, unless an additional amount equal to the license fee for the period during which the business was thus conducted is paid.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.050 Denial of Application. If, on the basis of the application review under Section 7.035, the City Manager determines that the business does not qualify for issuance of the license applied for, the City Manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal in Section 7.080.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.055 License Renewal and Late Penalty. The application for renewal of a business license shall be made to the License Clerk prior to the June 30 expiration date. A penalty of ten percent (10%) of the tax for each month or part thereof during which the tax remains unpaid shall be added to the license tax accompanying a later renewal application. Following November 30, renewal shall no longer be permitted, a new license application and fee shall be required.

[Amended by Ord. No. 6496, enacted Aug. 19, 1985; Amended by Ord. No. 6592, enacted March 19, 1990; Amended by Ord. No. 93-23, enacted Dec. 22, 1993; Amended by Ord. No. 02-21, enacted July 1, 2003.]

7.060 Review of Renewal. If the City has received complaints about the licensed business, the application for renewal of the license may be reviewed under Section 7.035.

7.065 Denial of Renewal. If a licensed business does not qualify for renewal under Section 7.035, the City Manager shall notify the licensee in writing that renewal of the license has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal in Section 7.080.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.070 Revocation of License. If the City Manager determines that a licensed business no longer complies under Section 7.035, City Manager shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least thirty (30) days before the revocation. If the violation ends within thirty (30) days, the City Manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions of Section 7.080 for appeal.

[Amended by Ord. 6592, enacted March 19, 1990.]

7.075 Suspension of License. If a licensed business presents an immediate danger to persons or property, the City Manager may suspend the license for the business at once. The suspension takes effect immediately upon notice of the suspension's being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application. Such a notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the

Klamath Falls City Code

provisions for appeal under Section 7.080. The City Manager may continue a suspension so long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 7.080.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.080 Appeal.

(1) An applicant whose application for a license has been denied, or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within thirty (30) days after the notice of denial, suspension or revocation is mailed, appeal in writing to the Council.

(2) The appeal shall state:

- (a) The name and address of the appellant;
- (b) The nature of the determination being appealed;
- (c) The reason the determination is incorrect; and
- (d) What the correct determination of the appeal should be.

(3) An appellant who fails to file the statement within the time permitted waives objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The Council shall hear and determine the appeal on the basis of the written statement and any additional evidence it considers appropriate. The appellant shall be given written notice of the hearing on the appeal fourteen (14) days prior to the hearing. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The decision of the Council after the hearing is final.

[Amended by Ord. No. 6592, enacted March 19, 1990.]

7.085 Posting of License.

(1) Except as provided in Subsection (2), at all times after the issuance of the license, the license shall be posted in a conspicuous place upon the business premises, available for inspection by the public and by employees and prospective employees of the business.

(2) When the licensee has no office, business premises or other established place of business in the City, the license shall be in the possession of the representative of the business who is present in the City at all times during which business is being transacted by any employee or representative in the City.

7.090 Contents of License. Licenses shall be issued to the applicant in the name of the business to be licensed and shall designate the nature of the business, the address of the business premises, if any, and the date of issuance.

7.095 Business License Fee.

(1) There is hereby imposed on businesses licensed under this Act annual fees for businesses located in the City and for businesses which are located outside the City but doing business in the City, which fees shall be set by Council resolution following public hearing. Such fees may be in the form of a schedule based on location and gross income levels.

Klamath Falls City Code

(2) In addition to the annual business license fee, the Council may create a Temporary Vendor license fee valid for only a forty-five day period. With the exception of the fee and duration, such licenses shall otherwise be subject to all the requirements of this Act.

(3) Nothing in this Act shall be construed as vesting a right in persons under a contract obligation on the part of the City for the amount or character of a business license fee. Such a fee may be increased or decreased at any time by action of the Council.

(4) The annual business license fee imposed under (1) above, shall be subject to a Twenty-Five Dollar (\$25.00) reduction for new licenses issued after March 31st of the license year. No other proration shall be permitted.

[Amended by Ord. No. 6572, enacted Sept. 5, 1989; Amended by Ord. No. 6592, enacted March 19, 1990; Amended by Ord. No. 93-23, enacted Dec. 22, 1993; Amended by Ord. No. 02-21, enacted July 1, 2003.]

7.100 Transfer or Assignment of License. No person shall assign or transfer a license issued under this Act to another person. In the event a licensed business changes location, no new fee shall be required for that license year; however, the business shall file an amended application with the City containing the information required under Section 7.030.

[Amended by Ord. No. 6496, enacted Aug. 19, 1985; Amended by Ord. No. 6592, enacted March 19, 1990.]

Klamath Falls City Code

PARKING DISTRICT TAX

7.125 Purpose and Scope. Under authority conferred by ORS 223.805 to 223.845, an occupation fee or user charge is imposed for revenue purposes only upon the privilege of occupying real property to carry on business, occupation, profession, or trade located within the Parking District as established by Sections 7.125 to 7.190 in which free public off-street parking facilities are provided. Revenues generated herein shall be used solely for the operation, maintenance and development of parking facilities and pedestrian amenities intended to improve on-street and public off-street parking and including in addition thereto a fee to the City of Klamath Falls for the administration and enforcement. The charge is in addition to any other tax, assessment or fee required by state or local law or ordinance. The acceptance by the City of an amount due under Section 7.125 to 7.188 shall not be conditioned upon compliance with any other law or ordinance, regulatory or otherwise; nor shall acceptance be deemed a waiver of any other law or ordinance, regulatory or otherwise. This being a revenue measure enacted to meet a local need, the Council intends that this charge shall apply to all businesses, occupations, trades, governmental entities, churches and fraternal organizations using premises within the off-street Parking District, without regard to any law or ordinance that exempts a particular occupation from business license taxes. The fees or user charges established shall be used only for the above purposes within the Parking District. If other resources are available, or the need for the facilities decreases, the user fee shall be decreased or eliminated. [Amended by Ord. 99-15, enacted Nov. 15, 1999.]

7.130 Definitions. As used in Sections 7.125 to 7.190, the following terms shall mean:

Business. A regular profit or nonprofit making activity occupying premises utilizing the Parking District. Such activities shall include, but not be limited to, the furnishing of governmental, professional or nonprofessional services, the sale or other disposition of goods, wares or merchandise, or a combination of such activities. The term shall not apply to:

- (a) The act of occupying living quarters or residential dwelling units within the District.
- (b) Activities which are temporary in nature, occupying premises in the District for not more than a ninety (90) day period; nor
- (c) Activities which are otherwise subject to the off-street parking requirement of Klamath Falls City Code Section 14.005 et seq.

Employee. Includes owners, managers and paid or volunteer employees, agents and outside sales persons, doing business from the premises, for profit or not, in the Parking District. Persons who begin work after 5:00 p.m. and leave before 8:00 a.m., will not be considered an employee and shall not be subject to the fees assessed in this ordinance.

Premises. A fixed or definite location where business is conducted. [Amended by Ord. No. 99-15, enacted Nov. 15, 1999.]

7.135 Boundaries of District. The off-street parking district boundaries shall be established by the City Council and may be amended from time to time by resolution following a public hearing. [Amended by Ord. #99-15, enacted Nov. 15, 1999.]

Klamath Falls City Code

[Amended by Ord. No. 6456, enacted June 4, 1984; Amended by Ord. No. 6480, enacted Dec. 3, 1984; Amended by Ord. No. 6540, enacted Oct. 5, 1987; Amended by Ord. No. 99-15, enacted Nov. 15, 1999; Amended by Ord. No. 03-10, enacted April 7, 2003; Amended by Ord. No. 03-39, enacted December 15, 2003, amended by Ord. #05-54, enacted Jan. 22, 2005.]

7.140 Business Prohibited. No person, agent or employee shall transact business in the off-street Parking District as defined in Section 7.135 unless the annual charge for the operation of the business has been paid in advance as required by Sections 7.125 to 7.190.

[Amended by Ord. No. 94-35, enacted Jan. 6, 1995.]

7.145 Return Payment and Charge Period.

(1) Upon receipt of a signed return as prescribed in Section 7.185, and payment of the required charge, the City shall issue a receipt showing the name and nature of the business, the location of the premises, the name of the owner, the number of employees, and the period for which the charge is paid. The charge year shall be July 1 to June 30. The fee or user charge of a business or service starting within the Parking District during the charge year shall be prorated on a monthly basis for the unexpired year, using the first day of the calendar month within which the business was begun. A business or service shall not be charged less than one-twelfth (1/12) of the annual capital outlay fee and operation and maintenance fee. The charge is on the particular business activity and not the premises. If the business moves from the original location to another location within the Parking District, its charge for the new location shall be considered paid. A late fee of ten percent (10%) or Ten Dollars (\$10.00), whichever is greater, will be assessed on all late payments. [Amended by Ord. No. 09-11, enacted Aug. 4, 2009.]

(2) In addition to the receipt the City shall provide the business with a copy of the rules and regulations applicable to parking downtown together with one (1) Regular Parking District Permit for each regular employee of the business as reported on the return.

[Amended by Ord. No. 94-35, enacted Jan. 6, 1995; Amended by Ord. No. 95-2, enacted March 9, 1995.]

7.147 Late Penalty. A monthly penalty of Ten Dollars (\$10.00) or ten percent (10%) of the charges due (whichever is greater), up to a maximum of one hundred percent (100%) of the charges due, shall be applied to all delinquent payments under this act.[Added by Ord. No. 93-10, enacted July 21, 1993.]

7.150 [Repealed by Ord. No. 93-10, enacted July 21, 1993.]

Klamath Falls City Code

7.155 Two or More Business Premises; Two or More Businesses on the Same Premises.

Conducting the same business at two or more separate premises within the Parking District shall be considered separate businesses, and each shall be subject to the user charge. If two or more separate but related businesses are conducted on the same premises by the same owners, one (1) fee or user charge shall be paid for the business to which the premises is primarily appropriated. The fee or user charge shall be based on the total number of persons engaged on the whole premises. A business or service operated under concession or lease on the same premises, where the business is owned wholly or in part by a different person or persons, shall be separately charged. In determining whether different activities on the same premises are related to the primary use within the meaning of this Section, normal and ordinary custom and usage of businesses of like nature shall be considered.

[Amended by Ord. No. 94-35, enacted Jan. 6, 1995.]

7.160 Amount of Fee or User Charge. The annual fee or user charge for a business shall be Sixty-five Dollars (\$65.00) per year for each employee.

[Amended by Ord. No. 94-35, enacted Jan. 6, 1995; Amended by Ord. No. 99-15, enacted Nov. 15, 1999; Amended by Res. No. 01-48, effective Jan. 1, 2002; Amended by Res. No. 04-13, enacted May 17, 2004.]

7.165 Credit For Employer Provided Parking. Businesses that provide off-street customer parking or employee parking, will receive a Thirty Dollar (\$30.00) credit for each space furnished, not to exceed one credit for each employee of the business. In order to qualify for a credit, parking must be provided on premises owned or leased by the business within three hundred (300) feet of the business, properly signed and so arranged as to be safely accessible. Ingress and egress to the parking shall be included in these square footage calculations. Variances to the three hundred (300) foot limit may be granted by the Parking District Committee. Further, the parking must be paved and landscaped in compliance with the Community Development Ordinance. Existing non-confirming parking will continue to receive the credit through 2005. Thereafter, credits shall only be given those parking areas which conform to the Community Development Ordinance.

[Amended by Ord. No. 94-35, enacted Jan. 6, 1995; Amended by Ord. 99-15, enacted Nov. 15, 1999; Amended by Ord. No. 00-13, enacted July 17, 2000; Amended by Ord. No. 01-48, effective Jan. 1, 2002.]

