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City of Pendleton, Oregon Ordinance No. 3472

ORDINANCE NO. 3472

AN ORDINANCE ESTABLISHING THE CITY OF PENDLETON REGULATORY LICENSE ACT; EXEMPTING ANY REGULATORY LICENSE FEES FROM ARTICLE XI, SECTION 11(b) OF THE OREGON CONSTITUTION; AND DECLARING AN EFFECTIVE DATE AFTER JUNE 30, 1992. (As amended by Ordinance No. 3934)

Adopted on June 16, 1992. Last amended March 5, 2019.

CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. **Short Title.** The provisions of this Ordinance shall be known as the "City of Pendleton Regulatory License Act."

SECTION 2. **Purpose of Pendleton Regulatory License Act.**

A. It is necessary that regulatory fees be levied and fixed to regulate, to protect the public welfare and to secure revenue to assist in defraying the cost of providing police and fire protection and other municipal services necessary for the implementation and the enforcement of this Ordinance.

B. The fee required by this Ordinance shall be in addition to general ad valorem taxes now or hereafter levied under law and shall be in addition to license fees prescribed in other ordinances.

C. Neither the acceptance of the prescribed fee nor the issuance of the applicable license shall be construed to constitute a regulation of any business activity or a permit to engage in any activity otherwise prohibited by law or Ordinance, or a waiver of any regulatory licensing requirement imposed by any Ordinance, State or Federal law.

D. The regulatory license provisions of this Ordinance are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.

E. **Obtaining a regulatory license shall not exempt the licensee from other Ordinance requirements, including business license fee requirements.**

SECTION 3. **Definitions.**

A. "Regulatory businesses" includes any trade, profession, occupation or pursuit and includes persons, partnerships, corporations, fraternal organizations, clubs, lodges and other legal entities employing part or full-time employees in any regulatory business specifically licensed or required to be licensed by this Ordinance.

B. Regulatory License Administrator, under this Act, means City Manager or designee.

C. City Manager, under this Act, means City Manager or designee.

D. Regulatory Licenses. Regulatory licenses are required for the following businesses: Amusement and Music Devices; Circuses and Tent Shows; Social Gaming; Door-to-Door Solicitations; Merchant Police; Detective Business; Antique Dealers, Precious Metal and Gem Dealers, Scrap Metal Dealers, and Secondhand Dealers; and False Alarms.

E. Nothing in this Ordinance shall be construed to apply to any person transacting and carrying on any business within the City which is exempt from a license fee or tax or regulation by virtue of the Constitution or laws of the United States or the Constitution or laws of the State of Oregon. Federal, State and municipal corporations are exempt from this Act.

SECTION 4. **License Required.** No person shall engage in an activity or operate a device regulated under this Ordinance without first obtaining a license from the City or without complying with

conditions imposed by a license obtained under those Sections.

SECTION 5. License Duration. Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following January 31 and shall be renewable annually for a term of one (1) year, beginning on February 1.

SECTION 6. License Renewal and Late Penalty.

A. The application for renewal of a license shall be made to the City prior to the license expiration date. A penalty of Ten (10%) percent of the annual fee may be added to the license fee accompanying a late renewal application. The effective date of a renewal license shall be February 1 if the application for renewal is made prior to the current license expiration date. Renewal licenses applied for after February 1 shall be effective on the date of issuance. New licenses shall be valid from the date of issuance to January 31. Thereafter any license shall be valid from February 1, and shall be renewed annually from the date of issuance to the following January 31 each and every subsequent year.

B. If a licensee fails to apply for and pay the required fee, including any accrued penalties, within thirty (30) days from the expiration date of the license, and continues to operate without a valid license, a new application fee, in addition to the license renewal fee and any accrued penalties, must be paid prior to issuance of the license.

SECTION 7. Review of Renewal. If the City has received written complaints about the licensed activity or device, the application for renewal of the license may be reviewed under Section 9 of this Ordinance.

SECTION 8. Application Requirements. Application for all licenses required by this Ordinance shall be made under oath to the City on forms prescribed by the Regulatory License Administrator. Application shall be made at least ten (10) days prior to the date the license is requested to be effective, license applications made less than ten (10) days prior to the date the license is to be effective may be made and if the Regulatory License Administrator is able to complete the Regulatory License Administrator's investigation prior to that date the Regulatory License Administrator may grant a license for a period sooner than the ten (10) days requirement. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity or device to be licensed and shall provide for other information as required by specific license provisions of this Ordinance. 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.

SECTION 9. Application Review. Each application shall be referred to the person, department or agency designated by this Ordinance or the Regulatory License Administrator to review the application.

SECTION 10. Information From Applicant. A person, agency or department designated to review a license application may require the applicant to supply information necessary to determine under Section 9 of this Ordinance the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended or denied.

SECTION 11. Criteria for Grant or Denial.

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

B. The license shall not be granted if:

- (1) The activity or device to be licensed would not comply with this Ordinance, City ordinances, or State or Federal law;
- (2) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity;
- (3) The licensed activity or device would endanger property or the public health or safety; or
- (4) The applicant's past or present violation of law or ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt about his/her ability to perform the licensed

activity without danger to property or public health or safety.

SECTION 12. Issuance or Denial by the Regulatory License

Administrator. For regulatory license applications required to be made to the Regulatory License Administrator, the following provisions shall apply:

A. After receipt of reports from all persons, departments and agencies designated to review an application, the Regulatory License Administrator shall determine whether the applicant qualified for issuance or renewal of a license pursuant to this Ordinance.

B. If the applicant is qualified, the Regulatory License Administrator shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal of this Ordinance.

C. If, on the basis of the application review under this Ordinance the Regulatory License Administrator determines that the applicant does not qualify for issuance or renewal of the license applied for, the Regulatory License Administrator shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the provisions for appeal of this Ordinance.

SECTION 13. Issuance or Denial by the City Council. For regulatory license applications required to be made to the City Council, the following provisions shall apply:

A. After receipt of review reports from all persons, departments and agencies, the Regulatory License Administrator shall prepare a background and recommendation report and present it to the City Council at its next regularly scheduled meeting. The applicant shall be advised by mail of the time and place of the City Council meeting.

B. Based upon the report of the Regulatory License Administrator, plus any additional evidence that may be presented to the City Council during the course of the meeting, the City Council shall determine whether the applicant qualified for issuance or renewal of the license pursuant to this Ordinance.

C. If the applicant is qualified, the City Council shall issue or renew the license.

D. If the City 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.

E. The decision of the City Council shall be final.

SECTION 14. Revocation of License. The Regulatory License Administrator, upon determining that a licensed activity, establishment or device is violating this Ordinance or City ordinances shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least thirty (30) days before the revocation. If the violation ends within thirty (30) days, the Regulatory License Administrator may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions for appeal of this Ordinance.

SECTION 15. Suspension of License. Upon determining that a licensed activity or device presents an immediate danger to person or property, the Regulatory License Administrator may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension's being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the provisions for appeal under this Ordinance. The Regulatory License Administrator 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 16 of this Ordinance.

SECTION 16. Appeal.

A. An applicant whose application to the Regulatory License Administrator for a license has been denied, or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within thirty (30) days after the notice of denial, suspension or revocation is mailed, appeal by filing a written appeal at the office of the Regulatory License Administrator. The appeal shall state:

- (1) The name and address of the applicant;
- (2) The nature of the determination being appealed;
- (3) The reason the determination is incorrect; and
- (4) What the correct determination of the appeal should be.

B. 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 City Council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least fourteen (14) days written notice of a hearing on the appeal.

C. 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 City Council after the hearing is final.

SECTION 17. Applicability to Persons Exempt by State or Federal Law.

