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CHAPTER VII: BUSINESS**REVENUE****TRANSIENT ROOM TAX**

7.005 Title. Section 7.010 to 7.042 shall be known as the Transient Room Tax Code of the City of Bend.

7.010 Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this Code.

- (1) "Accrual Accounting" means the operator enters the rent due from a transient on his records when the rent is earned whether or not it is paid.
- (2) "Cash Accounting" means the operator does not enter the rent due from a transient on his records until rent is paid.
- (3) "City Council" means the City Council of the City of Bend, Oregon.
- (4) "Hotel" means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied, provided such occupancy is for less than a thirty (30) day period.
- (5) "Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.
- (6) "Operator" means the person who is proprietor of the hotel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this code and shall have the same duties and liabilities as his principal. Compliance with the provisions of this code by either the principal or the managing agent shall be considered to be compliance by both.
- (7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate

or other group or combination acting as a unit.

- (8) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction.
- (9) "Rent Package Plan" means the consideration charged for both food and rent where a single rate is made for the total of both.
- (10) "Tax Administrator" means the City Treasurer of the City of Bend.
- (11) "Tax" means either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.
- (12) "Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

[Section 7.010(9) amended by Ord. No. NS-1455 passed March 18, 1987]

[Section 7.010(10) amended by Ord. No. NS-1615 passed May 18, 1994]

7.012 Tax Imposed. For the privilege of occupancy in any hotel, on and after the effective date of this code, each transient shall pay a tax in the amount then in effect under subsections (1), (2), and (3) of this Section. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis. If rent is paid in installments a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks. When rent is charged under a rent package plan, as defined in Bend Code 7.010 (9), an allowance of ten dollars (\$10.00) per person per meal or forty percent (40%) of the rent package plan price, whichever is less, may be deducted in the determination of the transient room tax under this code.

- (1) During the period of January 1, 2002 through June 30, 2002, the tax amount shall be

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- 8% of the rent charged by the operator.
- (2) During the period of July 1, 2002 through June 30, 2003, the tax amount shall be 8½% of the rent charged by the operator.
 - (3) Beginning on July 1, 2003, and subsequent thereto, the tax amount shall be 9% of the rent charged by the operator.

[Section 7.012 amended by Ord. No. NS-1455 passed March 18, 1987]

[Section 7.012 amended by Ord. No. NS-1466 passed December 2, 1987]

[Section 7.012 amended by Ord. No. NS-1796 passed August 15, 2001]

[Section 7.012 amended by Ord. No. NS-1813, passed January 19, 2002]

7.014 Collection of Tax by Operator: Rules for Collection:

- (1) Every operator renting rooms in this city, the occupancy of which is not exempted under the terms of this code, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the city.
- (2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made.
- (3) The Tax Administrator shall enforce provisions of this code and shall have the power to adopt rules and regulation not inconsistent with this code as may be necessary to aid in the enforcement.
- (4) For rent collected on portions of a dollar, the first one cent (\$.01) of tax shall be collected on five cents (\$.05) through seventeen cents (\$.17), inclusive; and the second one cent (\$.01) of tax on eighteen cents (\$.18) through twenty-seven cents (\$.27); the third one cent (\$.01) of tax on twenty-eight cents (\$.28) through thirty-eight cents (\$.38); the fourth one cent of tax on thirty-nine cents (\$.39) through forty-nine cents (\$.49); the fifth one cent of tax on fifty cents (\$.50) through sixty cents (\$.60); the sixth one cent (\$.01) of tax on sixty-one cents (\$.61) through seventy-one cents (\$.71); the seventh one cent (\$.01) of tax on seventy-two (\$.72) through eighty-two (\$.82); the eighth one cent (\$.01) of tax on eighty-three (\$.83) through ninety-three cents (\$.93); the ninth one cent (\$.01) of tax on ninety-four cents (\$.94) through the next one dollar and four cents (\$1.04) of rent.

[Section 7.014 amended by Ordinance No. NS-1466 passed December 2, 1987]

[Section 7.014 amended by Ord. No. NS-1796 passed August 15, 2001]

7.016 Operator's Duties. Each operator shall collect the tax imposed by this code at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this code.

7.018 Exemptions. No tax imposed under this code shall be imposed upon:

- (1) Any occupant for more than thirty (30) successive calendar days. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.
- (2) Any occupant whose rent is of a value less than \$2.00 per day.

- (3) An employee of the federal government, while on federal business, whose room is procured and paid for directly by the federal government, through a purchase order or other form of procurement and with a government check. If the federal employee pays for a room personally, the employee is not exempt and the tax must be paid, even if the employee is in Bend on federal business.
- (4) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people.
- (5) Any occupant whose rent is paid by a Deschutes United Way agency as a charitable assistance to the occupant.

[7.018 (3) amended by Ord. No. NS-1418, passed August 21, 1985]

[7.018 (3) deleted by Ord. No. NS-1455, passed March 18, 1987]

[7.018.(3) added by Ord. No. NS-1547, passed September 4, 1991]

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

Every person engaging or about to engage in business as an operator of a hotel in this city shall register with the Tax Administrator on a form provided by him. Operators engaged in business at the time this code is adopted must register not later than thirty (30) calendar days after passage of this code. Operators starting business after this code is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate the collection of the tax as the Tax Administrator may require. The registration shall be signed by the operator. The tax administrator shall, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business for each registrant.

Certificates shall be non-assignable and nontransferable, and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:

- (1) The name of the operator.
- (2) The address of the hotel.
- (3) The date upon which the certificate was issued.
- (4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Code of the City of Bend by registration with the Tax Administrator for the purpose of collecting from transients the room tax imposed by said city and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws including but not limited to those requiring a permit from any

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Board, Commission, department or office of the City of Bend. This certificate does not constitute a permit."

7.022 Due Date: Returns and Payments.

- (1) The tax imposed by this code shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on a monthly basis on the fifteenth (15th) day of the month for the preceding month; and are delinquent on the last day of the month in which they are due.
- (2) On or before the fifteenth (15th) day of the month following each month of collection, a return for the preceding month's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator liable for payment of tax.
- (3) Returns shall show the amount of tax collected or otherwise due for the related periods. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- (4) The person required to file the return shall deliver the return together with the remittance of the amount of the tax due, to the Tax Administrator at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (5) For good cause, the Tax Administrator may extend but not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this code.
- (6) The Tax Administrator, if he deems it necessary in order to insure payment or facilitate collection by the city of the amount of taxes in any individual case may require returns and payment of the amount of taxes for other than monthly periods.

7.024 Penalties and Interest.

- (1) Original Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this code prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.
- (2) Continued Delinquency. Any operator who has not been granted an extension of

time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

- (3) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this code is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs 1 and 2 of this section.
- (4) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this code shall pay interest at the rate of one percent (1%) per month or fraction thereof without proration for portions of a month, on the amount of the tax owed, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (5) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.
- (6) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

7.026 Deficiency Determinations; Fraud, Evasion, Operator Delay.

- (1) Deficiency Determination. If the Tax Administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in section 7.024.
 - (a) In making a determination the Tax Administrator may offset overpayments if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in section 7.024.

- (b) The Tax Administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at his address as it appears in the records of the Tax Administrator. In case of service by mail of any notice required by this code the service is complete at the time of deposit in the United States Post Office.
- (c) Except in the case of fraud, intent to evade this code or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.
- (d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the Tax Administrator has given notice thereof, provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(2) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make, within the time provided in this code any report and remittance of said tax or any portion thereof required by this code, or makes a fraudulent return or otherwise wilfully attempts to evade this code, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this code from any operator who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this code. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the Tax Administrator has given notice thereof, provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) Operator Delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay same determination to the Tax Administrator after service of notice thereof, provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten days from

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the date of service of notice by the Tax Administrator.

7.028 Redeterminations.

- (1) Any person against whom a determination is made under section 7.026 or any person directly interested may petition for a redetermination and redemption and refund within the time required in section 2.026 hereof. If a petition for redetermination and refund is not filed within the time required in section 7.026, the determination becomes final at the expiration of the allowable time.
- (2) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and if the person has so requested in his petition, shall grant the person an oral hearing and shall give him ten days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- (3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.
- (4) The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the City Council within the (10) days after service of such notice.
- (5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

7.030 Security for Collection of Tax.

- (1) The Tax Administrator, whenever he deems it necessary to insure compliance with this code, may require any operator subject thereto to deposit with him such security in the form of cash, bond, or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which he files returns, determined in such manner as the Tax Administrator deems proper, or Five Thousand Dollars (\$5,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations herein provided.
- (2) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Tax Administrator may bring an action in the courts of this State, or any other state, or of the United States in the name of the city to collect the amount delinquent together with penalties and interest.

7.032 Lien. The tax imposed by this code together with the interest and penalties herein provided and the filing fees paid to the Clerk of Deschutes County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this code shall be and, until paid, remain a lien from the date of its recording with the Clerk of Deschutes County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within Bend and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded. Notice of lien may be issued by the Tax Administrator or his deputy whenever the operator is in default in the payment of said tax, interest and penalty and shall be recorded, and a copy sent to the delinquent operator. The personal property subject to such lien seized by any deputy or employe of the Tax Administrator may be sold by the department seizing the same at public auction after ten days notice which shall mean one publication in a newspaper published in the City of Bend.

Any lien for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due as been paid to the city and the operator or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

7.034 Refunds.

- (1) **Operators Refunds.** Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this code, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to each operator, his administrators, executors or assignees.
- (2) **Transient Refunds.** Whenever the tax required by this code has been collected by the operator, and deposited by the operator with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.
- (3) An operator who is fully in compliance with this ordinance may retain five percent (5%) of the tax collected from a transient under this ordinance to cover the operator's

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administrative costs associated with compliance with this ordinance.

[Section 7.034 (3) added by Ord. No. NS-1796 passed August 15, 2001]

[Section 7.034 (3) amended by Ord. No. NS-1813, passed January 19, 2002]

7.036 Administration.

(1) Tourist Fund.

(a) A special fund called a Tourist Fund shall be established for the purpose of promoting tourism within the City of Bend. From the effective date of this ordinance until December 31, 2002, 24% of the monies collected pursuant to the tax imposed under Bend Code Section 7.012 shall be paid directly into this fund.

Thereafter, an additional 1.2% of the monies collected under Section 7.012 shall be paid to this fund each year until the total payment reaches 30% of the monies collected under Section 7.012. This increasing percentage shall be instituted as follows: From January 1, 2003 through December 31, 2003, 25.2% shall be paid into the fund; From January 1, 2004 through December 31, 2004, 26.4% shall be paid into the fund; From January 1, 2005 through December 31, 2005, 27.6% shall be paid into the fund; From January 1, 2006 through December 31, 2006, 28.8% shall be paid into the fund; and from January 1, 2007 onward, 30% of the money shall be paid into the fund. The Tourist Fund shall be used for the promotion of tourism as defined in Section 1 of HB 2934 (Oregon Laws, 2001), and the city is authorized to enter into contracts with the Bend Visitor & Convention Bureau, the Central Oregon Visitor's Association or other entities deemed worthy by the City Council to carry out this purpose.

(b) Amendment to Tourist Promotion Fund. A decrease in the percentage of the monies to the Tourist Promotion Fund, or a change in the definition of the Tourist Promotion Fund, shall require a vote of the people as provided in Section ___ of the Bend Charter.

[Section 7.036 amended by Ord. No. NS-1796 passed August 15, 2001]

[Section 7.036 amended by Ord. No. NS-1813, passed January 19, 2002]

(2) Records Required from Operators, etc.; Form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

(3) Examination of Records; Investigations. The Tax Administrator or any person authorized in writing by him may examine during normal business hours, the books, papers and accounting records relating to room sales of any operator after notification to the operator liable for the tax and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

- (4) Confidential Character of Information Obtained - Disclosure Unlawful. Unless required by the public records law or by the written permission of the operator, it shall be unlawful to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:
- (a) The disclosure to, or the examination of records and equipment by another City of Bend official, employe, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this code; or collecting taxes imposed hereunder.
 - (b) The disclosure after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby.
 - (c) The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued.
 - (d) The disclosure of general statistics regarding taxes collected or business done in the city.