7.170 Part-time Employees. The fee or user charge for a part time employee who works less than 20 hours per week shall be \$32.50 per year. Employees who work more than 20 hours per week shall be considered full time employees. Seasonal employees may purchase a three month permit for \$30. [Amended by Ord. No. 99-15, enacted 11-15-99; Amended by Ord. No. 00-13, enacted July 17, 2000; Amended by Res. No. 01-48, effective Jan. 1, 2002; Amended by Res. No. 04-13, enacted May 17, 2004.]

7.175 Evidence of Doing Business. In a trial of an alleged violation of Sections 7.125 to 7.190, evidence that the defendant or defendant's employer made a public representation, by way of advertisement by newspaper, radio, television or similar media, or by signs, notices or lettering displayed for public view, that the business or occupation was being conducted within the parking

Klamath Falls City Code

district and expressing or implying the offer to sell goods or services in the course of the business to the public, shall constitute prima facie evidence that the defendant was transacting business by such public representation within the parking district on the date or dates during which the representations were made.

7.180 Use of Charges. Money collected under the provisions of Sections 7.125 to 7.188 shall be used for the purchase, construction, maintenance, operation and improvement in public parking facilities and pedestrian amenities in the District. Such revenues and expenditures shall be maintained in a separate account and shall be independently disclosed in the City's budget documents. [Amended by Ord. No. 94-35, enacted Jan. 6, 1995; Amended by Ord. No. 99-15, enacted Nov. 15, 1999.]

7.185 Returns.

(1) Returns shall be submitted prior to the beginning of the charge year, or at the opening of the business, and shall be signed by the owner or manager of the business or service activity. The return shall be submitted on forms prepared by the Recorder and shall contain:

- (a) The name or assumed business name under which the business is conducted.
- (b) The nature of the business.
- (c) The name of the owner and manager.
- (d) The location.
- (e) The number of persons, whether as owners, managers, or employees, working for the business in the Parking District.
- (f) The number of full-time regular employees.
- (g) The number of part-time employees and the time at which each such employee's shift commences and the number of hours for which each part-time employee is employed.

(2) The returns shall be confidential, and the contents shall not be revealed except for purposes of administering or enforcing Sections 7.125 to 7.190. No person shall knowingly submit a return containing a material false representation.

[Amended by Ord. No. 94-35, enacted Jan. 6, 1995.]

7.187 Permits.

(1) Downtown Parking District color coded permits of the following nature are authorized to permit the following:

(a) Regular Employee Parking Permit. A regular permit shall authorize, within the area described by the permit, long-term parking on those public streets or public off-street parking lots appropriately designated during the term of the permit.

(b) Temporary Parking Permit. A temporary permit shall authorize long-term parking on public streets or public off-street parking in public lots for reduced periods of time described in the temporary permit.

(c) Priority Permit. The priority permit shall allow long-term parking in public off-street parking lots appropriately designated during the period covered by the permit.

Klamath Falls City Code

(d) Reserved Permit. An exclusive permit shall permit extended parking in appropriately designated public off-street parking lots where an individual space has been reserved for exclusive use.

(e) Part Time Permit. A regular permit issued to part time employees identifying their part time status.

(2) The City shall issue a new regular permit for a new employee upon the employer turning in the old permit from the departing employee.

(3) In addition to the distribution of regular permits pursuant to payment of the Parking District Fee, the City may sell additional regular permits to businesses or persons, may sell temporary, reserved, and priority permits as it deems appropriate, and or may issue permits for no charge for jurors and other public purposes.

[Added by Ord. No. 94-35, enacted Jan. 6, 1995 Amended by Ord. No. 99-15, enacted Nov. 15, 1999.]

7.188 Fees and Charges Established. All fees and charges provided for in Sections 7.125 to 7.188 may be from time to time established and changed by Council resolution. [Added by Ord. No. 94-35, enacted Jan. 6, 1995; Amended by Ord. No. 99-15, enacted Nov. 15, 1999.]

7.190 Dissolution of Capital Outlay Charge. [Amended by Ord. No. 6456, enacted June 5, 1984; Repealed by Ord. No. 99-15, enacted Nov. 15, 1999.]

7.200 Imposition of Lien Search Fees

(1) In order to defray the costs of searching City lien records, any person or business entity searching City lien records via the City access site on the World Wide Web (the "internet") shall pay a fee of \$25.00 for each tax lot number or parcel of property searched.

(2) The Finance Director is hereby authorized to adopt policies and procedures to implement access to City lien records via the internet and to collect the lien search fee. The City Manager is authorized to modify the lien search fee at any time, provided, however, that prior to adoption and implementation, notice of the proposed fee change shall be provided to Council not less than thirty (30) days prior to implementation to allow Council the opportunity to request that the fee charge be determined by Council during a public meeting.

[Added by Ord. 06-30, enacted Oct. 16, 2006.]

AMUSEMENT DEVICE TAX

7.200 - 7.240 [Repealed by Ord. No. 6644, enacted Dec. 1, 1992.]

Klamath Falls City Code

Klamath Falls City Code

CITY ENTERPRISE ZONE ACT

7.300 Policy & Intent.

(1) The City Council finds and declares that the health, safety and welfare of the people of Klamath Falls are dependent upon the continued encouragement, development, growth and expansion of employment, business, industry and commerce within the City, and that this community requires the particular attention of government to help attract private business investment into the area. Therefore, it is declared to be the purpose of this Act, Sections 7.300 to 7.340, to stimulate employment, business and industrial growth in the City by providing assistance to businesses and industries and by making available tax and other local incentives.

(2) It is the intent of Council that the provisions of this Act shall take precedence over previously adopted conflicting City Code provisions, ordinances, resolutions and policy as necessary to further the purpose set forth above.

(3) The provision of this Act shall be construed to the extent possible, to be consistent with the provisions of ORS 284.110 to 284.260 and the administrative rules promulgated thereunder. [Added by Ord. No. 6506, enacted May 19, 1986.]

7.305 Zone Boundaries.

(1) The boundaries of the zone shall be the City of Klamath Falls' city limits which area includes the Enterprise Zone designated in the Governor's Executive Order No. EO-06-08.

(2) The boundaries established in (1) above may be amended from time to time by Council resolution.

[Added by Ord. No. 6506, enacted May 19, 1986; Amended by Ord. No. 6512, enacted July 9, 1986.]

7.310 Definition of Business. For purposes of this act, the term "business" shall mean any commercial or industrial enterprise as those terms are defined in the Community Development Ordinance.

(1) New or expanding businesses shall qualify for the City incentives set forth in Sections 7.315 to 7.340 provided such business or business expansion will result in the creation of at least five (5) new full-time employment positions or, if relevant, a ten percent (10%) increase in the work force, whichever is greater.

(2) Though not qualifying for the tax incentive under ORS 284,210 et. seq., retail business shall qualify as a business under this act.

[Added by Ord. No. 6506, enacted May 19, 1986.]

7.315 Fast-Track Processing. City staff and Commissions are hereby directed to expeditiously process applications and respond to inquiries for assistance regarding new and expanding businesses within the Enterprise Zone to the degree possible without denial of the legal rights to notice and opportunity for input afforded other interested parties.

[Added by Ord. No. 6506, enacted May 19, 1986.]

Klamath Falls City Code

7.320 Fee Waiver. The City Business License fee for new businesses within the zone shall be waived for the calendar year in which the business begins operation and the following year. [Added by Ord. No. 6506, enacted May 19, 1986.]

7.325 CDO Application Fees. Except for payment of legal advertising and notification costs, the application fees for applications under the City's Community Development Ordinance by new or expanding business within the zone shall be waived. [Added by Ord. No. 6506, enacted May 19, 1986.]

7.330 Local Improvement Districts. Subject to the necessity of public improvements required to address public safety or health problems, the City Manager is authorized to enter into agreements with new or expanding businesses within the zone at the request of the business whereby the City agrees not to establish any Local Improvement District encompassing the businesses' property to be improved for a period of up to two years from the date of the businesses' establishment or expansion. Such agreements must be requested by the business within sixty (60) days of opening. [Added by Ord. No. 6506, enacted May 19, 1986.]

7.335 Sewer Connection Fees. The City Manager is hereby authorized to enter into agreements with new or expanding businesses within the zone for deferral of sewer connection fee payments. Said agreements shall provide for installment payments within twelve (12) months at no-interest, or at the option of the business for installment payment over a thirty-six (36) month period at six percent (6%) per annum interest. [Added by Ord. No. 6506, enacted May 19, 1986.]

7.340 Construction Assistance and City Services. There are hereby created and directed the following assistance teams:

(1) Construction Assistance Team, to be composed of the Public Works Director, the Senior Engineering Technician and the Police Chief, which is directed to assist in expediting construction activities of new or expanding business as related to municipal services and facilities.

(2) City Services Team, to be composed of the City Manager, City Attorney and City Planner, which shall represent the City during all phases of business prospect development and business start-up and shall coordinate with other community resources to assure adequate responses to business requests for assistance. Under the supervision of the Mayor, this team shall provide overall guidance and evaluation of the zone activities and shall periodically report back to the Council on zone progress.

[Added by Ord. No. 6506, enacted May 19, 1986.]

Klamath Falls City Code

TELECOMMUNICATIONS ACT

GENERAL

7.370 Purpose. The purpose and intent of this Act is to:

- (1) establish a local policy concerning telecommuni-cations providers use of the public rights-of-way;
- (2) minimize unnecessary local regulation of telecom-munications providers and services;
- (3) permit and manage reasonable access to the public ways of the City for telecommunications purposes on a competitively neutral basis;
- (4) conserve the limited physical capacity of the public ways held in public trust by the City;
- (5) assure that the City's current and ongoing costs of granting and regulating private access to and use of the public ways are fully paid by the persons seeking such access and causing such costs;
- (6) secure fair and reasonable compensation to the City and the residents of the City for permitting private use of the public ways;
- (7) assure that all telecommunications carriers providing facilities or services within the City comply with the ordinances, rules and regulations of the City;
- (8) assure that the City can continue to fairly and responsibly protect the public health, safety and welfare;
- (9) enable the City to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development.

7.371 Definitions. For the purpose of this Act, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

Act. This Telecommunications Act, Sections 7.370 to 7.499.

Affiliate. A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

Cable Operator. A telecommunications carrier providing or offering to provide "cable service" within the City.

Cable Service. For the purpose of this Act shall have the same meaning provided by the Telecommunications Act of 1996.

City. The City of Klamath Falls.

City Property. Means and includes all real property owned by the City, other than public streets and utility easements as those terms are defined herein, and all property held in a proprietary capacity by the City, which are not subject to right-of-way licensing and franchising as provided in this Act.

Excess Capacity. The volume or capacity in any existing or future duct, conduit, manhole, handhole or other utility facility within the public way that is or will be available for use for additional telecommunications facilities.

Klamath Falls City Code

FCC or Federal Communications Commission. The Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

Other Ways. The highways, streets, alleys, utility easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.

Overhead Facilities. Utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

Person. Means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

Public Street. Any highway, street, alley, path, bikeway or other public right of way for motor vehicle pedestrian, or bicycle travel under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to highway purposes not inconsistent with telecommunication facilities.

Public Way. Means and includes all public streets and utility easements, as those terms are defined herein, now or hereafter owned by or under the jurisdiction of the City.

PUC or Public Utility Commission. The State administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers in the State of Oregon.

State. The State of Oregon.

Surplus Space. That portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the PUC, to allow its use by a telecommunications carrier for a pole attachment.

Telecommunications Carrier. Means and includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the City, used or to be used for the purpose of offering telecommunication service.

Telecommunications Facilities. The plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

Telecommunications Provider. Means and includes every person who provides telecommunications service over telecommunications facilities without any ownership or management control of the facilities.

Telecommunications Service. The providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

Telecommunications System See **Telecommunications Facilities.**

Underground Facilities. Utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

Usable Space. The total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the PUC.

Klamath Falls City Code

Utility Easement. Any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

Utility Facilities. The plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the public ways of the City and used or to be used for the purpose of providing utility or telecommunications services.