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

SECTION 18. Transfer or Assignment of License. Except as otherwise provided by this Ordinance no person shall transfer or assign a license or a permit issued under this Ordinance.

SECTION 19. Prorating of License Fee. The license fees imposed by this Ordinance shall not be subject to proration.

ENTERTAINMENT

AMUSEMENT AND MUSIC DEVICES

SECTION 20. Definitions. As used in this Ordinance, with respect to Amusement and Music Devices, the following shall mean:

Agent of distributor. A person who leases or rents from the distributor, or has placed with him/her by the distributor, for use and operation, one or more devices required to be licensed by this Ordinance with respect to Amusement and Music Devices.

Amusement device.

A. A mechanical, electronic, mechanical-electronic or nonmechanical device which is designed for the amusement of the player or operator and is complete in itself, having as its purpose the production or creation of a game of skill, amusement, entertainment, or test of strength, including, but not limited to, shuffleboard, coin-operated devices using tables, boards, or cases of any size whatever, balls, sticks, cues, pegs or marbles, whether or not any motivating force involved is furnished by the player or the device.

B. "Amusement device" shall not include devices used exclusively for the purpose of selling tangible personal property, such as cold drinks, tobacco products, candies, postage stamps, or other merchandise; or services such as pay telephones, parking meters, gas and electric meters or other distribution of public service.

Coin-operated musical machine or phonograph. A mechanical, electronic, mechanical-electronic or nonmechanical device which is designed to produce or create music when activated by a coin.

Device. An amusement device or a coin-operated musical machine or phonograph.

SECTION 21. Purpose. The license fees required by this Ordinance with respect to Amusement and Music Devices are for the purpose of regulating and supervising the use and operation of amusement devices and coin-operated musical machines or phonographs. In this connection, experience has proven that when such machines, games and devices are first installed, they need more checking, investigating and supervision by City officials than they do later on. Experience also has proven that they are not desirable in some locations, and if not operated in some locations with discretion they become a nuisance. The City retains the right to deny any person the right to install coin-operated games, machines and devices in locations where the City Council considers it in the best interest of the public that the machines, games and devices not be installed, and the City reserves the right to require that any such machine, game or device be moved if the City Council considers the removal in the best interest of the public.

SECTION 22. License Required. No person shall maintain, keep or display an amusement device, musical machine or phonograph in a condition or position so that the machine or device may be operated, played or used until a license has been obtained and attached to it, as required by this Ordinance with respect to Amusement and Music Devices.

SECTION 23. **Application for Licenses.** Application to operate any amusement device, musical machine or phonograph distributor shall be on a form and in the manner prescribed by the Regulatory License Administrator. The application shall include the information required under this Ordinance, plus the type and total number of amusement devices, musical machines or phonographs to be licensed. The application shall be accompanied by a deposit of one (1) annual license fee for each amusement device, musical machine or phonograph to be licensed under the application.

SECTION 24.
(Section 24 deleted by Ordinance No. 3934, passed March 5, 2019.)

SECTION 25. **Placement.** No person shall use or place for operation any device until the license has been secured.

SECTION 26. **Recording Licenses and Tagging Devices.**
A. After a license has been issued pursuant to this Ordinance, the Regulatory License Administrator shall issue a separate license for each location.
B. License shall be secured for each new device installed after the original application is made at the location of the device. The license shall be issued by the Regulatory License Administrator upon payment of the applicable fees.

SECTION 27. **Renewal of Licenses.** If a device remains in the same location for a succeeding license year, the Regulatory License Administrator may issue a new license.

SECTION 28. **Posting of License.** All licenses shall be posted in a prominent place on the amusement device.

CIRCUSES AND TENT SHOWS

SECTION 29. **Purpose.** The license fees provided for in this Ordinance on Circuses and Tent Shows are for the purpose of enabling the City to provide additional police protection and traffic control which the City, through past experience, has found to be necessary for the activities licensed.

SECTION 30. **License Required.** No person shall operate any circus, menagerie, carnival or theatrical show shown in tents or other temporary structures without first obtaining a license from the City Council.

SECTION 31. **Circus/Menagerie.** The proprietor, manager or agent of each circus, menagerie or carnival show shall pay a license fee as established by Resolution of the City Council for each day that the circus, menagerie or carnival wishes to conduct performances in the City. No circus, menagerie or carnival shall exhibit in the City for a period longer than six (6) days at any one time.
(Section 31 as amended by Ordinance No. 3934, passed March 5, 2019.)

SECTION 32. **Exemptions.**
A. No license shall be required for entertainment, plays or amusement ventures given by local talent for public charity.
B. The City Council may grant a permit to any organization operating or promoting a celebration for the general benefit of the community and sponsoring or operating a carnival, circus or theatrical show for a period of not more than six (6) days without payment of the license fee or fees in this Ordinance.

SECTION 33. **Exhibition of Prices.** The prices to be charged for goods, wares, merchandise or material vended at any circus, menagerie or carnival, or other facility used in connection with any circus, menagerie or carnival shall be plainly marked over each concession or booth. The prices of admission to the main show or entertainment, together with that for each ring or compartment for which a separate charge is made, shall be plainly posted over the entrance to each show, ring or concession where separate charges are made.

SECTION 34. **Sanitary Facilities.**

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

B. The Director of Planning and Building approval shall be based upon, but not limited to, the following minimum guideline requirements:

(1) Toilets. A contractual agreement with a reliable firm shall accompany an application, with provisions for providing chemical toilets and the sanitary maintenance of these toilets on a continual basis, if necessary, based upon the ratio of one (1) toilet for each 100 persons of each sex. The facilities shall be conveniently located and indicated on the sketch map.

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

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

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

(5) Food service facilities. These facilities shall comply with the Oregon State Health Division regulations that pertain to the operation of "temporary restaurants," as evidenced by a valid "temporary restaurant" license.

C. The approval by the Director of Planning and Building shall indicate the number, type and location, when appropriate, of the various facilities.

SOCIAL GAMING

SECTION 35. Definitions. As used in this Ordinance with respect to Social Gaming, except where the context indicates otherwise, the following shall mean:

Cardroom. Any space, room or enclosure furnished or equipped with a table used or intended to be used as a card table for the playing of cards only and the use of which is available to the public. This definition shall not apply to any bona fide nonprofit society, club or fraternal organization as defined in this Ordinance.

Contest of chance. Any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

Gambling. When a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his/her control or influence, upon an agreement or understanding that he/she or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

(1) Social games; or

(2) Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance; or

(3) Engaging in contests of chance under the following conditions:

(a) The contest is played for some token other than money;

(b) The individual contestant may not purchase more than Ten and No/100 (\$10.00)

Dollars worth of tokens for use in the contest during any twenty four (24) hour period;

(c) The tokens may be exchanged only for property other than money;

(d) Except when the tokens are exchanged for beverage or merchandise to be consumed on the premises the tokens are not redeemable on the premises where the contest is conducted or within fifty (50) miles thereof;

(e) Except for charitable, fraternal or religious organizations no person who conducts the contest as owner, agent or employee profits in any manner from the operation of the contest.

Gambling device. Any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices,

which do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.

Social game.

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

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

C. Bingo, lotto and raffles as defined under State law and regulation.

SECTION 36. License Required. No person shall engage in, carry on, maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any social game without first obtaining a license from the Regulatory License Administrator except:

A. That a game involving the players of cards only, which does not include lotteries between players in a private home where no house player, house bank or house odds exist, and there is no house income from the operation of the social game, does not require a license from the City Council. This exemption only applies to private homes and does not apply to private businesses, private clubs or in places of public accommodations where licenses are always required.

B. Those social games regulated by the State of Oregon including bingo, lotto, and raffle which are regulated by the State of Oregon and which are not subject to the restrictions of this Ordinance.

