

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: PEDDLERS AND SOLICITORS

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§ 110.01 DEFINITIONS.

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

NONPROFIT ORGANIZATIONS. Any corporation, association, society, or other organization which is organized or associated together on a nonprofit basis and the purpose of such organization or association in its operations is conducted without the intent to produce profit in money, and an officer of such organization or association shall have been approved by the City Recorder.

PEDDLER. Includes any person traveling by any means from place to place, house to house, or street to street offering or exposing goods, wares, merchandise, or services for sale or making sales and delivering articles to purchasers. This term shall not be interpreted to include those persons calling upon business firms either in delivery of goods or soliciting orders for merchandise, goods, or services which are regularly handled or used by the business firms in their regular course of business.

SOLICITOR. Includes any person traveling by any means from place to place, house to house, or street to street taking or attempting to take orders for sale of goods, wares, merchandise, or services for future delivery or to be furnished in the future regardless of the method of payments. This term shall not be interpreted to include those persons calling upon business firms either in delivery of goods or soliciting orders for merchandise, goods, or services which are regularly handled or used by said business firms in their regular course of business.

(Prior Code, § 110.01)

§ 110.02 APPLICATION OF CHAPTER.

This chapter shall not be interpreted to apply to milk, groceries, or other merchandise deliveries or services ordered by a resident or sold by an area merchant and delivered to the purchaser as a service. (Prior Code, § 110.02) (Ord. 8-A, passed 8-3-1960)

§ 110.03 LICENSE REQUIRED.*(A) License, general.*

(1) It shall be unlawful for any person to engage in the business as a peddler or solicitor, as defined in § 110.01, within the corporate limits of the city without first obtaining a license as herein provided.

(2) Except as herein specifically exempted for payment of fees, all persons applying for a license shall pay fees as established by resolution of the City Council. Fees apply for one solicitor from each firm making application with the fee for each additional solicitor in excess of one employed by any firm to be set at one-half of the rates. The City Recorder may waive the payment of the license fee for any applicant who is an honorably discharged, disabled veteran and a resident of this state upon presentation of such applicant's certificate of honorable discharge from the service.

(3) No license fee shall be required of one selling products of the farm or orchard actually produced by the seller, a newspaper carrier soliciting subscriptions, or a nonprofit organization making application on behalf of its members.

(4) All licenses shall run from the date of issuance and shall not be issued for a partial period of time.
(Prior Code, § 110.03)

(B) License application. A licensee, under this chapter, must file with the City Recorder a sworn application in writing on a form to be furnished by the City Recorder which shall give the following information:

(1) The name and description of the applicant. If made on behalf of a nonprofit organization, the name and address of an officer whose residence shall be in the city;

(2) A brief description of the nature of business and the goods or services to be sold. In the case of products of farms or orchards, a statement whether the produce to be sold is grown by the applicant;

(3) Address, both permanent and local, if any; and

(4) If the applicant is employed, the name and address of the employer together with credentials establishing an exact relation. In the case of a nonprofit organization, a photograph of the applicant shall be furnished if so required by the City Recorder.

(Prior Code, § 110.04)

Penalty, see § 10.99

§ 110.04 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of an application, the same shall be referred to the Chief of Police who shall cause an investigation of the applicant's business and moral character to be made as shall be deemed necessary.

(B) The Chief of Police shall, within five days from the date of the application, endorse the application as "satisfactory" or "unsatisfactory," and if the same shall be endorsed "unsatisfactory," the reason for such endorsement shall be set forth thereon. If the application is not returned by the City Recorder within five days, it shall be presumed that the endorsement shall be satisfactory.

(C) Where the application is endorsed "satisfactory" or five days shall have elapsed without the return of the application by the Chief of Police, the City Recorder shall then issue a license card addressed to the applicant for the carrying on of the business applied for. Such license shall contain the signature and seal of the issuing officer and shall show the name, address, kind of goods to be sold or services rendered thereunder, the date of issuance, and the expiration date of the license. The City Recorder shall keep a permanent record of all licenses for a period of two years from the date of issuance.