7.373 Telecommunications License. Except as otherwise provided therein, any telecommunications carriers who desire to construct, install, operate, maintain, or otherwise locate telecommunications facilities in, under, over or across any public way of the City for the sole purpose of providing telecommunications service to persons and areas outside the City shall first obtain a license granting the use of such public ways from the City Manager pursuant to 7.387 to 7.402.

7.374 Telecommunications Franchise. Except as otherwise provided herein, any telecommunications carriers who desire to construct, install, operate, maintain or otherwise locate telecommunications facilities in, under, over or across any public way of the City, and to also provide telecommunications service to persons or areas in the City, shall first obtain a franchise granting the use of such public ways from the City Council pursuant to 7.405 to 7.421 of this Act.

7.375 Cable Television Franchise. Except as otherwise provided herein, any telecommunications carrier who desires to construct, install, operate, maintain or locate telecommunications facilities in any public way of the City for the purpose of providing cable service to persons in the City shall first obtain a cable franchise from the City Council as provided in the Cable Franchise provisions of this Act.

7.376 Application to Existing Franchise Ordinances and Agreements. This Act shall have no effect on any existing franchise ordinance or franchise agreement until the earlier of:

- (1) the expiration of said franchise ordinance or agreement; or
- (2) an amendment to an unexpired franchise Act or franchise agreement, unless both parties agree to defer full compliance to a specific date not later than the present expiration date.

7.377 Penalties. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Act shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

7.378 Other Remedies. Nothing in this Act shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Act.

Klamath Falls City Code

7.379 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Act, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Klamath Falls City Code

TELECOMMUNICATIONS LICENSE

7.387 Telecommunications License. A telecommunications license shall be required of any telecommunications carrier who desires to occupy specific public ways of the City for the sole purpose of providing telecommunications services to persons or areas outside the City.

7.388 License Application. Any person that desires a telecommunications license pursuant to 7.387 to 7.402 shall file an application with the City Recorder's office which shall include the following information:

- (1) The identity of the license applicant, including all affiliates of the applicant.
- (2) A description of the telecommunications services that are or will be offered or provided by licensee over its telecommunications facilities.
- (3) A description of the transmission medium that will be used by the licensee to offer or provide such telecommunications services.
- (4) Preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:
 - (a) the location and route requested for applicant's proposed telecommunications facilities.
 - (b) the location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.
 - (c) the location(s), if any, for interconnection with the telecommunications facilities of other telecommunications carriers.
 - (d) the specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.
- (5) If applicant is proposing to install overhead facilities, evidence that underground installation is not possible and that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route.
- (6) The location proposed for the new ducts or conduits if applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways
- (7) A preliminary construction schedule and completion date.
- (8) A preliminary traffic control plan in accordance with the Manual on Uniform Traffic Control Devices.
- (9) All fees, deposits or charges required pursuant to 7.440 to 7.448 of this Act.
- (10) Such other and further information as may be required by the City Manager.

7.389 Determination by the City. Within one hundred twenty (120) days after receiving a complete application under Section 7.388 hereof, the City Manager shall issue a written determination granting or denying the application in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial.

- (1) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the license is granted.

Klamath Falls City Code

- (2) The public interest in minimizing the cost and disruption of construction within the public ways.
- (3) The service that applicant will provide to the community and region.
- (4) The availability of alternate routes and/or locations for the proposed facilities.
- (5) Such other factors as may demonstrate that the grant to use the public ways will serve the community interest.

7.390 Agreement. No license granted hereunder shall be effective until the applicant and the City have executed a written agreement setting forth the particular terms and provisions under which the license to occupy and use public ways of the City will be granted.

7.391 Nonexclusive Grant. No license granted hereunder shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the City for delivery of telecommunications services or any other purposes.

7.392 Rights Granted. No license granted hereunder shall convey any right, title or interest in the public ways, but shall be deemed a license only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no license shall be construed as any warranty of title.

7.393 Term of License. Unless otherwise specified in a license agreement, a telecommunications license granted hereunder shall be in effect for a term of five (5) years.

7.394 License Route. A telecommunications license granted hereunder shall be limited to a grant of specific public ways and defined portions thereof.

7.395 Location of Facilities. Unless otherwise specified in a license agreement, all facilities shall be constructed, installed and located in accordance with the following terms and conditions:

- (1) All new telecommunication facilities shall be installed underground unless the Public Works Director determines that extraordinary circumstances make overhead installation necessary.
- (2) Telecommunications facilities shall be installed within an existing underground duct or conduit whenever the Public Works Director determines that excess capacity exists within such utility facility.

7.396 Construction Permits. All licensees are required to obtain construction permits for telecommunications facilities to be constructed within public ways as required in this Act provided, however, that nothing herein shall prohibit the City and a licensee from agreeing to alternative plan review, permit and construction procedures in a license agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

Klamath Falls City Code

7.397 Compensation to City. Each license granted hereunder is subject to the City's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the use of the public ways granted to the licensee pursuant to Section 7.443; provided, nothing herein shall prohibit the City and a licensee from agreeing to the compensation to be paid.

7.398 Service to City Users. A licensee may be permitted to offer or provide telecommunications services to persons or areas within the City upon submitting an application for approval pursuant to 7.405 to 7.421 hereof.

7.399 Amendment of Grant.

(1) A new license application and grant shall be required of any telecommunications carrier that desires to extend or locate its telecommunications facilities in public ways of the City which are not included in a license previously granted under this Act.

(2) If ordered by the City Manager to locate or relocate its telecommunications facilities in public ways not included in a previously granted license, the City shall grant a license amendment without further application.

7.400 Renewal Applications. A grantee that desires to renew its license shall, not more than one hundred eighty (180) days nor less than one hundred twenty (120) days before expiration of the current license, file an application with the City Recorder's office for renewal of its license which shall include the following information:

(1) The information required pursuant to Section 7.388.

(2) Any information required pursuant to the license agreement between the City and the grantee.

7.401 Renewal Determinations. Within ninety (90) days after receiving a complete application under Section 7.400 hereof, the City Manager shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal.

(1) The continuing capacity of the public ways to accommodate the applicant's existing facilities.

(2) The applicant's compliance with the requirements of this Act and the license agreement.

(3) Such other factors as may demonstrate that the continued grant to use the public ways will serve the community interest.

7.402 Obligation to Cure As a Condition of Renewal. No license shall be renewed until any ongoing violations or defaults in the licensee's performance of the license agreement, or of the requirements of this Act, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the Manager.

TELECOMMUNICATIONS FRANCHISE

Klamath Falls City Code

7.405 Telecommunications Franchise. A telecommunications franchise shall be required of any telecommunications carrier who desires to occupy public ways of the City and to provide telecommunications services to any person or area in the City.

7.406 Franchise Application. Any person that desires a telecommunications franchise pursuant to 7.405 to 7.421 shall file an application with the City Recorder's office which shall include the following information:

(1) The identity of the franchise applicant, including all affiliates of the applicant.

(2) A description of the telecommunications services that are or will be offered or provided by the franchise applicant over its existing or proposed facilities.

(3) A description of the transmission medium that will be used by the franchisee to offer or provide such telecommunications services.

(4) Preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:

(a) the location and route requested for applicant's proposed telecommunications facilities.

(b) the location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.

(c) the location(s), if any, for interconnection with the telecommunications facilities of other telecommunications carriers.

(d) the specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.

(5) If applicant is proposing to install overhead facilities, evidence that underground installation is not possible and that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route.

(6) The location proposed for the new ducts or conduits if applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways:

(7) A preliminary construction schedule and completion dates.

(8) A preliminary traffic control plan in accordance with the Manual on Uniform Traffic Control Devices.

(9) Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.

(10) Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application.

(11) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services.

Klamath Falls City Code

(12) Whether the applicant intends to provide cable service, video dialtone service or other video programming service, and sufficient information to determine whether such service is subject to cable franchising.

(13) An accurate map showing the location of any existing telecommunications facilities in the City that applicant intends to use or lease.

(14) A description of the services or facilities that the applicant may propose to offer or make available to the City and other public, educational and governmental institutions.

(15) A description of applicant's access and line extension policies.

(16) If applicable, the area or areas of the City the applicant desires to serve and a schedule for build-out to the entire franchise area.

(17) All fees, deposits or charges required pursuant to of this Act.

(18) Such other and further information as may be requested by the City Manager.

7.407 Determination by the City. Within one hundred fifty (150) days after receiving a complete application under 7.388 hereof, the City Council shall issue a written determination granting or denying the application in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial.

(1) The capacity of the public ways to accommodate the applicant's proposed facilities.

(2) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the franchise is granted.

(3) The public interest in minimizing the cost and disruption of construction within the public ways.

(4) The service that applicant will provide to the community and region.

(5) The availability of alternate routes and/or locations for the proposed facilities.

(6) Such other factors as may demonstrate that the grant to use the public ways will serve the community interest.

7.408 Agreement. No franchise shall be granted hereunder unless the applicant and the City have executed a written agreement setting forth the particular terms and provisions under which the franchise to occupy and use public ways of the City will be granted.

7.409 Nonexclusive Grant. No franchise granted hereunder shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the City for delivery of telecommunications services or any other purposes.

7.410 Term of Franchise. Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be valid for a term of ten (10) years.

7.411 Rights Granted. No franchise granted hereunder shall convey any right, title or interest in the public ways, but shall be deemed a franchise only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no franchise shall be construed as any warranty of title.

Klamath Falls City Code

7.413 Location of Facilities. Unless otherwise specified in a franchise agreement, all facilities shall be constructed, installed and located in accordance with the following terms and conditions:

(1) All new telecommunication facilities shall be installed underground unless the Public Works Director determines that extraordinary circumstances make overhead installation necessary.

(2) Telecommunications facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility.

7.414 Construction Permits. All franchisees are required to obtain construction permits for telecommunications facilities to be constructed within the public ways as required in 7.451 to 7.478 of this Act provided, however, that nothing herein shall prohibit the City and a franchisee from agreeing to alternative plan review, permit and construction procedures in a franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

7.415 Compensation to City. Each franchise granted hereunder is subject to the City's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the use of the public ways granted to the franchisee pursuant to Section 7.443; provided, nothing herein shall prohibit the City and a franchisee from agreeing to the compensation to be paid.

7.417 Service to the City. A franchisee shall make its telecommunications services available to the City at rates charged to similarly situated users, unless otherwise provided in a license or franchise agreement.

7.419 Renewal Applications. A grantee that desires to renew its franchise under this Article shall, not more than two hundred forty (240) days nor less than one hundred fifty (150) days before expiration of the current franchise, file an application with the City Recorder's office for renewal of its franchise which shall include the following information:

(1) The information required pursuant to Section 7.406.

(2) Any information required pursuant to the franchise agreement between the City and the grantee.

7.420 Renewal Determinations. Within one hundred fifty (150) days after receiving a complete application under Section 7.419 hereof, the City Council shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal.

(1) The continuing capacity of the public ways to accommodate the applicant's existing facilities.

(2) The applicant's compliance with the requirements of this Act and the franchise agreement.

Klamath Falls City Code

(3) Such other factors as may demonstrate that the continued grant to use the public ways will serve the community interest.

7.421 Obligation to Cure As a Condition of Renewal. No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the franchise agreement, or of the requirements of this Act, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the City.

Klamath Falls City Code

Klamath Falls City Code

CABLE FRANCHISE

- Reserved -

FEES AND COMPENSATION

7.440 Purpose. It is the purpose of this 7.440 to 7.448 to provide for the payment of reasonable compensation for use of the public ways and for the recovery of all direct and indirect costs and expenses of the City related to the enforcement and administration of this Act.

