

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE, CHAPTERS:

- 1.01 Code Adoptions
- 1.05 Infractions Procedures
- 2.04 Council
- 2.08 Nomination and Election of Officers
- 2.12 Municipal Court
- 2.16 Planning Commission
- 2.20 Parks and Recreation Commission
- 2.28 Emergency Management
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- 2.72 Audit of City Books
- 2.76 Landmarks Advisory Commission
- 3.04 Privilege Tax - Electrical Power and Light Business
- 3.08 Special Funds
- 3.14 Transient Room Tax
- 3.16 Refunds
- 3.28 Albany-Lebanon Sanitation Company Franchise
- 5.08 Peddlers-Solicitors
- 5.10 Transient and Itinerant Merchants and Vendors
- 5.12 Taxicabs
- 5.26 Prohibitions on Establishments Selling Alcoholic Beverages
- 5.30 Massage Parlors
- 5.40 Septic Tank Cleaning

AND REPEALING CHAPTERS:

- 2.36 Human Relations Commission
- 5.04 Business Licenses
- 5.48 Fire and Going-out-of-Business Sales
- 5.52 Off-Street Parking Assessment District

AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary and desirable to periodically review, revise, and update the Albany Municipal Code in order to clarify language and remove unenforceable or cumbersome regulations.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN THE FOLLOWING REVISIONS:

Section 1:

Chapter 1.01

CODE ADOPTION

Sections:

- 1.01.010 Code adopted.
- 1.01.020 Title--Citation--Reference.
- 1.01.030 Reference applies to amendments.
- 1.01.040 Codification authority.
- 1.01.050 Definitions and construction.
- 1.01.060 Title, chapter and section headings.
- ~~1.01.070 Reference to specific ordinances.~~
- ~~1.01.080 Effect of code on past actions and obligations.~~
- 1.01.090 Effective date.
- 1.01.100 Severability.

1.01.010 Code adopted. The Albany Municipal Code, as compiled from the ordinances of the City of Albany, Oregon and ~~edited and published by Book Publishing Company of Seattle, Washington,~~ is hereby adopted as the official code of the City of Albany, Oregon.

~~1.01.070 Reference to specific ordinance. The provisions of this code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within this code, but such reference shall be construed to apply to the corresponding provisions contained within this code.~~

~~1.01.080 Effect of code on past actions and obligations. Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to June 12, 1970, nor be construed as a waiver of any license, fee, or penalty at June 12, 1970, due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.~~

1.01.110 Use of Brackets. Whenever a section of this code contains a blank line surrounded by brackets, [\_\_\_\_\_] it shall denote a fee, charge, fine, or like monetary notation which shall be separately set by motion or resolution of the city council."

1.05.010 Summons and complaint for infractions. (f) The summons shall contain a statement in form approved by the Municipal Judge, which may be substantially as follows:

(1) You may personally appear in court at the time set in this Summons and either file what is called a "motion" or "demurrer" to the Complaint or enter an "Answer." Your Answer may be either an admission that you are responsible or a denial of responsibility for the infraction charged, or that you do not contest the charge. You may appear in court at certain other times before the times set in the Summons and may find out when you can appear by calling the Municipal Court Clerk. ~~at 967 4316 or such other number as may be designated by the city.~~

2.04.010 Regular Meetings. The a regular meetings of the council shall be held on the second and fourth Wednesdays of each month, commencing at the hour of fifteen minutes after seven p.m. Notwithstanding the foregoing, the Council may, by motion or resolution, set such different or additional meeting dates and times as it may deem appropriate.

2.04.020 Meeting Place. All meetings shall be held in the City Hall or such other location as may be determined by the council. ~~Council may, after calling the meeting to order, adjourn to such other place upon majority vote of the council.~~

2.04.030 Attendance. If a quorum is not present, at a regular meeting or at any special meeting called pursuant to the requirements of Section 14 of the Charter, those members present may adjourn to a later time ~~or may direct the~~

~~chief of police to immediately inform the absent members, except those known to be unavoidably detained, that their presence is required to enable the council to proceed with the business at hand.~~

2.04.040 Resolutions. All resolutions shall be in writing and numbered consecutively in the order in which they are introduced. All resolutions shall be signed by the mayor, or in the mayor's absence, by the council president, and attested by the recorder, or his/her deputy. A resolution shall receive only one reading before being put to adoption.

2.04.080 Notice of Special Meetings. Notice of special meetings of the council may be given orally or in writing. ~~In the event notice is given in writing, it shall be in substantially the following form, with receipt of notice acknowledged by the city councilor and a copy of such acknowledgement to be retained by the city manager.~~

~~NOTICE OF SPECIAL MEETING~~

~~NOTICE is hereby given that pursuant to call of the mayor of the City of Albany a special meeting of the city council will be held at the Council Chambers of the City of Albany, City Hall, Albany, Oregon, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, \_\_\_\_m. The following subjects are anticipated to be considered at the meeting:~~

~~City Manager~~

~~DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and delivered to councilor this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, \_\_\_\_m.~~

~~Receipt acknowledged:~~

~~Councilor~~

~~Notice of the special meeting may also be given orally by telephone. The city manager shall be responsible for the notification by telephone of all councilors of any specially called council meeting. Within five days after a councilor shall take oath of office, he/she shall leave a permanent address within the city where all notices of special meetings are to be delivered and shall further designate a telephone number at which all notices of special council meetings are to be called. Delivery of a written notice of a specially called council meeting to the address given by the councilor shall be at least twenty four (24) hours before the time of the specially called meeting. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for the meeting shall describe the emergency justifying less than twenty four (24) hours notice. In the event a councilor is notified of a specially called council meeting by telephone, then the city manager shall keep a log of the telephone calls in notifying the councilor as to the number called and the date and time the call was made. Notices to councilors of a specially called council meeting shall be entered in the minutes of the special council meeting and shall be a permanent record of the special meeting.~~

2.08.010 Nominations. A person, having the qualifications as provided in Section 13 of the Charter may be nominated for office by either of the following methods:

(1) A person may declare himself/herself a candidate for elective office by filing with the recorder, in substantially the following form, his or her

declaration of candidacy, together with a filing fee of ~~five dollars~~ [\_\_\_\_\_]:

2.08.030 Notice of Nominations. Not less than ninety days prior to each general election, the city recorder shall post on the bulletin board of the city hall a list of officers to be elected at the next general election. This notice shall remain posted until nominations are closed. In addition, the recorder shall cause to be published in a newspaper of general circulation, published within the city, a like notice on two occasions not more than ninety days nor less than seventy-five days prior to the general election.

The notice shall be substantially in the following form:

"NOTICE OF RECEIVING NOMINATIONS

NOTICE IS HEREBY GIVEN that at the regular biennial election, the City of Albany will elect the following officers:

MAYOR

Term: January, 1 19 \_\_\_\_\_, to December 31, 19 \_\_\_\_\_.

COUNCILOR, First Ward

Term: January 1, 19 \_\_\_\_\_, to December 31, 19 \_\_\_\_\_.

COUNCILOR, Second Ward

Term: January 1, 19 \_\_\_\_\_, to December 31, 19 \_\_\_\_\_.

COUNCILOR, Third Ward

Term: January 1, 19 \_\_\_\_\_, to December 31, 19 \_\_\_\_\_.

Nominations will be received at the office of the city recorder on and after August 5th and until 5:00 p.m. on August 20th of this year. Nominations may be made by the declaration of candidacy, signed by the candidate, together with a filing fee of ~~five dollars~~ [\_\_\_\_\_] or by the filing of a petition containing the signatures of 25 persons having the same qualifications as the office sought and an acceptance of nomination by the candidate. A person signing a petition shall sign only one petition for each office.