SECTION 37. License Investigation.

A. An applicant for a social game license shall submit an application pursuant to this Ordinance. The application shall include:

- (1) The true names and addresses of all persons financially interested in the business.
- (2) The personal history and business experiences of such persons.
- (3) The past criminal record, if any, of all persons who have any interest in the business.
- (4) Fingerprints and photographs of persons financially interested in the business.

B. The term "person financially interested" shall include all persons who share in the profits of the business, on the basis of gross or net revenue, including landlords, lessors, lessees, and the owner or owners of the building, fixtures or equipment used in the social game.

(Section 37 as amended by Ordinance No. 3934, passed March 5, 2019.)

SECTION 38. Criteria for Grant or Denial of Application. In addition to conforming to the requirements listed in this Ordinance, the license shall not be granted if:

A. Any person financially interested in the business has been previously convicted of a felony within the last ten (10) years.

B. Any person financially interested in the business has been convicted of five (5) or more misdemeanors, the last of which was within the last five (5) years.

C. Any person financially interested in the business has been convicted of any crime involving gambling within the last five (5) years or any person who has any financial interest in the business has forfeited bail for any crime involving gambling within the last five (5) years.

D. Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in State law where such gambling device has been ordered destroyed within the last five (5) years.

E. Any false or misleading information is supplied in the application or any information requested is omitted from the application.

F. Any person financially interested in the business has had a license which was in his/her name revoked or suspended three (3) or more times by the Oregon Liquor Control Commission, the last of which was in the last five (5) years.

G. Any person financially interested in the business or any employee has violated any provision of this Ordinance.

H. Any person financially interested in the business has committed any other conduct involving moral turpitude within the last five (5) years.

SECTION 39. Responsibility of Licensee. Each social game shall have assigned to it a person whose duty shall be to supervise the games and see that they are placed strictly in accordance with this Ordinance and State law.

SECTION 40. License Not Transferable. Pursuant to this Ordinance, no social game license shall be assignable or transferable. The addition or the substitution of a person financially interested in a licensed business shall be reported immediately to the Regulatory License Administrator, who shall order an investigation by the Police Department. The change shall be approved or denied by the City Council. Applications for change of financial ownership shall be accompanied by a Sixty Five and No/100 (\$65.00) Dollars, nonrefundable investigation fee.

SECTION 41. Suspension and Revocation of License.

A. In addition to suspension under this Ordinance, the Regulatory License Administrator shall temporarily suspend any social game license or work permit issued hereunder if:

- (1) Any permittee or person financially interested in the business has been previously convicted of a felony;
- (2) Any permittee or person financially interested in the business has been convicted of five (5) or more misdemeanors;
- (3) Any permittee or person financially interested in the business has been convicted of or forfeited bail for any crime involving gambling;
- (4) Any permittee or person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed;
- (5) Any false or misleading information is supplied in the application or any information requested is omitted from the application;
- (6) Any permittee or person financially interested in the business has had a license in his/her name revoked or suspended three (3) or more times by the Oregon Liquor Control Commission;
- (7) Any permittee or person financially interested in the business or any employee violates any provision of this Ordinance; or
- (8) Any permittee or person financially interested in the business commits any other conduct involving moral turpitude.

B. This Ordinance shall govern revocation proceedings.

SECTION 42. Regulations. No person shall operate a cardroom in violation of any of the following regulations and rules.

- A. There shall be a limit on any bet of Ten and No/100 (\$10.00) Dollar and a three-raise limit on any social game.
- B. Licensees and permittees holding or obtaining licenses and permits under the provisions of this Ordinance with respect to Social Gaming shall agree to be bound by and observe the terms, conditions and provisions of those Sections and of the regulations and rules established thereby.
- C. Each of the games conducted or operated in the City under the provisions of this Ordinance with respect to Social Gaming shall be subject to the provisions of State law and the Code and ordinances of the City.
- D. All social games shall be open to police inspection during the hours of operation. Doors leading into the social games must remain unlocked during the hours of operation. Social game licenses and work permits shall be available for inspection during the hours of operation.
- E. No licensee or permittee shall participate in a social game nor procure players, back a game, farm out a game, assign or sublet a game otherwise lawfully permitted on the premises in which the licensee or permittee has an interest or works.
- F. The playing of all social games, except those conducted in organizations defined in Section 45 of this Ordinance, shall be so arranged as to provide equal access and visibility to any interested party.
- G. No person under the age of 21 years shall be permitted to participate in a card game or to enter or remain upon cardroom premises.
- H. No charge shall be collected from a player for the privilege of participating in a game.
- I. No participant in a social game shall be charged a price for any consumer goods which is higher or lower than the price charged nonparticipants.

SECTION 43. Signs. Signs advertising gambling, the playing of cards, advertising specific forms of card playing, social games enticing participants, or procuring players are prohibited.

SECTION 44.

(Section 44 deleted by Ordinance No. 3934, passed March 5, 2019.)

SECTION 45.

(Section 45 deleted by Ordinance No. 3934, passed March 5, 2019.)

SECTION 46. Police Chief Rules.

A. The Police Chief of the City shall have the additional authority to enforce reasonable rules and regulations for the operation of social games licensed under this Ordinance.

B. No blackjack games, also known as Twenty One, no dice games, and no games not authorized by the Police Chief shall be authorized under this Ordinance.

DOOR-TO-DOOR SOLICITATIONS ACT**SECTION 47. Title.** This Ordinance shall be cited as the "Door-to-Door Solicitations

Act."

SECTION 48. Definitions. For the purposes of this Door-to-Door Solicitations Act, the

following words shall mean:

Business. Professions, trades, occupations, shops, and every kind of calling carried on for profit or livelihood.

Itinerant Merchant. A person:

- (1) Whose business is dealing in goods or services.
- (2) A person who, as principal or as agent of another, goes from place to place or from house-to-house, City-to-City or town-to-town, or village-to-village, or community-to-community selling or offering to sell for future delivery, by sample or catalog, at retail, to persons who are not merchants, goods, wares, merchandise or services.
- (3) These terms shall not include any person who is acting solely as the owner, agent or employee of a business with a permanent location within the City, or to any person who is offering goods or services to a business licensed in the City, but shall not allow such solicitations from residential or from house-to-house application. It is the intent of this Section to allow solicitation of goods or services to businesses currently licensed in the City without requiring further licenses of those who are soliciting such goods or services, but do not allow such solicitations from residential or house-to-house application.

Charitable Organization. For purposes of this Door-to-Door Solicitation Act Ordinance, "charitable organization" shall mean:

- (1) A corporation or a community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of a private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and which does not participate in or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office.
- (2) Civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

SECTION 49. Permit Required. No person shall engage in business as a peddler or

itinerant merchant without first obtaining a permit from the Regulatory License Administrator.

SECTION 50. Application for Permit. An applicant for a permit shall submit the

application to the Regulatory License Administrator pursuant to this Ordinance. The application shall include the following information:

- A. The applicant's true name, permanent address, and an address which the City may use for purposes of notifying the applicant.
- B. The true name and address of a person for whom the applicant is acting as an agent. If the applicant is acting as the agent of a corporation:
 - (1) The address of the registered office of the corporation in Oregon; and
 - (2) The name and address of the registered agent of the corporation in Oregon.
- C. A description of the nature of the business operation the applicant will conduct.
- D. A description of the goods, wares, merchandise or services the applicant will offer for sale.

- E. The location from which the applicant will operate.
- F. The length of time the applicant will conduct the business and the hours of operation.
- G. The past business experience of the applicant.
- H. Past criminal convictions involving unlawful trade practices as defined by ORS 646.608, fraud, or crimes involving moral turpitude.
- I. Known consumer complaints made to local or State consumer agencies.
- J. Proof of compliance with all relevant Federal and State bonding and licensing requirements.