(D) If the application is returned from the Chief of Police endorsed "unsatisfactory," the City Recorder shall notify the applicant that his or her application has been disapproved and the reasons therefor.

(Prior Code, § 110.05)

§ 110.05 EXHIBITION OF LICENSE.

Peddlers and solicitors are required to exhibit their license cards at the request of any citizen to whom they are endeavoring to make sales or to solicit business.

(Prior Code, § 110.07) Penalty, see § 10.99

§ 110.06 REVOCATION OF LICENSE.

(A) Licenses may be revoked by the City Recorder after notice of hearing for any of the following causes:

- (1) Fraud and misrepresentation or false statement contained in an application for license;

(2) Fraud and misrepresentation or false statement made in the course of carrying on the business as peddler or solicitor;

(3) Any violation of this chapter;

(4) Conviction of any crime or misdemeanor involving moral turpitude; and/or

(5) Conducting any business of peddling or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace or constitute a menace to the health, safety, or general welfare of the public.

(B) Notice of hearing for revocation of a license shall be given in writing setting forth the grounds of the complaint and the time and place for the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for the hearing. (Prior Code, § 110.08)

§ 110.07 NUISANCE ACTIONS AND PROHIBITED ACTIVITIES.

(A) Hawking or otherwise displaying goods on the public streets in the city by public outcry is hereby specifically prohibited. (Prior Code, § 110.02)

(B) No license shall be used at any time by any person other than the one to whom it is issued. (Prior Code, § 110.06)

(C) (1) The practice of going in and upon private residences in the city by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, books, or periodicals not having been requested or invited to do so by the owner or occupant of the private residence for the purpose of soliciting orders for the sale of goods, wares, merchandise, books, or periodicals and/or for the purpose of disposing of and/or peddling or hawking the same is hereby declared to be a nuisance and punishable as a nuisance.

(2) The Chief of Police and/or any of the police officers of the city are hereby required and directed to suppress the same and to abate any such nuisance as described in division (C)(1) above. (Prior Code, § 110.09)
(Ord. 1-A, passed 2-4-1959; Ord. 8-A, passed 8-3-1960) Penalty, see § 10.99

§ 110.08 ENFORCEMENT.

It shall be the duty of any police officer of the city to require any person seen peddling or soliciting and who is not known by such officer to be duly licensed to produce his or her license card and to enforce the provisions of this chapter against any person found to be violating the same. (Prior Code, § 110.10)

§ 110.09 APPEAL.

Any person aggrieved by the action of the Chief of Police or the City Recorder in denial or revocation of his or her license shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the City Council, within 15 days after notice of the action complained of has been mailed to such person's last known address, a written statement fully setting forth the grounds for the appeal. The City Council shall set a time and place for the hearing of such appeal, and notice of such hearing shall be given to the appellant in the same manner as notice of revocation. The decision and order of the City Council on such appeal shall be final and conclusive.

(Prior Code, § 110.11)

CHAPTER 111: ENTERTAINMENT

Section

Social Games and Bingo

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- 111.02 Gambling prohibited
- 111.03 Social games authorized
- 111.04 Permit required for social games
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SOCIAL GAMES AND BINGO

§ 111.01 DEFINITIONS.

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

CHARITABLE, FRATERNAL, OR RELIGIOUS ORGANIZATION. Any person or organization organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes and who is also exempt from payment of federal income taxes because of its charitable, fraternal, or religious purposes.

GAMBLING. Any contest, game, gaming scheme, gaming device, or machine played for anything of value in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of contestants may also be a factor therein. ***GAMBLING*** does not include social games or bingo.

SOCIAL GAMES. A game other than a lottery between players in a private home, business, or club or place of public accommodation where no house player, house bank, or house odds exist, and there is no house income from the operation of the ***SOCIAL GAME***.

(Prior Code, § 111.01)

§ 111.02 GAMBLING PROHIBITED.

No person shall participate in, operate, or assist in operating any gambling game or activity.
(Prior Code, § 111.02) Penalty, see § 10.99

§ 111.03 SOCIAL GAMES AUTHORIZED.