Qualifications as prescribed in the Charter of the City of Albany are as follows:

The candidate must be a qualified elector within the meaning of the Constitution of Oregon and have resided in the city during the 12 months immediately preceding the election and in the Ward he/she seeks to represent, in case of Councilor, for a period of 90 days immediately prior to election.

Forms for petitions and declarations are available at the office of the city recorder.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
City Recorder"

2.12.060 Jury lists. Upon passage of the ordinance codified in this chapter and upon the first days of January, April, ~~June and September~~ July and October, there after, the recorder shall select ~~fifty~~ 100 names of persons who must have the qualifications of jurors in the State courts, from the registered voter lists to serve as a jury panel until the next panel is selected. No person shall be required to serve more than one term during any calendar year. The selection shall be made at random and the recorder shall not attempt to select

or reject any particular persons. No challenge to the panel may be made upon substantial compliance of this portion of this Chapter.

2.12.095 Payment of witness fees. Persons who have been subpoenaed as witnesses to appear in municipal court shall be entitled to receive compensation at the rate of ~~five dollars~~ [ \_\_\_ a \_\_\_] per day. In addition, if the witness resides outside the city limits, they will receive reimbursement for mileage to and from their place of residence at the rate of ~~plus mileage to and from their place of residence at the rate of eight cents~~ [ \_\_\_ b \_\_\_] per mile.

2.12.100 Payment of jurors. The jurors who are notified to appear at trial and are selected and serve as actual jurors shall be entitled to receive compensation at the rate of ~~ten dollars~~ [ \_\_\_ a \_\_\_] per day plus mileage to and from their place of residence at the rate of ~~eight cents~~ [ \_\_\_ b \_\_\_] per mile. Those jurors who are notified to appear at trial but are not selected as jurors shall be entitled to receive ~~five dollars~~ [ \_\_\_ c \_\_\_] per day plus mileage at the rate of ~~eight cents~~ [ \_\_\_ d \_\_\_] per mile to and from their place of residence.

2.16.020 Membership regulations. (12) The Planning Commission shall, at its first meeting in January of each year, elect one of its members to serve as ~~chairman~~ chairperson and another to serve as vice-~~chairman~~ chairperson. The ~~planning director~~ community development director of the city shall serve as secretary to the Planning Commission and shall keep accurate, permanent and complete records of all proceedings held before the Planning Commission. The ~~chairman~~ chairperson or the presiding officer of the Planning Commission shall be entitled to vote on all questions that are before the commission. The Planning Commission may adopt rules governing the transaction of its business which are ~~not inconsistent~~ with the provisions of this chapter.

2.16.030 Duties designated. The commission shall:

(1) Recommend and make suggestions to the city council and to all other public authorities concerning the laying out, widening, extending, parking and locating of streets, sidewalks, bike paths, and boulevards, relief of traffic congestion, betterment of housing and sanitation conditions and establishment of zones of districts limiting the use, height, area and bulk of buildings and structures;

(2) Recommend to the city council and all other public authorities plans for regulation of all future growth, development and beautification of the city in respect to its public and private buildings and works, streets, parks, grounds and vacant lots and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of all public utilities, and transportation facilities;

(3) Recommend to the city council and all other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to private and public enterprises engaged in industrial pursuits;

(4) Make economic surveys of present potential possibilities of the municipality with view to ascertaining its industrial needs;

(5) Study needs of existing local industries with view to strengthening and developing local industries and stabilizing employment conditions;

(6) Prepare and submit to the city council for adoption, ~~of~~ a comprehensive land use plan, and review this plan and recommend amendments as are from time to time deemed necessary;

(7) Advise the city council as to needs for amendment and change in

existing zones and development regulations;

(8) ~~Make annual report to the city council of goals and activities. Do such other tasks as may be requested by the city council.~~

2.16.040 Hearings Board--Appointment and terms--Chairman Chairperson. The Hearings Board shall appoint one of its members as ~~chairman~~ chairperson to preside at all hearings. The ~~chairman~~ chairperson may designate any member of the board to preside and perform duties in the absence of the ~~chairman~~ chairperson. The ~~chairman~~ chairperson shall decide all points of order of procedure unless otherwise directed by a majority of the board in session at the time. The ~~chairman~~ chairperson may designate members of the board to make an inspection of premises if so desired.

2.16.050 Hearings Board--Duties. The Hearings Board will hear all contested cases which are referred to it by the ~~planning director~~ community development director or the Planning Commission. Any party may appeal from a decision of the Hearings Board to the entire membership of the Planning Commission and then to the city council.

## Chapter 2.20

### PARKS AND RECREATION COMMISSION

#### Sections:

- 2.20.010 Appointment.
- 2.20.020 Compensation and records.
- ~~2.20.030 Meetings~~
- 2.20.040 Advisory capacity.

2.20.010 Appointment. The mayor shall appoint a commission to be known as the Parks and Recreation Commission with the appointment to be ratified by the city council. There shall be five members appointed at large from within the city. The members shall be appointed for a term of three years, however, members appointed previously under the provisions of Chapter 2.20 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose term of office has expired shall conform to the intent of Sections 2.20.010 through 2.20.040 and to provide for the expiration of the terms of office of two of the members each year except for each third year, when the term of office of only one member shall expire. ~~Each member shall file a written oath of office prior to being seated on the commission.~~

2.20.020 Compensation and records. The members of the Parks and Recreation Commission shall serve without pay. The commission shall annually select one of its members as ~~chairman~~ chairperson. ~~The secretary shall be designated by the city manager.~~ All records and proceedings shall remain in the office of the city recorder as one of the public records of that office.

~~2.20.030 Meetings. The Parks and Recreation Commission shall hold meetings at the direction of the city council and as determined by the commission. All meetings of the commission shall be open to the public and shall be publicly announced not less than one day in advance of the meeting.~~

2.20.040 Advisory capacity. The Parks and Recreation Commission shall be advisory to the city council on matters pertaining to the operation and maintenance of recreation activities and facilities under the jurisdiction of the City. General functions and specific responsibilities of the Parks and Recreation Commission are as follows:

(E) To advise in the selection of the parks and recreation director and in definition of his or her duties and responsibilities;

(H) To carry out such other tasks as may be delegated to them by the City Council.

## Chapter 2.28

### EMERGENCY MANAGEMENT

#### Sections:

- 2.28.010 ~~Municipal Civil Defense Council created.~~ Emergency Management Agency created.
- 2.28.020 Powers and duties.

2.28.010 Organization. The city manager is hereby designated as Albany's emergency management ~~director.~~ program manager.

(1) City department administrators shall serve as assigned in the Albany emergency management organization.

(2) The emergency ~~management director~~ program manager may appoint an emergency management coordinator to serve as his/her deputy and to coordinate the preparation of the emergency management plan and operation of the city's emergency operations center.

2.28.020 Duties. The duties of the Albany emergency management organization shall include the development and recommendation for adoption of an emergency management plan for the city, ~~and recommendation of mutual aid plans.~~

(1) Each city department administrator, with approval of the emergency ~~management director~~ program manager, will develop plans for their division's response to emergencies.

(2) Each city department administrator, with the approval of the emergency ~~management director~~ program manager, shall adopt plans for succession of authority within their department in the event that a division manager is unable to perform his/her duties.