SECTION 51. **Door-to-Door Sales (Peddlers) Application Fee.** The applicant shall submit a nonrefundable investigation fee which shall be established by Resolution of the City Council. (Section 51 as amended by Ordinance No. 3934, passed March 5, 2019.)

SECTION 52. **Proof of Insurance.**

A. The applicant shall submit proof of general liability insurance coverage in the amount of \$100,000 to any one claimant for all claims arising out of a single accident or occurrence and \$500,000 for any number of claims arising out of a single accident or occurrence and \$50,000 property damage naming the City as an additional insured. The applicant shall also submit proof of products liability and errors and omissions insurance coverage in the same amounts, if appropriate to the business proposed to be conducted, and naming the City as an additional insured. In no case shall this insurance be less than the City's maximum exposure under the Oregon Tort Claims Act as it now exists or may subsequently be amended. A copy of each insurance policy, or certificate thereof issued by a responsible and solvent insurance corporation or association authorized to issue such policy or policies under the laws of the State of Oregon shall be delivered to the City within a reasonable period of time after the same is issued by the company or companies or associations issuing such policy or policies. All said policies or certificates shall provide for a minimum of thirty (30) days notice to the City in the event of cancellation or material change in the terms.

B. The proof of insurance coverage required by this Section may be satisfied by evidence that the applicant is an additional insured on an existing policy providing coverage in the required amounts.

SECTION 53. **Appointment of Agent for Service of Process.** The applicant shall appoint a local person, acceptable to the Regulatory License Administrator, as an agent for accepting 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 a form provided by the City.

SECTION 54. **Review.** The application review provided for by this Ordinance shall include the following:

- A. A background check on the applicant's criminal record by the Police Department.
- B. Reports of unlawful trade practices investigations reported to the State Attorney General.
- C. Consumer complaints filed with a local consumer protection organization.

Additionally, the application review provided by this Ordinance may include the additional information:

A City Department check list of potential dangers to the public health, safety, morals and general welfare evidence by any of the facts contained in the application. The check list shall include, but not be limited to:

- (1) Planning Division approval with respect to application of the applicable Zoning Ordinances.
- (2) Public Works Department approval with respect to proposed street use and traffic flow.
- (3) Building Inspector approval with respect to proposed use of a structure, whether temporary or permanent.
- (4) Director of Planning & Building approval with respect to health concerns.
- (5) Fire Department approval with respect to potential fire hazards.

SECTION 55. **Criteria for Denial.** In addition to conforming to the requirements of this Ordinance, the permit shall not be granted if:

- A. Any false or misleading information is supplied in the application or any information requested is omitted from the application.
- B. The applicant has been convicted of a crime involving unlawful trade practices as defined by ORS 646.608, fraud or moral turpitude within the last five (5) years.

- C. The applicant has been the subject of an unreasonable number of consumer complaints in the last five (5) years.
- D. The applicant has been the subject of an unlawful trade practices suit or investigation under ORS Chapter 646 which resulted in civil penalties assessed against him/her.
- E. The applicant's proposed actual business operation presents a danger to the public health, safety, morals or general welfare which cannot be alleviated through the imposition of a condition of operation.
- F. The applicant is unable to provide proof of insurance as required in this Ordinance.
- G. The applicant is unable to provide proof of compliance with all relevant Federal and State bonding and licensing requirements.
- H. The applicant has failed to comply with any other applicable provision of this Ordinance relating to the proposed conduct of the business.

SECTION 56. Conditions of Permit. Conditions of operation that are necessary to protect the public health, safety, morals and general welfare may be imposed on a permit. A permit also shall be subject to the following conditions:

- A. The permit shall be valid until January 31 following the date of issuance.
- B. The permit is not transferable.
- C. Conduct of the permittee's business operations shall conform with statements made in the application and with any special conditions of operation imposed on the permit.
- D. The permittee shall carry and upon request display the permit during all hours of business operation.
- E. The permittee shall abide by all applicable City, State and Federal laws, rules and regulations.

SECTION 57. Grounds for Revocation.

A. Notwithstanding other provisions of this Ordinance, a permit shall be revoked if the permittee has:

- (1) Violated any of the provisions of this Act;
- (2) Made any material misstatements on the application;
- (3) Omitted any material matter from the application;
- (4) Been found guilty of fraud or unlawful trade practices in any criminal action; or
- (5) Been assessed damages in any civil action involving unlawful trade practices or fraud.

B. Revocation of license shall not be the exclusive remedy for the commission of the acts enumerated in this Section.

SECTION 58. Stop Order and Notice of Revocation.

A. If the Regulatory License Administrator determines that there are probable grounds for revocation of a permit, the Regulatory License Administrator may take one of the following actions:

(1) By written order, direct that the business operations be discontinued pending a determination by the City Council. The order shall specify the alleged violation on which it is based and the date on which the City Council will act on the matter. No person shall continue to operate as a peddler or itinerant merchant after receiving a stop order from the Regulatory License Administrator.

(2) Notify the permittee of the alleged violation and the date on which the matter will be considered by the City Council. The notice shall be given at least ten (10) days prior to the City Council meeting.

B. If a stop order is issued, the Regulatory License Administrator shall submit the matter to the City Council for consideration at its next regular meeting. If a stop order is not issued, the Regulatory License Administrator shall submit the matter to the City Council for consideration at its next available meeting.

SECTION 59. Hearing and Revocation. The City Council shall give the permittee an opportunity to be heard and shall then hear and consider all facts relating to the revocation. The City Council may revoke the permit of any person violating this Door-to-Door Solicitations Act Ordinance, and no new permit shall be issued for three (3) years to that person, to any partnership or association in which he/she is a member, or to any corporation of which he/she is an officer. A certified copy of the City Council's decision, together with findings of fact, shall be delivered personally or by certified mail, return receipt requested, to the permittee.

SECTION 60.

A. **Solicitations by Charitable Organizations.** A charitable organization which desires to solicit or have solicited in its name money, donations of money or property, or financial assistance of any kind, or

which desires to sell or distribute any item of literature or merchandise for which a fee is charged or is solicited from persons other than members of the organization, upon the streets, in office buildings, by house-to-house canvass, or in public places, shall first obtain a license from the Regulatory License Administrator.

B. **License Application.** The application required by this Ordinance shall be completed by the applicant on a form provided pursuant to this Ordinance. The following additional information is required:

- (1) The name of the applicant and the purpose for which the license is sought.
- (2) The names and addresses of the officers and directors of the organization.
- (3) Whether or not commissions, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.
- (4) The period during which solicitation is to be carried on and the areas of the City to be covered.
- (5) The names of all members or representatives who will be soliciting.
- (6) The name and address of the representative of the organization designated to receive notice from the City.

C. **Issuance of License.** Upon satisfactory proof that the organization desiring to solicit or have solicitations made in its name is a charitable organization, the Regulatory License Administrator shall issue a license, without charge, to the organization to solicit. For purposes of this Section, a U. S. Internal Revenue Service or State Department of Revenue tax-exempt classification shall be deemed conclusive.

D. **Revocation of License.** Pursuant to this Ordinance, a license issued under this Section may be subject to revocation proceedings for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for a license.
- (2) Fraud, misrepresentation or false statement made by a member of the organization in the course of carrying on the licensed activity.
- (3) Conducting the licensed activity in violation of Ordinance provisions or State law governing nuisances and offenses or in a manner that constitutes a menace to the health, safety or general welfare of the public.

MERCHANT POLICE

SECTION 61. **Title.** This Ordinance shall be referred to and may be cited as the "Merchant Police Act."