7.441 Application and Review Fee.

(1) Any applicant for a license or franchise pursuant to 7.387 to 7.402 or 7.405 to 7.421 of this Act shall pay a fee of One Hundred Dollars (\$100.00). The City Manager is authorized to set and modify this application fee in accordance with the requirements of Section 1.075.

(2) The application and review fee shall be deposited with the City as part of the application filed pursuant to this Act.

[Amended by Ord. No. 07-09.]

7.443 Compensation for Public Ways.

(1) As compensation to be paid for the use of the public ways granted to a telecommunications license ~~or franchise~~ grantee, the grantee shall annually pay to the City a fee equal to \$.20 per linear foot of public way occupied by grantee's facilities. Provided, however, said fee shall be increased every five years from the effective date of this act by an amount equal to the percentage change of the CPI-U national.

(2) As compensation to be paid for the use of the public ways granted to a telecommunications franchise grantee, the grantee shall annually pay to the City a fee equal to 5% of grantee's gross revenues derived from within the City.

(3) Nothing herein shall prohibit the City and a grantee from agreeing to alternative compensation to be paid for the use of the public ways.

7.444 Compensation for City Property. If the right is granted, by lease, license, franchise or other manner, to use and occupy City Property for the installation of telecommunications facilities, the compensation to be paid shall be fixed by the City.

7.445 Construction Permit Fee. Unless otherwise agreed in a license or franchise grant agreement, prior to issuance of a construction permit, the permittee shall pay a permit fee equal to Fifty Dollars (\$50.00) or four percent (4%) of the estimated cost of constructing the telecommunication facilities within the public ways, as certified by the applicant's engineer and approved by the City Public Works Director, whichever is greater. *The City Manager is authorized to set and modify the minimum construction permit fee in accordance with the requirements of Section 1.075.*

[Amended by Ord. No. 07-09.]

Klamath Falls City Code

7.447 Cable Fees. Cable television franchisees shall be subject to the franchise fees, payments and costs provided in this Act.

7.448 Regulatory Fees and Compensation Not a Tax. The regulatory fees and costs provided for in this Act, and any compensation charged and paid for the public ways provided for in Section 7.443, are separate from, and additional to, any and all federal, state, local and city taxes (including a City business license tax) as may be levied, imposed or due from a telecommunications carrier or provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services.

Klamath Falls City Code

CONDITIONS OF GRANT

7.451 Location of Facilities. All facilities shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a license or franchise agreement:

(1) All new telecommunication facilities shall be installed underground unless the Public Works Director determines that extraordinary circumstances require overhead installation.

(2) A grantee shall install its telecommunications facilities within an existing underground duct or conduit whenever excess capacity exists within such utility facility.

(3) A grantee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available.

(4) Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the City, a grantee with permission to occupy the same public way must also locate its telecommunications facilities underground.

(5) Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the City, a grantee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or undue hardship as determined by the City Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways.

(6) All new telecommunication facilities shall be installed so as to have no adverse affect on motor vehicle or pedestrian safety and access, or on the operation, maintenance and aesthetic quality of the public ways system.

7.452 Compliance with K.U.C.C. All license or franchise grantees shall, before commencing any construction in the public ways, comply with all locate requirements of the Klamath Utilities Coordinating Council.

7.453 Construction Permits. All license or franchise grantees are required to obtain construction permits for telecommunications facilities as required in 7.481 to 7.499. However, nothing herein shall prohibit the City and a grantee from agreeing to alternative plan review, permit and construction procedures in a license or franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

7.454 Interference with the Public Ways. No license or franchise grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public ways by the City, by the general public or by other persons authorized to use or be present in or upon the public ways. All such facilities shall be moved by the grantee, temporarily or permanently, as determined by the City Public Works Director.

Klamath Falls City Code

7.455 Damage to Property. No license or franchise grantee nor any person acting on a grantee's behalf shall take any action or permit any action to be done which may impair or damage any City Property, public ways of the City, Other Ways or other property located in, on or adjacent thereto.

7.456 Notice of Work. Unless otherwise provided in a license or franchise agreement, no license or franchise grantee, nor any person acting on the grantee's behalf, shall commence any non-emergency work in or about the Public Ways of the City or Other Ways without ten (10) working days advance written notice to the City Public Works Director.

7.457 Repair and Emergency Work. In the event of an unexpected repair or emergency, a grantee may commence such repair and emergency response work as required under the circumstances, provided the Grantee shall notify the K.U.C.C. in advance and the City Public Works Director as promptly as possible, before such repair or emergency work or as soon thereafter as possible if advance notice is not practicable.

7.458 Maintenance of Facilities. Each license or franchise grantee shall maintain its facilities located in the public ways in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

7.459 Relocation or Removal of Facilities. Within thirty (30) days following written notice from the City Public Works Director, a license or franchise grantee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public ways, at no cost to the City, whenever the City Public Works Director shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

- (1) The construction, repair, maintenance or installation of any City or other public improvement in or upon the public ways.
- (2) The operations of the City or other governmental entity in or upon the public ways.

7.460 Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the City Public Works Director, any grantee, telecommunications carrier, or other person that owns, controls or maintains any unauthorized telecommunications system, facility or related appurtenances within the public ways of the City shall, at its own expense, remove such facilities or appurtenances from the public ways of the City. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the grantee's telecommunications license or franchise.
- (2) Upon abandonment of a facility within the public ways of the City.
- (3) If the system or facility was constructed or installed without the prior grant of a telecommunications license or franchise.
- (4) If the system or facility was constructed or installed without the prior issuance of a required construction permit.
- (5) If the system or facility was constructed or installed at a location not permitted by the grantee's telecommunications license or franchise.

Klamath Falls City Code

7.461 Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any telecommunications facilities located within the public ways of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency.

7.462 Damage to Grantee's Facilities. Unless directly and proximately caused by the wilful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of any telecommunications facility within the public ways of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public ways by or on behalf of the City.

7.463 Restoration of Public Ways, Other Ways and City Property.

(1) When a license or franchise grantee, or any person acting on its behalf, does any work in or affecting any Public Ways, Other Ways or City Property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City Public Works Director.

(2) If weather or other conditions do not permit the complete restoration required by this Section, the grantee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the Licensee's sole expense and the Licensee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(3) A grantee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property.

7.464 Facilities Maps. Each license or franchise grantee shall provide the City Public Works Director with an accurate map or maps certifying the location of all existing underground and all new telecommunications facilities within the public ways. Each grantee shall provide updated maps annually.

7.465 Duty to Provide Information. Within ten (10) days of a written request from the City Manager, each license or franchise grantee shall furnish the City with information sufficient to demonstrate:

(1) That grantee has complied with all requirements of this Act.
(2) That all fees due the City in connection with the telecommunications services and facilities provided by the grantee have been properly collected and paid by the grantee.

(3) All books, records, maps and other documents, maintained by the grantee with respect to its facilities within the public ways shall be made available for inspection by the City at reasonable times and intervals.

Klamath Falls City Code

7.467 Grantee Insurance. Unless otherwise provided in a license or franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies **or self-insurance** insuring both the grantee and the City, and its elected and appointed officers, officials, agents and employees as additional insureds:

(1) Comprehensive general liability insurance or self-insurance with limits not less than those provided for in ORS 30.270.

(2) The self-insurance or liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications license or franchise, and such other period of time during which the grantee is operating without a franchise or license hereunder, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be cancelled nor the intention not to renew be stated until ninety (90) days after receipt by the City, by registered mail, of a written notice addressed to the City Manager of such intent to cancel or not to renew."

(3) Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the grantee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.

(4) A certificate of self-insurance as filed with and approved of by the State of Oregon shall be filed with the City Manager.

7.468 General Indemnification. Each license or franchise agreement shall include, to the extent permitted by law, grantee's express undertaking to defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Act or by a grant agreement made or entered into pursuant to this Act.

7.469 Performance and Construction Surety. Before a license or franchise granted pursuant to this Act is effective, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the City as may be required by this Act or by an applicable license or franchise agreement.

7.471 Construction and Completion Bond. Unless otherwise provided in a license or franchise agreement, a performance bond written by a corporate surety acceptable to the City equal to at least 100% of the estimated cost of constructing grantee's telecommunications facilities within the public ways of the City shall be deposited before construction is commenced where such estimated construction cost exceeds Ten Thousand Dollars (\$10,000.00).

Klamath Falls City Code

(1) The construction bond shall remain in force until sixty (60) days after substantial completion of the work, as determined by the City Public Works Director, including restoration of public ways and other property affected by the construction.

(2) The construction bond shall guarantee, to the satisfaction of the City:

- (a) timely completion of construction;
- (b) construction in compliance with applicable plans, permits, technical codes and standards;
- (c) proper location of the facilities as specified by the City;
- (d) restoration of the public ways and other property affected by the construction;
- (e) the submission of "as-built" drawings after completion of the work as required by this Act.

(f) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.

(3) The above bonding requirement shall be waived for those grantees and licensees who have a demonstrated five year history of compliance with local rules and regulations in their use of the public ways. Such waiver shall continue until such time as they fail to demonstrate continued compliance.

7.472 Coordination of Construction Activities. All grantees are required to cooperate with the City and with each other.

(1) By February 1 of each year, grantees shall provide the City Public Works Director with a schedule of their proposed construction activities for the calendar year in, around or that may affect the public ways.

(2) Each grantee shall meet with the City, other grantees and users of the public ways annually or as determined by the City Public Works Director to schedule and coordinate construction in the public ways.

(3) All construction locations, activities and schedules shall be coordinated, as ordered by the City Public Works Director, to minimize public inconvenience, disruption or damages.

(4) This section does not apply to on-demand construction in response to a single customer request for a service connection.

7.475 Revocation or Termination of Grant. A license or franchise granted by the City to use or occupy public ways of the City may be revoked for the following reasons:

(1) Construction or operation in the City or in the public ways of the City without a license or franchise grant of authorization.

(2) Construction or operation at an unauthorized location.

(3) Misrepresentation or lack of candor by or on behalf of a grantee in any application to the City.

(4) Abandonment of telecommunications facilities in the public ways.

(5) Failure to relocate or remove facilities as required in this Act.

(6) Failure to pay compensation, fees or costs when and as due the City.

(7) Insolvency or bankruptcy of the grantee.

Klamath Falls City Code

- (8) Violation of material provisions of this Act.
- (9) Violation of the material terms of a license or franchise agreement.

7.476 Notice and Duty to Cure. In the event that the City Manager believes that grounds exist for revocation of a license or franchise, he shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time not exceeding thirty (30) days to furnish evidence:

- (1) That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.
- (2) That rebuts the alleged violation or noncompliance.
- (3) That it would be in the public interest to impose some penalty or sanction less than revocation.

7.477 Hearing. In the event that a grantee fails to provide evidence reasonably satisfactory to the City Manager as provided in Section 7.476 hereof, the Manager shall refer the apparent violation or non-compliance to the City Council. The City Council shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter.

7.478 Standards for Revocation or Lesser Sanctions. If persuaded that the grantee has violated or failed to comply with material provisions of this Act, or of a franchise or license agreement, the City Council shall determine whether to revoke the license or franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- (1) Whether the misconduct was egregious.
- (2) Whether substantial harm resulted.
- (3) Whether the violation was intentional.
- (4) Whether there is a history of prior violations of the same or other requirements.
- (5) Whether there is a history of overall compliance.
- (6) Whether the violation was voluntarily disclosed, admitted or cured.

Klamath Falls City Code

CONSTRUCTION STANDARDS

7.481 General. No person shall commence or continue with the construction, installation or operation of telecommunications facilities in the public ways except as provided in this Article.

7.482 Construction Codes. Telecommunications facilities in the public ways shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code.

7.483 Construction Permits. No person shall construct or install any telecommunications facilities in the public ways without first obtaining a construction permit therefore, provided, however:

(1) No permit shall be issued for the construction or installation of telecommunications facilities unless the telecommunications carrier has filed a registration statement with the City Recorder's office pursuant to 7.382 to 7.384 of this Act.