A social game between players in a private business, private club, or place of public accommodation is authorized where the following conditions are met.

(A) No house player, house bank, or house odds exist.

(B) There is no house income from the operation of the social game. **HOUSE INCOME** is defined to include any income from acts which would constitute the promotion of gambling under O.R.S. 167.117.

(C) The game cannot be easily seen from a street or sidewalk.

(D) Persons under 18 years of age are not permitted in the room or enclosure where the social game takes place.

(E) A valid permit issued pursuant to this subchapter is displayed in the room or enclosure where the social game takes place.

(F) The room or enclosure where the social game takes place is open to free and immediate access to any police officer or interested party. Doors leading into the social game room must remain unlocked during all hours of operation. Operations are to cease at 2:00 a.m.

(Prior Code, § 111.03)

Statutory reference:

Related provisions, see O.R.S. 167.117

§ 111.04 PERMIT REQUIRED FOR SOCIAL GAMES.

The owner or operator of any private business, private club, or place of public accommodation where a social game, as defined in § 111.01 of this subchapter, takes place shall obtain and keep on display in the premises a social game permit. The annual fee for a social game permit is \$100. A social game permit is not subject to transfer or assignment, and it is not valid at any location other than the premises described in the permit.

(A) Each permit shall be dated as of the first day of the month in which it was issued and shall expire one year from that date.

(B) Application for permit shall be made to the City Recorder. It shall be acted upon by the City Council after all fees and written application have been received.

(C) After acceptance of the application, the City Council shall instruct the City Recorder to issue the permit.

(Prior Code, § 111.04)

§ 111.05 BINGO AUTHORIZED.

A bingo game between players in a charitable, fraternal, or religious organization is authorized where the following conditions have been met.

(A) No person other than the organization or a player profits in any manner from the operation of the game.

(B) The organization has notified the Corporation Commissioner of its proposed operation.

(C) The organization has provided the Corporation Commissioner with a certified copy of its exemption from federal income taxes as a charitable, fraternal, or religious organization.

(Prior Code, § 111.05) (Ord. 10-B, passed 9-7-1977)

§ 111.06 APPEAL.

In the event an applicant for a license under this subchapter is denied such license by the City Council, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within 15 days after the denial of the license. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than ten days after the filing of the notice of appeal. The decision of the City Council on such appeal shall be final and conclusive.

(Prior Code, § 111.06)

CHAPTER 112: LODGING AND TRANSIENT FACILITY TAX

Section

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§ 112.01 DEFINITIONS.

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

LODGING FACILITY. Any structure, or any portion of any structure, which is occupied or intended or designed for short-term occupancy for dwelling, lodging, or sleeping purposes and includes any hotel, motel, inn, condominium, house, cabin, apartment, public or private dormitory, fraternity, sorority, public or private club, space in a mobile home or trailer park, tent camping locations, or similar structures or spaces or portions thereof so occupied; provided, such occupancy is for less than a 30- day period.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a lodging facility for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a ***TRANSIENT*** checks out of lodging facility shall not be included in determining the 30-day period if the ***TRANSIENT*** is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a ***TRANSIENT*** until the 30 days have expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

LODGING INTERMEDIARY. A person other than a lodging provider that facilitates the retail sale of lodging and:

- (1) Charges for occupancy of the lodging facility;
- (2) Collects the consideration charged for occupancy of the lodging; or
- (3) Receives a fee or commission and requires the lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the lodging.

OPERATOR. A person who furnishes lodging.
(Prior Code, § 112.01) (Ord. 04-03, passed 4-7-2004; Ord. 2019-03, passed 4-3-2019)

§ 112.02 TAX IMPOSED.

(A) For the privilege of occupancy in any lodging, each occupant shall pay a tax in the amount of 5% of the total retail price, including all charges other than taxes, paid by a person for occupancy of the lodging.

(B) The total retail price paid by a person for occupancy of a lodging facility that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the lodging tax collector's business.

(C) The tax constitutes a debt owed by the occupant to the city, which is extinguished only by payment to the lodging tax collector. The occupant shall pay the tax to the lodging tax collector at the time the rent is paid.