[Section 7.036 amended by Ordinance No. NS-1466 passed December 2, 1987]

[Section 7.036 amended by Ordinance No. NS-1491 passed June 7, 1989]

7.038 Appeals to City Council. Any person aggrieved by any provision of the Tax Administrator may appeal to the City Council of the City of Bend by filing a notice of appeal with the Tax Administrator within ten (10) days of the Administrator's decision. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the City Council who shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than ten (10) days written notice of the time and place of hearing of said appealed matter.

7.042

BEND CODE

7.044

7.042 Violations. It is unlawful of any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this code.

7.044 Penalty. A violation of sections 7.010 to 7.042 is a Class A Civil Infraction.

(7.046 to 7.148 Reserved For Expansion)

REGULATORY PERMITS**GENERAL****7.200 Applicability and Definitions.**

- (1) The provisions of section 7.200 to 7.924 shall apply to sections 7.270 to 7.924 when not in conflict with specific provisions contained in those sections.
- (2) As used in sections 7.202 to 7.924 the term "Manager" shall include his/her designee.

7.202 Purpose.

- (1) The regulatory permit provisions of section 7.200 to 7.240 are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.
- (2) Obtaining a regulatory permit shall not exempt the permittee from other Code or ordinance requirements, including business license tax and parking district tax requirements.

7.204 Permits Required. No person shall engage in an activity or operate a device regulated under sections 7.270 to 7.924 without first obtaining a permit from the city as provided in those sections or without complying with conditions imposed by a permit obtained under those sections.

7.206 Permit Duration. The duration of the Permit shall be as provided in the permit.

7.208 Permit Renewal.

- (1) The application for renewal of a permit shall be made to the city prior to the permit expiration date.
- (2) If a permittee fails to apply for and pay the required fee within 30 days from the expiration date of the permit and continues to operate without a valid permit, a new application fee must be paid prior to issuance of the permit.

7.210 Review of Renewal. If the city has received complaints about the permitted activity or device, the application for renewal of the permit may be reviewed under section 7.214.

7.212 Application Requirements. Application for all permits required by sections 7.270 to 7.924 shall be made to the city on forms prescribed by the Manager. Application shall be made at least 30 days prior to the date the permit 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 permitted and shall provide for other information as required by specific provisions of this code or as necessary for review. 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. All fees shall be paid at the time of application. Fees shall be refunded if an application is denied, less the investigation fee set by resolution pursuant to the Bend Cost Recovery Code.

[Section 7.212 amended by Ordinance No. NS-1485 passed December 21, 1988]

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

7.216 Information from Applicant. A person, agency or department designated to review a permit application may require the applicant to supply information necessary to determine under section 7.214 the applicant's qualifications for the permit. If the applicant fails to supply information so required or submits false or misleading information, the permit shall be suspended or denied.

7.218 Criteria for Grant 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 permit that the applicant seeks.
- (2) The permit shall not be granted if:
 - (a) The activity or device to be permitted 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 permitted activity.
 - (c) The permitted 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 permitted activity without danger to property or public health or safety.

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

- (1) After receipt of reports from all persons, departments and agencies designated to review an application, the Manager shall determine whether the applicant qualifies for issuance or renewal of a permit pursuant to section 7.216.
- (2) If the applicant is qualified, the Manager shall issue or renew the permit.
- (3) If, on the basis of the application review under section 7.214 the Manager determines that the applicant does not qualify for issuance or renewal of the permit applied for, the Manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for appeal in section 7.228.

7.222 Issuance or Denial by the City Council. For regulatory permit 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 Manager shall prepare a background and recommendation 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 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 permit pursuant to section 7.216.
- (3) If the applicant is qualified, the Council shall issue or renew the permit.
- (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.

7.224 Revocation of Permit. The Manager, upon determining that a permitted activity, establishment or device is violating this Code, city ordinances, or state or federal law, shall notify the permittee in writing that the permit is to be revoked. Said violations need not lead to a conviction but must establish a reasonable doubt about the permittee's ability to perform the permitted activity without danger to property or public health or safety. The notice shall be given at least 30 days before the revocation. If the violation ends within 30 days, the Manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the permittee of the provisions of section 7.228.

7.226 Suspension of Permit. Upon determining that a permitted activity or device presents a substantial danger to person or property, the Manager may suspend the permit for the activity or device at once. The suspension shall take effect immediately on notice being received by the permittee, or being delivered to the permittee's business address as stated on the permittee's application for the permit that is being suspended. The notice shall be mailed to the permittee and state the reason for the suspension and inform the permittee of the provisions for appeal under section 7.228. The 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 7.228.

7.228 Appeal.

- (1) An applicant whose application to the Manager for a permit has been denied, or a permittee whose permit had been denied renewal, has been suspended, or is to be revoked, may within 30 days after the notice of denial, suspension or revocation is mailed, appeal in writing to the Council. The appeal shall be filed with the City Recorder and 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.
 - (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 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.

7.230 Posting of Permit.

- (1) Except as provided in Subsection (2), the 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 permittee has no office, business premises or other established place of business within the city, the permit 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 employe or representative within the city.

7.232 Applicability to Persons Exempt by State or Federal Law. Nothing in sections 7.270 to 7.924 shall be construed to apply to any conduct which is exempt from the 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.

7.234 Transfer or Assignment of Permit. Except as otherwise provided by sections 7.270 to 7.924 no person shall transfer or assign a permit issued under this chapter.

7.236 Prorating of Permit Fee. The permit fee imposed by sections 7.270 to 7.924 shall not be subject to proration.

7.238 Penalty. A violation of sections 7.270 to 7.924 is a Class A civil infraction.

7.240 Enforcement. In addition to the civil infraction procedure, the city may file a civil action to recover taxes unpaid or, after mailing notice via certified mail to the person responsible for said business, the city may place a lien against the real property where the business is located for the amount of the tax plus interest. Said lien shall be filed with the city recorder and noted in the lien docket.

7.250

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7.250

7.250 Polystyrene Foam Product Use. No readily disposable products containing or composed of polystyrene foam (styrofoam) shall be sold or used by any person or entity that is required to obtain a City permit by the provisions of Bend Code 7.200 - 7.924 in the conduct of their business or in any of their permitted activities.

(7.252 to 7.260 reserved for expansion)

[Section 7.250 amended by Ord. No NS-1484 passed December 21, 1988]

[Section 7.270 - 7.278 repealed by Ord. No. NS-1485 passed December 21, 1988]

[Sections 7.200 through 7.250 amended by Ord. No. NS-1675 passed April 2, 1997]

[Section 7.200 through 7.240 addressed in Ord. No. NS-2052, passed June, 6, 2007]

MOBILE HOME PARK CLOSURES**7.260 Purpose and Intent**

- 1 The purpose of these provisions is to restrict activities for the protection of public health and safety. The provisions are intended to mitigate the adverse impacts of mobile home park closures on park residents by ensuring that the closure is preceded by adequate notice, that the social and economic impacts of the involuntary relocation of tenants associated with the closure are adequately defined, and that relocation and other assistance is provided park residents.

7.262 Definitions

The following words, terms and phrases have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
2. "Closure of a manufactured home park" means to stop or cease leasing spaces in a manufactured home park, to terminate manufactured home space rental agreements for all or a portion of the park spaces for the purpose of ceasing; to use all or a portion of the park as a manufactured home park. Termination of tenancy for violation of rental agreements or park rules, actions required by the exercise of eminent domain or by order of State or local agencies shall not constitute closure of a manufactured home park.
3. "Comparable manufactured home park space" means any space, lot, or parcel of land within Deschutes, Jefferson, Crook and northern Klamath Counties that is (1) decent, safe, and sanitary; (2) adequate in size to accommodate the manufactured dwelling; (3) within the financial means of the displaced tenant (the higher of rent not greater than current rent of tenant or a rent, with mortgage on home if applicable, that is not greater than 30% of tenants income) ;
4. "Manufactured home" means a manufactured home, mobile home or residential trailer as these terms are defined in ORS 446.003(26).

5. "Manufactured home park" means place where four or more manufactured homes are located in a residential zone, the primary purpose of which is to rent space or keep space for rent to any person for a fee as defined in ORS 449.003(27). Manufactured Home Parks not defined under this section must still complete the closure impact report under Section 4 of this ordinance prior to closing.
6. "Owner" means a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested all or part of the legal title to a manufactured home park; or all or part of the beneficial ownership and a right to present use and enjoyment of the manufactured home park. Owner includes an authorized representative of the Owner.
7. "Owner-Tenant" means a person who owns and occupies a manufactured dwelling in a manufactured home park. For the purpose of this chapter, a tenant does not include a tenant who has accepted an earlier termination date or contracted with the landlord as provided in ORS 90.630(6)(a) or (b).

7.264 Manufactured Home Park Closure Permit

1. Permit Required. No person may close a manufactured home park unless a manufactured home park closure permit has been obtained. Provided, however, that nothing in this section is intended to limit or regulate in any manner a person's ability a) to apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the City's Comprehensive Plan or Zoning Ordinance; b) sell, convey or transfer a manufactured home park; or c) provide notification pursuant to Oregon State Law.
2. Scope of Permit Requirement, Construction. These provisions shall be construed as not to conflict with state law, and shall be applied in a manner such that the provisions and state law operate concurrently.
3. Application Filing. Applications for closure permits shall include the following information as may be required by this chapter and the City Manager or City Manager's designee:
 - (a) A detailed narrative description of and timetable for the proposed closure.
 - (b) A report on the impact of the closure of the manufactured home park on its residents pursuant to Section 7.266.
 - (c) The Payment Plan pursuant to Section 7.268.

- (d) Notice pursuant to 7.270.
 - (e) The application filing fee in an amount established by the City Council.
4. Application Processing: Upon receipt of a complete application the City Manager or designee shall review the application and within 45 days of the receipt of the complete application, issue a decision either denying the application, approving the application, or approving the application with conditions. A decision of the City Manager or designee may be appealed to the Council by the owner of the park.

7.266 Closure Impact Report

1. Any person filing an application for a Closure Permit shall file a Closure Impact Report on the impact of the closure, change of use, or cessation of use upon the residents of the manufactured home park. The Closure Impact Report shall include the following, as well as any other information deemed necessary and appropriate by the City Manager or Designee.
- (a) A detailed description of the manufactured home spaces within the manufactured home park, including but not limited to
 - i) The total number of manufactured home spaces in the park and the number of spaces occupied,
 - ii) The length of time each space has been occupied by the present resident(s) thereof,
 - iii) The age, size, and type of manufactured home occupying each space,
 - iv) The monthly rent currently charged for each space, including any utilities or other costs paid by the present resident(s) thereof,
 - v) Name and mailing address of the primary resident(s) and owner if different than occupant of each manufactured home within the manufactured home park. Tenant shall provide this information at request of park owner. Any refusal of cooperation by tenant for this information will negate any benefits for tenant under this Ordinance.

- (b) The City of Bend will assist the Park Owner and tenants by providing a list of all comparable manufactured home parks spaces within Deschutes, Crook, and Jefferson Counties and northern Klamath County. This list shall include the age of the manufactured home park and the manufactured homes therein, a schedule of rents for each park listed, a listing of the vacancies in the parks and the criteria of the management of each park for acceptance of new tenants and used manufactured homes.
- (c) A detailed analysis of the economic impact of the relocation on the tenants including comparisons of current rents paid and rents to be paid at comparable manufactured home parks in Deschutes County the estimated costs of moving a manufactured home and personal property and any direct or indirect costs associated with relocation to another manufactured home park.
- (d) A list of the names, addresses and telephone numbers of one or more housing specialists, with an explanation of the services the specialists will perform. These services shall include but not be limited to assistance in locating a suitable replacement manufactured home park, coordination of moving the manufactured home and personal property, and any other tasks necessary to facilitate the relocation to another comparable manufactured home park.

7.268 Payment Plan

1. A Payment Plan for owner-tenants of the manufactured home park shall be submitted for review and approval as part of the application for a Closure Permit. The Payment Plan shall provide, at a minimum, for the following:
 - (a) Units That Can Be Relocated – The Owner shall provide a list of each single-wide, double-wide and triple wide unit that can be relocated and the name and contact information for each unit. The Payment Plan for units that can be relocated shall provide for the owner to pay the tenants the amount stipulated by Oregon State Law (ORS 90.505 to 90.840) and if the Owner utilizes the increased density bonuses provided for in Section 7.279 shall pay the Owner-tenants the following amounts:
 - For each Single Wide Unit an additional \$1,000
 - For each Double Wide Unit an additional \$3,000
 - For each Triple Wide Unit an additional \$3,500

These additional amounts shall be adjusted annually by the increase, if any, in the Consumer Price Index (CPI) based on the index published by the US Department of Labor, Bureau of Labor Statistics, using the index US City Average, All Items, All Urban Consumers, Not Seasonally Adjusted (1982-84 = 100).