(2) No permit shall be issued for the construction or installation of telecommunications facilities unless the telecommunications carrier has applied for and received a license or franchise pursuant to this Act.

(3) No permit shall be issued for the construction or installation of telecommunications facilities without payment of the construction permit fee established in Section 7.445 of this Act.

7.484 Applications. Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the City Public Works Department and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

(1) That the facilities will be constructed in accordance with all applicable codes, rules and regulations.

(2) The location and route of all facilities to be installed on existing utility poles.

(3) The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public ways.

(4) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public ways along the underground route proposed by the applicant.

(5) The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public ways.

(6) The location, dimension and types of all trees within or adjacent to the public ways along the route proposed by the applicant which would be impacted by construction, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas to be disturbed during construction.

7.485 Engineer's Certification. All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

Klamath Falls City Code

7.486 Traffic Control Plan. All permit applications which involve work on, in, under, across or along any public ways shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.

7.487 Issuance of Permit. Within forty-five (45) days after submission of all plans and documents required of the applicant and payment of the permit fees required by this Act, the City Public Works Director, if satisfied that the applications, plans and document comply with all requirements of this Act, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as he may deem necessary or appropriate.

7.488 Construction Schedule. The permittee shall submit a written construction schedule to the City Public Works Director ten (10) working days before commencing any work in or about the public ways. The permittee shall further notify the City Public Works Director not less than two (2) working days in advance of any excavation or work in the public ways.

7.489 Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City Public Works Director and his representatives shall be provided access to the work and such further information as he or she may require to ensure compliance with such requirements.

7.490 Display of Permit. The permittee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City Public Works Director or his representatives at all times when construction work is occurring.

7.491 Survey of Underground Facilities. If the construction permit specifies the location of facilities by depth, line, grade, proximity to other facilities or other standard, the permittee shall cause the location of such facilities to be verified by a registered Oregon land surveyor. The permittee shall relocate any facilities which are not located in compliance with permit requirements.

7.492 Noncomplying Work. Upon order of the City Public Works Director, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Act, shall be removed.

7.493 Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the public ways and other public and private property. All construction work authorized by a permit within public ways, including restoration, must be

Klamath Falls City Code

completed within 120 days of the date of issuance or within such extensions as may be granted by the Public Works Director for cause.

7.494 As-Built Drawings. Within sixty (60) days after completion of **new** construction, the permittee shall furnish the City Public Works Department with two (2) complete sets of plans, drawn to scale and certified to the City as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit.

7.495 Restoration of Improvements. Upon completion of any construction work, the permittee shall promptly repair any and all public and provide property improvements, fixtures, structures and facilities in the public ways or otherwise damaged during the course of construction, restoring the same as nearly as practicable to its condition before the start of construction.

7.496 Landscape Restoration.

(1) All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of telecommunications facilities, whether such work is done pursuant to a franchise, license or permit shall be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work.

(2) All restoration work within the public ways shall be done in accordance with landscape plans approved by the City Public Works Director.

7.497 Construction Surety. Prior to issuance of a construction permit, the permittee shall provide a performance bond, as provided in Section 7.471 of this Act.

7.498 Exceptions. Unless otherwise provided in a license or franchise agreement, all telecommunications carriers are subject to the requirements of 7.481 to 7.499.

7.499 Responsibility of Owner. The owner of the facilities to be constructed and, if different, the license or franchise grantee, are responsible for performance of and compliance with all provisions of 7.481 to 7.499.

[Added by Ord. No. 97-21, enacted Aug. 18, 1997.]

Klamath Falls City Code

Klamath Falls City Code

REGULATORY LICENSES

GENERAL

7.500 Applicability and Definitions.

- (1) The provisions of Sections 7.410 to 7.495 shall apply to Sections 7.500 to 7.872 when not in conflict with specific provisions contained in those sections.
- (2) As used in Sections 7.410 to 7.996, the term "Manager" shall include his/her designee.
- (3) As used in Sections 7.410 to 7.872, the term "license" shall also mean "permit".

7.501 Purpose.

- (1) The regulatory license provisions of Sections 7.405 to 7.872 are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.
- (2) Obtaining a regulatory license shall not exempt the licensee from other Code or ordinance requirements, including business license tax and parking district tax requirements.

7.502 Licenses Required. No person shall engage in an activity or operate a device regulated under Sections 7.500 to 7.872 without first obtaining a license from the City as provided in those sections or without complying with conditions imposed by a license obtained under those sections.

7.503 License Duration. Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following April 30 and shall be renewable annually for a term of one (1) year, beginning on May 1.

7.504 License Renewal and Late Penalty.

- (1) The application for renewal of a license shall be made to the City prior to the license expiration date. A penalty of Two Dollars and Fifty Cents (\$2.50) or twenty-five percent (25%) of the annual fee, whichever is greater, shall be added to the license fee accompanying a late renewal application. The effective date of a renewed license shall be May 1 if the application for renewal is made prior to the current license expiration date. Renewal licenses applied for after May 1 shall be effective on the date of issuance.
- (2) If a licensee fails to apply for and pay the required fee, including any accrued penalties, within thirty (30) days from the expiration date of the license, and continues to operate without a valid license, a new application fee, in addition to the license renewal fee and any accrued penalties, must be paid prior to issuance of the license.

7.505 Review of Renewal. If the City has received complaints about the licensed activity or device, the application for renewal of the license may be reviewed under Section 7.440.

7.506 Application Requirements. Application for all licenses required by Sections 7.500 to 7.872 shall be made under oath to the City on forms prescribed by the City Manager. Application

Klamath Falls City Code

shall be made at least thirty (30) days prior to the date the license is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity or device to be licensed and shall provide for other information as required by specific license provisions of this Code or as necessary for review under Section 7.440. The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the City.

7.507 Application Review. Each application shall be referred to the person, department or agency designated by this Code or the City Manager to review the application.

7.508 Information From Applicant. A person, agency or department designated to review a license application may require the applicant to supply information necessary to determine under Section 7.440 the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended or denied.

7.509 Criteria for or Denial.

(1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this Code for the license that the applicant seeks.

(2) The license shall not be granted if:

(a) The activity or device to be licensed would not comply with this Code, City ordinances, or State or Federal law;

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

(c) The licensed activity or device would endanger property or the public health or safety; or

(d) The applicant's past or present violation of law or ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt about his/her ability to perform the licensed activity without danger to property or public health or safety.

7.510 Issuance or Denial by the Manager. For regulatory license applications required to be made to the City Manager, the following provisions shall apply:

(1) After receipt of reports from all persons, departments and agencies designated to review an application, the City Manager shall determine whether the applicant qualifies for issuance or renewal or a license pursuant to Section 7.450.

(2) If the applicant is qualified, the City Manager shall issue or renew the license.

Klamath Falls City Code

(3) If, on the basis of the application review under Section 7.440, the City Manager determines that the application does not qualify for issuance or renewal of the license applied for, the City Manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal in Section 7.475.

7.512 Issuance or Denial by the Council. For regulatory license applications required to be made to the Council, the following provisions shall apply:

(1) After receipt of review reports from all persons, departments and agencies, the City Manager shall prepare a background and recommendations report and present it to the Council at its next regularly scheduled meeting. The applicant shall be advised by mail of the time and place of the Council meeting.

(2) Based upon the report of the City Manager, plus any additional evidence that may be presented to the Council during the course of the meeting, the Council shall determine whether the applicant qualifies for issuance or renewal of the license pursuant to Section 7.450.

(3) If the applicant is qualified, the Council shall issue or renew the license.

(4) If the Council determines that the applicant does not qualify, the application shall be denied and the applicant shall be notified in writing. The notice shall state the reasons for the denial.

(5) The decision of the Council shall be final.

7.513 Revocation of License. The City Manager, upon determining that a license activity, establishment or device is violating this Code, City ordinances, or State or Federal law, shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least thirty (30) days before the revocation. If the violation ends within thirty (30) days, the City Manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions of Section 7.475.

7.514 Suspension of License. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City Manager may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension's being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the provisions for appeal under Section 7.475. The City Manager may continue suspension so long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 7.475.

7.514 Appeal.

(1) An applicant whose application to the City Manager for a license has been denied, or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within thirty (30) days after the notice of denial, suspension or revocation is mailed, appeal in writing to the Council. The appeal shall state:

(a) The name and address of the appellant;

Klamath Falls City Code

- (b) The nature of the determination being appealed;
- (c) The reason the determination is incorrect; and
- (d) What the correct determination of the appeal should be.

(2) An appellant who fails to file such a statement within the time permitted waives his/her objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The Council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least fourteen (14) days written notice of a hearing on the appeal.

(3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence as used by courts of law do not apply, and the decision of the Council after the hearing is final.

7.515 Posting of License.

(1) Except as provided in Subsection (2), the license or permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employees and prospective employees of the business.

(2) If the licensee has no office, business premises or other established place of business within the City, the license shall be at all times in the possession of the representative of the business present within the City while business is being transacted by any employee or representative within the City.

7.516 Applicability to Persons Exempt by State or Federal Law.

Law. Nothing in Sections 7.500 to 7.872 shall be construed to apply to any conduct which is exempt from the license or permit requirements or regulations imposed by those sections by virtue of the Constitution or laws of the United States or the Constitution or laws of the State.

7.517 Transfer or Assignment of License. Except as otherwise provided by Sections 7.500 to 7.872, no person shall transfer or assign a license or a permit issued under this Chapter.

7.518 Prorating of License Fee. The license fee imposed by Sections 7.500 to 7.872 shall not be subject to proration.

Klamath Falls City Code

ENTERTAINMENT

AMUSEMENT AND MUSIC DEVICES

7.500 - 7.520 [Repealed by Ord. No. 6398, enacted June 21, 1982.]

CIRCUSES AND TENT SHOWS

7.530 Purpose. The license fees provided for in Section 7.534 are for the purpose of enabling the City to provide additional police protection and traffic control which the City, through past experience, has found to be necessary for the activities licensed.

7.532 License Required. No person shall operate any circus, menagerie, carnival or theatrical show shown in tents or other temporary structures without first obtaining a license from the Council.

7.534 License Fee.

(1) The proprietor, manager or agent of each circus, menagerie or carnival show shall pay a license fee of Two Hundred Fifty Dollars (\$250.00) for each day that the circus, menagerie or carnival wishes to conduct performances in the City. No circus, menagerie or carnival shall exhibit in the City for a period longer than six (6) days at any one time.

(2) The proprietor, manager or agent of each theatrical show using a tent or other temporary structure shall pay a license fee of One Hundred Dollars (\$100.00) for each day the show is given. No license shall be issued for a period longer than eight (8) days in any three-month period.

(3) The City Manager is authorized to set and modify the license fees provided for in this Section in accordance with the requirements of Section 1.075.

[Amended by Ord. No. 07-09.]

7.536 Exemptions.

(1) No license shall be required for entertainment, plays or amusement ventures given by local talent for public charity.

(2) The Council may grant a permit to any organization operating or promoting a celebration for the general benefit of the community and sponsoring or operating a carnival, circus or theatrical show for a period of not more than six (6) days without payment of the license fee or fees provided for in Section 7.534.

7.538 Exhibition of Prices. The prices to be charged for goods, wares, merchandise or material vended at any circus, menagerie or carnival, or other facility used in connection with any circus, menagerie or carnival shall be plainly marked over each concession or booth. The prices of admission to the main show or entertainment, together with that for each ring or compartment for which a separate charge is made, shall be plainly posted over the entrance to each show, ring or concession where separate charges are made.

Klamath Falls City Code

SOCIAL GAMING

7.550 Definitions. As used in Sections 7.550 to 7.572, except where the context indicates otherwise, the following shall mean:

Cardroom. Any space, room or enclosure furnished or equipped with a table used or intended to be used as a card table for the playing of cards only and the use of which is available to the public.

