

TITLE XI: BUSINESS REGULATIONS

Chapter

110. BUSINESS LICENSING

111. AMUSEMENTS

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CHAPTER 110: BUSINESS LICENSING

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§ 110.01 DEFINITIONS.

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

AMUSEMENT DEVICE. Any and all machines, devices and/or apparatus played or operated by the public for the purpose of exercising the skill, amusing or entertaining him or her, and which require the player to pay either through the device or to the owner or custodian thereof any money, check, token or other representative of value for the privilege of playing or operating the same, whether or not the player receives any money, check, token or other representative of value in connection with, or as a result of, the playing or operation of the **AMUSEMENT DEVICE**.

BUSINESS. Every business, calling, trade, profession, service or employment, including both the premises and the activities.

LICENSEE. Every person issued a license for a business under the provisions of this chapter.

PERSON. Every natural person, firm, partnership, association or corporation.
(Ord. 556, passed 3-26-1992)

§ 110.02 LICENSE REQUIRED.

(A) It shall be deemed a violation of this chapter for any person, firm or corporation, except as specifically exempted within this chapter to conduct, carry on or transact any business within the corporate limits of the city without first having obtained an annual license therefor and paid the annual license fee in advance in accordance with this chapter.

(B) (1) No license shall be issued to any business owning, operating or displaying any amusement device, which device by reason of the possession, playing or operation thereof shall violate the provisions of the laws of the State of Oregon or the ordinances of the City of Willamina with reference to gambling.

(2) The proprietor of any place of business wherein any such device is operated or displayed shall be conclusively presumed to be the one in possession and control thereof.

(C) (1) Itinerant merchants, transient vendors of merchandise, solicitors, peddlers, hawkers and those purporting to be survey-takers, going in and upon private property or calling at residences in the city and not having been requested or invited to do so by the owner or owners, occupant or occupants of the property and/or residences, for the purpose of soliciting orders for the sale of goods, wares, services or merchandise and/or for the purpose of disposing of and/or peddling or hawking the same or soliciting orders is prohibited and hereby declared to be a nuisance and punishable as such.

(2) The Chief of Police and/or any police officers of the city are hereby required and directed to suppress the same and to abate any such nuisance.

(3) However, any agent, representative or other reputable person who can show or produce credentials from a reputable concern may be licensed temporarily.

(4) There shall be no discrimination of any kind as between any individuals or representatives of any outside concerns so long as they shall comply with the terms and conditions set forth in this chapter, and otherwise conduct themselves so as not to be a nuisance or create any disturbance of any kind. (Ord. 556, passed 3-26-1992)

§ 110.03 LICENSE TERM.

Any annual license issued hereunder shall be for the license fiscal year beginning on April 1 of the year of issuance and expiring on the last day of March of the following year. Licenses issued for any part of the fiscal year shall expire at the end of the fiscal year ending March 31. No license fee shall be prorated for part of the fiscal year. (Ord. 556, passed 3-26-1992)

§ 110.04 LICENSE FEES.

(A) Each person conducting or maintaining any business as defined in this chapter shall pay an annual license fee which shall be established and adjusted by resolution of the City Council. This fee is nonrefundable and due and payable by April 1 of each year.

(B) Whenever any person shall be engaged in more than 1 business, a separate license shall be required for each business in which that person is engaged. If more than 1 related activity is combined under 1 business name and operated as a single business at 1 location, only 1 license is required.

(C) Any agent, representative or other reputable person who can show or produce credentials from a reputable, established concern which peddles and sells goods and/or services on a door-to-door itinerant basis may be licensed temporarily by paying a weekly license fee in advance which shall be established and

adjusted by resolution of the City Council.

(D) Peddlers and sellers of magazines and/or vacuum cleaners shall pay in advance a daily license fee which shall be established and adjusted by resolution of the City Council.

(E) This shall not apply to representatives of the local schools, church organizations, fraternal and service groups who wish to sell magazines, papers, pamphlets or goods, or take subscriptions therefor. (Ord. 556, passed 3-26-1992; Res. 96-97-8, passed - - ; Am. Ord. 587, passed 3-27-1997; Am. Ord. 613, passed 6-13-2002; Am. Ord. 613, passed 3-27-2003)

§ 110.05 PROCEDURE.