The park owner is not required to provide the additional amount(s) stipulated above to the tenant until such time as the manufactured home unit has been removed from the park.

In the event that the Owner does not utilize the density bonus program contained in Section 7.279, the City may pay Owner-tenants these amounts; subject to budgetary authority approved by the City Council prior to the subject fiscal year and subject to Council's right to limit the total amount of payments on an annual basis.

- (b) Units that cannot be relocated – (1)The payment plan shall identify those manufactured homes that cannot be relocated to a comparable manufactured home park space in Deschutes, Crook, Jefferson Counties and northern Klamath County. This list shall include the name and contact information for each Owner-Tenant. In the event that the Owner utilizes the density bonus program contained in Section 7.279, the Owner shall be required to offer to purchase any manufactured home that cannot be relocated in conformance with this chapter. The offer to purchase the manufactured home will be made at the greater of the:

The Real market value, per Deschutes County Property Records, of the home as reported on the most recent property tax assessment roll.

OR:

the amount stipulated by Oregon State Law (HB 2735ORS 90.505 to 90.840).

(2)The Owner shall be responsible for the cost of disposal of the mobile home park unit for those units that cannot be relocated.

7.270 Required Notifications

1. Any written notice by the landlord of termination of a rental agreement because of facility closure and the land or leasehold being converted to a different use shall conform with the requirements of ORS 90.630 and provide at least the following information:
 - (a) The landlord's or representative agent's address for contact and communications;
 - (b) The firm date set for the closure of the facility or of the relevant portion of the facility;
 - (c) The actions and activities the landlord plans to take in the facility closure that may affect the facility tenants;
 - (d) The landlord's obligations under ORS 90.630(5), (6), (7) and (8);
 - (e) The tenant's rights under ORS 90.630(4) for a 365-day closure notice or 180-day closure notice, as applicable, including the right, if any, for payment of moving expenses under OAR 813-008-0030 and the eligible moving expenses defined under OAR 813-008-0025;
 - (f) The voluntary benefits, if any, to be provided to the tenant by the landlord or contracted between the parties, together with any shortened period between notice and termination of the rental agreement arising therefrom;
 - (g) A copy of the statute ORS 90.630 and of OAR Chapter 813, Division 008;
 - (h) Any definitions referenced within these rules applicable to the tenant's rights under these rules; and
 - (i) A description of any city or county regulations, laws, or ordinances that apply to tenant interests in facility closures.
 - (k) A list of the names, addresses and telephone numbers of one or more housing specialists, with an explanation of the services the specialists will perform. These services shall include but not be limited to assistance in locating a suitable replacement manufactured home park, coordination of moving the manufactured home and personal property, and any other tasks necessary to facilitate the relocation to another comparable manufactured home park.

2. Notices required by ORS 90.630 or by these rules shall be delivered personally or by first class mail to each affected tenant or tenant organization. If served by mail, the minimum period before facility closure shall be extended by three days, and the notice shall recite the fact and extent of the extension. The notice shall be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the landlord. In any sublet unit, the notice shall be delivered to the tenant at his or her current address and to the subtenant in possession. If the tenant's address is unknown and not reasonably discoverable, his or her copy shall be delivered to the subtenant with written instructions to forward it to the tenant. Failure of the subtenant to deliver such copy to the tenant shall not limit the landlord's right to terminate the rental agreement because of facility closure.
3. For 365-day closure notices as provided in ORS 90.630(5)(a), the provisions of OAR 813-008-0020 through 813-008-0030 do not apply.
4. For 180-day closure notices as provided in ORS 90.630(5)(b), the landlord shall comply with the provisions of OAR 813-008-0020 through 813-008-0030.

7.272**Required Findings**

1. In approving a Permit for a manufactured home park closure, the City Manager or Designee shall find that the proposed closure meets the following requirements in addition to the other requirements of this Chapter.
 - (a) That the tenants or tenant's association of the manufactured home park have been adequately notified of the proposed closure, including information pertaining to the anticipated timing of the proposed closure.
 - (b) That the payment plan meets the requirements of Section 7.268.
 - (c) That if the owner files a tentative plat or plan for a land division to be created from the closure of a rental manufactured home park, the owner provides all tenants such offers and other information required by law.

7.274 Conditions of Approval

The City Manager or Designee shall not deny, but must approve or conditionally approve, the permit involving the closure of the park or cessation of the use of the land as a manufactured home park, provided the applicant has properly complied with the requirements of this ordinance and there is no evidence that the applicant or prior owners have attempted to evict or otherwise cause the removal of residents for the purpose of avoiding the requirements of this Chapter.

7.278 Enforcement

Violations. Any person who closes a manufactured home park without a permit, who fails to comply with the requirements of this chapter or the conditions of the permit, or who willfully makes an untrue or misleading statement of material fact or willfully omits to provide required information in the process of application or whose actions, through the raising of rent or otherwise, objectively manifests a intent or effort to avoid the requirements to this Chapter, shall be guilty of a violation. Notwithstanding any other provision of this code, the penalty for any such violation shall be not greater than \$1,000. Each day of non compliance shall constitute a separate violation.

7.279 Affordable Housing Density Bonus

1. Owners who perform their obligations in sections 7.262 through 7.270 of this Ordinance shall qualify for the Density Bonus Program subject to the additional requirements contained in this Section 7.279.
2. Increased Density. The City has adopted amendments to the City's Zoning Ordinance that create a Manufactured Home Park Overlay Zone at locations where existing manufactured home parks are located. Utilization of that Overlay Zone will permits increased density within the manufactured home park but requires that the Park Owner enter into a development agreement which shall contain the requirements set forth in Section 7.279.
 - (a) Owners shall provide a minimum of 10% of new units in development meeting the affordability requirements of this ordinance.

- (b) Affordability requirements.
- (1) The Owner must offer to qualified tenants who are being displaced and whose units cannot be moved the opportunity to either rent or purchase one of the affordable units.
 - (2) The mortgage/rent for these Tenants shall not be greater than the higher of:
 - (i) Amount of current space rent and mortgage on home;
 - (ii) The new mortgage or rent does not exceed 30 percent of the family's adjusted income per Department of Housing and Urban Development (HUD) standards; or
 - (iii) a rent or mortgage that does not exceed 30 percent of the income for a family at 50% of median income. This will be based upon most recent HUD Income Limits for the Bend Metropolitan Statistical Area (Bend MSA) and family size shall correspond to unit size as follows: For one bedroom units the income shall be based upon a family of two. For two bedroom units the income shall be based upon a family of three; for three bedroom units the income shall be based upon a family of four; and for four bedroom units the income shall be based upon a family of six.
 - (iv) In addition, for rental developments, up to 10% of the newly created affordable units shall have a rent or mortgage that is affordable for a family at or below 30% of Median Income. The number of units that will be required to meet this threshold shall be based upon the income surveys of existing tenants. Income surveys of all existing tenants shall be initiated by the owner and tenants shall be required to provide verification information to the owner as condition of receiving benefits/housing under this section. Units created as part of this section must be offered to existing tenants whose incomes are at or below 30% of median income.
- (c) Any displaced tenant owner shall be assured of affordable transitional housing and the payment of any necessary and reasonable moving expenses for personal property to relocate from their existing unit to a transitional unit and from the transitional unit to the permanent housing in the new unit. Tenant shall be required to solicit a minimum of two bids from licensed moving companies and shall be required to take the lower of these bids. The allowable transitional relocation expenses shall not exceed:
- (i) Actual reasonable expenses in moving family or other personal property;
 - (ii) Actual direct losses of tangible personal property as a result of

- moving but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the City Manager or designee;
- (iii) An amount not to exceed \$4,000, (adjusted annually by the increase, if any, in the Consumer Price Index (CPI) based on the index published by the US Department of Labor, Bureau of Labor Statistics, using the index US City Average, All Items, All Urban Consumers, Not Seasonally Adjusted (1982-84 = 100)), in total for relocation to transitional housing and from transitional housing to permanent housing. However, during the period of transition, tenant will still be required to pay, for rent, the amount stated above in this section and comply with lease agreement and applicable Landlord Tenant Law. Any significant violations of lease will negate tenant rights under this ordinance.
 - (iv) Park owner's may elect to contract for moving of tenant or may move tenants utilizing other resources, provided that all bonding and insurance is satisfied for the moving of the belongings.
 - (v) Park owner's may provide transitional housing, either on site or off site to meet the requirements of this section.
 - (vi) Tenant owners who cannot qualify for the new permanent unit due to rental history issues, credit worthiness or other factors shall not be eligible for relocation benefits under this section but shall receive compensation for their units as stated in Section 7.268. Income alone cannot be a factor in excluding someone from receiving benefits under this section.
- (d) All tenant property in a park under closure notice shall remain secure and all services in rental agreements shall be provided to tenants remaining in park until closure.
 - (e) New rental units developed under the density bonus program shall meet the affordability requirements for not less than 20 years, beginning after project completion and must be offered first to existing tenants in the park. The affordability requirements for the rental units apply without regard to the term of any loan or mortgage or the transfer of ownership. The requirements must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by the City of Bend, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The City of Bend, the owner, or other entity having property rights in project may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the

owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property: Rent for new units to be occupied by Tenant Owners shall be as stated in Section 7.292. All other rental units required to meet the 10% of total unit requirement will have a rent that shall not exceed 30% of income for a family at 50% of median income per HUD Income Limits for Bend MSA and family size will be based upon unit size as stated in Section 7.292.

- (f) Subsequent rents for units vacated during affordability period: Units that are vacated by original tenants during the period of affordability shall remain available and rented to low-income tenants. Rents for these units shall not exceed 30% of income for tenants at 50% of median per HUD Income Limits for Bend MSA and family size will be based upon unit size as stated in Section 7.292 . Owners of rental properties shall be required to submit an annual rent schedule for all units to the City of Bend.
- (1) Rent Increases: Any increase in rents for assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.
- (2) Over-income tenants: Units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to City of Bend are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.
- ((g) New affordable ownership units developed under the MHP Overlay Zone shall be acquired by an existing tenant or homebuyer whose family qualifies as a low- income family and the housing must be the principal residence of the family throughout the period of affordability. Units shall be first offered to tenants being displaced.
- (1) Mortgage Amounts: Mortgage for new unit shall be as stated in Section 7.292 for units that are to be sold to existing owner tenants. All other ownership units required to meet the 10% of total unit requirement will have a sales price whose mortgage that shall not exceed 30% of income for a family at 80% of median income per HUD Income Limits for Bend MSA and family size will be based upon unit size as stated in Section 7.292.
- (2) Periods of affordability. The newly created/assisted ownership

unit must remain affordable for a period of eight years. However, a portion of the gained equity shall be recaptured for a period of 20 years as stated in Section 7.292.

- (3) Resale and recapture. To ensure affordability, the property owner/developer must impose either resale or recapture requirements, at its option and upon agreement with the City of Bend. The resale or recapture requirements shall comply with the following standards:
 - (i) Resale. Resale requirements must ensure, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability, that the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low-income family (80% of Median Income per HUD Income Limits for the Bend MSA) and will use the property as its principal residence. The resale requirement must also ensure that the price at resale provides the original -assisted owner a fair return on investment (including the homeowner's initial investment (downpayment) and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.
 - (ii) Deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements. The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The owner/developer of the property, with approval of the City of Bend, may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, obtains an ownership interest in the housing.
 - (iii) Recapture. Recapture provisions must ensure that the Market Value of the assistance to the homebuyers (real market value of property minus total cost to purchaser at time of initial sale/occupancy), if the housing does not continue to be the principal residence of the family for the duration of the period of affordability is recouped. Deed requirements shall ensure that this recaptured amount of

funding is deposited with Neighbor Impact (or designated successor) and shall be utilized, minus administrative costs, to assist a future purchaser of the property. Neighbor Impact will market the property to eligible purchasers as stated in Section 7.292. Trust Deeds, Mortgages or other instruments of property transfer executed at time of sale shall ensure compliance with the above section.