Social Game.

(1) A game involving the playing of cards only, which does not include lotteries, between players in a private home where no house player, house bank or house odds exist, and there is no house income from the operation of the social game; and

(2) A game involving the playing of cards only, which does not include lotteries, between players in a private business, private club, or place of public accommodations where no house player, house bank or house odds exist and there is no income from the operation of the social game.

(3) Social game does not include the game of blackjack or "21" or any variation thereof.

[Amended by Ord. No. 93-11, enacted July 21, 1993; Amended by Ord. No. 94-18, enacted Aug. 2, 1994.]

7.552 License Required. No person shall engage in, carry on, maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any cardroom without first obtaining a license from the City Manager.

[Amended by Ord. No. 93-11, enacted July 21, 1993.]

7.554 License Investigation. An applicant for a cardroom license shall submit an application pursuant to Section 7.435.

[Amended by Ord. No. 6533, enacted June 15, 1987; Amended by Ord. No. 6572, enacted Sept. 5, 1989; Amended by Ord. No. 93-11, enacted July 21, 1993.]

7.556 [Repealed by Ord. No. 93-11, enacted July 21, 1993.]

7.558 [Repealed by Ord. No. 6533, enacted June 15, 1987.]

7.560 [Repealed by Ord. No. 6533, enacted June 15, 1987.]

7.562 License Not Transferable. Pursuant to Section 7.490, no cardroom license shall be assignable or transferable.

[Amended by Ord. No. 93-11, enacted July 21, 1993.]

7.564 [Repealed by Ord. No. 93-11, enacted July 21, 1993.]

Klamath Falls City Code

7.566 Regulations. No person shall operate a cardroom in violation of any of the following regulations and rules.

(1) There shall be a limit on any bet of Five Dollars (\$5.00) and a three (3) raise limit on any social game.

(2) Each of the games conducted or operated in the City under the provisions of Sections 7.550 to 7.572 shall be subject to the provisions of State law and the Code and ordinances of the City.

(3) All cardrooms shall be open to police inspection during the hours of operation. Doors leading into the cardroom must remain unlocked during the hours of operation. Cardroom licenses shall be available for inspection during the hours of operation.

[Added by Ord. No. 6533, enacted June 15, 1987; Amended by Ord. No. 93-11, enacted July 21, 1993.]

7.568 [Repealed by Ord. No. 93-11, enacted July 21, 1993.]

7.570 License Fees.

(1) For each cardroom licensed, the fee of Fifty Dollars (\$50.00) per table per year is payable in advance. The City Manager is authorized to set and modify the fee in accordance with the requirements of Section 1.075.

(2) The annual fee is payable on or before August 1 of each year. The annual fee shall be prorated for new applicants for the period February 1 to July 31 to one-half (½) the annual fee.

[Amended by Ord. No. 6572, enacted Sept. 5, 1989; Amended by Ord. No. 93-11, enacted July 21, 1993; Amended by Ord. No. 94-18, enacted Aug. 2, 1994; Amended by Ord. No. 07-09; Amended by Ord. No. 07-09.]

7.572 [Repealed by Ord. No. 93-11, enacted July 21, 1993.]

Klamath Falls City Code

SPECIAL EVENTS

7.580 Definitions. As used in Sections 7.582 to 7.630, the following shall mean:

Assembly. Includes all assemblies of the public, other than parades on public streets, indoors or outdoors, at a City park or upon public property.

Health Officer. The City Health and Safety Officer.

Issuing Body. The City department or agency authorized to issue or deny an application pursuant to Section 7.606.

Police Chief. The Police Chief of the City and his/her duly authorized officers and representatives.

Public Property. Property owned by or under the control of the City.

7.582 Assembly Prohibited. No person shall allow, promote, conduct or cause to be advertised an assembly in a City park or on public property when the person believes or has reason to believe that 150 or more persons will attend, unless a valid City permit has been obtained for the use of the park or other property for the assembly. One permit shall be required for each assembly. Criminal or civil liability for failure to comply with the provisions of Sections 7.582 to 7.630 shall attach to persons who are responsible for obtaining permits under those provisions. [Amended by Ord. No. 6407, enacted Nov. 15, 1982.]

7.584 Permit Required; Fee.

(1) No assembly shall be held unless the person sponsoring the assembly obtains a permit. The fee for the permit to cover the cost of inspecting facilities an issuing and administering the permit prior to the event shall be as follows:

- (a) 150 to 300 persons reasonably anticipated to attend: – \$25.00;
- (b) 300 to 1,000 persons reasonably anticipated to attend: – \$50.00;
- (c) 1,000 to 2,500 persons reasonably anticipated to attend: – \$100.00; and
- (d) 2,500 or more persons reasonably anticipated to attend: – \$150.00.

The City Manager is authorized to set and modify the permit fees in accordance with the requirements of Section 1.075.

(2) Written application for each assembly permit shall be made to the City forty (40) or more days prior to the first day upon which the assembly is to be held by filing the application with the Recorder. It shall be on forms furnished by the City and shall be signed by the person or persons organizing and sponsoring the assembly. Each application shall state the location to be used for the assembly, the number of persons reasonably anticipated to attend, and that the appellant will abide by all rules and regulations of Sections 7.582 to 7.630 and other regulations and laws for the protection of the health, morals, peace and safety of the persons employed at the location, the patrons or participants, and the public. No permit shall be transferable or assignable without the consent of the issuing body.

[Amended by Ord. No. 6407, enacted Nov. 15, 1982; Amended by Ord. No. 6572, enacted Sept. 5, 1989; Amended by Ord. No. 07-09.]

7.586 Application Procedure. Within ten (10) days after the application for the permit is made, the applicant must obtain written approval and assurance from each of the appropriate City

Klamath Falls City Code

officials or departments that satisfactory arrangements have been made by the applicant to comply with all of the conditions specified in Sections 7.588 to 7.598. The officials or departments may approve, subject to conditions necessary to assure compliance with the appropriate criteria enumerated in those sections. When any type of physical facility is required or subject to approval, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. The approval shall be on forms provided and shall be filed with the Recorder.

7.588 Sanitary Facilities.

(1) The Health Officer has the responsibility for approving all sanitation and related facilities to ensure that reasonable minimum standards have been or will be met by the applicant in accordance with the procedures required by this Section. The applicant must provide the Health Officer with a sketch and other detailed information showing the type, number and location of all toilets, washing facilities, water supply, food preparation, food service facilities, and solid waste collection locations.

(2) Health Officer approval shall be based upon, but not limited to, the following minimum guideline requirements:

(a) Toilets. A contractual agreement with a reliable firm shall accompany an application, with provisions for providing chemical toilets and the sanitary maintenance of these toilets on a continual basis, if necessary, based upon the ratio of one toilet for each 100 persons of each sex. The facilities shall be conveniently located and indicated on the sketch map.

(b) Hand washing facilities. In the absence of running water and normal hand washing facilities, prepackaged sanitary wet towels, provided in adequate numbers and conveniently located, may be substituted.

(c) Water. An adequate supply of bacteriologically safe drinking water shall be provided in a convenient location with adequate sanitary dispensing equipment such as paper cups or fountains.

(d) Waste collection and removal. A contractual agreement with the area's franchised collector providing for an adequate number of containers, routine collection, including litter, and removal to an authorized disposal site.

(e) Food service facilities. These facilities shall comply with the Oregon State Health Division regulations that pertain to the operation of "temporary restaurant" license.

(3) The approval by the Health Officer shall indicate the number, type and location, when appropriate, of the various facilities.

7.590 Fire Protection Standards. No permit shall be granted unless the applicant has shown that the Fire Chief has approved the type, size, number and location of fire protection devices and equipment available at, in or near any location, including outdoor sites, buildings, tents, stadium or enclosure, where more than ten (10) persons may be expected to congregate at any time during the course of the assembly.

7.592 Medical Services. The Health Officer has responsibility for approving plans for medical service required for the assembly. Each assembly shall have at least one (1) individual trained as

Klamath Falls City Code

an Emergency Medical Technician. Each assembly of more than 1,000 persons shall have at least a first-aid station staffed by two individuals trained as Emergency Medical Technicians. In addition, should the assembly exceed 2,500 persons, there shall be at least one ambulance or rescue vehicle in attendance at all times.

7.594 Public Safety.

(1) The applicant shall submit plans for public safety at the assembly to the Police Chief for approval.

(2) Adequate traffic control and crowd protection policing shall be contracted for or otherwise provided by the applicant. There shall be provided one traffic control person for each 200 persons expected or reasonably expected to be in attendance at any time during the event. There also shall be provided one crowd control person for each 200 persons expected or reasonably expected to be in attendance at any time during the event.

(3) The applicant shall submit the names and necessary background information, on forms provided by the Police Chief, for all traffic control and crowd control personnel to be used during the assembly for investigation by the Police Chief as to fitness. All the personnel must meet the following minimum standards in order to be approved as suitable by the Police Chief.

(a) Be twenty-one (21) years of age or older.

(b) Be in good physical health.

(c) Never have been convicted of a felony or misdemeanor involving moral turpitude.

(d) Have received reasonable minimum training in law enforcement or have on-the-job experience in law enforcement.

(4) The policing personnel must wear an appropriate identifying uniform and must be on duty during the entire assembly unless a relief schedule has been planned and approved. A relief schedule will be approved by the Police Chief only when sufficient policing strength on duty has been maintained to meet the above-described minimum strength standards.

(5) It shall be the duty of the policing personnel to report any violations of law to the Police Chief and to take whatever action is necessary to enforce the terms of the permit.

7.596 Parking Facilities. The applicant shall provide the Police Chief with a scale drawing showing that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. The parking facilities shall provide parking space for one vehicle for every four (4) persons expected to attend the event. Adequate ingress and egress shall be provided for the parking area to facilitate the movement of vehicles at any time to or from the parking area. If buses are used to transport the public to the event, it shall be shown that public parking or parking as described above is available at a site from which buses are scheduled to pick up persons to transport them to the event.

7.598 Park Capacity. The Parks, Cemeteries and Recreation Divisions have the responsibility for approving the reasonably anticipated attendance capacity for use of a City park or park facility.

Klamath Falls City Code

The Divisions shall approve the application when the reasonably anticipated attendance is less than the predetermined capacity of the park or park facility according to the following schedule:

- (1) Kiger Stadium:
 - (a) 3,500 persons for bleacher use.
 - (b) 1,200 persons for playing field use.
- (2) Moore Park:
 - (a) 200 persons at campground.
 - (b) 500 persons at picnic table area.
 - (c) 3,000 persons for ball field and central lawn area.
- (3) For all other parks, capacity shall

be determined at 450 persons per acre of use area.

7.600 Inspection of Required Facilities. All facilities shall be in existence five or more days before the event for which an application is submitted and shall be subject to inspection by the approving agencies or departments. If the actual facility or construction fails to meet the standards approved in the proposed plans, preliminary approval shall be withdrawn and all permits granted subject to such approval shall be withdrawn.

7.602 Bond of Indemnity.

(1) No permit shall be issued unless the applicant has on deposit with the Recorder the following sum of cash or appropriate bond as an indemnity to protect the streets, pavements, bridges, road signs, park structures, and other property of the City from all damage that may be caused by vehicles, employees, participants in or patrons of such assembly which may be used to restore the grounds where the assembly is held to its previous condition and to pay all charges and losses to the City for damages to the streets, bridges and other property.

- (a) Ten Thousand Dollars (\$10,000.00) when attendance of 500 to 2,500 persons is reasonably anticipated;
- (b) Fifteen Thousand Dollars (\$15,000.00) when attendance of over 2,500 to 5,000 persons is reasonably anticipated; and
- (c) Twenty-Five Thousand Dollars (\$25,000.00) when attendance over 5,000 persons is reasonably anticipated.

(2) When a dispute arises between the parties as to the number of persons anticipated to attend, the decision of the issuing body establishing the amount of bond required and the permit fee shall be final and controlling.