(A) All applications for licenses hereunder shall be made to the City Recorder, who shall collect the license fee for every application received and granted, and issue a license upon payment of fee.

(B) All license fees collected hereunder shall be deposited in the General Fund of the city and shall become a part thereof for the purpose of securing revenue to assist in defraying the costs of necessary municipal services and functions ordinarily required for the health, peace, safety and general welfare of the city.

(C) The license issued for every business shall be kept and maintained in a conspicuous place where the licensee shall customarily transact or engage in the business so licensed, and the licensee shall exhibit the license to any police officer of the city when requested to do so.

(D) The City Recorder shall keep a record of all licenses issued. This record shall include the name, address and type of business, name and address of owner, and name and address of operator of business if other than owner, along with date of issue of license and fee paid.

(E) If amusement devices as defined by this chapter are a part of the business operation, a listing of the devices by type is to be included in the record. (Ord. 556, passed 3-26-1992)

Cross-reference:

Regulation of places of amusement, see Chapter 111 of this code of ordinances

§ 110.06 REVOCATION OF LICENSE.

(A) Any license hereafter granted may be revoked by the Council after due cause having been first shown at a hearing held before the Council. The Council shall be the judge of sufficiency of the cause or reason for the revocation, and no person shall conduct, carry on or transact the business after its license shall have been revoked by the Council. All licenses shall be subject to the regulations imposed by the city.

(B) Nothing contained in this chapter shall be construed to create any vested right in any person to the assignment, renewal, reissuance or continuance of any license. The right shall be and remain at all times vested in the Council, as herein provided, to revoke and cancel any license for any 1 or more of the following reasons:

(1) The licensee, its predecessors in interest, its successors in interest, its employees or anyone acting on its behalf engaging in fraud or misrepresentation in the process of procuring a license;

(2) The licensee or anyone acting on its behalf violating any of the provisions of this chapter or any ordinance of the city or of any state or federal law;

(3) The licensee, its employees or anyone acting on its behalf permitting any violation of any of the provisions of this chapter or any other ordinance of the city or of any state or federal law on the premises where the business is conducted or adjacent thereto or in connection with the business or premises;

(4) The licensee, its employees or anyone acting on its behalf engaging in any conduct or act or permitting any conduct or acts on the premises where the business is conducted or adjacent thereto or in connection with the business or premises, the conduct or acts tending to render the business or the premises a public nuisance as determined by the Council or a menace to the health, peace and/or general welfare of the city; or

(5) Whenever, in the judgment of the

Council, the public interest demands the revocation.

(C) When the Council desires to investigate or revoke any license issued by the city under this chapter, it shall notify the licensee or cause it to be notified in writing of the time and place of the hearing or investigation. The hearing or investigation shall be informal. Nothing shall operate to prevent the Council from considering any evidence developed during the hearing or investigation touching or concerning the fitness of the licensee to retain its license.

(D) If upon hearing and investigation, the Council shall find that cause exists for revocation of the license, the same may be revoked by a majority of the Council upon motion of 1 of its members, the motion to be entered into the minutes of the meeting. (Ord. 556, passed 3-26-1992) Penalty, see § 110.99

§ 110.07 NONEXCLUSIVITY.

Any and/or all license fees required hereunder shall be in addition to any other license fee or assessments now required from any person in the city.
(Ord. 556, passed 3-26-1992)

§ 110.08 EXEMPTIONS.

(A) The terms and provisions of this chapter shall not apply to any individual conducting a business from his or her personal residence, where the individual does not maintain any sign or signs indicating the existence of a business or otherwise advertise the business in any manner and which meets all the requirements of a home occupation.

(B) A home occupation is a small-scale business or professional operation conducted from a place of residence. The residential character is maintained and the home occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term. A home occupation shall not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

(C) No person shall be employed other than a

resident of the home in which the home occupation is established. No structural alterations shall be made which affect the residential character of the building. The business or activity shall be conducted wholly within the home or within a small accessory building which is residential in character and not larger than 1/2 the floor area of the house. No dust or any other offensive action or material shall be emitted from the premises. Noise associated with the activity shall not exceed 60 dB, measured at the property line, between the hours of 7:00 a.m. and 6:00 p.m. No noises shall be created by the home occupation between the hours of 6:00 p.m. and 7:00 a.m. that are detectable to normal sensory perception off the premises of the home occupation. No storage of materials, produce or supplies shall be permitted outside of the building. The home occupation shall not generate more than 20 vehicle trips in 1 day. A "trip" is a vehicle traveling in 1 direction to or from a source. Twenty trips is equivalent to 10 round trips.