- (iv) Reduction during affordability period. The Market Value amount to be recaptured shall be reduced on a prorata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period. This shall be at a rate of 50% per year beginning in year six and accelerating to 100% per year beginning in year eight.
- (v) Shared net proceeds. Upon recapture of Market Value of assistance 10% of the amount of seller's net proceeds shall be deposited in the City of Bend Affordable Housing Fee Fund to be utilized for affordable housing projects. This requirement shall expire 20 years after project completion.
- (vi) Uses of recaptured proceeds. All funding recaptured upon sale of any unit during period of affordability shall be utilized to assist a qualifying low-income homebuyer to purchase the unit. Portion of seller's net proceeds recaptured shall be utilized as stated in this section above.
- (k) The owner shall pay the amounts required by Section 7.268.

[7.260 through 7.279 adopted by Ordinance NS-2010, passed June 7, 2006 – Ordinance becomes null and void on December 7, 2006 unless City Council adopts an ordinance to continue the effectiveness of this ordinance beyond that date]

[Ordinance shall continue to be effective until March 8, 2007 when it will expire unless the City Council adopts an ordinance to continue the effectiveness of the ordinance beyond that date – per Ordinance NS-2028, adopted November 1, 2006]

[7.260 through 7.279 amended by Ordinance NS-2036, adopted January 17, 2007]

[7.260 through 7.279 amended by Ordinance NS-2081, adopted December 19, 2007]

[7.260 through 7.279 amended by Ordinance NS-2091, adopted February 20, 2008]

OUTDOOR CAFES**7.280 Issuance of Revocable Permit.**

- (1) The City Manager, or the Manager's designee, may issue a revocable permit for an outdoor cafe allowing the service of food or beverages within a public right of way provided the following conditions are met:
 - (a) The permit applicant pays an application fee established by resolution pursuant to the Bend Cost Recovery Code.
 - (b) The permit applicant assumes all risks associated with the use of the right of way;
 - (c) The permit applicant obtains liability insurance in a form and amount determined by the City Manager;
 - (d) The permit applicant submits an application containing the information required by the City Manager;
 - (e) The permit applicant lawfully operates a restaurant adjacent to the right of way for which the applicant seeks a permit;
 - (f) The owner of the restaurant property consents to issuance of the permit;
 - (g) The permit applicant demonstrates that the use of the right of way will not interfere with existing utilities, pedestrian use of the right of way nor pose a hazard to vehicular traffic. The permit applicant must demonstrate that, at a minimum, there will be a pedestrian passageway through the right of way of at least five (5) feet in width, and that the use of the right of way will be in compliance with vision clearance provisions of the City of Bend's zoning ordinance;
 - (h) The permit applicant obtains all other necessary state and local permits;
 - (i) If the applicant seeks to use the right of way in front of properties contiguous to the restaurant, the applicant demonstrates that a restaurant is a permitted use for the contiguous property and the owner of the contiguous property consents to the issuance of the permit;
 - (j) The permit applicant demonstrates that the use of the right of way will comply with all ordinances and codes of the City including but not limited to the structural safety, sanitation and fire codes;
 - (k) The permit applicant demonstrates that seating in the right of way will be

provided for no more than twenty (20) persons or, if seating is provided for a greater number that off-street parking as required by applicable law is provided in a ratio of no less than one parking space for each four (4) seats over and above twenty (20);

- (1) The permit applicant demonstrates that the proposed use of the right of way is not inconsistent with the use for which the right of way was dedicated to the City.
- (2) If the permit applicant wishes to undertake construction in the right of way in conjunction with the operation of an outdoor cafe, the permit applicant shall obtain a revocable permit subject to terms and conditions set by the City.

[Section 7.280 added by Ord. No. NS-1405 passed October 17, 1984]

[Section 7.280 (1)(a) amended by Ord. No. NS-1485 passed December 21, 1988]

[Section 7.280 amended by Ord. No. NS-1675 passed April 2, 1997]

7.282 Duration, Transfer and Revocation of Permit.

- (1) A revocable permit issued pursuant to Bend Code 7.280 shall be of the duration specified by the City Manager.
- (2) A permit issued pursuant to Bend Code 7.280 is not transferable.
- (3) A permit issued pursuant to Bend Code 7.280 may be revoked in the following circumstances:
 - (a) If the operator of the outdoor cafe violates city, state or federal law;
 - (b) If the conditions specified in Bend Code 7.280 are no longer being met;
 - (c) If the operation of the outdoor cafe present a danger to persons or property;
 - (d) If the terms and conditions of the revocable permit issued pursuant to Bend Code 7.280 are not complied with.
- (4) A permit issued pursuant to Bend Code 7.280 may be temporarily suspended if the public interest requires use of the right of way for a public event, construction, repair, or any other purpose.

[Section 7.282 added by Ordinance No. NS-1405, passed October 17, 1984]

[Section 7.282 amended by Ordinance No. NS-1675, passed April 2, 1997]

SPECIAL EVENTS

7.350 Definitions. As used in sections 7.352 to 7.396, the following shall mean:

- (1) "Accessibility Plan" A detailed, written plan, including a detailed site map, addressing for a given event. The plan should include, but is not limited to, accessible: parking, seating, sanitary facilities, communications, route(s) of travel, signage, loading/unloading zone, transportation, facilities, sales/display venues, and amenities (telephones, drinking fountains) if any/all of these elements are provided to the public. The plan will also address how people with disabilities will be evacuated if an emergency occurs.
- (2) "Assembly." Except as provided in B.C. 7.354, the term assembly includes all gatherings of a group or groups of the public of more than 75 persons in a public park or on public property for a given day. This term shall also include a parade as defined in B.C. 7.350 (3).
- (3) "Beer Garden." A temporary outdoor facility located on public property or premises open to the public for dispensing beer or wine in accordance with a Special Beer or Wine License issued by the Oregon Liquor Control Commission. The term does not include the dispensing of alcoholic beverages at Vince Genna Stadium during regularly scheduled and sponsored sports contests, or a temporary Special Dispenser License issued to a Dispenser by the Oregon Liquor Control Commission for use upon the premises of the licensee.
- (4) "Downtown - Drake Park District" here after referred to as "District". That area encompassed by the perimeter of Newport, Greenwood, Hill, Franklin, Bond, Louisiana, Riverside, Tumalo, and Harmon Blvd.
- (5) "Chief of Police." The Chief of Police of the city and his/her duly authorized officers and representatives.
- (6) "Parade." A procession of persons using the public right-of-way and consisting of 10 or more persons or 3 of more vehicles, with the exception of funeral processions which must comply with B. C. 6.115.
- (7) "Parking Facility" Any area provided for public parking in the District that is controlled through parking management by the City of Bend, including the Bend Centennial Parking Plaza, surface parking lots, on-street parking spaces, and areas controlled through issuance of parking permits.

- (8) "Premises Open to the Public." Any premises open to the general public for special events, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.
- (9) "Public Benefit." A benefit that accrues to the public at large rather than to a person, a small group of persons or to a private enterprise.
- (10) "Public Property." Property owned by or under the control of the City of Bend, the Bend Metro Park and Recreation District or private property and premises open to the public as defined in ORS 487.535.
- (11) "Special Event." An assembly as defined in B.C. 7.350 (1).

[Section 7.350(1) amended by Ord. NS-1493, passed July 5, 1989]

[Section 7.350 (2), (4) and (5) added by Ord. NS-1493, passed July 5, 1989]

[Section 7.350 (1) amended by Ord. NS-1644, passed January 3, 1996]

[Section 7.350 (3) and (7) added by Ord. NS-1644, passed January 3, 1996]

7.352 Assembly Prohibited.

- (1) No person shall allow, promote, conduct or cause to be advertised an assembly of persons in a public park or on public property when the person believes or has reason to believe that 75 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. The organizer or operator must apply to the City Recorder for a permit. The city shall process said application as soon as is practicable. One permit shall be required for each assembly. Liability for failure to comply with the provisions of B.C. 7.352 to 7.396 shall attach to persons who are responsible for obtaining permits under those provisions.
- (2) With the exception of July and August, the City of Bend will permit two special events in the District, as defined in 7.350 (3) or adjacent area that displace on and/or off street parking within the area, excluding parades in any one month. In the months of July and August, the number of events subject to these criteria increases from two events to three events.
 - (a) A calendar shall be created designating each event and its date. All existing events have precedence over new events. New events, unable to obtain a date on this calendar, will need to seek a special events permit for other areas of town. They may, at such time an existing event either terminates its event or forfeits its date, apply for that date on the calendar.

- (b) Events will be judged on a first come basis and their performance, if applicable, in other locations.
 - (c) Events applying under the criteria established in 7.352 (2) must make application to the City not earlier than October 1 in the year prior to the event and not less than 30 days in advance of the event.
- (3) It is the intent of the City of Bend to hold special events in the District, on NW Brooks Street, the Riverfront Plaza, and adjacent parking lots. All events will initially be reviewed on their applicability in these spaces. An event organizer wishing to hold an event elsewhere in the District or adjacent area must, in addition to meeting all other requirements for a permit, demonstrate that the event will be a public benefit and cannot reasonably be held at another site.

[Section 7.352 amended by Ord. NS-1493, passed July 5, 1989]

[Section 7.352 (2)(a), (b), (c) and (3) added by Ord. NS-1644, passed January 3, 1996]

7.354 Exclusions. Bend Code 7.350 to 7.394 shall not apply to any regularly organized and supervised school district activity or program of the city or to athletic contests organized by the Bend Metro Parks and Recreation District which do not utilize public streets and rights-of-way. Further, the City Manager shall be authorized to waive the permit requirement for certain limited assemblies when no significant public health, safety or welfare issues are involved and when no police service or other city service is determined to be necessary. These assemblies may include, but are not limited to: family picnics, weddings, and retail parking lot sales. All such events must, however, comply with park rules and ordinances if the event is being held in a public park.

7.356 Permit Required; Fee.

- (1) No assembly shall be held unless the person sponsoring the assembly obtains a permit and pays the fee set by resolution pursuant to Bend Code 1.800 - 1.806. The fee for the permit is to cover the cost of inspecting facilities and issuing and administering the permit prior to the event. In addition to the base fee, there will be an additional \$5 charge for each vendor participating in the event, per day of participation, unless the vendor holds a City of Bend Business License. The \$5 per vendor fee shall be paid at the time the applicant for the special event permit files the permit application, to the extent that the identity of the vendor(s) is known to the applicant, but in no event shall the vendor fee be paid more than 10 days after the event is concluded. The applicant shall also pay for City costs incurred as a result of the assembly. These costs may include any expenses or lost revenue incurred by the City and/or its departments. These additional costs shall be determined in the application review process and shall be paid prior to the event, except for expenses that cannot be determined until after the completion of the event.
- (2) Unless the time limit is waived by the City Manager, written application for each assembly permit shall be made to the city 30 or more days prior to the first day on which the assembly is to be held as required by B.C. 7.212. In addition to the information required by B.C. 7.212 to 7.216, each application shall state a description of the event, a list of vendors participating in the event (including contact information for each), proof of insurance required by B.C. 7.276, a parking plan, vehicle traffic flow plan, sanitation plan, fire protection plan, a map showing the location to be used for the assembly, the number of persons reasonably anticipated to attend, and that the applicant will abide by all rules and regulations of B.C. 7.352 to 7.396 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.
- (3) For parades, the application shall also include the desired route of the parade and assembly points, the proposed starting and ending time and the approximate number of persons, vehicles and animals anticipated to participate in the parade. The City of Bend will grant no more than one (1) parade permit per month.
- (4) A calendar will be created and all existing events will have precedence over new events. New events unable to obtain a date on the calendar must wait for a time on the calendar that becomes open by either an existing event terminating its event or forfeiting its date.

7.356

BEND CODE

7.356

[Section 7.356 (1) amended by Ord. NS-1485, passed December 21, 1988]

[Section 7.356 amended by Ord. NS-1493, passed July 5, 1989]

[Section 7.356 (1), (2) and (3) amended by Ord. NS-1644, passed January 3, 1996]

[Section 7.356 (4) added by Ord. NS-1644, passed January 3, 1996]

[Section 7.356 amended by Ord NS-2098, passed July 2, 2008]

7.358

BEND CODE

7.358

7.358 Application Procedure. Within 10 days after the application for the permit is made, the applicant must obtain written approval and assurance from each of the appropriate city officials or departments that satisfactory arrangements have been made by the applicant to comply with all of the conditions specified in B.C. 7.360 to 7.370. The City Recorder shall identify the appropriate officials to be contacted for completion of the permit. The officials or departments may approve the permit, 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.