(3) If the licensed event necessitates incurring any expenses or the deployment of additional personnel by the City, or at the request of the City, the added expense shall be recoverable from the principal and its surety out of the cash on deposit and the bond, or both. The deposit or its balance shall be returned when the City Manager certifies to the Recorder that no damage has been due to the licensed event or that the cost has been paid by the permittee.

(4) The indemnity bond shall be in a form and with sureties approved by the City Attorney. The issuing body may waive the requirement of the performance bond upon other satisfactory assurance of performance.

Klamath Falls City Code

7.604 Insurance. The permit applicants shall be required to furnish evidence of liability insurance providing for a minimum of One Hundred Thousand Dollars (\$100,000.00) bodily injury coverage per person, Five Hundred Thousand Dollars (\$500,000.00) bodily injury insurance per occurrence, and One Hundred Thousand Dollars (\$100,000.00) property damage coverage, naming the City as an additional insured. The liability insurance shall apply to, and provide coverage for, any and all claims for bodily injury and property damage arising from or caused by the assembly for which the permit is granted.

[Amended by Ord. No. 6599, enacted May 21, 1990.]

7.606 Permit-Issuing Body. Upon receipt by the Recorder of approval forms from all City officials and departments specified in Sections 7.586 to 7.598, the application shall be considered by the appropriate issuing body at its next regularly scheduled meeting. The issuing body shall be:

(1) The City Parks, Cemeteries and Recreation Advisory Board, if the assembly is proposed to occur in a City park or park facility and the number of persons reasonably anticipated to attend does not exceed one thousand (1,000).

(2) The Council for all other assemblies.

7.608 Permit Approval.

(1) The issuing body shall grant and issue the assembly permit if, after consideration, it finds:

(a) All City officials and departments have issued their approval pursuant to Sections 7.586 to 7.598;

(b) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(c) The facilities desired have not been reserved for other use at the day and hour required in the application;

(d) The conduct of the activity will not substantially interrupt the safe and orderly movement of traffic;

(e) The conduct of the activity will not require the diversion of so great a number of police officers of the City to properly police such activity and the contiguous areas as to prevent normal police protection to the City;

(f) The conduct of the activity is not reasonably likely to cause injury to persons or property so as to incite violence, crime or disorderly conduct;

(g) The appropriate provisions of Sections 7.602 and 7.604 have been complied with;

(h) The proposed activity or use of a park or park facility will not unreasonably interfere with or detract from the general public enjoyment of the park; and

(i) If the activity is to be held on a park or park facility, excluding Kiger Stadium, it is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held for private profit.

(2) In order to assure compliance with the criteria of this Section, the issuing body may impose conditions on the grant of a permit reasonably designed to assure compliance.

Klamath Falls City Code

7.610 Permit Denial. The issuing body shall deny the assembly permit if it finds that the criteria of Section 7.608 have not been or cannot be complied with. If the permit is denied, the applicant shall be notified by mail of the denial and the reason therefore.

7.612 Permit Information. A permit issued pursuant to Sections 7.606 to 7.610 shall contain the following information:

- (1) Date of the activity.
- (2) Location of the activity, including, if applicable, restrictions to certain areas of a park.
- (3) Hour when the activity will start and terminate.
- (4) Special conditions imposed on the activity.

7.614 Appeal. A decision of the Parks, Recreation and Cemeteries Advisory Board may be appealed to the Council by an interested party under the procedures contained in Section 7.475.

7.616 Inspection. The issuing body or its authorized representatives shall have the right to go upon the premises or facilities for which the permit has been granted for the purpose of inspection and enforcement of this Code and State Law.

7.618 Hours of Operation. Unless otherwise provided in the permit, no assembly shall be conducted in a City park or upon public property during the time between thirty (30) minutes after sunset and one (1) day and thirty (30) minutes before sunrise on the next day.

7.620 Intoxicating Liquor. Unless otherwise provided in the permit, no person sponsoring or having control of an assembly shall permit a person to bring into the assembly or upon the premises any intoxicating liquor, or permit intoxicating liquor to be consumed on the premises, and no person shall take onto or drink on the premises intoxicating liquor.

7.622 Crowd Limitation. If at any time during the assembly the size of the crowd exceeds by ten percent (10%) or more the number of persons reasonably anticipated to be in attendance, the Police Chief shall require the permittee or sponsor to limit further admissions until sanitation, parking, fire, health, medical, traffic and crowd control requirements have been brought into conformity with the standards under which the permit was issued.

7.624 Duty to Preserve Order Placed on Operator. It is the purpose of Sections 7.580 to 7.630 to put the burden of preserving order upon the operator of the assembly. If an assembly is not operated in accordance with the rules and regulations prescribed by those sections, the permit shall be subject to revocation.

7.626 Rules and Regulations. The following rules and regulations shall govern and control the permitted use of all City parks and public property during an assembly unless otherwise specifically provided in the permit.

Klamath Falls City Code

(1) No person shall build or maintain a fire within a City park or upon public property except in a camp stove or a fireplace provided, maintained or designated for that purpose. Gasoline, alcohol or oil camp stoves may be used in established camp sites or picnic areas where other stoves are provided. No fire shall be left unattended, and all fires shall be extinguished by the user before leaving the park or public property.

(2) No person shall erect signs, markers or inscriptions of any type in a park or upon public property of the City without permission of the Council.

(3) No person, while in the City park or upon public property, without permission of the Council, may:

(a) Operate a concession, either fixed or mobile;

(b) Engage in the business of soliciting, selling or peddling any liquids or eatables for human consumption;

(c) Distribute circulars; or

(d) Hawk, peddle or vend any goods, wares or merchandise.

(4) Automobiles, trailers or other vehicles shall be parked only in designated parking areas.

(5) No person shall set up or use a public address system in a City park or upon public property without the permission of the Council.

(6) No person shall ride, drive or operate any motorcycle, motor bike, motor scooter or trail bike in a City park or upon public property except upon such roads, trails or areas as are designated for that purpose.

(7) No person shall operate or use any noise-producing machine, vehicle, device or instrument in such a manner that it disturbs other visitors in the area.

(8) No permittee shall intentionally violate or counsel, aid or abet a violation of the rules or regulations of this Section or a violation of the conditions imposed under Section 7.608. No permittee or sponsor shall intentionally fail to obey a directive of the Police Chief or of any of his/her officers issued pursuant to Section 7.662.

7.628 Revocation of Permit.

(1) If an assembly is not being operated according to the rules and regulations of Sections 7.582 to 7.626, the City Manager shall have the right to revoke the permit and the applicant or other responsible individual shall be subject to applicable penalties under this code, City ordinances and State law. Failure to comply with the terms and conditions of Sections 7.580 to 7.626 shall constitute a public nuisance and shall be subject to all criminal and civil remedies.

(2) The revocation decision of the City Manager shall be subject to the appeal procedures of Section 7.475.

7.630 Exclusion. Sections 7.580 to 7.628 shall not apply to any regularly organized and supervised school district activity or program, to any activity of a municipal corporation or governmental agency, or to regularly scheduled events which are subject to separate agreements with the City.

Klamath Falls City Code

MERCHANTS AND BUSINESSES

CLOSEOUT SALES

7.700 to 7.718 [Repealed by Ord. No. 6532, enacted June 1, 1987]

ITINERANT MERCHANTS

7.730 to 7.756 [Repealed by Ord. No. 93-23, enacted Dec. 22, 1993.]

DOOR-TO-DOOR SOLICITATIONS

7.760 to 7.768 [Repealed by Ord. No. 93-23, enacted Dec. 22, 1993.]

Klamath Falls City Code

Klamath Falls City Code

RESIDENTIAL DOOR-TO-DOOR SOLICITATIONS

7.770 Purpose. It is the purpose of these provisions to provide protection from fraud for the citizens of the City by requiring the registration of individuals and organizations who desire to go door-to-door to residences for purposes of sales or solicitations.

[Added by Ord. No. 93-23, enacted Dec. 22, 1993.]

7.772 Definitions. As used in sections 7.770 to 7.776 the following definitions shall apply:

(1) "Organization" includes a corporation (for profit or not for profit) government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal or commercial entity.

(2) "Person" includes an individual or an organization.

[Added by Ord. No. 93-23, enacted Dec. 22, 1993.]

7.774 Registration Required. Any person or organization which desires to solicit or have solicited in its name money, donations of money or property, or financial assistance of any kind, or which desires to sell, distribute or take orders for merchandise by going door-to-door to residences in the City shall first register as provided under Section 7.776.

[Added by Ord. No. 93-23, enacted Dec. 22, 1993.]

7.776 Manner of Registration. The registration required by Section 7.774 shall be submitted to the City Licensing Clerk on a form provided by the City and shall contain at least the following information:

(1) The legal name of the organization or person registering.

(2) The names and addresses of the officers and directors of the organization.

(3) A description of the nature of the door-to-door solicitation or sales proposed.

(4) The period during which the door-to-door activities are to be carried on and the areas of the City to be covered.

(5) The names of any and all persons who will be going door-to-door.

(6) The name and address of the representative of the organization designated to receive notice from the City.

[Added by Ord. No. 93-23, enacted Dec. 22, 1993.]

MERCHANT POLICE

7.780 - 7.802 [Repealed by Ord. No. 696-18, enacted July 26, 1996.]

7.804 [Repealed by Ord. No. 6365, enacted Oct. 19, 1981.]

Klamath Falls City Code

Klamath Falls City Code

TAXICABS

7.810 Title. Sections 7.812 to 7.840 shall be referred to and may be cited as the Taxicab Act.

7.812 Definition. For the purposes of Sections 7.814 to 7.840, "taxicab" shall mean a chauffeur-driven motor vehicle for hire used for the transportation of passengers when the destination and route traveled are controlled by a passenger and which is not regulated as a passenger carrier by the State of Oregon.

[Amended by Ord. No. 6386, enacted March 1, 1982.]

7.814 Compliance with Act. No person shall engage in the business of operating taxicabs in the city except in compliance with Klamath Falls City Code Section 7.810 to 7.840.

[Amended by Ord. No. 6386, enacted March 1, 1982.]

7.816 Council Review. Prior to initiating operation of a taxicab business, the proposed business shall be subject to Council review. A written application for review shall be submitted which shall include the name of the applicant and proposed location of business; applicant's experience and qualifications to engage in such business; proposed rates to be charged for transportation of passengers; description of equipment proposed to be used; information showing financial ability of applicant to conduct such business; and a statement showing public interest by reason of the operation of any such taxicab or taxicabs.

[Amended by Ord. No. 6386, enacted March 1, 1982.]

7.818 [Repealed by Ord. No. 6386, enacted March 1, 1982.]

7.820 Liability Insurance. Prior to initiating operation of a taxicab business, the owner/manager shall file with the City Manager an insurance policy covering the business and the vehicles to be used issued by an insurance company authorized to transact business in the state in the following amounts:

(1) Property damage, a minimum of One Hundred Thousand Dollars (\$100,000.00).

(2) Personal injury liability for one (1) person, a minimum of One Hundred Thousand Dollars (\$100,000.00).

(3) Personal injury liability for two (2) or more persons, a minimum of Five Hundred Thousand Dollars (\$500,000.00). Said policy shall be maintained in full force and effect during operation of the business and shall contain provision for thirty (30) days prior notification to the City Manager of all changes in the terms and/or cancellation.

[Amended by Ord. No. 6386, enacted March 1, 1982; Amended by Ord. No. 6599, enacted May 21, 1990.]

7.822 [Repealed by Ord. No. 6386, enacted March 1, 1982.]

7.824 [Repealed by Ord. No. 6386, enacted March 1, 1982.]

Klamath Falls City Code

7.826 Rates and Meters.

(1) Except as provided in Subsection (2) below, all taxicabs operated in the City shall be equipped with meters and shall charge rates uniform throughout the City.