(D) The lodging tax collector shall enter the tax on her or his records when rent is collected. If rent is paid in installments, a proportionate share of the tax shall be paid by the occupant to the lodging tax collector with each installment. If, for any reason, the tax due is not paid to the lodging tax collector, the Tax Administrator may require that such tax shall be paid directly to the city.

(E) 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 spaces in mobile home parks or trailer parks.

(Prior Code, § 112.02) (Ord. 04-03, passed 4-7-2004; Ord. 2019-03, passed 4-3-2019)

§ 112.03 LIMITATIONS ON CITY FUND USE.

(A) A minimum of 70% of net revenue received by the city from the local lodging tax shall be used for the purpose of funding tourism promotion or tourism-related facilities.

(B) No more than 30% of net revenues from the local lodging tax may be used to fund city services or finance or refinance debt of tourism-related facilities or administrative costs incurred in such financing or refinancing.

(Prior Code, § 112.03) (Ord. 04-03, passed 4-7-2004)

§ 112.04 COLLECTION OF TAX BY OPERATOR; RULES FOR COLLECTION.

(A) The lodging provider or lodging intermediary that collects the consideration charged for occupancy of a lodging facility, or a lodging intermediary as described in § 112.01, as applicable, is responsible for collecting any lodging tax and shall file a return of the tax with the City Recorder, or with any Tax Administrator identified by the city, reporting the amount of tax due during the reporting period to which the return relates.

(B) Every lodging tax collector renting rooms in the city, whether publicly or privately owned, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupant. The tax collected or accrued by the lodging tax collector constitutes a debt owing by the lodging tax collector to the city.

(C) In all cases of credit or deferred payment of rent, the payment of tax to the lodging tax collector may be deferred until the rent is paid; and the lodging tax collector shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible rents and lodging taxes.

(D) The City Administrator shall enforce the provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent herewith, as may be necessary to aid in the enforcement.

(E) For rent collected on portions of a dollar, the first one-third of tax shall be collected on \$0.25 through \$0.49, inclusive; the second one-third of tax shall be collected on \$0.50 through \$0.74, inclusive; and the third one-third of tax shall be collected on \$0.75 to \$1.

(Prior Code, § 112.04) (Ord. 04-03, passed 4-7-2004; Ord. 2019-03, passed 4-3-2019)

§ 112.05 REGISTRATION AND CERTIFICATE.

(A) Every person engaging or about to engage in business as an operator of a lodging facility in the city shall register with the City Recorder on a form provided by the City Recorder. Operators engaged in business at the time this chapter is adopted must register not later than 20 calendar days after passage of this chapter. Operators starting business after this chapter is adopted must register within 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.

(B) Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his or her place or places of business, and such other information to facilitate

the collection of the tax as the City Recorder may require. The registration shall be signed by the operator.

(C) Within ten days after registration, the City Recorder shall issue, without charge, a certificate of authority to each registrant to collect the tax from the occupant together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the City Recorder upon the cessation of business at the location named or upon its sale or transfer.

(D) 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 readily come to the notice 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 lodging facility;
- (3) The date upon which the certificate was issued; and
- (4) The following statement:

This TRANSIENT OCCUPANCY REGISTRATION CERTIFICATE signifies that the person named on the face hereof has fulfilled the requirements of the TRANSIENT LODGINGS TAX ORDINANCE OF THE CITY OF CONDON OREGON by registration with the City Recorder for the purpose of collecting from transients the lodgings tax imposed by said City and remitting said tax to the City Recorder. 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 lodging facility without strictly complying with all local applicable laws including but not limited to those requiring a permit from any board, commission, department, or office of the City. This certificate does not constitute a permit.

(Prior Code, § 112.07) (Ord. 04-03, passed 4-7-2004; Ord. 2019-03, passed 4-3-2019)

§ 112.06 RETURNS AND PAYMENT.

(A) The tax imposed by this chapter 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 City Recorder on a quarterly basis on the fifteenth day of the following month for the preceding three months and are delinquent on the last day of the month in which they are due. The City Recorder has authority to classify the operators for determination of applicable tax periods and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.