SECTION 62. **Definitions.** For the purposes of this Act, the following shall mean:
Armored car service. A person engaged in the business of transporting cash or other valuables in means of armored cars. The term shall not include an armored car service while engaged in interstate commerce.

Merchant police. A person engaged in the business of watching, guarding or protecting premises and/or property. The term shall not include an individual who has only one employer and who is employed to watch, guard or protect only the premises or property of that employer, or a common carrier engaged in interstate commerce, or an individual employed by the carrier to watch, guard or protect premises or property for the carrier.

Nothing contained in this Section of the Regulatory License Ordinance shall be deemed to grant a license for any person to maintain a private police force and such private police forces are specifically not allowed under this Ordinance.

SECTION 63. **License Required.** No person shall operate as a merchant policeman or armored car service without first obtaining a license from the Regulatory License Administrator.

SECTION 64. **Applications for License; Fingerprints and Photograph.**
Application for a license shall be made pursuant to this Ordinance and shall include:

- A. The full name, age, residence, present and previous occupations of the application.
- B. Whether the person signing the application is a citizen of the United States.
- C. A specific description of the location of the principal place of business of the applicant.
- D. The number of years of experience the applicant has had in the field for which the application is made.
- E. The length of time the applicant has been a resident of the State immediately preceding the filing of the application.
- F. References from five (5) U. S. citizens of Umatilla County.
- G. A full set of fingerprints and a recent photograph.

H. Other information the Police Chief may find necessary to effectuate the general purpose of this Act and to make a fair determination of whether the terms of this Act have been complied with.

SECTION 65. Insurance Required.

A. The applicant for a Merchant Police license shall submit proof of operations and personal injury liability insurance coverage in the amount of \$100,000 to any one claimant for all claims arising out of a single accident occurrence and \$500,000 bodily injury per occurrence and \$50,000 property damage. The proof of insurance coverage required by this Section may be satisfied by evidence that the applicant is an additional insured on an existing policy providing the coverage in the required amounts, and which names the City as an additional co-insured. In no case shall this insurance be less than the City's maximum exposure under the Oregon Tort Claims Act as it now exists or may subsequently be amended. A copy of each insurance policy, or certificate thereof issued by a responsible and solvent insurance corporation or association authorized to issue such policy or policies under the laws of the State of Oregon shall be delivered to the City within a reasonable period of time after the same is issued by the company or companies or associations issuing such policy or policies. All said policies or certificates shall provide for a minimum of thirty (30) days notice to the City in the event of cancellation or material change in the terms.

B. The Regulatory License Administrator shall suspend any license when the insurance required herein has lapsed or for any reason is no longer in full force and effect.

SECTION 66. Criteria for Issuance of License. In addition to conforming to the requirements of this Ordinance, a license shall not be issued if:

- A. The applicant has been convicted of any felony or a misdemeanor involving moral turpitude.
- B. The applicant is not a citizen of the United States.

SECTION 67. Criteria Applicable to Merchant Police Employees.

A. The employees of a person having or applying for a license shall be subject to the criteria in this Ordinance and to all regulations of this Act.

B. Each employee other than clerical or sales personnel of an armored car service or merchant police shall, before beginning his/her duties, apply to the Police Chief for a permit subject to the criteria listed in this Ordinance and upon the approval of the Police Chief, the Police Chief shall issue such applicant an identification card including the following information:

- (1) A front view picture of the applicant.
- (2) The right thumb print of the applicant.
- (3) The name, weight, height, age, color of hair and color of eyes of the applicant.
- (4) The name of the employer.
- (5) The signature of the applicant in his/her own handwriting.

(Section 67 as amended by Ordinance No. 3934, passed March 5, 2019.)

SECTION 68. Promulgation of Regulations. The Police Chief may enforce reasonable rules and regulations for the operation of merchant police in the interest of the public safety, morals, and welfare, and to effectuate the general purpose of this Merchant Police Act.

No member of a merchant police may carry any firearm, concealable, or otherwise, unless granted written permission from the City's Police Chief, based upon reasonable rules and regulations adopted in writing by the Police Chief prior to the merchant police application, and who has in all other ways complied with the applicable laws for the carrying of firearms.

Any member of a merchant police denied written permission from the City's Police Chief to carry a firearm based on the Chief's interpretation of the written rules and regulations may appeal the Police Chief's decision pursuant to this Ordinance.

No merchant police or armored car service holding a license granted under the provision of this Act shall possess any firearm, pistol, gun, revolver, rifle, or other firearm, without the express written permission of the City's Police Chief. Firearm means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless power and which is readily capable of use as a weapon, and includes pistol, revolver, firearms capable of being concealed upon the person, and machine gun.

No merchant police or armored car service holding a license granted under the provision of this Act shall carry a dangerous weapon. Dangerous weapon shall include those well known meanings and those definitions as applied under Oregon law including dagger, dirk, dangerous knife, razor, stiletto, blackjack, slingshot, billy, sandclub, sandbag, metal knuckles, nunchaku sticks, bomb or bombshell.

However, every merchant police or armored car service holding a license granted under the provision of this Act shall be required to divulge to the Police Chief of the City a complete list of clients of the merchant

police or armored car service holding the license granted under the provisions of this Act within the City limits of the City and shall provide a current update of this list at least once every calendar quarter.

SECTION 69. **Information and False Reports.** No merchant police or armored car service holding a license granted under the provisions of this Act shall divulge to anyone other than his/her employer or as required by law any information obtained in the employer's service. No merchant policeman or armored car service holding a license granted under the provisions of this Act shall make a false report or account to his/her employer.

SECTION 70. **Notice of Employee's Status Change.** Within three (3) days of the termination of employment of an employee of a licensee, notice of the termination shall be given by the licensee in writing to the Police Chief. Failure to comply with this Section shall result in revocation of a license issued under this Merchant Police Act.

SECTION 71. **Uniforms.** No licensee regulated by this Merchant Police Act, who is not a member of the Police or Fire Department, shall wear a uniform, a cap, badge or buttons in use by the members of the City, County, or State Police or Fire Departments. A person providing a service regulated by this Act shall use no distinctive uniform, cap, badge, or buttons to be worn by a person or his/her employee until the form, design, and color have been submitted to and approved by the Regulatory License Administrator.

DETECTIVE BUSINESS

SECTION 72. **Title.** This Ordinance shall be referred to and may be cited as the "Detective Business Act."

SECTION 73. **Definitions.** For the purposes of this Ordinance, the following shall mean:

Detective Agency. A person engaged in the detective business for hire, who employs one or more persons as employees, assistants, clerks, bookkeepers or operatives in his business. Persons engaged in the detective business whose employees, other than office employees, who are in uniform shall not be classified as a detective agency.

Private Detective. Means a person engaged in the detective business for hire who does not employ or use any employees, assistants, clerks, bookkeepers or other operatives.

Exemptions. The following persons are exempted from this Detective Business Act.

(1) An officer of the police force of the United States, the State of Oregon, or any county, city, or other municipal organization, appointed or elected by due authority of law, insofar as their activity in such official capacities are concerned only.

(2) A person employed by a police force or police department of the United States, the State of Oregon, a county, city, or other municipal corporation while engaged in the performance of his official duty.

(3) A United States Attorney or Assistant Attorney, an Attorney General or Assistant Attorney General, the United States Attorney General or any State Attorney General, any City Attorney, any District Attorney, or their deputies or assistants, while engaged in the employee of the United States Attorney or Assistant Attorney, an Attorney General or Assistant Attorney General, the United States Attorney General or any State Attorney General, any City Attorney, or any District Attorney, of their official duties.

(4) An association or corporation organized solely for patriotic purposes and not for pecuniary profit.