(2) Taxicabs designed or constructed to accommodate and transport more than five (5) passengers, exclusive of the driver, may charge a flat rate per hour or fraction thereof in lieu of use of a meter.

(3) At the time a review application is filed with the City, the applicant shall include the proposed flat rate or meter rate to be approved by Council.

(4) The City Manager is hereby authorized to establish a schedule of fees, charges, meter rates and flat rates for all taxicabs operating in the City and to periodically amend the schedule when deemed appropriate; provided, however, that prior to adoption and implementation of the schedule, including any periodic amendments, the proposed schedule, reflecting all changes, shall be provided to Council not less than ten (10) days prior to implementation. If any Council member objects to the proposed schedule, the matter shall be placed on the agenda of a regularly scheduled Council meeting and Council may approve, disapprove or modify the proposed schedule after a public hearing on the matter. A proposed schedule that has been objected to by a Council member shall not be implemented until the Council has rendered its decision.

[Amended by Ord. No. 6386, enacted April 1, 1982; Amended by Ord. No. 6437, enacted Jan. 18, 1983, amended by Ord. No. 05-19, enacted Nov. 22, 2005.]

7.828 [Repealed by Ord. No. 6386, enacted March 1, 1982.]

7.830 Drivers' Permit. No person shall drive or operate a taxicab without an identification card issued by the owner/manager of said taxicab company.

[Added by Ord. No. 6507, enacted May 19, 1986.]

7.832 [Repealed by Ord. No. 6507, enacted May 19, 1986.]

7.834 Identification Card and Permit Badge.

(1) The owner/manager of a taxicab company shall issue to every cab driver an identification card which shall clearly display the following information:

- (a) A current photograph of the driver;
- (b) The driver's complete name; and
- (c) The driver's chauffeur's license number.

(2) Said identification card shall be displayed at all times while the taxicab is being operated by the driver in a location clearly visible to any occupant of the cab.

[Amended by Ord. No. 6507, enacted May 19, 1986.]

7.836 Information Files.

Klamath Falls City Code

(1) The owner/manager of a taxicab company shall maintain a file on each driver containing, at least, the following information:

(a) A copy of the photograph and other information specified in Section 7.834;

(b) The driver's current home address; and

(c) A complete physical description of the driver.

(2) Said file shall be maintained at the company's Klamath Falls dispatch center and shall be available at all times for inspection by City, County or State law enforcement officers.

[Added by Ord. No. 6531, enacted June 17, 1987.]

7.838 [Repealed by Ord. No. 6507, enacted May 19, 1986.]

7.840 [Repealed by Ord. No. 6507, enacted May 19, 1986.]

Klamath Falls City Code

Klamath Falls City Code

SECOND HAND STORES

7.850 [Repealed by Ord. No. 6489, enacted April 22, 1985.]

7.851 **Licenses - Requirements.**

(1) No person shall commence or continue as a part of its business the purchase of used goods without having first procured from the City Manager a license to do so.

(2) This article shall not apply to estate sale purchases, the purchase of automobiles, farm implements or machinery, books, or to taking in trade used goods incidental to the sale of new or used goods or merchandise.

(3) The requirements set forth herein shall apply to the owner, manager, operators, employees and agents of the licensed business. [Added by Ord. No. 6489, enacted April 22, 1985.]

7.852 **License - Application.**

(1) Every person desiring to engage as a portion of his business in the purchase of used goods shall, before engaging in such business, file his application in a form provided by the City with the City Police Chief. The application shall state his name, residence, street, and number of the location of the business and the name or names of the owner or owners thereof.

(2) The annual fee for the license shall be Twenty-Five Dollars (\$25.00) and payment of such fee shall satisfy the license tax requirement of Section 7.095. The City Manager is authorized to set and modify the license fee in accordance with the requirements of Section 1.075.

[Amended by Ord. No. 6489, enacted April 22, 1985; Amended by Ord. No. 07-09.]

7.854 [Repealed by Ord. No. 6489, enacted April 22, 1985.]

7.855 **Records.** A Record of Purchase form shall be completed at the time of purchase of goods immediately upon delivery of said goods to the licensed business premises. The forms provided by the licensee or to the licensee by the City shall be completed in a legible manner, providing all of the information called for on the form. The licensee shall turn over completed forms to agents or officers of the Klamath Falls Police Department upon request. The forms shall be filled out by the licensee, giving the following information which is necessary for the ready identification of all goods purchased or acquired by or through the licensed business: Name of the business; date of the transaction; time of the transaction; name of the employee or owner transacting the business; amount to be paid for the goods; a description and quantity of each article, including where applicable brand, name, color, model, and serial number; name and address of the seller; reference to valid identification of the seller such as a driver's license or comparable identification. In the event the seller cannot produce valid identification, the licensee shall not purchase any used articles from said seller.

[Added by Ord. No. 6489, enacted April 22, 1985.]

Klamath Falls City Code

7.856 Restriction on Sales. A law enforcement officer may at any order the licensee to hold any goods for a period not to exceed seven (7) days when said officer has a reasonable suspicion to believe the goods to be stolen.

[Repealed by Ord. No. 6489, Added by Ord. No. 6489, enacted April 22, 1985.]

7.857 Pawnbrokers. Any person engaged in the business of pawnbroker shall comply with the State law with reference to pawnbrokers and in addition, shall comply with the provisions of Sections 7.851 to 7.857. A valid pawnbrokers license held under former Section 7.852 shall satisfy the license requirement of Section 7.853 through April 30, 1985.

[Added by Ord. No 6489, enacted April 22, 1985.]

Klamath Falls City Code

GARAGE SALES

7.860 Definitions. As used in 7.860 to 7.862, the following shall mean:

(1) Garage sale is any casual sale, displaying of goods for the sale or offer to sell, commonly known as "garage sale," and including any auction, antique, rummage, tailgate, or any other sale similar in nature wherein all or part of the goods consist of used personal property which is advertised by any means whereby the public at large is or may be made aware of said sale and the sale is conducted in a residential area.

(2) Goods are meant to include any goods, warehouse merchandise or other tangible personal property capable of being the object of a sale regulated hereunder.

(3) Participate shall mean assisting in any manner in the organization or conduct of a garage sale, or supplying or providing any goods for such sale.

[Repealed and added by Ord. No. 6495, enacted Aug. 19, 1985.]

7.862 [Repealed by Ord. No. 6531, enacted May 18, 1987.]

7.863 Regulation of Garage Sales. No person shall:

(1) Conduct a garage sale exceeding three (3) days duration;

(2) Participate in more than two (2) garage sales in any one (1) calendar year.

(3) Permit more than two (2) garage sales to be conducted on property under their control in any one (1) calendar year.

[Added by Ord. No. 6531, enacted June 17, 1987.]

7.864 [Repealed by Ord. No. 6531, enacted May 18, 1987.]

7.866 [Repealed by Ord. No. 6531, enacted May 18, 1987.]

7.868 Persons and Sale Excepted. The provisions of Section 7.860 through 7.872 shall not apply to or effect the following persons or sales:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public official.

(3) Any person selling or advertising for sale in the news media an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five (5) in number.

(4) Sales wherein the sale is operated by or the proceeds go to a recognized charitable organization or institution.

(5) Sales pursuant to a duly authorized home occupation or a valid city business license. [Added by Ord. No. 6495, enacted Aug. 19, 1985.]

7.870 [Repealed by Ord. No. 6531, enacted May 18, 1987.]

7.872 Signs. There shall be allowed only one

Klamath Falls City Code

(1) sign posted on the premises from which the garage sale is to be held under the provisions of this Section, and no other signs shall be posted on the premises or on any public property advertising such sale.

[Added by Ord. No. 6495, enacted Aug. 19, 1985.]

Klamath Falls City Code

PENALTIES AND ENFORCEMENT

7.990 Penalties.

(1) A violation of a provision of Sections 7.010 to 7.240 shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00).

(2) A violation of a provision of Sections 7.405 to 7.872 shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00).

(3) Every full business day during which a business activity continues to be conducted in violation of this Chapter shall be considered a separate offense.

[Amended by Ord. No. 6398, enacted June 21, 1982; Amended by Ord. No. 6495, enacted Aug. 19, 1985.]

7.992 Confiscation. Any device operated, kept or maintained in violation of Sections 7.550 to 7.572 shall be confiscated by the City and, upon conviction, shall be disposed of as provided in Sections 2.650 to 2.685.

[Amended by Ord. No. 6398, enacted June 21, 1982.]

7.994 Evidence of Doing Business. In a trial for a violation of this Chapter, evidence that the defendant made a public representation, by way of newspaper, radio, television or similar media advertisement or by signs conspicuously displayed for public view, that the business is being conducted, expressly or impliedly offering to sell goods or services in the course of the business to the public, shall constitute prima facie evidence that the defendant was transacting the business suggested by the public representation within the City on the date or dates during which the representation were made.

7.996 Additional Remedies.

(1) In addition to the penalties provided in Section 7.990, the City may sue in a court of competent jurisdiction to obtain a judgment for a tax or fee due under this Chapter and enforce collection of the judgment by execution.

(2) The City may seek an injunction to prohibit a person from engaging in a business without complying with this chapter.

(3) In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the Court in addition to its cost and disbursements.

(4) Whenever a fee required by Sections 7.500 to 7.872 is not paid when due, the Recorder shall add as a penalty to the fee an amount equal to ten percent (10%) of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred percent (100%) of the original fee.

Klamath Falls City Code

Klamath Falls City Code

SCHEDULE 7-A

BUSINESS LICENSE FEES

[Added by Res. No. 3303, effective May 21, 1990; Amended by Res. No. 3334, effective May 4, 1991; Amended by Res. No. 93-39, effective Jan. 1, 1994; Amended by Ord. No. 02-21, effective Dec. 2, 2002.]

1. The annual Business License fee shall be Fifty Dollars (\$50.00) for businesses with a business address within the City limits and One Hundred Dollars (\$100.00) for businesses located outside of the City limits. Such licenses shall be issued for July 1 to June 30 of each year. New licenses applied for after March 31 shall have the fee reduced by Twenty Five Dollars (\$25.00).

2. In addition to the annual fee, all new license applications for businesses located within the City limits shall be charged a one time Fifty Dollar (\$50.00) application review fee to cover the costs of review under Klamath Falls City Code Section 7.035.

3. In lieu of the above, a forty-five (45) day Temporary Vendors Permit may be obtained for the fee of Twenty-Five Dollars (\$25.00) subject to the following conditions:

- a. permittees must be residents of Klamath County;
- b. written permission of the landowner (or landowner's agent) of the property from which any sales would occur must be provided; and
- c. the sales operation must comply with all other applicable City code requirements.

4. The annual license fee shall be waived for home occupations or hobby businesses operated without a separate business address in those instances where the applicant can establish that the "business" earned less than Five Thousand Dollars (\$5,000.00) in gross income the proceeding tax year.

Klamath Falls City Code

Klamath Falls City Code

SCHEDULE 7-B

PARKING PERMIT FEES

[Added by Res. #95-4, effective 2-6-95; Amended by Res. #00-42, effective July 3, 2000; Amended by Res. #04-13, effective 5-17-04.]

1. Regular Permits Sixty-Five Dollars (\$65.00) per fiscal year. (Res. 04-13)
2. Part-time Employee Parking Permits Thirty-Two & 50/100 (\$32.50) per fiscal year. (Res. 04-13)
3. Seasonal Employee Permits Thirty-Two & 50/100 (\$32.50) for three months. (Res. 04-13)
4. Temporary Construction Parking Permits are provided at no charge for 30 days at a time. (City Manager sets fee.)
5. Reserved Parking Permits, \$25.00 monthly; can be paid yearly. (Res. 04-13)
6. Courtesy Parking Permits, \$10.00 per packet of 10. (City Manager can set fee.)

Klamath Falls City Code