(B) On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the City Recorder. The return shall be filed, in such form as the City Recorder may prescribe, by every operator liable for payment of tax.

(C) Returns shall show the amount of tax collected or otherwise due for the related period. The City Recorder may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of the operator for such period, an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

(D) The person required to file the return shall deliver the return together with the remittance of the amount of the tax due to the City Recorder at the City Recorder's office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(E) For good cause, the City Recorder may extend the time, not to exceed one month, 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 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 chapter.

(F) The City Recorder may require returns and payment of the amount of taxes for other than quarterly periods, if the City Recorder deems it necessary, in order to ensure payment or facilitate collection by the city of the amount of taxes in any individual case.

(Prior Code, § 112.08) (Ord. 04-03, passed 4-7-2004)

§ 112.07 DELINQUENCY, FRAUD, DEFICIENCY, AND THE LIKE.

(A) *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 chapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of 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 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(3) *Fraud.* If the City Recorder determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in divisions (A)(1) and (A)(2) above.

(4) *Interest.* In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 0.5% per month or fraction thereof without proration for portions of a month on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(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.
(Prior Code, § 112.09)

(B) *Determinations.*

(1) *Deficiency determinations.* If the City Recorder determines that the returns are incorrect, the City Recorder 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 the City Recorder's possession or that may come into the City Recorder's possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount determined shall be due and payable immediately upon service of notice, as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in § 112.06.

(a) In making a determination, the City Recorder may offset any overpayments, 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 underpayment. The interest on underpayment shall be computed in the manner set forth in § 112.06.

(b) The City Recorder shall give to the operator or occupant a written notice of the City Recorder's determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his or her address as it appears on the records of the City Recorder. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud or intent to evade this chapter 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 quarterly period for which the amount 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 City Recorder 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 chapter, any report and remittance of said tax or any portion thereof required by this chapter or make a fraudulent return or otherwise willfully attempt to evade this chapter, the City Recorder shall proceed in such manner as the City Recorder may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the City Recorder has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, the City Recorder shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter. In case such determination is made, the City Recorder 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 City Recorder 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 City Recorder has given notice thereof; provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) *Operator delay.* If the City Recorder 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, the City Recorder 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 such determination to the City Recorder after service of notice thereof; provided, however, that 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 the date of service of notice by the City Recorder.

(Prior Code, § 112.10)

(Ord. 04-03, passed 4-7-2004)

§ 112.08 REDETERMINATIONS.

(A) Any person against whom a determination is made under § 112.07, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in § 112.07. If a petition for redetermination and refund is not filed within the time required in § 112.07, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination and refund is filed within the allowable period, the City Recorder shall reconsider the determination and, if the person has so requested in his or her petition, grant the person an oral hearing and give him or her ten days notice of the time and place of the hearing. The City Recorder may continue the hearing from time to time as may be necessary.

(C) The City Recorder may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, such increase shall be payable immediately after the hearing.

(D) The order or decision of the City Recorder, upon a petition for the redetermination of redemption and refund, becomes final ten days after service upon the petitioner of notice thereof unless

appeal of such order or decision is filed with the City Council within ten days after service of such notice.

(E) 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.
(Prior Code, § 112.11) (Ord. 04-03, passed 4-7-2004)

§ 112.09 SECURITY FOR TAX COLLECTION.

(A) The City Recorder, whenever the City Recorder deems it necessary to insure compliance with this chapter, may require any operator subject thereto to deposit with the City Recorder such security in the form of cash, bond, or other security as the City Recorder may determine. The amount of the security shall be fixed by the City Recorder but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he or she files returns, determined in such manner as the City Recorder deems proper, or \$5,000, whichever amount is lesser. The amount of the security may be increased or decreased by the City Recorder subject to the limitations herein provided.

(B) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the City Recorder 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.
(Prior Code, § 112.12) (Ord. 04-03, passed 4-7-2004)

§ 112.10 REFUNDS.