Detective Business. Means the making for hire of an investigation or investigations to obtain information with reference to any of the following matters:

- (a) Crimes against any wrongs done or threatened.
- (b) The habits, conduct, movements, associates, transactions, reputation or character of persons.
- (c) The credibility of witnesses or other persons.
- (d) The location or recovery of lost or stolen property.
- (e) The securing of evidence to be used before authorized investigating committees, boards, commissions, courts, boards of arbitration, or in the trial of civil or criminal cases, next

to the cause of origin or responsibility for fires, accidents or injury to real or personal properties, strikes, or other matters for which a person desires investigation be made by hire.

SECTION 74. License Required. No person shall operate as a detective business without first obtaining a license from the Regulatory License Administrator.

SECTION 75. Applications for License; Fingerprints and Photograph.

Application for a license shall be made pursuant to this Ordinance and shall include:

- A. The full name, age, residence, present and previous occupations of the application.
- B. Whether the person signing the application is a citizen of the United States.
- C. A specific description of the location of the principal place of business of the applicant.
- D. The number of years of experience the applicant has had in the field for which the application is made.
- E. The length of time the applicant has been a resident of the State immediately preceding the filing of the application.
- F. References from five (5) U. S. citizens of Umatilla County.
- G. A full set of fingerprints and a recent photograph.
- H. Other information the Police Chief may find necessary to effectuate the general purpose of this Act and to make a fair determination of whether the terms of this Detective Business Act have been complied with.

SECTION 76. Insurance Required.

A. The applicant for a Detective Business license shall submit proof of operations and personal injury liability insurance coverage in the amount of \$100,000 to any one claimant for all claims arising out of a single accident occurrence or \$500,000 bodily injury per occurrence and \$50,000 property damage. The proof of insurance coverage required by this Section may be satisfied by evidence that the applicant is an additional insured on an existing policy providing the coverage in the required amounts, and which names the City as an additional co-insured. In no case shall this insurance be less than the City's maximum exposure under the Oregon Tort Claims Act as it now exists or may subsequently be amended. A copy of each insurance policy, or certificate thereof issued by a responsible and solvent insurance corporation or association authorized to issue such policy or policies under the laws of the State of Oregon shall be delivered to the City within a reasonable period of time after the same is issued by the company or companies or associations issuing such policy or policies. All said policies or certificates shall provide for a minimum of thirty (30) days notice to the City in the event of cancellation or material change in the terms.

B. The Regulatory License Administrator shall suspend any license when the insurance required herein has lapsed or for any reason is no longer in full force and effect.

SECTION 77. Criteria for Issuance of License. In addition to conforming to the requirements of this Ordinance, a license shall not be issued if:

- A. The applicant has been convicted of any felony or a misdemeanor involving moral turpitude.
- B. The applicant is not a citizen of the United States.

SECTION 78. Criteria Applicable to Detective Employees.

A. The employees of a person having or applying for a license shall be subject to the criteria of this Ordinance and to all regulations of this Detective Business Act.

B. Each employee other than clerical or sales personnel of a detective agency shall, before beginning his/her duties, apply to the Police Chief for a permit subject to the criteria listed in this Ordinance and upon the approval of the Police Chief, the Police Chief shall issue such applicant an identification card including the following information:

- (1) A front view picture of the applicant.
- (2) The right thumb print of the applicant.
- (3) The name, weight, height, age, color of hair and color of eyes of the applicant.
- (4) The name of the employer.
- (5) The signature of the applicant in his/her own handwriting.

(Section 78 as amended by Ordinance No. 3934, passed March 5, 2019.)

SECTION 79. Promulgation of Regulations. The Police Chief may enact an enforce reasonable rules and regulations for the operation of a detective agency in the interest of the public safety, morals, and welfare, and to effectuate the general purpose of this Detective Business Act.

No member of a detective agency may carry any firearm, concealable, or otherwise, unless granted written permission from the City's Police Chief, based upon reasonable rules and regulations adopted in writing by the Police Chief prior to the detective agency application, and who has in all other ways complied with the applicable laws for the carrying of firearms.

Any member of a detective agency denied written permission from the City's Police Chief to carry a firearm based on the Chief's interpretation of the written rules and regulations may appeal the Police Chief decision pursuant to this Ordinance.

No detective agency holding a license granted under the provision of this Act shall possess any firearm, pistol, gun, revolver, rifle, or other firearm, without the express written permission of the City's Police Chief. Firearm means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless powder and which is readily capable of use as a weapon, and includes pistol, revolver, firearms capable of being concealed upon the person, and machine gun.

No detective agency holding a license granted under the provision of this Act shall carry a dangerous weapon. Dangerous weapon shall include those well known meanings and those definitions as applied under Oregon law including dagger, dirk, dangerous knife, razor, stiletto, blackjack, slingshot, billy, sandclub, sandbag, metal knuckles, nunchaku sticks, bomb or bombshell.

However, every detective agency holding a license granted under the provision of this Act shall be required to divulge to the Police Chief of the City a complete list of clients of the detective agency holding the license granted under the provisions of this Act within the City limits of the City and shall provide a current update of this list at least once every calendar quarter.

SECTION 80. **Information and False Reports.** No detective agency holding a license granted under the provisions of this Detective Business Act shall divulge to anyone other than his/her employer or as required by law any information obtained in the employer's service. No detective agency holding a license granted under the provisions of this Detective Business Act shall make a false report or account to his/her employer.

SECTION 81. **Notice of Employee's Status Change.** Within three (3) days of the termination of employment of an employee of a licensee, notice of the termination shall be given by the licensee in writing to the Regulatory License Administrator. Failure to comply with this Section shall result in revocation of a license issued under this Detective Business Act.

SECTION 82. **Uniforms.** No licensee regulated by this Detective Business Act, who is not a member of the Police or Fire Department, shall wear a uniform, a cap, badge or buttons in use by the members of the City, County, or State Police or Fire Departments. A person providing a service regulated by this Act shall use no distinctive uniform, cap, badge, or buttons to be worn by a person or his/her employee until the form, design, and color have been submitted to and approved by the Regulatory License Administrator.

PAWNBROKERS

SECTION 83. **Definition.** For the purposes of this Ordinance, "pawnbroker" shall be defined as provided by ORS 726.010.

SECTION 84. **License Required; Fee.** There shall be no fee for this license other than the general business license fee required under this Act. No person shall engage in a business as a pawnbroker without first obtaining a pawnbroker's license.

SECTION 85. **State License Required.** No person shall be issued a pawnbroker's license 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 this Ordinance.

SECTION 86. **Records of Articles Received.**

A. A pawnbroker shall keep a record, legibly handwritten in ink or typewritten, which shall contain:

- (1) A description of all goods, articles or things purchased, pawned, pledged or received.
- (2) The amount of money pledged, advanced or paid.

(3) The day of pawning, pledging or receiving the goods, articles or things.

(4) The name and residence, with the street and number, if any, of the person pawning, pledging, selling or delivering the goods, articles or things.

B. Any 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 times to inspection by the City Police, the State Police, the Sheriff's Office and the various other law enforcement officers of the County.

C. 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 provided by the Police Department as the Police Chief may direct. The description of an article shall be as required by the form. The pawnbroker shall fill in the blank spaces on the form with all data requested by the form.

ANTIQUÉ DEALERS, PRECIOUS METAL AND GEM DEALERS, SCRAP METAL DEALERS, AND SECONDHAND DEALERS

SECTION 87. Definitions. As used in this Ordinance, unless the context otherwise requires:

Antique Dealer. Any person, engaged in, conducting, managing, or carrying on the business of purchasing antiques, from any person, not representing a bona fide licensed business, who appears with such article at the dealer's place of business.

Antique. Any item of property, that is possessed or valued because of its character, craft, style, rarity, and association with an earlier period of time, that is purchased from any person in any one day for more than Fifty and No/100 (\$50.00) Dollars by an antique dealer. As herein defined, "antique" does not include vehicles and components.