(D) For purposes of this section, the unsolicited oral recommendations of prior customers of the business does not constitute "advertising."

(E) The terms and provisions of this chapter shall not apply to a property owner or householder holding or conducting occasional household sales or garage sales on his or her property or at his or her residence within a residential district, provided the sales are conducted for no longer than 3 consecutive days, are kept on an occasional basis, and any posted advertising is removed within 1 week of the event. Any violation of these restrictions shall be deemed a violation of the terms and provisions of this chapter, and any dispute regarding the meaning of "occasional" shall be settled by Council based on evidence presented.

(F) Any agents or representatives of any business on which a license is levied by this chapter shall be liable for the license fee herein levied and the penalties for failure to pay the license fees to the same extent as if the agent or representative were themselves the person engaged in business.
(Ord. 556, passed 3-26-1992)

§ 110.09 DEEMED BUSINESS.

Any person, representing by exhibiting any sign or advertisement that it is engaged in any business within the city on which a license is levied by this chapter, shall be deemed to be actually engaged in that business and shall be liable for the payment of the applicable license fee.
(Ord. 556, passed 3-26-1992)

§ 110.10 INJUNCTION; SEVERABILITY.

In case an injunction may be issued against the city enjoining or restraining the collection of a license fee for any particular type of business hereunder, the injunction shall in no wise affect the validity or enforcement of this chapter in all its provisions with respect to any other business to which the injunction or restraining order does not specifically apply.
(Ord. 556, passed 3-26-1992)

§ 110.11 ASSIGNMENT.

No transfer or assignment of any license issued hereunder shall be valid or permitted except whenever any person shall sell or transfer, in whole, a business for which the license has been paid. In that case, the buyer of the business shall not be required to pay any additional license fee for the balance of the license fiscal year in which he or she purchased the business. The buyer shall be required to inform the city of the transfer and provide the city with the usual applicant information and effective date of transfer.
(Ord. 556, passed 3-26-1992)

§ 110.12 AMENDMENT.

Nothing herein contained shall be taken or construed as vesting any right in the licensee as a contract obligation on the part of the city as to amount or character of the license hereunder, and the license fee may be increased or decreased in any and all instances at any time by the city, and any business herein scheduled may be reclassified or subclassified at any time, and all license fees herein shall be due and payable in advance.
(Ord. 556, passed 3-26-1992)

§ 110.13 REMEDIES BESIDES PENALTY.

In addition to the penalties provided in this chapter, and as a separate, distinct and concurrent remedy, the city may sue in any court of competent jurisdiction to obtain judgment and force collection thereof by execution for any license fee due under this chapter, and may also sue in addition thereto and at the same time bring suit for an injunction as against any person conducting the business herein scheduled and specified until the license fee, together with all costs, including a reasonable attorneys' fee, shall have been paid to the city, and thus restrain the person from operation of the business until all fees and costs have been paid.
(Ord. 556, passed 3-26-1992)

(A) Any person engaged in business or any officers, agents, representatives or employees of any business violating any of the provisions of this chapter shall, upon conviction thereof before the Municipal Court of the city, be punished by a fine not to exceed \$100. If the person operating a business in violation of the provisions of this chapter shall be a corporation, the officers and directors of the corporation shall be personally liable for the fines jointly and severally together with the corporation itself.

(B) Each day's operation of a business in violation of any provision of this chapter shall constitute a separate offense.
(Ord. 556, passed 3-26-1992)

§ 110.99 PENALTY.

CHAPTER 111: AMUSEMENTS

Section

Gambling and Card Rooms

- 111.01 Definitions
- 111.02 Gambling prohibited
- 111.03 Card room regulations
- 111.04 Card room license application
- 111.05 Granting and denial of card room application
- 111.06 Card room license not transferable
- 111.07 Suspension and revocation of card room license
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- 111.30 Public dances
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GAMBLING AND CARD ROOMS

§ 111.01 DEFINITIONS.

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

CARD ROOM. Any space, room or enclosure furnished or equipped with a table used or intended to be used as card table for the playing of cards only, and the use of which is available to the public; provided, however, that this section shall not apply to any bona fide charitable, fraternal or religious organization as defined by statute.