~~(3) The emergency management director shall make timely reports to the mayor and city council advising them on the status and/or changes in the emergency operations plan and events which could necessitate the commitment of the city and its resources.~~

(3) ~~(4)~~ The emergency management director is authorized to establish liaison with other local and state emergency management organizations in the preparation and execution of emergency management plans.

## Chapter 2.32

### TRAFFIC SAFETY COMMISSION

#### Sections:

- 2.32.010 Creation--Membership.
- 2.32.020 Purpose and duties.
- 2.32.030 Membership--Unrestricted among certain commissions.
- ~~2.32.040 Continuing membership for Parking or Traffic Safety Commission.~~

2.32.030 Membership--Unrestricted among certain commissions. In order to provide for proper liaison between the Planning and Zoning Commission, the city council and the Traffic Safety Commission, nothing in this chapter shall be construed as restricting members of the city council and the Planning and Zoning Commission from serving on the Traffic Safety Commission.

~~2.32.040 Continuing membership from Parking or Traffic Safety Commission. Those persons presently serving on the Parking and Safety Commission may be appointed to service on the Traffic Safety Commission. Those not being selected to serve on the Traffic Safety Commission shall continue as members of the~~

~~Parking Commission which is created contemporaneously herewith. Membership to the Traffic Safety Commission shall be filled by appointment for a three year~~

term.

~~Chapter 2.36~~

HUMAN RELATIONS COMMISSION

Sections:

~~2.36.010 Membership.~~

~~2.36.020 Powers and duties.~~

~~2.36.010 Membership. There is hereby created and established a commission to be known as the Human Relations Commission, consisting of seven members to be appointed by the mayor with ratification of the city council. The members of the commission shall be broadly representative of the citizens of Albany. The council may designate itself as the Human Relations Commission. The members of the commission shall serve without compensation. Of the commission members first appointed, two shall be appointed to serve terms ending December 31, 1969; two to serve terms ending December 31, 1970; three to serve terms ending December 31, 1971. Thereafter all appointments shall be for terms of three years. The commission shall select from its membership a chairman and such other officers as it may deem desirable.~~

~~2.36.020 Powers and duties. The Human Relations Commission shall:~~

~~(1) Promote mutual understanding and respect among all persons and work to discourage and prevent discretionary practices against any person on the basis of race, sex, age, handicap, religion, ethnic background, or national origin;~~

~~(2) To disseminate information and educational materials and reports that will assist in the elimination of prejudice, intolerance, intergroup tensions and discriminations or which will promote good will and promote programs of community education and information with the objects of promoting better human relations;~~

~~(3) Investigate and study complaints, problems and specific situations arising between groups or individuals which result or may result in tensions, discrimination or prejudice in the city on account of race, sex, age, handicap, religion, ethnic background, or national origin;~~

~~(4) Assist various groups and agencies of the community to cooperate in educational campaigns devoted to the elimination of group prejudices, racial or area tensions, intolerance or discriminations;~~

~~(5) Aid in seeing that no person in this city is deprived of equal services furnished in this city by reason of discrimination or prejudice on account of race, sex, age, handicap, religion, ethnic background, or national~~



origin;

~~(6) Cooperate with the city, state, federal and other agencies in order to promote better human relations;~~

~~(7) Prepare and submit an annual report of its activities to the city council and to make such other reports and recommendations to the city council from time to time as it may determine necessary for the furtherance of improved human relations in the city.~~

#### Chapter 2.44

### VOLUNTEER FIRE DEPARTMENT

#### Sections:

2.44.010 Purpose.

2.44.020 Membership.

~~2.44.050 Treasurer of funds.~~

~~2.44.060 Insurance.~~

2.44.020. Membership. The Volunteers to the Fire Department of the city shall be composed of citizens persons of the City of Albany who volunteer their services to assist the city in the prevention and extinguishment of fires. The volunteers Fire Department shall be under the direction of the chief of the Albany Fire Department, or in his or her absence, the assistant chief. All members of the Volunteers Fire Department shall, while on duty in assisting the Fire Department, conform to and comply with the directions of authorized officers of the city fire department.

~~2.44.050 Treasurer of funds.~~ The recorder of the city shall be ex officio treasurer of the Volunteer Fire Department and shall keep an accurate record of the funds thereof. The funds of the department budgeted and appropriated by the levying board shall be paid out only by the authority of the majority vote of the Volunteer Fire Department at a regular meeting thereof.

~~2.44.060 Insurance.~~ The city council is hereby given authority to carry a blanket accident insurance policy for the benefit of the members of the Volunteer Fire Department for the purpose of protecting each and every member thereof from injuries or death while on active duty. The amount of such policy shall provide a maximum of one thousand dollars for any injuries or death suffered by any individual member, and hospital and medical expenses, and the premium for such policy shall be paid out of the funds so appropriated to the Volunteer Fire Department by the city levying board.

#### Chapter 2.72

### AUDIT OF CITY BOOKS

#### Sections:

2.72.010 Employment of accountant.

~~2.72.020 Fee.~~

~~2.72.020 Fee. The accountant or accountants shall receive for services such a sum as may be agreed upon with the council and shall be paid from the general fund of the city in like manner as other claims against the city are paid.~~

2.76.040 Officers. The commission members shall elect a chairman chairperson and a secretary until the next succeeding first Monday in January and until their successors are elected. The secretary shall be charged with keeping a permanent and complete record of the proceedings of the commission. The commission shall adopt rules governing the transaction of its business and shall prepare and submit an annual budget and an annual report to the city council.

3.04.060 Failure to make return. If the taxpayer fails to make a return or the City Manager is dissatisfied as to the correctness of the return, the city manager may fix a time and place for the investigation of the incorrectness of the return, and may, by subpoena, require the taxpayer to produce for investigation such books of account as may be necessary to properly ascertain the amount of tax due. After ascertaining the proper amount of taxes due, the city manager shall notify the taxpayer of his or her findings. If additional tax is due and is not paid within ten days after receipt of the notice, the city manager shall notify the city attorney to enforce collection of the same. It is unlawful for any person liable to tax hereunder to fail to make a return or to fail to pay the tax when due, or for any person to make any false or fraudulent return or false statement or representations in connection with any such return or to allow or to abet another in any attempt to evade payment of tax or failure to appear and testify in response to a subpoena issued in pursuance hereto, or to testify falsely upon any investigation of the correctness of a return, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter.

3.04.080 Waiver of free service. The city, by imposing this occupational tax, hereby waives, relinquishes and releases any and all rights it may have under the terms of any existing franchise for free service from any utility engaged in the electrical power and light business within the corporate rate limits of the city.

## Chapter 3.08

### SPECIAL FUNDS

#### Sections:

- 3.08.010 Library sinking fund.
- ~~3.08.040 Donations and bequests.~~
- ~~3.08.050 Subdivider's reserve fund.~~
- 3.08.130 Olive E. Manela trust fund--Established.
- 3.08.140 Olive E. Manela trust fund--City acceptance--Use specified.
- ~~3.08.150 Olive E. Manela trust fund Trustees Appointment and term.~~
- ~~3.08.160 Olive E. Manela trust fund Trustees Duties.~~
- ~~3.08.170 Olive E. Manela trust fund Annual audit required.~~
- ~~3.08.220 Federal and state grants fund Created Deposits and expenditures authorized.~~
- 3.08.230 Bancroft bonds and redemption fund--Created--Deposits and expenditures authorized.
- 3.08.010 Library sinking fund. There is hereby created a fund which shall

be known as "~~A Sinking Fund for Donations to Library for Memorial Books~~" the "~~Library Memorial Fund~~" for the purpose of receiving moneys and making expenditures therefrom which shall be used for the purchase of memorial books to be selected by the librarian or the Library Board.