Person. Means any real person, partnership, association or corporation.

Precious Metal and Gem. Any metal or gem that is valued for its character, rarity, beauty or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires and pearls, and any other such gems, whether as a separate item or in combination as a piece of jewelry; but excluding the following items when being purchased by a bona fide business for investment purposes:

- (1) Gold bullion bars (0.995 fine or better);
- (2) Silver bullion bars (0.995 fine or better);
- (3) All coins, whether actual currency or commemorative, from all countries.

As used in this Section, the term "for investment purposes" means that the business purchases such items and retains them, in the same form as they were purchased, for resale to persons who are purchasing such items primarily as an investment.

Precious Metal and Gem Dealer. Any person, engaged in, conducting, managing or carrying on a business that is required to be licensed for the purpose of purchasing precious metals or gems from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business.

Purchase. To transfer property from a person, not representing a bona fide business, to any dealer regulated by this Ordinance, for any valuable consideration. Purchase does not include a consignment of property for sale.

Scrap Metal. The following used, wornout, or discarded non-ferrous metals: brass, copper, lead, aluminum, titanium, zirconium, tungsten and nickel, and does not include items that contain both ferrous and non-ferrous metals.

Scrap Metal Dealer. Any person, engaged in, conducting, managing or carrying on a business that is required to be licensed for the purpose of purchasing scrap metals from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business.

Secondhand Dealer. Any person, engaged in, conducting, managing or carrying on a business that purchases used:

- (1) television;
- (2) hi-fi, stereo, radios, tape recorders/players;
- (3) amplifiers, video recording equipment and accessories;
- (4) cameras, projectors and accessories;
- (5) tools;
- (6) office equipment including typewriters, calculators, recorders, transcribers and computers;
- (7) guns and equipment;
- (8) sewing machines;
- (9) jewelry;
- (10) clocks and watches;
- (11) silverware;

- (12) air conditioners;
- (13) electronic testing, regulating and repair equipment;
- (14) citizen's band and walkie-talkie equipment;
- (15) microwave ovens;
- (16) telephones;
- (17) and items of a similar nature,

from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business, and required to have a business license.

SECTION 88. Record Forms.

A. All antique dealers, precious metal and gem dealers, scrap metal dealers, and secondhand dealers shall, at the time of purchasing any article in the business for which he is regulated by this Ordinance from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business, place the description of the article purchased upon a form which shall be provided by the Pendleton Police Department. The form provided for herein shall be of such size, shape and color and shall require such information relating to the regulations of this Ordinance, as the Police Chief or his designee may direct. The description of any article so purchased shall be such description as may be called for by the form. The dealer shall fill in all of the blank spaces on such form with such data as is required by the form and require the person selling any article regulated by this Ordinance to sign his name on such form; such form shall be filled out in clearly legible printing. Further, property regulated pursuant to this Ordinance shall only be purchased by the dealer after the seller has presented proper identification. Since the information that is required to be furnished pursuant to this Section to aid in the investigation of the theft of property is of a confidential nature and related to the personal privacy of persons doing business with such dealers, as well as certain trade secrets and practices of such dealers, such information shall be considered to be confidential and privileged from disclosure to the maximum extent possible under applicable laws.

B. The dealer's copy of all such forms shall be retained for a period of not less than one (1) years.

C. Every person regulated by the provisions of this Section shall allow the Police Chief or his designee at the close of each business day to take one (1) copy of such forms describing articles purchased by the person regulated by the provisions of this Section during that business day.

SECTION 89. Property Sales.

A. No property purchased by any antique dealer, precious metal and gem dealer or secondhand dealer, as regulated by this Ordinance, shall be sold for a space of ten (10) full days after purchase. Such property shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during this ten (10) day holding period.

B. Whenever the Police Chief, or his designee, upon reasonable belief that the specific property is the subject of theft, notifies in writing, any antique dealer, precious metal and gem dealer, scrap metal dealer or secondhand dealer not to dispose of any specifically described property purchased, the property shall be retained in substantially the same form and shall not be sold, exchanged, dismantled, or otherwise disposed of for a period of time, not to exceed thirty (30) days, as determined by the Police Chief or his designee.

SECTION 90. Articles to be Tagged. Any antique dealer, precious metal and gem dealer, or secondhand dealer purchasing any article in the business for which he is regulated by this Ordinance from any person, not representing a bona fide, licensed business, who appears with such article at the dealer's place of business, shall affix to the article a tag upon which shall be written a number in legible characters, which number shall correspond to the number on the record forms required to be kept.

SECTION 91. Inspection of Articles and Records. All persons licensed to do business as an antique dealer, precious metal and gem dealer, scrap metal dealer or secondhand dealer, and any person employed by such dealer, shall permit the Police Chief, or his designee, upon presentation of official identification, entry to such business premises for the limited purpose of inspecting any articles purchased in the business as regulated by this Ordinance and currently being held pursuant to and/or the records incident thereto, to ensure compliance with the provisions of this Ordinance. Any such inspection shall only be authorized during normal business hours.

SECTION 92. License Required; Fee. There shall be no fee for this license other than the general business license fee required under this Regulatory License Act. No person shall engage in a business as an antique dealer, precious metal and gem dealer, scrap metal dealer or secondhand dealer without

first obtaining a license for an antique dealer, precious metal and gem dealer, scrap metal dealer or secondhand dealer.

FALSE ALARMS

SECTION 93. **Title.** The provisions of this Ordinance shall be known as the "Regulation of Automatic Dialing Devices, False Alarms and Emergency Services Alarms Act."

SECTION 94. **Definitions.** For purposes of this Regulation of False Alarms, Dialing Devices, False Alarms and Emergency Services Alarms Act Ordinance, the following definitions apply:

Alarm User. A person or other entity in control of any building, structure, or facility in which an alarm system is maintained.

Ambulance Alarm System. An alarm system activated by an ambulance request.

Automatic Dialing Device. A device which is connected to a telephone line and is programmed to select a predetermined telephone number and transmit by recorded message or code signal a need for emergency response.

Burglary Alarm System. An alarm system that is activated by an entry or attempted entry into the area protected by this system, including silent and audible alarm systems.

Emergency Services Alarm System. Any device intended to signal the occurrence of any and all activity that requires emergency services, and to which police or fire personnel are expected to respond. Emergency Services Alarm Systems include burglary, robbery, fire, and ambulance alarms.

False Alarms. Any and all use(s), or attempt to use, an emergency services alarm system to request emergency services where no emergency services are needed at the time the emergency services alarm is requested or activated. False alarms include mechanical, electronic, and human error. False alarms include intentional, knowing, or reckless use or attempted use of an emergency services alarm as well as accidental or unintentional use of an emergency services alarm.

Fire Alarm System. An alarm system that is activated for a fire in or near the area protected by the system, including silent and audible alarms.

Government Political Unit. Any federal, state, or local government agency.

Interconnect. To connect an alarm system including an automatic dialing device to a telephone line for the purpose of using the telephone line to transmit a message or the activation of the alarm system.

Robbery Alarm System. An alarm system that is activated by the alarm user, or other person being protected by the alarm system, to signal an entry or a robbery or attempted robbery.

SECTION 95. **Alarm System Permit Required; Application Process; Confidentiality.**

A. Alarm System Permits Required. A permit shall be obtained from the Police Department for the use of any and all emergency services alarm system(s). All alarm systems shall require separate permits. Each permit shall be valid for a period of one (1) calendar year.

B. Application for Permit; Confidentiality.

(1) An applicant for a permit shall submit the application to the Police Department. The application shall include the following information:

(a) The street address and telephone number of the location where the alarm system is to be used.