GAMBLING. A person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome.

(1) The term **GAMBLING** shall not include bona fide business transactions valid under the laws of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(2) The term **GAMBLING** shall not include social games or bingo, lotto or raffles operated in compliance with O.R.S. 167.118 by a charitable, fraternal or religious organization.

PERSONS FINANCIALLY INTERESTED.

All persons who share in the profits of the business, on the basis of gross or net revenue, including landlords, lessors, lessees and the owner or owners of the building, fixtures or equipment.

SOCIAL GAME. A game, other than a lottery, between players in a private home, private business, private club or place of public accommodation where no house player, house bank or house odds exist and

there is no house income from the operation.
(Ord. 557, passed 5-28-1992)

§ 111.02 GAMBLING PROHIBITED.

(A) No person shall participate in, operate or assist in operating any gambling game or activity in the city. No person shall have in his or her possession any gambling device as defined by O.R.S. 167.117. Any such device is hereby declared to be a nuisance and may be summarily seized by any police officer.

(B) Property so seized shall be placed in the custody of the Chief of Police of the city. Upon conviction of the person owning or controlling the property for a violation of this section, the Municipal Judge shall order the property confiscated and destroyed.
(Ord. 557, passed 5-28-1992) Penalty, see § 111.99

§ 111.03 CARD ROOM REGULATIONS.

(A) Pursuant to O.R.S. 167.121 a card room shall be authorized upon the granting of a valid license issued by the city under the terms, conditions and provisions of this chapter. License shall be granted only to persons of ascertained good moral character and upon the approval of the City Council.

(B) In addition, it shall be unlawful to operate a card room in violation of any of the following regulations and rules:

(1) Each and all of the games conducted or operated in the city pursuant to the provisions of this chapter shall be conducted and operated in full conformity with and subject to all the provisions of the laws of the State of Oregon and the City of Willamina;

(2) All card rooms shall be open to police inspection during all hours of operation. Card room license shall be available for inspection during all hours of operation;

(3) No licensee shall farm out, assign or sublet any card games lawfully permitted under this chapter on the premises in which the licensee has any interest or works;

(4) The playing of all card games shall be so arranged as to provide free access and visibility to any interested party. Doors leading into the card room must remain unlocked during all hours of operation;

(5) No person under the age of 21 shall participate in any form of gambling; and

(6) No charge shall be collected from any player for the privilege of participating in any game.
(Ord. 557, passed 5-28-1992) Penalty, see § 111.99

§ 111.04 CARD ROOM LICENSE APPLICATION.

(A) An applicant for a card room license shall submit his or her application to the City Recorder. The application shall be under oath and shall include: the true names and addresses of all persons financially interested in the business; the personal history and business experiences of the persons; the past criminal record, if any, of all persons who have any interest in the business; and any other matters deemed by the Council to be of necessary inquiry.

(B) The application shall be accompanied by a \$65 nonrefundable investigation fee and fingerprints and photographs of persons financially interested.
(Ord. 557, passed 5-28-1992) Penalty, see § 111.99

§ 111.05 GRANTING AND DENIAL OF CARD ROOM APPLICATION.

(A) The City Council shall either approve the application and grant the license applied for or deny the application and refuse to grant the license.

(B) Reasons for denial are:

(1) Any person who has any interest in the business has been previously convicted of a felony within the last 10 years;

(2) Any person who has any interest in the business has been convicted of 5 misdemeanors other than minor traffic offenses within the last 5 years;

(3) Any person who has any interest in the business has been convicted of or forfeited bail for any crime involving gambling within the last 5 years;

(4) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device, as defined by statute, where the gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed within the last 5 years;

(5) Any false or misleading information is supplied in the application or any information requested is omitted from the application; and

(6) Any person who has any interest in the business has had a license which was in his or her name revoked or suspended 3 times by the Oregon Liquor Control Commission, the last of which was in the last 5 years.
(Ord. 557, passed 5-28-1992)

§ 111.06 CARD ROOM LICENSE NOT TRANSFERABLE.

(A) No card room license shall be assignable or transferable. A change of persons having financial interest in a licensed business shall be reported immediately to the City Council, who shall order an investigation by the Police Department and the change approved or denied by the City Council.