~~3.08.040 Donations and bequests.~~ The city recorder is hereby authorized to receive donations and bequests for parks and park facilities, including but not limited to, moneys for the erection of swimming pools, purchase of parks and purchase of park equipment. §

~~3.08.050 Subdivider's reserve fund.~~ There is hereby created a fund which shall be known as the "~~Subdivider's Reserve Fund~~" for the purpose of depositing moneys and making expenditures therefrom for the acquisition of public open space pursuant to the requirements of Section 13.08 of Ordinance No. 2718.

~~3.08.150 Olive E. Manela trust fund Trustees Appointment and term.~~ The trustees of the trust created in Section 3.08.130 shall consist of three persons who shall be appointed by the Mayor, subject to confirmation by the city council. The term of a trustee shall be for three years, except for the initial appointment of trustees. The initial trustees shall be appointed for one year, two years and three years respectively. The trustees first appointed shall draw lots to determine the length of their term.

~~3.08.160 Olive E. Manela trust fund Trustees Duties.~~ The trustees of the trust created in Section 3.08.130 shall be vested under the terms of the ordinance codified in this chapter with the following powers:—

(1) To invest and reinvest any and all moneys received in securities and property which from time to time they may received from the estate of Olive E. Manela or other sources;—

(2) To retain any and all property, real and personal, which may come into their hands in the form or condition in which it may be and, if they deem it advisable, from time to time, to sell or to exchange any or all of such property;—

(3) To sell or lease, convey, transfer, exchange, deliver and dispose of any property which might come into their hands at such price and upon such terms and conditions as are deemed expedient and proper so as to maintain the corpus of the trust in greatest capital position;—

(4) To make, execute and deliver all proper receipts, bills of sale, conveyances, assignments, transfers, proxies, powers of attorney and agreements as they deem best in the management and control of securities and property constituting the trust fund;—

(5) To vote upon all corporate shares held by it, to unite with other owners of securities in any corporation carrying out any plan of reorganization thereof, to exchange securities of any corporations or other issued by the same or any other corporation upon such terms as the trustees deem proper, and to do all things they may deem expedient for the protection and interest of the corpus of the trust fund in connection with any securities of any corporation or company;—

(6) To make expenditures from the income of the trust only for the purpose of purchase of books or tracts which are acquired by the city librarian and approved by the members of the Library Board.

~~3.08.170 Olive E. Manela trust fund Annual audit required.~~ The accounts of the trust shall be annually audited by the auditor of the City as a part of the annual city audit.

~~3.08.220 Federal and state grants fund Created Deposits and expenditures authorized.~~

~~(a) There is created a fund which shall be known as a "Federal and State Grants Fund" for the purpose of receiving miscellaneous grants through the federal and state governments.~~

~~(b) The city recorder is directed to place all money received through miscellaneous federal and state grants in the fund herein created, and to make expenditures against authorized appropriations from the fund.~~

3.08.230 Bancroft bonds and redemption fund--Created--Deposits and expenditures authorized.

(a) There is created a fund which shall be known as the "Bancroft Bonds and Redemption Fund" for the purpose of receiving money paid on account of installments and interest on unpaid installments and disbursements to satisfy interest and principal due on improvement funds as authorized under ORS 223.285.

3.14.020 Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of the chapter:

(1) "Accrual accounting" means the operator enters the rent due from a transient on his or her records when the rent is earned whether or not is paid.

(2) "Cash accounting" means the operator does not enter the rent due from a transient on his or her records until rent is paid.

(6) "Operator" means the person who is proprietor of the hotel in any capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

(10) "Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he or she is required to report his or her collections.

3.14.040 Imposition. For the privilege of occupancy in any hotel, on and after October 1, 1985, each transient shall pay a tax in the amount of six percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his or her records when rent is collected, if the operator keeps his or her records on the cash accounting basis, and when earned if the operator keeps his or her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient or the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the city. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.

3.14.110 Due date--Returns and payments. (e) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at his or her 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.

(g) The tax administrator, if he or she deems it necessary in order

to payment or facilitate collection by the city of the amount of taxes in individual case, may require returns and payment of the amount of taxes for than monthly periods. other any ensure than monthly periods.

3.14.130 Deficiency determination. (a) Computation. If the tax administrator determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as provided in this chapter after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.14.120.

(f) Fraud, Refusal to Collect, Evasion. If any operator fails or refuses 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 makes fraudulent return or otherwise wilfully attempts to evade this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, he or she 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 tax administrator shall give a notice in the manner described in this chapter of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file the return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the tax administrator has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as provided in this chapter.

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

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

3.14.150 Security for collection. (a) The tax administrator, whenever he or she deems it necessary to ensure compliance with this chapter, may require

any operator subject thereto to deposit with him or her such security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall be greater than twice the operator's estimated average monthly liability for the period for which he or she files returns, determined in such manner as the tax administrator deems proper, or five thousand dollars, whichever amount is the lesser. The amount of the security may be increased or decreased by the tax administrator subject to the limitations provided in this chapter.

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

3.14.260 Violations--Penalty. Any person wilfully violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable under the general penalty provided for in Chapter 1.04 of this Code. ~~and shall be punishable therefor by a fine of not more than five hundred dollars or by imprisonment in the city county jail for a period of not more than six months, or by both such fine and imprisonment.~~

3.16.010 Refunds. The city manager, or his or her designee, is authorized to make refunds of payments made to the account of the city when such payments have been made in error or the reason for the payment did not exist and such payment shall be charged against the particular fund receiving the payment. ~~Such refunds authorized by the city manager shall not exceed the sum of one hundred dollars.~~

3.28.040 Franchise and exceptions. (4) Nothing in this franchise or this section of this chapter shall:

(a) Prohibit any person from transporting solid waste he or she produces himself or herself to an authorized disposal site or resource recovery facility, providing he or she complies with Section 3.28.140(5);

#### Chapter 5.04

#### BUSINESS LICENSES

#### Sections:

- ~~5.04.010 License fee.~~
- ~~5.04.020 Definitions.~~
- ~~5.04.030 License.~~
- ~~5.04.040 Application for license.~~
- ~~5.04.050 Record of licenses.~~
- ~~5.04.060 Place of trade.~~
- ~~5.04.070 Expiration of licenses.~~

~~5.04.010 License fee. The businesses, trades and occupations hereinafter enumerated shall pay the license fees specified in the following schedule except and subject to the following conditions:~~

~~(1) A contract signed by the City and the applicant providing that the~~

~~proceeds received by the applicant from such business, occupation or trade will be used to improve a part of the City's public park system; or~~

~~(2) No license fee shall be charged to an applicant where said applicant can show to the satisfaction of the city recorder that the proceeds from such business, occupation or trade would be used for charitable, benevolent or public purposes;~~

~~(3) License fees to be charged to all persons except those qualifying for exemptions under subsections (1) and (2) of this section are as follows:~~

|  |   |
|--|---|
| <del>Bowling alleys, per alley</del>                       | <del>\$ 10.00 yearly</del>                  |
| <del>Billiard rooms and pool halls, per table</del>        | <del>20.00 yearly</del>                     |
| <del>Circuses and menageries</del>                         | <del>150.00 daily</del>                     |
| <del>Carnivals, exhibitions, shows and entertainment</del> | <del>100.00 daily</del>                     |
| <del>Pawnbrokers</del>                                     | <del>50.00 yearly</del>                     |
| <del>Skating rinks</del>                                   | <del>50.00 yearly</del>                     |
| <del>Theaters</del>  | <del>\$100.00 per day or 50.00 yearly</del> |