(b) The name, address, and telephone number of the alarm user.

(c) The address to which notices should be mailed.

(d) Whether the alarm is a burglary alarm, robbery alarm, fire alarm, ambulance alarm, or other type alarm; and, whether the alarm or alarms are audible, silent, or both.

(e) If the alarm is audible, whether it is designed to automatically reset after a certain number of minutes, and if so, the period of time it is designed to function before automatically resetting.

(f) If applicable, the on premise location of the alarm system central control panel.

(g) If the alarm activates, whether the police will be contacted by an alarm company (state its name and a 24-hour telephone number), or someone else.

(h) In the order of their priority, the name, address, and telephone number of at least three (3) persons, including the alarm user, who can be contacted in the event of an alarm to assist the Police or Fire Department in turning off the alarm or investigating any suspected criminal activity.

(i) If applicable, the type of business at the alarm system location.

(j) If applicable, the type of residence, such as house, condominium, apartment, or other, at the alarm system location, and the names of persons normally residing at the residence.

(k) The breed of any dog an officer might encounter at the alarm system location while responding to an alarm, and the name the dog will respond to.

(l) The alarm user's date of birth.

(2) All information provided on the application shall be held in the strictest confidence and shall be deemed a public record exempt from disclosure pursuant to state statute.

SECTION 96. False Alarms.

A. Whenever an alarm system is activated and after the Police or Fire Department responds, police personnel shall inspect the area protected by the system and shall determine whether the alarm is a false alarm.

B. If eight (8) or more false alarms occur within the twelve (12) month period from February 1 through January 1, the Police Chief or designee shall have the right upon each subsequent occurrence to either:

(1) inspect the alarm system following written notification; or

(2) require an inspection of the alarm system by an alarm technician. The purpose of the inspection shall be to determine whether the alarm system, or the use thereof, is likely to cause additional false alarms. If an inspection by a technician is required, then within fifteen (15) days following the notice to the alarm user of the need for an inspection, the technician shall file a report with the City stating findings made and any corrective measures taken, planned or recommended. Any expense incurred by either the city or the alarm user in hiring a technician shall be the responsibility of the alarm user.

C. Discontinuance. Failure to pay the assessment, fine or penalty provided in this Act, within thirty (30) days of the date of billing, shall be cause for discontinuing the automatic alarm protection. Such protection shall not be discontinued until ten (10) days written notice of discontinuance has been forwarded to the address affected business or residence.

(Section 96 as amended by Ordinance No. 3934, passed March 5, 2019.)

SECTION 97. Right to Appeal.

A. Any alarm user who has been notified of a false alarm, or assessed a false alarm fine may, within two (2) weeks after being notified that an alarm was determined to be a false alarm, appeal to the City Manager by giving written notice to the City Manager and, if applicable, posting a bond equal to the amount of the fine.

B. The alarm user shall be given reasonable notice of the hearing. Failure of the alarm user to appear at the hearing shall, if applicable, result in (1) the forfeiture of the appeal bond, and (2) application of the forfeiture toward the false alarm fine.

C. The City Manager or his/her designee shall serve as the hearing officer. The burden of proof shall be upon the alarm user to show by a preponderance of the evidence that the alarm signal in question was not a false alarm.

D. After receipt of all relevant evidence, the hearing officer shall render a decision within one (1) week. If the hearing officer determines that the alarm user:

(1) Has met the burden of proof, then the hearing officer shall order the appeal bond released to the alarm user and rescind the false alarm determination; or

(2) Has not met the burden of proof, then the hearing officer shall enter the alarm as a false alarm and, if applicable, order the appeal bond forfeited and applied toward the fines assessed by the City.

SECTION 98. Government Political Unit Fees and Fines Exception.

An alarm user who is a governmental political unit shall be required to obtain a permit, and if applicable pay all fines.

SECTION 99. Alarm Termination.

A. If a Police or Fire Officer responds to an audible alarm and the alarm system continues to transmit an audible signal for fifteen (15) minutes after:

(1) a responsible party or designated person has been requested to stop the alarm from sounding; or

(2) no responsible party or designated person is available to respond,

then the officer may disable the alarm and secure the premises.

B. Neither the City nor its employees shall be held responsible for damages resulting from:

(1) disabling an alarm; or

- (2) securing the premises; or
- (3) failing to disable an alarm; or
- (4) failing to secure the premises.

SECTION 100. Automatic Dialing Device; Certain Interconnections Prohibited.

A. It is unlawful for any person to program an automatic dialing device to select a telephone line, including a 9-1-1 prefix, that directly solicits a police or fire response; and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device that is in violation of this Ordinance after receiving written or oral notification that it is so programmed.

B. It is unlawful for any person to program an automatic dialing device to select a primary trunk line and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line after receiving written or oral notice that it is so programmed.

C. Within sixty (60) days of the effective date of this Ordinance, all existing, automatic dialing devices programmed to select a primary trunk line will be reprogrammed or disconnected if such device is located within the corporate limits of the City of Pendleton.

D. It is unlawful for any person to program an automatic dialing device to select any emergency telephone line assigned to the City Emergency Communications Center or City Police Department, or City Fire Department of the City of Pendleton. It is unlawful for an alarm user to fail to disconnect or reprogram after receiving written or oral notice of an automatic dialing device which is programmed to select an emergency telephone line assigned to the City Emergency Communications Center, or City Police Department or City Fire Department.

PENALTIES AND ENFORCEMENT

SECTION 101. Penalties.

A. A violation of a provision of this Ordinance shall be punishable by a fine not to exceed One Thousand and No/100 (\$1,000.00) Dollars.

B. Every full business day during which a business activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.

C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.

SECTION 102. Confiscation. Any device operated, kept or maintained in violation of this Ordinance shall be confiscated by the City and, upon conviction, shall be disposed of as provided by applicable State law or City ordinance.

SECTION 103. Evidence of Doing Business. In a prosecution for a violation of this Ordinance, evidence that the defendant made a public representation, by way of newspaper, radio, television or similar media advertisement or by signs conspicuously displayed for public view, that the business was being conducted, expressly or impliedly offering to sell goods or services in the course of the business to the public, shall constitute prima facie evidence that the defendant was transacting the business suggested by the public representation within the City on the date or dates during which the representations were made.

SECTION 104. Additional Remedies.

A. In addition to the penalties provided in this Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a tax or fee due under this Ordinance and enforce collection of the judgment by execution.

B. The City may seek an injunction to prohibit a person from engaging in a business without complying with this Ordinance.

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

SECTION 105. Severability. The Sections of this Ordinance are severable. The invalidity of a Section or part of a Section of this Ordinance shall not affect the validity of the remaining Sections or parts of Sections.

SECTION 106. The fees and charges herein are classified as not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution.

SECTION 107. Within fifteen (15) days of the adoption of this Ordinance, the City Manager shall cause to be published in a newspaper of general circulation within the City, a notice of adoption of this Ordinance classifying fees and charges. The notice shall:

- A. Appear in the general news section of the newspaper, not in the classified advertisements;
- B. Measure at least three (3) square inches.
- C. Be printed in a type size at least equal to 8-point type; and
- D. State that the City has adopted an ordinance classifying taxes, fees and charges as not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution, that the reader may contact a designated City official to obtain a copy of the Ordinance, that judicial review of the classification may be sought within sixty (60) days of the date the Ordinance was adopted, and if no such review is sought within the time specified, no subsequent challenges to the classifications will be permitted.

SECTION 108. Effective Date. This Ordinance shall become effective after June 30, 1992.

PASSED and approved June 16, 1992.

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CITY OF PENDLETON, OREGON

REGULATORY LICENSE ACT

ORDINANCE NO. 3472

ADOPTED JUNE 16, 1992

Cost per Copy -- \$5.00