[Section 7.358 amended by Ord. NS-1493, passed July 5, 1989]

7.360 Sanitary Facilities. The applicant shall provide sanitary facilities that are in accordance with state regulations and proof that the necessary permits have been procured.

[Section 7.360 amended by Ord. NS-1493, passed July 5, 1989]

7.362 Fire Protection Standards Events shall comply with the Fire Safety codes and Ordinances. These regulations include, but are not limited to, fire apparatus access, exit paths, flammable materials, open flames, fire extinguishers, use of tents, canopies, and membrane structures, inspection of vendors, vehicle parking, occupant load, electrical wiring and equipment, the use of decorations, life safety plans, emergency public notification plans and standby personnel.

[Section 7.362 amended by Ord. NS-1493, passed July 5, 1989]

7.364 Medical Services

If emergency medical services are required by the applicant's insurance carrier, the applicant shall notify the Bend Fire Department Emergency Management Services (EMS) Coordinator who will assist the applicant with obtaining the proper level of EMS coverage. First aid coverage can be provided "on scene" by any qualified medical personnel. If a patient needs to be transported for the event, only the Bend Fire Department may transport the patient according to the Deschutes County Ambulance Service Area Franchise ordinance. The individuals "on scene" who are providing first aid coverage shall use the 911 emergency dispatch system to call for an ambulance.

[Section 7.364 amended by Ord. NS-1493, passed July 5, 1989]

7.365 Accessibility. The applicant shall assure compliance with the American's With Disabilities Act of 1990 by submitting an accessibility plan.

7.366 Public Safety.

- (1) Adequate traffic control and crowd protection security shall be contracted for or otherwise provided by the applicant, as required by the Chief of Police. Security personnel shall conform to the standards required by the Chief of Police. The number of adequate fire control personnel, if needed, shall be determined by the Fire Chief.
- (2) The security personnel may be required to wear appropriate identification or a uniform approved by the Chief of Police and must be on duty during the entire assembly unless a relief schedule has been planned and approved.

- (3) It shall be the duty of the security personnel to report any violations of law to the Chief of Police and to take whatever action is reasonable and necessary to enforce the terms of the permit.
- (4) Reasonable access to public infrastructure must be maintained through the entire event. The Manager may require certain event facilities to be located/relocated away from items such as hydrants, water valves, manholes and storm drains to ensure proper access.

[Section 7.366 amended by Ord. NS-1493, passed July 5, 1989]

7.368 Parking Facilities. The applicant shall demonstrate that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested by submitting a parking facilities plan. Adequate access 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. Accessible parking facilities and transportation shall be addressed in the plan.

[Section 7.368 amended by Ord. NS-1493, passed July 5, 1989]

7.370 Inspection of Required Facilities. All facilities shall be in place a sufficient time, but not less than two hours, before the assembly for which an application is submitted and shall be subject to inspection by the city. If the actual facility, construction or other condition fails to meet the standards approved in the proposed plans, preliminary approval may be withdrawn and all permits granted subject to such approval may be withdrawn.

[Section 7.370 amended by Ord. NS-1493, passed July 5, 1989]

7.371 Animals at Special Events

- (1) For reasons of public safety and sanitation, no person shall bring an animal into an area where a special event is being held, unless authorized by the Chief of Police.
- (2) This prohibition does not apply to service animals utilized by persons with disabilities.
- (3) This prohibition does not apply to events held specifically for animals
- (4) Violation of this section is subject to the penalties prescribed in Section 7.398

Section 7.371 added by Ord NS-1974, adopted June 1, 2005]

7.372 Beer Gardens. Alcohol may be served in conjunction with an assembly only in an approved beer garden, under the following conditions:

- (1) The applicant has obtained a special retail beer or wine license from the Oregon Liquor Control Commission and City Council approval.
- (2) Minors under the age of 21 years shall be excluded from the premises where alcohol is to be served.
- (3) The beer garden must comply with the City's beer garden policies.
- (4) The applicant has paid the beer garden fee set pursuant to B.C. 1.800 - 1.806.

[Section 7.372 added by Ord. NS-1493, passed July 5, 1989]

[Section 7.372 (1) and (4) amended by Ord. NS-1644, passed January 3, 1996]

7.374 Insurance. The permit applicants shall be required to furnish evidence of liability insurance providing primary coverage in an amount which is not less than the City's tort liability limits established by the Oregon Legislature and 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 and shall be the primary coverage. In lieu of meeting the insurance requirements of this section, any governmental entity may enter into an agreement with the City to indemnify and hold the City harmless in the event of any damage or injury resulting from the assembly.

[Section 7.374 amended by Ord. NS-1493, passed July 5, 1989]

7.376 Street Closure.

- (1) No City street will be closed for an assembly unless the applicant has specifically requested that the street be closed at least 30 days prior to the date of closure and has obtained City Manager approval of that request (see B.C. 6.025 & 6.030). In the event that the street to be closed is a state highway, the applicant shall obtain approval from the Oregon Department of Transportation to close the highway. Notwithstanding the foregoing time limit, the City Manager may order closure of streets that are not arterial, collector or commercial streets, provided that the Manager has received a request to close the street at least 72 hours prior to the time of closure.
- (2) Requests for street(s) closures in the District will be granted only if the event can not be held without a street closure or there is a specified safety reason to close the street(s). The event organizer must demonstrate that these conditions exist.

[Section 7.376 added by Ord. NS-1493, passed July 5, 1989]

[Section 7.376 (2) added by Ord. NS-1644, passed January 3, 1996]

7.377 Sound Regulation. All assemblies must comply with the City's noise and sound regulation ordinances, including but not limited to B.C. 5.320 (p) and B.C. 5.385 (2). If an assembly will be utilizing amplified sound at any location within the City or radios, tape recorders or record players on public property, the applicant shall obtain City Council or City Manager approval, as specified in B.C. 5.320 (p) and B.C. 5.385 (4)(b) and in the City's amplified sound policy. The use of sound amplification requires provisions for assistive listening devices to be available to persons who are deaf or have low hearing and should be addressed in the Plan.

[Section 7.377 added by Ord. NS-1493, passed July 5, 1989]

[Section 7.377 amended by Ord. NS-1644, passed January 3, 1996]

7.378 Permit approval.

- (1) The City Manager shall grant and issue the assembly permit if, after consideration, he or she finds:
 - (a) All city officials and department have issued their approval pursuant to B.C. 7.358 to 7.368 and all other provisions of B.C. 7.350 to 7.396 have been complied with.
 - (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 and the event will not conflict with another event for which a permit has already been issued.
 - (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 city personnel of the city to properly police the 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 B.C. 7.374 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.
- (2) In order to assure compliance with the criteria of this section, the City Manager may impose conditions on the grant of a permit reasonably designed to assure compliance. The permit will not be issued if the applicant refuses to agree to abide by or comply with all conditions of the permit.

[Section 7.378 (1) (g) amended by Ord. NS-1395, passed January 18, 1984]

[Section 7.378 amended by Ord. NS-1493, passed July 5, 1989]

7.380 Permit Denial. The City Manager shall deny the assembly permit if he finds that the requirements of B.C. 7.350 - 7.396 have not been or cannot be complied with. If the permit is denied, the applicant shall be notified of the denial and the reason for denial.

[Section 7.380 amended by Ord. NS-1493, passed July 5, 1989]

7.382 Appeal.

- (1) Applicant. If the permit is denied the applicant may appeal the denial to the City Council in accordance with the provisions of B.C. 7.228.
- (2) Others. Persons wishing to appeal the issuance of a special event must submit, in written form, a complaint specific to the event that has transpired after the fact. The City will take such written comment into account prior to issuing any subsequent permits for the event. The complaint must be filed no more than three months after the event takes place.

[Section 7.382 amended by Ord. NS-1493, passed July 5, 1989]

[Section 7.382 (1) amended by Ord. NS-1644, passed January 3, 1996]

[Section 7.382 (2) added by Ord. NS-1644, passed January 3, 1996]

7.384 Permit Information. A permit issued pursuant to B.C. 7.356 to 7.378 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) Number of persons anticipated to attend or participate.

- (5) Special conditions imposed on the activity.
- (6) Full name and signature of applicant.

[Sections 7.384 (4) & (6) added by NS-1493, passed July 5, 1989]

[Section 7.384 amended by Ord. NS-1493, passed July 5, 1989]

7.386 Inspection. The City Manager or Chief of Police or designee or its authorized representatives shall have the right to go on the premises or facilities for which the permit has been granted for the purpose of inspection and enforcement of this Code and state law.

7.388 Crowd Limitation. If at any time during the assembly the size of the crowd exceeds the number of persons reasonably anticipated to be in attendance, the Chief of Police may 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.

7.390 Duty to Preserve Order Placed on Operator. It is the purpose of B.C. 7.350 to 7.396 to put the burden of preserving order upon the operator of the assembly. If the assembly is not operated in accordance with the rules and regulations prescribed by those sections, the permit shall be subject to revocation.

[Section 7.390 amended by Ord. NS-1493, passed July 5, 1989]

7.392 Rules and Regulations. The rules and regulations for parks set forth in B.C. 5.320 shall govern and control the permitted use of all city parks and public property during an assembly unless otherwise specifically provided in the permit.

[Section 7.392 amended by Ord. NS-1493, passed July 5, 1989]

7.394 Revocation of Permit.

- (1) If an assembly is not being operated according to the rules and regulations of B.C. 7.352 to 7.392, the 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 B.C. 7.350 to 7.392 shall constitute a public nuisance and shall be subject to all criminal and civil remedies.

7.394

BEND CODE

7.398

- (2) The revocation decision of the Manager shall be subject to the appeal procedures of B.C. 7.224.

[Section 7.394 amended by Ord. NS-1493, passed July 5, 1989]

7.396 Offenses Against Special Events.

- (1) No person shall knowingly interfere with the conduct of a licensed special event or authorized activities of an event participant.
- (2) No person shall operate a vehicle that is not part of a special event between the vehicles or persons in the event.

[Section 7.396 amended by Ord. NS-1493, passed July 5, 1989]

7.398 Penalties.

- (1) Failure to obtain a permit for an assembly or to pay permit fees or City costs, as required by B.C. 7.352 and 7.356 (1), is a Class A civil infraction.
- (2) Failure to provide the facilities and services required by B.C. 7.360 - 7.366 or to comply with the conditions of the assembly permit is a Class A civil infraction.
- (3) A violation of B.C. 7.371 (1), 7.372 (3) and (4), 7.390 and B.C. 7.396 (1) is a Class A civil infraction and a violation of B.C. 7.396 (2) is a Class A traffic infraction.
- (4) Closure of a City street or right-of-way in violation of B.C. 7.376 is a Class A infraction.
- (5) Failure to comply with the directives of the Police Chief relating to crowd limitation is a Class A infraction.

[Section 7.398 added by Ord. NS-1493, passed July 5, 1989]

[Section 7.398 (3) amended by Ord. 1974, passed June 1, 2005]

7.399 Event Banners, Displays and Information

- (1) Any advertising of the event before, during or after the approved event date shall not deface or obstruct City property. Only approved signs and banners placed on appropriate hangers or display areas may be used. Signs and banners must be approved by the City prior to placement. Banners must meet specifications as defined by City Codes 3-14.1 thru 3-14.3, Sidewalks and streets shall not be stenciled, painted, or marked in any fashion without express permission from the City.
- (2) Signs for parades, races, tours or other mobile events must be temporary and easily removed. Removal of directional or informational signs will be the responsibility of the event producer. Signs will not impair intersection and crosswalk vision clearances for pedestrians and motor vehicle operators.
- (3) If road markings are used, only biodegradable, water-soluble material may be used. Such material as chalk, flour and tape are acceptable but must be removed within 24 hours after the event.

[Section 7.350 to 7.399 amended by Ord. NS-2052, passed June 6, 2007]

AERIAL EVENTS

7.400 Permit Required. No person shall organize, promote or participate in an aerial event unless that event is permitted by the City of Bend. The term "aerial event" shall include parachuting, hang gliding or operating a hot air balloon within the city limits of Bend. Aerial events are required to obtain a Special Events Permit in accordance with Bend Code 7.350 through 7.398.