~~(Ord. 4455 §1, 1981: Ord. 3727 §1, 1973: Ord. 3249 §1, 1966).~~

~~5.04.020 Definitions. (1) Bowling Alleys, Billiard Rooms and Poolrooms. Every place or building where bowls or balls are thrown, or billiard, or pool, or pigeon hole or other games are played, or where ball or cues are used, shall be regarded as bowling alley or billiard room or poolroom, respectively under this chapter, when used for profit or gain.~~

~~(2) Circuses and/or Menageries. "Circus" means any exhibition of feats of horsemanship, acrobatics or sports, and "menagerie" means an exhibition of wild animals. Any owner, proprietor, keeper or other person in charge of any circus and/or menagerie shall pay the hereinbefore provided license fee for such circus and menagerie; provided, however, that only one fee shall be paid both for circus and menagerie if they are in the same building, tent, space or area. A circus or menagerie held outdoors in a space or area including a tent is an "outdoor circus and a menagerie" and a circus or menagerie held inside the building is an "indoor circus and a menagerie."~~

~~(3) Exhibitions, Shows, and Entertainments. Any exhibition, show or entertainment not otherwise covered in this chapter shall pay the license fee provided in the schedule of fees under exhibitions, shows and entertainment.~~

~~(4) Pawnbroker. Any person whose business or occupation is to take or receive, by pledge or exchange, any goods, wares, or bonds, bills of exchange, shares of stock, warehouse receipts and other written evidence of indebtedness for the repayment of money lent thereon, is termed a pawnbroker under this chapter.~~

~~(5) Skating Rinks. All owners or managers of skating rinks shall be subject to the license fee provided in the foregoing schedule. Established structures for the use of skateboards are defined to be skating rinks.~~

~~(6) Theater. Every building used wholly or in part for the purpose of dramatic operator or motion picture presenting therein and operated for commercial gain is deemed a theater. (Ord. 4455 §2, 1981: Ord. 3249 §2, 1966).~~

~~5.04.030 License. No person, firm, corporation or association shall, within the city limits, engage in or carry on any trade, business, occupation or profession for which a license is required by this chapter, until he or they shall have obtained such license. (Ord. 3249 §3, 1966).~~

~~5.04.040 Application for license. Every person, firm, corporation or association required by this chapter to obtain a license to engage in any trade, business, occupation or profession for which a license is required shall pay to~~

~~the city recorder the sum of money required by ordinance in payment thereof; thereupon, with the receipt of the city recorder setting forth the kind of business, trade, occupation or profession for which the license is desired, they shall apply to the city recorder who shall issue the license, upon the compliance of the applicant with the provisions of all ordinances relating to obtaining licenses for the business, trade, occupation, or profession for which the license is desired. (Ord. 3249 §4, 1966).~~

~~5.04.050 Record of licenses. Every license issued by virtue of this chapter shall contain and set forth the purpose, trade, business, occupation, or profession for which the license is granted and the name and place of abode of the person or persons taking out the license. The license shall authorize the continuance of the business named therein at the place therein for the term of the license, but shall not authorize the carrying on of the business in any other place unless the place licensed is closed, in which case and cases the city recorder shall be notified of the change and he shall note the same on the record of licenses. (Ord. 3249 §5, 1966).~~

~~5.04.060 Place of trade. In every case where more than one of the trades, occupations, businesses, or professions for which a license is required is conducted or carried on in the same place, by the same person, at the same time, a license must be taken out for each of the pursuits according to the rates severally prescribed herein. (Ord. 3249 §6, 1966).~~

~~5.04.070 Expiration of licenses. All licenses issued quarterly shall expire on the last day of each quarter as follows:~~

- ~~The thirty first day of March;~~
- ~~The thirtieth day of June;~~
- ~~The thirtieth day of September;~~
- ~~The thirty first day of December.~~

~~All quarterly licenses shall be dated on the first day of the month in which the liability thereof accrues and shall be issued upon the payment of a suitable portion of the amount required for such license.~~

## Chapter 5.08

### PEDDLERS--SOLICITORS

#### Sections:

- 5.08.010 License required.
- 5.08.020 Peddler--Solicitor defined.
- 5.08.030 Applications.
- 5.08.040 Investigation and issuance.
- 5.08.050 License fee.
- 5.08.055 License application fee exemptions.
- 5.08.060 Transfer of license.
- 5.08.070 Exhibition of license.
- 5.08.080 Enforcement.
- 5.08.090 Revocation of license.
- 5.08.100 Appeal.
- 5.08.110 ~~Selling by public outcry.~~
- 5.08.120 Loud Noises and speaking devices.
- 5.08.130 Hours of solicitation.



5.08.030 Applications. 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. ~~or if made on behalf of a nonprofit organization, the name and address of an officer whose residence is in the city;~~

5.08.040 Investigation and issuance. ~~(1) Upon receipt of an application, the same shall be referred to the chief of police who shall cause investigation of the applicant's business and moral character to be made as shall be deemed necessary for the protection of the public interest.~~

~~(2) The chief of police, within fifteen 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.~~

(1) ~~(3)~~ Upon receipt of a license application and fee, in proper form, where the application is endorsed "satisfactory", the city recorder shall then issue a license card addressed to the applicant for the carrying on of the business applied for. The license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the licensee, if the licensee is not a nonprofit organization, and the kind and goods to be sold 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~~ ~~(2) years from the date of issuance.~~ in accordance with the State of Oregon Archives Division retention schedule.

(2) ~~(4)~~ 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.

5.08.050 License fee. (1) Except as herein specifically exempted for payment of fees, all persons applying for a license shall pay a fee in the sum of ~~twenty five dollars~~ [    a    ] as an application and license fee. Licenses may be renewed on an annual basis upon payment of a license fee in the amount of ~~ten dollars~~ [    b    ].

(2) All licenses run from January 1st to December 31st, inclusive.

5.08.055 License application fee exemptions. (1) The provisions of this chapter requiring a license application and application fee shall not apply to:

(a) One selling products of the farm or orchard actually produced by the seller;

(b) A newspaper carrier soliciting subscriptions;

(c) A person calling upon business firms soliciting orders for goods or services which are regularly used by the business firm in their regular course of business; or

(d) 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.

(e) Schools or other non-profit corporations or organizations which have obtained Federal tax exempt status and the agents thereof.

~~(2) The provisions of this chapter requiring a license application fee shall not apply to:~~

~~(a) A nonprofit organization making application on behalf of its members. At the discretion of the Chief of Police, investigation of individual solicitors for nonprofit organizations may be required.~~

5.08.080 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 the 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.

5.08.090 Revocation of license. (1) Licenses may be revoked by the city recorder for any of the following causes:

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

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

(c) Any violation ~~this chapter of the Albany Municipal Code;~~

~~(d) Conviction of any crime or misdemeanor involving moral turpitude;~~

(d) ~~(e)~~ Conducting the business of peddling or soliciting in an unlawful manner or in such a manner to constitute a menace to the health, safety or general welfare of the public.

(2) 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 hearing. The 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 hearing.