(A) *Refunds by the city to operator.* Whenever the amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the City Recorder under this chapter, 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 City Recorder within three years from the date of payment. The claim shall be made on forms provided by the City Recorder. If the claim is approved by the City Recorder, 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 such operator or his or her administrators, executors, or assignees.

(B) *Refunds by city to transient.* Whenever the tax required by this chapter has been collected by the operator and deposited by the operator with the City Recorder and it is later determined that the tax was erroneously or illegally collected or received by the City Recorder, it may be refunded by the City Recorder to the transient provided a verified claim in writing therefor stating the specific reason on which the claim is founded is filed with the City Recorder within three years from the date of payment.

(C) *Refunds by operator to tenant.* Whenever the tax required by this chapter has been collected by the operator and it is later determined that the tenant occupies the lodging facility for a period exceeding 45 days without interruption, the operator shall refund to such tenant the tax previously collected by the

operator from that tenant as a transient. The operator shall account for such collection and refund by the City Recorder. If the operator has remitted the tax prior to refund or credit to the tenant, he or she shall be entitled to a corresponding refund under this section.

(Prior Code, § 112.13) (Ord. 04-03, passed 4-7-2004; Ord. 2019-03, passed 4-3-2019)

§ 112.11 ADMINISTRATION.

(A) *Records required from operators.* 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.

(B) *Examination of records; investigations.* The City Recorder or any person authorized in writing by the City Recorder 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 the City Recorder or person authorized, as specified herein, 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.

(C) *Confidential character of information obtained; disclosure unlawful.* It shall be unlawful for the City Recorder or any person having an administrative or clerical duty under the provisions of this section to make known, in any manner: 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; 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, application, or copy of either or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided, nothing in this division shall be construed to prevent:

(1) The disclosure to or the examination of records and equipment to another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter or collecting taxes imposed hereunder;

(2) The disclosure, after the filing of a written request to that effect, to the taxpayer himself or herself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, unpaid tax, or amount of tax required to be collected or interest and penalties provided, however, that the City Attorney approves each such disclosure and that the City Recorder may refuse to make any disclosure referred to in this division (C) when, in his or her opinion, the public interest would suffer thereby;

(3) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued; or

(4) The disclosure of general statistics regarding taxes collected or business done in the city.
(Prior Code, § 112.14) (Ord. 04-03, passed 4-7-2004)

§ 112.12 APPEALS FROM CITY RECORDER DETERMINATION.

(A) The City Council is hereby designated as a committee to hear and determine appeals of orders or decisions of the City Recorder made upon petitions for redetermination of tax or other pertinent matters for which the City Recorder is herein designated or directed to perform. The City Council, in such capacity, shall act as a committee to hear and determine such appeals and may affirm, modify, or reverse such orders or decisions or dismiss the appeals therefrom as may be just and shall prescribe such forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the City Recorder's decision or order, the City Council committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of notice of the City Recorder's decision and shall file a copy of each such determination with the City Recorder with certification thereon of the date of service thereof. Such determinations shall become final ten days thereafter and shall thereupon become due and payable, subject to interest and penalties, and enforceable by the City Recorder in like manner as an order or decision of the City Recorder.

(B) The City Council, sitting as a committee as herein above provided, shall have the authority:

(1) To approve, modify, or disapprove all forms, rules, and regulations prescribed by the City Recorder in the administration and enforcement of this chapter;

(2) To hear and determine, in such manner as shall be just, any protest which may be made by any person who may be interested in any form, rule, or regulation;

(3) To grant, for good cause, applications for extensions of time in excess of one month for making any return or payment of tax and to prescribe rules therefor; and

(4) To make such investigations as it deems advisable regarding the imposition and administration of the transient lodgings tax and to propose the adoption, amendment, or repeal of legislation pertaining thereto. With respect to this function, the City Council may appoint a separate committee not composed of City Council members to advise and report such finding and recommendations to the City Council.

(Prior Code, § 112.15) (Ord. 04-03, passed 4-7-2004)

§ 112.13 APPEAL TO CITY COUNCIL.