[Section 7.404 amended by Ord. No. NS-1485 passed December 21, 1988]

[Section 7.400 amended by Ord. No. NS-1675 passed April 2, 1997]

[Sections 7.402, 7.404 and 7.406 repealed by Ord. No. NS-1675 passed April 2, 1997]

(7.408 to 7.448 reserved for expansion)

BINGO OPERATED BY A CHARITABLE, FRATERNAL OR RELIGIOUS ORGANIZATION

[Sections 7.450 through 7.460 repealed by Ord. No. NS-1675 adopted April 2, 1997]

(Sections 7.462 to 7.490 reserved for expansion)

MERCHANTS AND BUSINESSES**STREET VENDORS**

7.500 Sale of Goods on Public Property. Except as provided for in sections 7.502 to 7.504, no person shall sell or offer to sell food, beverages, wares or goods from a public sidewalk, street or other public property without first obtaining a revocable permit from the City Manager.

[Section 7.500 amended by Ord. No. NS-1395 passed 1-18-84]

[Section 7.500 amended by Ord. No. NS-1675 passed 4-2-97]

7.502 Application. Permittee must make an application to the City Manager and agree to the conditions of the revocable permit which shall include:

- (a) **Insurance** The applicant shall first obtain and file with the City Recorder a certificate showing a public liability insurance protecting the licensee and city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage consistent with the limits of tort liability for the city. Such insurance shall be primary and shall name as additional insureds the City of Bend, its officers and employees, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the contract without 30 days written notice to the City Recorder of the City of Bend.
- (b) Compliance with all other applicable laws, rules and regulations.
- (c) Any and all such terms and conditions as deemed appropriate by the City Manager as they may relate to public protection and safety.

7.504 Terms and Conditions. Permit shall become immediately revocable by failure to abide by any of the conditions set forth in the permit.

[Section 7.510 amended by Ord. No. NS-1395, passed January 18, 1984]

[Section 7.530 - 7.534 repealed by Ordinance No. NS-1437 passed June 4, 1986]

[Sections 7.502 and 7.504 amended by Ord. No. NS-1675 passed April 2, 1997]

[Sections 7.505 through 7.522 repealed by Ord. No. NS-1675 passed April 2, 1997]

7.550

BEND CODE

7.580

DOOR TO DOOR SOLICITATION

[Sections 7.550 through 7.554 repealed by Ord. No. NS-1675 passed April 2, 1997]

ITINERANT MERCHANTS

[Section 7.560 amended by Ordinance No. NS-1440 passed June 18, 1986.]

[Section 7.568 amended by Ordinance No. NS-1440 passed June 18, 1986.]

[Section 7.568 amended by Ordinance No. 1485 passed December 21, 1988.]

[Section 7.570 (6) amended by Ordinance No. NS-1440 passed June 18, 1986.]

[Section 7.571 added by Ordinance No. NS-1440 passed June 18, 1986.]

[Section 7.572 amended by Ordinance No. NS-1440 passed June 18, 1986.]

[Section 7.574 (6) added by Ordinance No. NS-1440 passed June 18, 1986.]

[Sections 7.560 through 7.580 repealed by Ordinance No. NS-1675 passed April 2, 1997]

7.584

BEND CODE

7.590

DRUG PARAPHERNALIA

[Sections 7.584 through 7.590 amended by Ord. No. NS-1675 passed April 2, 1997].

[Sections 7.584 through 7.590 repealed by Ord. No. NS-1798, passed August 15, 2001]

7.592

BEND CODE

7.598

GARAGE SALES

[Section 7.592 amended by Ord. No. NS-752 (5) passed December 21, 1988.]
[Section 7.592 repealed by Ord. No. NS-1675 passed April 2, 1997.]

TREE TOPPING

[Section 7.594 (3) amended by Ord. No. NS-1485 passed December 21, 1988.]
[Section 7.594 repealed by Ord. No. NS-1675 passed April 2, 1997.]

BLASTING

[Section 7.596 (3) amended by Ord. No. NS-1485 passed December 21, 1988.]
[Section 7.596 repealed by Ord. No. NS-1675 passed April 2, 1997.]

AUCTIONEERS

[Section 7.598 (5) amended by Ord. No. NS-1485 passed December 21, 1988.]
[Section 7.598 repealed by Ord. No. NS-1675 passed April 2, 1997.]

7.600

BEND CODE

7.660

MERCHANT PATROL/PRIVATE DETECTIVE

[Section 7.612 amended by Ord. No. NS-1446 passed August 6, 1986.]

[Section 7.614 amended by Ord. No. NS-1485 passed December 21, 1988.]

[Section 7.608 amended by Ord. No. NS-1609 passed March 16, 1994.]

[Sections 7.600 through 7.622 repealed by Ord. No. NS-1675 passed April 2, 1997.]

AMBULANCES

[Section 7.636 amended by Ord. No. NS-1485 passed December 21, 1988.]

[Section 7.644 amended by Ord. No. NS-1485 passed December 21, 1988.]

[Sections 7.626 through 7.660 repealed by Ord. No. NS-1675 passed April 2, 1997.]

TAXICABS

7.672 Definition. For the purposes of sections 7.670 to 7.696, "taxicab" means any vehicle including motor vehicles, animal drawn vehicles, human powered vehicles, and limousines, except motorbuses, used for transporting passengers for hire. Taxicabs used for hire shall be governed by and comply with the provisions of this Code.

7.674 Permit Required. No person shall operate a taxicab without a permit issued by the Chief of Police.

7.678 Fees. A person operating a taxicab shall pay a fee set by resolution pursuant to Bend Code 1.800 - 1.806.

7.688 Application.

- (1) A taxi cab driver shall, before beginning his/her duties, apply to the Chief of Police for a permit and shall furnish all information that may be required.
- (2) A permit may be denied if the applicant has been convicted of a felony or a misdemeanor involving moral turpitude.
- (3) A permit may be denied if the applicant's driving record clearly demonstrates he/she is not qualified to transport the public with sufficient safety.

7.690 Identification Card.

- (1) Upon approval of a taxicab driver's permit and payment of the fee pursuant to Bend Code 1.800 through 1.806, the Chief of Police shall furnish the taxicab driver with a photo identification card.
- (2) The identification card shall not be transferable and shall remain posted in a conspicuous place in the taxicab operated by the driver.

7.692 Applicants for Drivers' Permits to Furnish Fingerprints. A person applying for a taxicab driver's permit under this Code shall furnish to the Police Department a complete set of fingerprints on each hand.

7.693 Insurance. A person applying for a taxicab driver's permit under this Code shall obtain a policy of all risk insurance with a per incident policy limit of at least two times the City's then existing tort liability limit as established by Oregon Law. The insurance must remain in effect at all times that the person, or any of the person's employees, is operating a taxi in Bend. A certificate of insurance must be provided to the City, and the City must be given at least 30 days' prior notice of cancellation of the insurance.

7.694 Temporary Suspension. In addition to the provisions of section 7.222, the Chief of Police may suspend a permit issued to a taxicab driver when there is reasonable grounds to believe that the driver is incompetent or an improper person to operate a taxicab. A driver having his/her permit suspended by the Chief of Police may appeal the suspension within five days from the date of suspension to the Council pursuant to section 7.224

[Section 7.678 amended by Ord. No. NS-1485 passed December 21, 1988.]
[Section 7.670 repealed by Ord. No. NS-1675 passed April 2, 1997]
[Sections 7.672 and 7.674 amended by Ord. No. 1675 passed April 2, 1997]
[Section 7.676 repealed by Ord. No. NS-1675 passed April 2, 1997]
[Sections 7.680 through 7.686 repealed by Ord. No. NS-1675 passed April 2, 1997]
[Section 7.690 amended by Ord. No. NS-1675 passed April 2, 1997]
[Section 7.672 amended by Ord. No. NS-1717 passed April 7, 1999]
[Section 7.693 added by Ord No. NS-1863, passed April 2, 2003]

BUSSES

[Section 7.706 amended by Ord. No. NS-1485 passed December 21, 1988.]
[Section 7.712 amended by Ord. No NS-1486 passed December 21, 1988.]
[Section 7.700 through 7.714 repealed by Ord. No. NS-1675 passed April 2, 1997.]

(Section 7.716 to 7.740 reserved for expansion)

MASSAGE TECHNICIANS

[Section 7.756 amended by Ord. No. NS-1485 passed December 21, 1988.]
[Sections 7.750 through 7.756 repealed by Ord. No. NS-1675 passed April 2, 1997.]

(Sections 7.758 to 7.798 reserved for expansion)

7. 700 BUSINESS LICENSES

7.705 Short Title. The provisions of Sections 7.700 to 7.790 shall be known as the Business License Ordinance.

7.710 Purpose

- (1) Emergency responders from the Bend Fire Department are better able to respond effectively and safely to emergency situations at Bend businesses when they have information about what type of business and contents of the structure are located in business establishments in Bend. Building Code compliance, Planning Code compliance, Fire Code compliance and Wastewater discharge compliance are enhanced by obtaining data from business license applications about structures where businesses are located. Business demographic information is also necessary to promote economic development. This ordinance is designed to obtain that information. The public health, safety and welfare are benefited by this business licensing ordinance.
- (2) It is necessary that fees for engaging in business in Bend be collected for securing revenue to assist in defraying the cost of police and fire protection, and other necessary municipal services. The fee required by this ordinance 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 the Bend Code and fees resolutions, or licenses required by other city, county, local, state, and federal laws.

7.715 Definitions. In Bend Code Sections 7.700 to 7.790, a “business” is a trade or business activity activity, regardless of the form under which the activity is conducted (such as sole proprietor; partnership; corporation; Subchapter S corporation; limited liability company; limited liability partnership and the like), that is required under the US Internal Revenue Code to file an income tax return. The following additional definitions apply:

- (1) "For profit business" means any trade, profession, occupation or pursuit, the purpose of which is to make a profit, whether or not a profit is actually made, as defined by the US Internal Revenue Code, as amended from time to time.
- (2) “Non-profit business” means any business that qualifies as a non-profit business under the US Internal Revenue Code, as amended from time to time.
- (3) “Public utility” means any business regulated by the Oregon Public Utility Commission or federal agency, such as the Federal Communications Commission, that delivers water, sewer, gas, electric, cable television, cable modem, satellite television, satellite modem, or telecommunications services within the City of Bend.

(4) "Exempt business" means:

- (a) 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 US Constitution, laws of the United States, Oregon Constitution, or laws of the State of Oregon;
- (b) Churches and governmental agencies;
- (c) A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.
- (d) Independent contractors (such as medical care providers, beauticians, and the like) that work in an office building or building of a business that has applied for and obtained a business license that covers the entire building are not required to obtain an individual license. Where the owner or tenant of the building has not obtained a business license to cover such independent contractor, the independent contractor is required to obtain a license under this ordinance.
- (e) Persons selling goods or services exclusively during a permitted special event activity where the sponsor of the event has obtained a Special Event Permit (as required in Bend Code Section 7.350) are not required to obtain a license under this ordinance, but are required to supply their name, contact address, and phone number to the Special Event Permit holder.

7.720 Requirement to Obtain Business License; Pay Application Fee; and Apply for Exemption.

- (1) Persons carrying on or transacting any Business, Non-profit Business or Public Utility as defined in section 7.715(1), (2) or (3), where physical business activity is undertaken within the City of Bend, shall be required to apply for and obtain a business license, unless such person is an Exempt Business, or the business is not required to obtain a license under another provision of this ordinance. A business that believes it is exempt from obtaining a business license shall apply for an exemption on a form provided by the city.
- (2) Non-profit businesses, as defined in Section 7.715(2) must obtain a license, but shall pay a reduced fee as established by the current City of Bend Fee Resolution.
- (3) Where a business is owned by a corporation or operates under a franchise, it shall be the responsibility of the local business manager to obtain the required license.