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

~~5.08.110 Selling by public outcry. No peddler licensed under this chapter has an exclusive right to any location in the public streets, nor shall any be permitted a stationary location nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this section, the judgment of the police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. Peddlers are required to exhibit their license at the request of any citizen.~~

~~5.08.120 Loud noises and speaking devices. No peddler, nor any person on his or her behalf, shall shout, make any outcry, ring any bell or use any sound device where sound of sufficient volume is emitted or produced therefrom to be capable of being heard at a distance of more than two hundred feet upon the streets, alleys, avenues, parks or other public places. for the purpose of attracting attention to any goods, wares or merchandise which a peddler proposes to sell. For the purpose of determining whether or not the volume is sufficient to be heard from a distance of more than two hundred feet, the judgment of a police officer exercising good faith shall be deemed conclusive.~~

5.10.050 License--Issuance--Investigation. Upon receipt of such application, the city recorder shall cause such investigation of such person or persons' business responsibility as is deemed necessary for protection of the public good. If, as a result of such investigation, the applicant's character

and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of such investigation, the character and business reputation appear to be satisfactory, the city recorder shall so certify in writing. Upon payment by the applicant of a license fee of ~~one hundred dollars~~ [\_\_\_\_\_], a license shall be issued by the city recorder. The city recorder shall keep a full record in his or her office of all licenses issued. This license shall contain the name of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of the license, the place where the business may be carried on under the license, and the name or names of the person or persons authorized to carry on the same.

5.10.060 Bond. Before any license, as provided by this chapter, is issued for the engaging in a transient or itinerant business, as defined by Section 5.10.010, such applicant shall file with the city recorder a surety bond running to the city in the sum of one thousand dollars executed by the applicant, as principal, and a corporate surety or two individual sureties upon which service of process may be made in the state; said bond to be conditioned that the applicant shall comply fully with all of the provisions of the ordinances of the city, the statutes of the state, regulating and concerning the sale of goods, wares, and merchandise, and will pay all judgments rendered against the applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him or her by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant.

5.10.110 Violation--Penalty. Any person wilfully ~~firm, or corporation~~ violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable under the general penalty provided for in Chapter 1.04 of this code, ~~upon conviction thereof, be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding sixty days, or by both such fine and imprisonment.~~

5.12.080 Fees. (1) Each operator making application for an operator's license shall pay an annual fee of ~~a fee of one hundred dollars annually in advance to the recorder of the City~~[\_\_\_\_\_].

(2) An operator shall pay a proportionate amount of the above fees for parts of less than a year and thereafter fees for an operator's license shall become due and payable the first day of each calendar year.

5.12.090 Insurance policies. (1) Before a license is delivered to any operator, he or she shall deposit with the city recorder evidence of a policy or policies of an insurance company or companies duly licensed to transact such business in this state, insuring the operator of any taxicab to be licensed against loss from liability imposed by law for damages on account of bodily injury or death, or for damages to property resulting from the ownership, maintenance or use of any taxicab to be owned or operated under such license, and agreeing to pay to any judgment creditor to the extent of the amounts specified in such policy, any final judgment rendered against the insured by reason of such liability. The insurance policy shall require notification to the city recorder of any amendment, cancellation, or termination of policy. Failure to maintain the prescribed level of coverage shall result in immediate cancellation of the license of the operator and the company's drivers' permits. The policy or policies shall be approved by the city recorder as to form and compliance with this chapter. The limit in any such insurance policy of such liability of the

insurer on account of the ownership, maintenance and use of such taxicab shall not be less than one hundred thousand dollars for bodily injuries to and including death on one person and three hundred thousand dollars account of any one accident resulting in injuries to and including death of more than one person, and a total of one hundred thousand dollars liability for damage to property of others, arising out of any one accident.

5.20.060 Fee. The annual license fee for a private detective agency or or merchant police business shall be ~~one hundred dollars~~ [     a     ] for the first year and then a renewal fee of ~~twenty five dollars~~ [     b     ] annually in advance to the City Recorder.

5.26.030 Places serving liquor. (1) In any place where food or alcoholic beverage is offered for sale for consumption on the premises, it is unlawful:

(a) For any female person to be so costumed or dressed that one or both breasts are wholly or substantially exposed to public view.

(b) For any person to appear publicly without covering his or her genitalia with an opaque material that does not simulate the organ covered.

(2) It is unlawful for the owner, operator or person in charge of any place where food or alcoholic beverage is offered for sale for consumption on the premises knowingly to permit any violation of subsection (a) of this section.

Chapter 5.30

MASSAGE PARLORS

Sections:

- 5.30.010 Definitions.
- 5.30.020 License--Required--Massage establishment.
- 5.30.030 License--Application--Massage establishment.
- 5.30.040 License--Required--Massagist.
- 5.30.050 License--Application--Massagist.
- 5.30.060 License--Application--Waiver.
- 5.30.070 License--Application--Approval or denial.
- 5.30.080 License--Issuance restrictions--Massage establishment.
- 5.30.090 License--Issuance--Multiple massage establishments.
- 5.30.100 License--Posting.
- 5.30.110 License--Revocation or suspension--Massage establishment.
- 5.30.120 License--Revocation or suspension--Massagist.
- 5.30.130 Facility requirements.
- 5.30.140 Operating requirements.
- 5.30.150 Hours.
- 5.30.160 Register of employees.
- 5.30.170 Employment of massagist.
- 5.30.180 Name and place of establishment regulated.
- 5.30.190 Sale, transfer or relocation of establishment.
- 5.30.200 Unlawful acts.
- ~~5.30.210 Persons under eighteen years prohibited.~~
- 5.30.220 Alcoholic beverages prohibited.
- 5.30.230 Inspection required.
- 5.30.240 Exemptions.
- 5.30.250 Violation--Penalty.

5.30.020 License--Required--Massage establishment. No person shall engage in or carry out the business of massage unless he or she has a valid massage business license issued by the city pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

5.30.030 License--Application--Massage establishment. (1) Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application under oath with the city recorder upon a form provided by the ~~department of finance city recorder~~ and pay a nonrefundable annual license fee, which shall be [\_\_\_\_\_]. ~~five thousand dollars per year or any part thereof.~~ Licensees who have already paid the license fee for the current period shall not be required to pay an additional fee under this chapter.

(h) One portrait photograph of the applicant at least two inches by two inches and a complete set of the applicant's fingerprints which shall be taken by the chief of police or his or her agent; if the applicant is a corporation, one portrait photograph at least two inches by two inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the chief of police or his agent; if the applicant is a partnership, one front-face portrait photograph at least two inches by two inches in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the chief of police or his or her agent;

(m) The applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught; provided, however, that if the applicant will not himself or herself engage in the practice of massage as defined in Section 5.30.010, he or she need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught;

5.30.040 License--Required--Massagist. No person shall practice massage as a massagist, employee or otherwise unless he or she has a valid and subsisting massagist's permit issued to him or her by the city pursuant to the provisions of this chapter.

5.30.050 License--Application--Massagist. (1) Application for a massagist's business permit shall be made to the city recorder in the same manner as provided in Section 5.30.030 for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee. The fee shall be an set in the amount of [\_\_\_\_\_]. ~~of one thousand dollars per year or part thereof. Massagists who have already paid the permit fee for the current six month period shall not be required to pay an additional fee under this chapter.~~

5.30.060 License--Application--Waiver. The city shall waive the requirements of Sections 5.30.010 and 5.30.050 if the applicant furnishes satisfactory evidence of a license issued by the State of Oregon. ~~a state authority.~~

5.30.090 License--Issuance--Multiple massage establishments. Should any massage business have more than one location where the business of massage is pursued, then a permit, stating both the address of the principal place of business and of the other location(s), shall be issued by the chief of police upon the tender of a license fee. ~~of five thousand dollars.~~ The fee shall be set in the amount of [\_\_\_\_\_]. Licenses issued for other locations shall

terminate on the same date as that of the principal place of business, regardless of the date of issuance.