(B) Applications for change of financial ownership shall be accompanied by a \$65 non-refundable investigation fee.
(Ord. 557, passed 5-28-1992)

§ 111.07 SUSPENSION AND REVOCATION OF CARD ROOM LICENSE.

(A) The City Council shall temporarily suspend for 30 days any card room license issued hereunder if:

(1) Any person who has an interest in the business has been convicted of a felony;

(2) Any person who has any interest in the business has been convicted of 5 misdemeanors other

than minor traffic offenses within the last 5 years;

(3) Any person who has any interest in the business has been convicted of or forfeited bail for any crime involving gambling;

(4) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device, as defined by statute, where the gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed;

(5) Any false or misleading information is supplied in the application or any information requested is omitted from the application;

(6) Any person who has any interest in the business has had a license which was in his or her name revoked or suspended 3 times by the Oregon Liquor Control Commission; or

(7) Any person who has any interest in the business or any employee thereof violates any section of this chapter.

(B) Suspension shall be subject to the right of appeal to the City Council in regular Council session. Notice of this appeal shall be filed with the City Recorder within 10 days of suspension or the action shall be deemed final and conclusive.

(C) Permanent revocation may be made only by the City Council and shall take place in regular Council session and only after the licensee has been served with notice at least 20 days prior to the City Council meeting.

(D) This notice shall state the time and date of the meeting and the grounds upon which the permanent revocation is sought. Notice shall be sent by certified mail by the City Recorder to the address listed by the licensee on his or her application for a license, and shall be deemed to have been received by the licensee the day after the notice is mailed.
(Ord. 557, passed 5-28-1992)

§ 111.08 SIGNS.

Signs advertising gambling, playing of cards, advertising specific forms of card playing, enticing participants or procuring players are prohibited.

(Ord. 557, passed 5-28-1992) Penalty, see § 111.99

§ 111.09 CARD ROOM LICENSE FEE.

There shall be collected for each card room license hereunder the sum of \$17 per table per month, payable quarterly, in advance.
(Ord. 557, passed 5-28-1992)

§ 111.10 EXCEPTIONS.

(A) A charitable, fraternal or religious organization may be granted a permit for social games when it appears that the social games are for the exclusive use of members of the organization, club, service group or fraternal organization and no charge is made for participation.

(B) The Oregon State Lottery as authorized by statute shall be exempt from the provisions of this chapter.
(Ord. 557, passed 5-28-1992)

§ 111.11 PERSONS UNDER 18.

(A) No person under 18 years of age shall enter or remain in or about a public cardroom, poolroom or billiard parlor.

(B) This section shall not apply to the playing of billiards, pool or video games in a recreational facility. As used in this section, a "recreational facility" means an area enclosure or room in which to play billiards or pool for amusement only, and:

(1) Which is clean, adequately lighted and ventilated and in which an adult supervisor is present at all times;

(2) In which no alcoholic liquor is sold or consumed; and

(3) Access to which does not require passing through a room where alcoholic liquor is sold or consumed.

(C) Minors over the age of 10 years may be permitted to play bingo at events sponsored by charitable, fraternal or religious organizations if the minor is in the company of an adult, providing the criteria of divisions (B)(1), (2) and (3) are met.
(Ord. 557, passed 5-28-1992) Penalty, see § 111.99

OTHER AMUSEMENTS

§ 111.30 PUBLIC DANCES.

The licensing and regulation of public dances is hereby adopted by reference as if set out in full herein. Copies are available through city offices.
(Ord. 21, passed - -; Am. Ord. 459, passed 8-10-1978) Penalty, see § 111.99

§ 111.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Violation of or failure to comply with any provision of §§ 111.01 through 111.11 is punishable, upon convictions, by a fine not to exceed \$300. Each day's operation in violation of any provision of this chapter shall constitute a separate offense.
(Ord. 557, passed 5-28-1992)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

112.01 Alcoholic beverage regulations;
adopted

**§ 112.01 ALCOHOLIC BEVERAGE
REGULATIONS; ADOPTED.**

The city's alcoholic beverage regulations are hereby adopted by reference as if set out in full herein. Copies are available through city offices. (Ord. 244, passed - -; Am. Ord. 344, passed 7-10-1969; Am. Ord. passed 7-13-1972; Am. Ord. 452, passed 7-27-1978; Am. Ord. 561, passed 11-12-1992)