(4) The following provisions apply to the obligation to obtain a business license:

- (a) Any business that conducts physical activities in the City of Bend, whether or not such business operates from a physical structure or location within the City of Bend, is subject to this ordinance. Businesses that have their primary business location outside the City of Bend, but that conduct business activity within the City of Bend (including, but not limited to delivery businesses, repair businesses, and the like) are required to be licensed under this ordinance.
- (b) 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.
- (c) Electronic businesses, including internet businesses with a physical location in the City of Bend, shall be required to be licensed, unless exempt by another provision of this ordinance.
- (d) Where:
 - (1) A business is leased, under concession to, or owned wholly or in part by a different person or persons on the same premises, such business must be separately licensed, unless exempted by this ordinance. (For example, in the case where a business allows a food or other concession to be operated on the premises, and where the concession is owned by a separate entity, the concession is a separate business activity, requiring a separate license.)
 - (2) A single business occupies more than one building and the separate building occupancy is an adjunct to the same business activity (such as a retail or wholesale business that operates a warehouse in a building separate from the central business office or retail sales location), then only one license shall be required; but the business license application shall list all buildings where business activity occurs, providing necessary detail as to the activity conducted in each separate building.

- (e) For the purpose of this ordinance, no employee of a business 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 this ordinance is that all business license fees assessed by this ordinance shall be borne by the employer or proprietor for the privilege of doing business.
- (f) Charitable organizations that have no physical location other than a post office box are not required to obtain a license under this ordinance.
- (g) Activities that qualify as hobbies or passive holding of property for investment purposes under the US Internal revenue Code are not required to obtain a license under this ordinance.
- (h) Persons selling goods or services exclusively during a permitted special event activity where the sponsor of the event has obtained a Special Event Permit (as required by Bend Code Section 7.350), which Special Event Permit includes a list of vendors participating in the event and payment of \$5 per day per vendor (not to exceed \$50 per vendor for each special event), are not required to obtain a license under this ordinance.

7.725 License Duration and Transfer of Business or Business Location.

- (1) New licenses shall be valid from the date of issuance to the end of the following 12th month, and shall be renewable annually in the same month of each following year. The license fee shall not be pro-rated.
- (2) If ownership of a business is transferred during the year, the new owner shall apply for a new business license and pay a separate license fee in the amount established by the City of Bend Fee Resolution.
- (3) Businesses that change physical location or business name shall record the change of address or business name with the city, but shall not be required to pay a new fee for the current year.

7.730 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 the City. At the time of filing, the applicant shall pay the license fee required. The application shall be filed with the City Recorder and shall contain, at a minimum:

- (1) A description of the nature of the Business activity, Non-Profit Business activity or Utility to be engaged in;
- (2) The date that business operations commenced;
- (3) The name and address of the applicant; if a partnership, the names and addresses of all 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;
- (4) The addresses where the business will be located or have its City office and all branch, storefront, warehouse and any other associated locations;
- (5) The date of application.
- (6) The North American Industrial Coding System ("NAICS") (formerly SIC) code number;
- (7) A statement of the number of full time, part time or seasonal employees of the business;
- (8) Emergency contact information;
- (9) Any other information the Recorder or Council determines that the application should contain;
- (10) The signature of the applicant or agent making the application;
- (11) 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.

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7.735 Application Review and Effect of Issuance of License. The City Recorder shall review and issue licenses. Issuance of a license is not evidence that the applicant is in compliance with any other provision of law.

7.740 Issuance of License.

(1) After receipt of necessary license information and the application fee, the City Recorder shall issue the license.

(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 ordinance was in effect without a current, valid license issued under this ordinance, unless an additional amount equal to the license fee for the period during which the business was thus conducted is paid. In addition, civil penalties may be assessed as provided in this ordinance.

7.745 Denial of Application; Incomplete applications. The City Recorder will only deny a license where the business activity is obviously illegal. If the City Recorder determines that the application is materially incomplete, a license will be issued upon furnishing a complete application together with an additional administrative fee established by the fee resolution.

7.750 License Renewal. The application for renewal of a business license shall be made to the City Recorder prior to the expiration date. Failure to timely submit an application is a Class "A" Civil Infraction, subject to the penalty provisions of Section 7.790.

7.755 Revocation of License. The City of Bend will revoke a business license where a licensed business is operating illegally. Once issued, all businesses must comply with all city, state and federal laws, and the existence of a City of Bend business license does not authorize a business to operate in violation of any other laws.

7.760 Continuing requirement for Other Licenses. Any business or profession required to be licensed by any other provision of city, state, county, local or federal law shall continue to be responsible for obtaining and maintaining such licensure. Nothing in this ordinance excuses a business from obtaining all other necessary licenses, and the issuance of a business license under this ordinance shall not excuse a licensee from compliance with any other law.

7.765 Appeal. An applicant whose license is denied, or who contests any other ruling of the City Recorder may file an appeal with the Bend Municipal Court. The Court shall establish procedures for processing and hearing such appeals.

7.770 Posting of License. All businesses based in buildings whose primary purpose is commercial, and all businesses based in vehicles must display the license in public view at all times. For businesses that utilize multiple vehicles, a photocopy of the license shall be required to be on display in public view in each vehicle. Businesses based in buildings that are primarily residential need not publicly display the license, but must keep it available for inspection upon reasonable request.

7.775 Business License Fee. The fees for all licenses required under this ordinance shall be established by the City of Bend Fee Resolution, and may be changed from time to time. Any change in the license fee resolution shall apply to a licensee at the time of initial issuance or at the next renewal, but shall not apply retroactively to a license already in effect.

7.780 Effective Date; Waiver of Penalties During the First 18 months. This ordinance shall be effective 30 days after adoption by the City Council. During the first 18 months following the effective date, no penalties shall be assessed under Section 7.790; however, application fees shall be due upon the effective date of the ordinance, and any unpaid application fee shall remain due and payable for the first 12 months, and thereafter. Penalties shall not be assessed until the City of Bend provides two notices to the business that the license is required, and 45 days elapse after the second notification is received. A first notice shall be sufficient if sent by first class mail to the owner of the business, or agent of such owner; and a second notice shall be sufficient if sent by certified mail, return receipt requested. If the notices are sent to an address where the owner of the business or agent of such owner receives mail, it shall not be a defense that the notice was not actually received. The grace period for assessment of penalties shall not affect the obligation of the business to pay application fees from the effective date of this ordinance.

7.785 Changes to Application Requirements or Fee Changes. Amendment of the fee resolution to change the amount of fees to be assessed or information to be supplied on the application form shall require public notice and two prior public hearings.

7.790 Violations and Civil Penalties.

- (1) Violation of any provision of this ordinance shall be a Class A Civil Infraction, subject to a fine not to exceed \$500 per violation.
- (2) In addition to violations of the specific provisions of this ordinance, the following acts shall constitute a Class A Civil Infraction:
 - (a) Operating a business without obtaining a license as required by this ordinance;
 - (b) Failure to make timely application for a license or license exemption;
 - (c) Making a materially false statement to the City of Bend in connection with any requirement of this ordinance;
 - (d) Failure to provide information required by this ordinance;
- (3) Assessment of a fine under this ordinance shall be a remedy of the city in addition to any other remedy. The statute of limitations on a civil penalty shall not begin to run until the city discovers that a violation of the ordinance has occurred. Every year that a business operates without a required license shall be a separate violation. The city shall have a civil claim against any business that fails to pay a fee required by this ordinance, and the city reserves any other remedies available under law.

[Section 7.700 to 7.790 added by Ord NS-1995, adopted January 18, 2006]

[Section 7.715 and 7.720 amended by Ord NS-2098, adopted July 2, 2008]

PAWNBROKERS

7.800 Definition. For the purposes of sections 7.800 to 7.806, "pawnbroker" shall be defined as provided by ORS 726.010.

7.802 Permit Required; Fee. No person shall engage in business as a pawnbroker without obtaining a pawnbroker's permit from the Chief of Police. The annual fee for a pawnbroker's permit shall be the fee set by resolution pursuant to Bend Code 1.800 - 1.806.

[Section 7.802 amended by Ord. No. NS-1485 passed December 21, 1988.]

7.804 State License Required. No person shall be issued a pawnbroker's permit unless satisfactory proof of a valid state pawnbroker's license, issued pursuant to ORS Chapter 726, accompanies the application. Failure to maintain a valid state license shall be grounds for revocation of the City license pursuant to section 7.220.

7.806 Records of Articles Received.

- (1) A pawnbroker shall keep a record, legibly handwritten in ink or typewritten, which shall contain:
 - (a) An accurate and detailed description of all goods, articles or things purchased, pawned, pledged, or received.
 - (b) The amount of money pledged, advanced or paid.
 - (c) The day of pawning, pledging or receiving goods, articles, or things.
 - (d) The name and residence, with the street and number, if any, date of birth and type of identification of the person pawning, pledging, selling or delivering the goods, articles, or things.
- (2) An entry made in the record book shall not be obliterated, erased or defaced. The record, as well as the articles pledged, pawned, sold or received shall be open at all reasonable times to inspection by the City Police, the State Police, the Sheriff's Office and the various other law enforcement officers of the county.
- (3) In addition to the record book and any other records required, a pawnbroker shall, at the time of taking, receiving or purchasing any article describe the article on a form approved by the Police Department as the Chief of Police may direct. An accurate and sufficiently detailed description of an article shall be required by the form. The pawnbroker shall fill in the blank spaces on the form with all data requested by the form
- (4) A pawnbroker shall mail or deliver the forms to the Chief of Police every business

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day.

- (5) The City police officers may go upon and inspect the premises at all reasonable times. If any stolen property is found, the police may remove the property and return it to its rightful owner.

7.808 Purchase from Minors. No pawnbroker may take, receive or purchase any articles without the written consent of a minor's parent or legal guardian.

[Sections 7.802 and 7.804 amended by Ord. No. NS-1675 passed April 2, 1997].

ANTIQUA, SECONDHAND AND JUNK DEALERS

7.810 Definitions. As used in Bend Code 7.810 to 7.824, unless the context requires otherwise:

- (1) "Business Days" are Monday, Tuesday, Wednesday, Thursday and Friday, excluding all legal holidays.
- (2) "Daily ledger" is a pre-numbered, permanently bound book that has all of the pages in the book that were originally bound into the book in which all entries are kept in ink and in chronological and numerical order, which is on a form approved by the Chief of Police and supplied to the dealer by the Bend Police Department.
- (3) "Dealer" shall mean persons who are engaged in the business of selling, purchasing, trading, bartering or exchanging antique or secondhand goods for private gain or who have in their possession any junk such as old machinery, used machinery or appliance parts, metal, glass, lumber or wood and discarded material acquired for the purpose of resale.
- (4) "Purchase" means, in addition to its commonly accepted meaning, acquisition of personal property for the purpose of resale on consignment and acquisition of personal property by trade, barter or exchange.
- (5) "Secondhand Goods" means, in addition to its commonly accepted meaning, all personal property which has been used or possessed previously by another and includes, but is not limited to, previously owned precious metals, jewelry, coins which are purchased or sold by a dealer for other than their face value, stamps, firearms, appliances, hand and power tools, binoculars, cameras, watches, televisions, radios, phonographs, stereos, recording devices, antiques, furniture, calculators, electronic devices, bicycles, appliances, tools, sporting goods, audio and video recordings and similar items.

[Section 7.810 amended by Ord. No. NS-1426 passed February 5, 1986]

[Section 7.810 amended by Ord. No. NS-1472 passed May 18, 1988]

7.811 Permit Required.

- (1) No person shall engage in business as a dealer without first obtaining a permit from the Chief of Police. Agents and employees of a dealer who engage in the purchase of secondhand goods, must also obtain a permit from the Chief of Police and are subject to all requirements of Bend Code 7.810 - .824.
- (2) The permit fee shall be set by resolution pursuant to Bend Code 1.800 - 1.806.

[Section 7.811 added by Ord. No. NS-1395 passed January 18, 1984]

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[Section 7.811 amended by Ord. No. NS-1426 passed February 7, 1986]

[Section 7.811 (2)(3) amended by Ord. No. NS-1485 passed December 21, 1988]

[Section 7.811 amended by Ord. No. NS-1675 passed April 2, 1997]

7.812 Exemptions. The provisions of Bend Code 7.810 to 7.822 shall not apply to:

- (1) any bona fide secondhand automobile establishment used or conducted solely for the sale of used vehicles;
- (2) any bona fide recycling center;
- (3) a person or business that only sells used merchandise that was acquired as a trade-in and as partial consideration for the purchase of similar new merchandise from the person or business;
- (4) an automobile wrecking yard used exclusively for the wrecking or sale of used vehicles;

[Section 7.812(5) repealed by ORD No. NS-1675 passed April 2, 1997]

- (6) any person offering antique, secondhand, or junk goods for sale at a flea market, trade show or similar organized sales event three or fewer times annually and not to exceed five days per event;
- (7) an individual or business that purchases or sells used books and that does not engage in the purchase or sale of secondhand goods that must be recorded in a daily ledger pursuant to Bend Code 7.816 (1);
- (8) an individual or business that purchases or sells used clothing and that does not engage in the purchase or sale of secondhand goods that must be recorded in a daily ledger pursuant to Bend Code 7.816 (1);
- (9) an individual or business whose only secondhand business transactions are the buying and selling of gold or silver bullion bars of 0.995 fine or better.