5.30.150 Hours. No massage business shall be kept open for any purpose between the hours of ~~five p.m. and eight a.m.~~ 12:00 midnight and 6:00 a.m.

5.30.180 Name and place of establishment regulated. No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his or her license, nor shall he or she conduct business under any designation or location not specified in his or her license.

5.30.200 Unlawful acts. The following acts shall be unlawful: (1) It is unlawful for any person holding a permit under this chapter to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten. The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to Section 5.30.230. The requirements of this subsection shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered therapist, chiropractor or in a regularly established and licensed hospital or sanitarium. This subsection shall not apply to a masseuse who is licensed by the State of Oregon.

~~(7) It is unlawful for any massage service to be carried on with any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a massage establishment shall have an unobstructed opening six inches by six inches in size capable of clear two way viewing into and out of all cubicles, rooms or booths. The opening shall not be less than four and one half feet from the floor of the establishment nor more than five and one half feet from the floor. Toilets and cubicles used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth. Nothing contained in this section shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments.~~

~~5.30.210 Persons under eighteen years prohibited. No person shall permit any person under the age of eighteen years to come or remain on the premises of any massage business establishment as masseur, employee or patron, unless such person is on the premises on lawful business.~~

5.30.250 Violation--Penalty. Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly, who gives massages or operates a massage establishment or any of the services defined in this chapter without first obtaining a license or permit and paying a fee to do so from the city or who violates any provisions of this chapter shall be guilty of a misdemeanor. ~~Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment.~~ Any person willfully violating

any of the provisions of this chapter shall be guilty of a misdemeanor punishable under the general penalty provided for in Chapter 1.04 of this Code.

5.40.010 License required--Fee. Before any septic tank cleaning truck shall make use of the City sewage treatment plant services, they shall first obtain a license through the office of the city recorder. The charge of the license fee is fixed at [\_\_\_\_\_]. ~~The charge for a license fee is fixed at five dollars per truck.~~ The license fee shall be renewable annually.

5.40.020 User fee. There is established a fee of ~~one and one half cents~~ [\_\_\_\_\_] per gallon for all materials deposited from septic tank cleaning trucks delivered and deposited for treatment in the sewage treatment plants.

5.40.030 Indemnity bond. Before any load of septic tank sewage shall be received for treatment at the City sewage treatment plant, the owner or operator of the truck making the delivery shall file with the city recorder ~~an indemnity bond of ten thousand dollars.~~ The bond shall provide that the principal thereon shall protect the city from any and all claims arising out of the operation of the truck and shall further indemnify the city from any loss or damage resulting out of the deposit of any toxic material in the sewage treatment plant by the owner or operator which toxic material may cause loss or damage to the sewage treatment plant. ~~proof of liability insurance with coverage limits of \$300,000 for any injury to one person and \$500,000 for injuries to all persons in a single occurrence.~~

#### Chapter 5.48

#### FIRE AND GOING OUT OF BUSINESS SALES

##### Section:

|                     |  |
|---------------------|--|
| <del>5.48.010</del> | <del>Definitions</del>   |
| <del>5.48.020</del> | <del>License Required.</del>                                       |
| <del>5.48.030</del> | <del>Established business requisite Exception for survivors.</del> |
| <del>5.48.040</del> | <del>Interval between sales.</del>                                 |
| <del>5.48.050</del> | <del>Restricted location.</del>                                    |
| <del>5.48.060</del> | <del>Persons exempted.</del>                                       |
| <del>5.48.070</del> | <del>Application Information.</del>                                |
| <del>5.48.080</del> | <del>Application Fee designated.</del>                             |
| <del>5.48.090</del> | <del>License Terms of issuance.</del>                              |
| <del>5.48.100</del> | <del>Duties of licenses.</del>                                     |
| <del>5.48.110</del> | <del>Violation Penalty.</del>                                      |

~~5.48.010 Definitions.~~ For the purposes of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- ~~(1) "City" is the city of Albany.~~
- ~~(2) "City license officer" is the city recorder.~~
- ~~(3) "Fire and other altered goods sale" is a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.~~
- ~~(4) "Going out of business sale" is a sale held out in such a manner as~~

~~to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales: Adjuster's; Adjustment; Alteration; Assignee's; Bankrupt; Benefit of Trustees; Building Coming Down; Closing; Creditor's Committee; Creditor's; End; Executor's; Final Days; Forced Out; Forced Out of Business; Insolvents'; Last Days; Lease Expires; Liquidation; Loss of Lease; Mortgage Sale; Receiver's; Trustee's; Quitting Business.~~

~~(5) "Goods" is meant to include any goods, wares, merchandise or other property capable of being the object of a sale regulated hereunder.~~

~~(6) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.~~

~~(7) "Removal of business sale" is a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the city or will then continue business from other existing locations in the city.~~

~~5.44.020 License Required. A license issued by the city license officer shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kinds:~~

- ~~(1) Going out of business sale;~~
- ~~(2) Removal of business sale; and~~
- ~~(3) Fire and other altered stock sale.~~

~~5.48.030 Established business requisite Exception for survivors. Any person who has not been the owner of a business advertised or described in the application for a license hereunder for a period of at least six months prior to the date of the proposed sale shall not be granted a license. Upon the death of a person doing business in the city, his or her heirs, devisees or legatees shall have the right to apply at any time for a license hereunder.~~

~~5.48.040 Interval between sales. Any person who has held a sale, as regulated hereunder, at the location stated in the application, within one year last past from the date of such application, shall not be granted a license.~~

~~5.48.050 Restricted location. Where a person applying for a license hereunder operates more than one place of business, the license issued shall apply only to the one store or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.~~

~~5.48.060 Persons exempted. The provisions of this chapter shall not apply to or affect the following persons:~~

- ~~(1) Persons acting pursuant to an order or process of a court of competent jurisdiction;~~
- ~~(2) Persons acting in accordance with their powers and duties as public officials;~~
- ~~(3) Duly licensed auctioneers, selling at auction;~~
- ~~(4) Persons conducting a sale of the type regulated herein on the effective date of this chapter, unless such sale is continued for a period more than thirty days from and after such effective date, in which event, such person,~~



~~at the lapse of the thirty day period, shall comply with the provisions of this chapter;~~

~~(5) Any publisher of a newspaper, magazine or other publication who publishes, in good faith, any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this chapter have not been complied with.~~

~~5.48.070 Application Information. Written Information Required. A person desiring to conduct a sale regulated by this chapter shall make a written application to the license officer setting forth and containing the following information:~~

~~(1) The true name and address of the owner of the goods to be the object of the sale;~~

~~(2) The true name and address of the person from whom he purchased the goods to be sold and the price therefor, and if not purchased, the manner of such acquisition;~~

~~(3) A description of the place where such sale is to be held;~~

~~(4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy;~~

~~(5) The dates of the period of time in which the sale is to be conducted;~~

~~(6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;~~

~~(7) The means to be employed in advertising such sale together with the proposed content of any advertisement;~~

~~(8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Said inventory shall be attached to and become part of the required application.~~

~~(a) Bona Fide Orders. All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.~~

~~(b) Goods Purchased for Sale Hereunder. Such inventory shall not include goods ordered on contemplation of conducting a sale regulated here under. Any unusual purchase, or additions to the stock of goods of the business hereby affected, within thirty days before the filing of an application hereunder, shall be deemed to be of such character.~~