Any person aggrieved by any decision of the City Recorder may appeal to the City Council by filing a notice of appeal with the City Recorder within ten days of the serving or mailing of the notice of a decision given by the City Recorder. The City Recorder shall fix a time and place for hearing such appeal as prescribed by the City Council in its rules and regulations and shall give the appellant ten days' written notice of the time and place of hearing.

(Prior Code, § 112.16) (Ord. 04-03, passed 4-7-2004)

CHAPTER 113: MARIJUANA TAX

Section

- 113.01 Definitions
- 113.02 Tax and collection
- 113.03 Accounting and records
- 113.04 Penalties and interest
- 113.05 Appeals
- 113.06 Refund

§ 113.01 DEFINITIONS.

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

CITY. The City of Condon.

CONSUMER. A person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale.

MARIJUANA ITEM. Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts as defined in O.R.S. 475C.009.

MARIJUANA RETAILER. A person licensed under O.R.S. 475C.097 who sells marijuana items to a consumer in the state.

PERSON. Individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies.

RETAIL SALE PRICE. The total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

TAX ADMINISTRATOR. The City Administrator of the City of Condon, the City Administrator's designee, and/or another individual or entity designated by the city to collect the tax on behalf of the city.

(Prior Code, § 113.01) (Ord. 2017-01, passed 12-7-2016)

Statutory reference:

Related provisions, see O.R.S. 475C.009 and 475C.097

§ 113.02 TAX AND COLLECTION.

(A) The city hereby imposes a tax on each marijuana item sold to a consumer within the city by a marijuana retailer. The City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed 3% of the retail sale price for each marijuana item sold. The tax constitutes a debt owed by the consumer to the city and shall be extinguished only by payment to the marijuana retailer or to the city.

(Prior Code, § 113.02)

(B) The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the city. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection, and enforcement of the tax authorized by this chapter.

(Prior Code, § 113.03)

(Ord. 2017-01, passed 12-7-2016)

§ 113.03 ACCOUNTING AND RECORDS.

(A) Every marijuana retailer must keep and preserve, in a generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of six years. The Tax Administrator shall have the right to inspect all such records at reasonable times.

(B) For purposes of determining the accuracy of any tax return or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns including copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices, and other records shall be made available within the city for examination by the Tax Administrator during regular business hours.

(Prior Code, § 113.04) (Ord. 2017-01, passed 12-7-2016)

§ 113.04 PENALTIES AND INTEREST.

(A) Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(B) Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to pay any delinquent remittance on or before a period of 30 days following the date on

which the remittance first becomes delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions of this chapter, a penalty of 25% of the amount of the tax shall be added the amount of the remittance due in addition to the penalties stated in divisions (A) and (B) above.

(D) In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of 0.5% per month or fraction thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent until paid.

(E) Every penalty imposed and any interest that accrues under the provisions of this chapter shall be merged with, and become a part of, the tax required to be paid.
(Prior Code, § 113.05) (Ord. 2017-01, passed 12-7-2016)

§ 113.05 APPEALS.

(A) Any person aggrieved by any decision of the Tax Administrator may appeal to the City Administrator by filing a notice of appeal with the Tax Administrator within ten days of the date the notice of the decision is served or mailed. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing.

(B) Any person aggrieved by any decision of the City Administrator under division (A) above may appeal to the City Council by filing a notice of appeal with the Tax Administrator within ten days of the date the City Administrator's decision is served or mailed. The Tax Administrator shall transmit the notice together with the file of the appealed matter to the City Council who shall fix a time and place for hearing the appeal. The City Council shall give the appellant not less than ten days' written notice of the time and place of hearing the appeal.

(Prior Code, § 113.06) (Ord. 2017-01, passed 12-7-2016)

§ 113.06 REFUND.

Whenever the amount of any tax imposed under this chapter has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, 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 Tax Administrator approves the claim, the excess amount collected or paid may be refunded to or credited on any amounts then due and payable from the marijuana retailer from whom it was collected or by whom it was paid, and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors, or assignees.

(Prior Code, § 113.07) (Ord. 2017-01, passed 12-7-2016)