[Section 7.812 amended by Ord. No. NS-1426 passed February 5, 1986]

7.814 Permit Application and Review.

- (1) Application for a secondhand business permit shall be made pursuant to section 7.200 - .240.
- (2) All applications for a dealer's permit are to be investigated by the Bend Police Department. The Police Chief shall approve or deny the application.
- (3) All approved applicants shall be issued a photo identification card by the Bend Police Department. New applicants for a second-hand business permit may be fingerprinted by the Bend Police Department to ascertain the identity of the applicant.

[Section 7.814 added by Ord. No. NS-1426 passed February 5, 1986]

[Section 7.814 amended by Ord. No. NS-1675 passed April 2, 1997]

7.815 Denial and Revocation of Permit. A permit shall be issued only upon the signed, written application of the dealer, according to the procedures set forth in Bend Code 7.200 - 7.240. In addition to the grounds listed in Bend Code 7.218, grounds for the denial or revocation of a dealer's permit include:

- (1) A knowing false statement in the permit application.
- (2) Conviction of a crime that is prohibited as a felony in the State of Oregon or an offense in the nature of theft, deception or moral turpitude.
- (3) Failure of the dealer to have obtained all necessary zoning, planning, building and sanitation permits for the dealer's place of business.
- (4) Conducting business without a permit and allowing people who have not obtained a permit under this section to work as the dealer's agents or employees.

The Chief of Police may issue a secondhand business permit to an applicant who does not comply with one or more of the above-listed factors or one or more of the factors listed in Bend Code 7.218, if the Police Chief believes that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Code.

[Section 7.815 added by Ord. No. NS-1426 passed February 5, 1986]

[Section 7.815 amended by Ord. No. NS-1675 passed April 2, 1997]

7.816 Records Required.

- (1) Every dealer conducting an establishment and all itinerant dealers who conduct business in the City of Bend, shall keep a daily ledger, written in ink, in the English language, of all purchases made by dealers or their agents of the following secondhand goods: jewelry, property made of precious metal excluding gold and silver bullion bars of 0.995 fine or better, firearms, appliances, sporting goods, binoculars, cameras, watches, televisions, radios, recording devices, calculators, electronic devices, hand and power tools, stereos, phonographs, audio and video recordings, bicycles, machinery and machinery parts. Said ledger must be completely filled out, including an accurate and sufficiently detailed description of the secondhand goods purchased; the name, date of birth, sex, race and address of the person from whom purchased or acquired; the day and hour of the purchase and price paid; all serial numbers of secondhand goods purchased; and the number of the seller's identification card required by Bend Code 7.816.(2).

When the dealer purchases secondhand goods from a corporate entity, the sales agent who sells the goods to the dealer shall be considered the person from whom the goods were purchased or acquired for purposes of this section. For secondhand purchases from a corporation, the dealer shall also list the name and address of the corporation.

- (2) When a dealer purchases secondhand goods in the City of Bend, the dealer shall require the seller to display one of the following forms of identification:
 - (a) a valid drivers license;
 - (b) a valid state identification card;
 - (c) a valid military identification card;
 - (d) a valid passport, visa or alien registration card with photo.
 - (e) a valid federal firearms license, if the dealer is purchasing secondhand firearms.
- (3) Bend Code 7.816 (2) shall not apply to the following secondhand purchases:
 - (a) purchases made at an auction;
 - (b) purchases from a dealer who is permitted by the City of Bend or Deschutes County;
 - (c) purchases which are shipped to the dealer from a dealer whose primary business location is outside of Deschutes County.
 - (d) purchases from governmental entities.
- (4) The daily ledger shall be maintained by the dealer for a period of two years from the date of the latest transaction recorded therein.
- (5) The daily ledger shall be open for inspection by any police officer at all reasonable

times.

- (6) No entry in a daily ledger may be changed, erased, obliterated or defaced. No original entry pages of the daily ledger shall be removed, detached or separated from the ledger. A copy of such record shall be mailed or delivered to the Chief of Police weekly.

[Section 7.816 (formerly numbered 7.814) added and amended by Ord. No. NS-1426 passed February 5, 1986]

[Section 7.816 amended by Ord. No. NS-1472 passed May 18, 1988]

[Section 7.816 (3) amended by Ord. No. NS-1675 passed April 2, 1997]

7.818 Regulation of Premises.

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

7.820 Purchases from Minors. No junk dealer or second hand dealer may purchase or acquire from a person under 18 years of age any junk, secondhand merchandise or other article, except old rags or paper, without the written consent of the parents or guardian of such person.

7.822 Retention and Return of Articles.

- (1) All secondhand goods that must be recorded in the dealer's ledger as required by Bend Code 7.816 (1), shall be retained for a period of five business days from the date that the Police Department copy of the ledger entry for the item purchased by the dealer or dealer's agent is received by the Bend Police Department. If the Police Department copy of the ledger entry is mailed to the Bend Police Department from Bend, Oregon, the five business day period will be calculated from the date the envelope containing the ledger forms is postmarked. The provisions of this subsection shall not apply to items that a dealer purchases from other licensed dealers who have complied with this subsection.
- (2) Whenever any dealer is notified by a police officer to retain any article purchased by such dealer so that the police can ascertain whether the article is stolen, the dealer upon receipt of the notice, shall retain, in his place of business, such articles for 15 days after receipt of the notice.
- (3) Whenever secondhand property is identified by a city, county, state or federal police agency as stolen property, said dealer shall promptly turn the property over to any member of the police agency upon request. If requested by the dealer, the police officer shall give a receipt for all items received from the second-hand dealer and said receipt shall include the police agency's name, address and case number.

[Section 7.822 amended by Ord. No. NS-1426 passed February 5, 1986]

7.824 Burden of Proof. If a person is cited for violating Bend Code 7.811 to 7.822 and wishes to claim an exemption under Bend Code 7.812, that person shall have the burden of proving that he or she is covered by said exemptions.

[Section 7.824 added by Ord. No. NS-1426 passed February 5, 1986]

(7.825 to 7.898 reserved for expansion)

PAYDAY LENDERS**7.850 Purpose**

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This Chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

7.855 Definitions. As used in this Article unless the context requires otherwise:

- (a) Payday Lender. A lender in the business of making payday loans as defined by ORS 725.600. The term “Payday Lender” shall also include a person or entity that takes an assignment to or becomes the successor in interest to a payday loan from a Payday Lender.
- (b) Payday Loan. A payday loan as defined by state law.
- (c) Borrower. A natural person who receives a payday loan.
- (d) Cancel. To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.
- (e) Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.
- (f) Manager. The City Manager or designee.
- (g) Municipal Court. The Bend Municipal Court.

7.860 License required.

- (a) Within 60 days of the effective date of the ordinance enacting this Article, any Payday Lender operating in the City of Bend shall apply for and obtain a License to operate as a Payday Lender. The license and fee paid for the license shall be in addition to the business license required by Bend Code Section 7.720. A person or entity that acquires the interest of a Payday Lender in a payday loan shall not be required to obtain a license unless that person or entity acquires the rights to payday loans that originate in Bend on a regular basis.

- (b) A separate license shall be required for each location a lender operates in the City of Bend and each license must be renewed annually.
- (c) The license application shall be in a form to be determined by the Manager.
- (d) The Manager shall require the Payday Lender to report its fee schedule in the Payday Lender's license application.
- (e) No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current license to do business issued by the City of Bend.
- (f) The amount of the license fee shall be set by council resolution.

7.865 Administrative Authority.

- (a) The Manager is authorized and directed to enforce all provisions of this Article. The Manager shall have the power to investigate any and all complaints regarding alleged violations of this Article. The Manager may delegate any or all authority granted under this Section to a designee.
- (b) The Manager is authorized to adopt and enforce administrative rules interpreting and applying this Article. The Manager or designee shall make written findings of fact and conclusions of law to support all administrative rules.
- (c) Prior to adoption of a new administrative rule, the Manager shall give public notice of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted. At the public hearing, the Manager or designee shall hear oral and written testimony concerning the proposed rule. The Manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.
- (d) The Manager shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
- (e) Unless otherwise stated, all rules shall be effective upon adoption by the Manager. All rules adopted by the Manager shall be filed City Recorder. Copies of all current rules shall be available to the public upon request.

- (f) Notwithstanding any other provision of this section, the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.
- (g) Inspection of Records. The City of Bend reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Manager or its designee.

7.870 Payment of Principal Prior to Payday Loan Renewal.

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

7.875 Cancellation of Payday Loan.

- (a) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if, within one business day of taking out the loan, the Borrower:
 - (1) Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and
 - (2) Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.
- (b) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.
- (c) For purposes of this section, a “business day” shall begin at the minute the Payday Lender tenders the loaned money to the Borrower and end at the same minute on the next day that the Payday Lender is regularly open for business.

7.880 Payment Plan for a Payday Loan.

- (a) A Payday Lender and a Borrower may agree to convert the loan repayment obligation to a payment plan for a Payday Loan at any time. The repayment plan shall not require the Borrower to pay a greater amount of interest than provided by the lending agreement, or allowed by state law, whichever is less. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.
- (b) After a Payday Loan has been renewed to the maximum number of times allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. The payment plan shall not require the Borrower to pay a greater amount of interest than allowed by the lending agreement or state law, whichever is less. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.
- (c) A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the payday loan has been renewed the number times allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.
- (d) The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.
- (e) The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the amount then owed under the payment plan.
- (f) A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Article. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Section.
- (g) The Payday lender remains responsible for compliance with all requirements of the Bend Code, even though the Payday lender may transfer or assign its interest in the Payday loan to a third party. In such case, the Payday Lender and the third party shall be jointly and severally obligated to comply with the provisions of the Bend Code, throughout the term of the payday loan.

7.885 Remedies.

- (a) Failure to comply with any provision of Bend Code Sections 7.850 through 7.895 or the administrative rules is a Class A civil infraction. Each separate violation is a separate civil infraction; and each day that a violation continues to exist constitutes a separate civil infraction.
- (b) Civil penalties shall be payable to the City of Bend.
- (c) In addition to other remedies, any violation of Bend Code Sections 7.850 through 7.895 is declared to be a nuisance and may be enjoined or abated by any process available to the City of Bend or any aggrieved private citizen by law.
- (d) Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.
- (e) Civil infractions may be filed in the Bend Municipal Court, which shall have non-exclusive jurisdiction to enforce the provisions of Bend Code Sections 7.850 through 7.895. Upon a finding that the Payday Lender violated any provision of Bend Code Sections 7.850 through 7.895, the Municipal Court may require, in addition to the civil penalties available by law, the Payday Lender to pay the city or private party's actual costs in bringing the case, including a reasonable attorney's fee.
- (f) Upon finding that a Payday Lender violated Bend Code Sections 7.850 through 7.895 or any regulation adopted thereunder, the Payday Lender's license shall be revoked. Such revocation may be made by the Municipal Court or by the Manager.

7.890 Appeals.

Appeals of the orders of the Bend Municipal Court or other court where an action to enforce this code is filed may be taken in the manner provided by Oregon Law.

7.895 Complaints.

The Manager shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules adopted hereunder.

[Sections 7.850 through 7.895 adopted by Ord NS-2019, passed July 19, 2006]

[Section 7.875 amended by Ord. NS-2027, passed November 1, 2006]

7.900

BEND CODE

7.924

BURGLARY ALARM SYSTEMS

[Section 7.908 amended by Ord. No. NS-1492, passed June 7, 1989]

[Section 7.922 amended by Ord. No. NS-1485 passed December 21, 1988.]

[Sections 7.900 through 7.924 repealed by Ord. No. NS-1675 passed April 2, 1997.]