~~5.48.080 Application Fees designated. License Fee. Any applicant for a license hereunder shall submit to the license officer with his or her application a license fee of twenty five dollars. Any applicant for a renewal license hereunder shall submit to the license officer with his or her renewal application a renewal license fee of fifteen dollars.~~

~~5.48.090 License Terms of issuance. A license shall be issued here under on the following terms:~~

~~(1) Licensing Period. The license shall authorize the sale described in the application for a period of not more than sixty consecutive days, Sundays and legal holidays excluded, following the issuance thereof.~~

~~(a) Renewal Procedure. Thy license officer shall renew a license for one period of time only, such period to be in addition to the sixty days permitted in the original license and not to exceed thirty consecutive days, Sundays and holidays excluded, when he finds:~~

~~(1) That facts exist justifying the license renewal;~~

~~(2) That the licensee has filed an application for renewal;~~

~~(3) That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory. For the purposes of this subsection, any application for a license under the provision of this chapter covering any goods previously inventoried as required hereunder shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.~~

~~(2) Nature of Sale. The license shall authorize only the one type of sale described in the application at the location named therein.~~

~~(3) Saleable Goods. The license shall authorize only the sale of goods described in the inventory attached to the application.~~

~~(4) Surrender of General License. Upon being issued a license hereunder for a going out of business sale, the licensee shall surrender to the license officer all other business licenses he may hold at the time applicable to the location and goods covered by the application for a license under this chapter.~~

~~(5) Nontransferability. Any license herein provided for shall not be assignable or transferable.~~

~~5.48.100 Duties of licensee. A licensee hereunder shall:~~

~~(1) Adhere to Inventory. Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license.~~

~~(2) Advertise Properly. Refrain from employing any untrue, deceptive or misleading advertising.~~

~~(3) Adhere to Advertising. Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.~~

~~(4) Keep Duplicate Inventory. Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.~~

~~(5) Segregate Noninventoried Goods. Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods.~~

~~5.48.110 Violation Penalty. Section 1.04.010 of this code shall apply as penalty for violation of this chapter.~~

Chapter 5.52

OFF STREET PARKING ASSESSMENT DISTRICT

Sections:

- ~~5.52.010 Purpose and scope.~~
- ~~5.52.020 Created Boundaries designated.~~
- ~~5.52.030 Definitions.~~
- ~~5.52.040 Tax payment required.~~
- ~~5.52.050 Posting of license.~~
- ~~5.52.060 Multiple business on premises.~~
- ~~5.52.070 License Application.~~
- ~~5.52.080 License Contents.~~

|                     |  |
|---------------------|--|
| <del>5.52.100</del> | <del>Annual tax schedule.</del>                        |
| <del>5.52.120</del> | <del>Computation of number of employees.</del>         |
| <del>5.52.131</del> | <del>Establishment of licensing year.</del>            |
| <del>5.52.132</del> | <del>Application of license fee previously paid.</del> |
| <del>5.52.140</del> | <del>Evidence of doing business.</del>                 |
| <del>5.52.150</del> | <del>Returns Submittal.</del>                          |
| <del>5.52.160</del> | <del>Issuance of license Tax year specified.</del>     |
| <del>5.52.170</del> | <del>Proceeds of tax.</del>                            |
| <del>5.52.180</del> | <del>Regulation of on street parking meters.</del>     |
| <del>5.52.190</del> | <del>Violation Penalty.</del>                          |

~~5.52.010 Purpose and scope.~~ Pursuant to the authority conferred by the laws of the state and the Charter of the city, it is intended to create a public off street parking assessment district and impose an occupation tax for revenue purpose only upon business activity situated within the public off street parking assessment district wherein free public off street parking facilities are provided for persons operating vehicles within the area, because revenues are necessary for the capital improvement, investment in and the operation and maintenance of off street parking facilities and the retirement of outstanding off street parking facilities bonds. Notwithstanding any other section of the Albany Code or any ordinances of the city heretofore enacted, the acceptance by the City of any amounts due hereunder shall not be conditioned upon compliance with any other law or ordinance, regulator or otherwise, nor such acceptance be deemed a waiver of any other law or ordinance, regulatory or otherwise. This being a revenue measure enacted to meet a local need, it is the intent of the city council that this tax shall apply to all business and professional activities similarly situated, without regard to any state law purporting to exempt any particular occupation or occupations from city taxes. The city council declares that this is a local municipal revenue measure of local concern only and the exercise the city's power to levy this tax is not subject to any attempted limitations imposed by any legislative body other than the city council. It is contemplated the tax hereunder is necessary to operate a public parking facility on a sound fiscal basis; to pay outstanding principal and interest on public parking facilities bonds and to replace the funds received from on street meters now existing; that is any other resources are available or the need for funds otherwise decreases, this tax will be decreased or eliminated.

~~5.52.020 Created Boundaries designated.~~ There is created a downtown off street parking district to be bounded as follows: The north line shall be the centerline of the Willamette River; the south line of the district shall be the centerline of Fifth Avenue; the west line of the district shall be the west line of Calapooia Street; the east line shall be the centerline of Railroad street.

~~5.52.030 Definitions.~~ The following terms as used in this chapter shall mean:

- ~~(1) "Business" means any regular activity pursued for profit or gain and occupying premises within an off street parking district. Such activities may include the furnishing of services or other sale of goods, wares or merchandise, or a combination of either, and shall include all gainful pursuits, whether they are termed "professional" or otherwise, and whether they are otherwise regulated or taxed.~~
- ~~(2) "Premises" means any fixed or definite location.~~
- ~~(3) "Off street parking district" or "district" means an off street~~

~~parking assessment district wherein the major part of every municipal off street parking facility is available to the public for use without charge; provided however, that a fine imposed for violating such overtime parking as the city council or the City Parking Commission may deem reasonable and necessary shall not be deemed a charge for the use of said facility.~~

~~(4) "Doing or transacting business" means any act or series of acts performed in the course or pursuit of a business activity.~~

~~5.52.040 Tax payment required. No person, for himself or for his or her agent or employee or another, shall do or transact business in or as a part of a business activity situated within an off street parking district unless the annual tax for the operation of such business at said premises has been paid as required in this chapter.~~

~~5.52.050 Posting of license. (1) Except as provided in subsection (2) of this section, at all times after the issuance of the license, the licensee shall cause it to be posted in a conspicuous place upon the business premises, available for inspection by the public and by employees and prospective employees of the business.~~

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

~~5.52.060 Multiple business on premises. If two or more related businesses are carried on in the same premises by the same person, it shall be sufficient if the business tax is paid in the name of the business to which the premises are primarily appropriated and based upon the total number of individuals on the whole premises; provided, however, that any business actively leased, under concession to, or owned wholly or in part by a different person or persons on the same premises shall be separately taxed. In determining whether different activities on the same premises are related to the primary use within the meaning of this subsection, normal and ordinary customs and usages of business shall be considered.~~

~~5.52.070 License Application. (1) Applications for business licenses shall be submitted on forms to be provided by the city recorder. Every application shall be signed by the owner as duly authorized agent and shall contain the following information:~~

~~(a) Name of the officers of the corporation or name of person or persons owning business;~~

~~(b) Name of the corporation or assumed business name, if any;~~

~~(c) Address of the business premises, or business mailing address, if different;~~

~~(d) Nature of business;~~

~~(e) Number of owners, managers or employees who are working with or for the business within the district as of the date of the application;~~

~~(f) Number of seasonal employees as of the date of the application, and length of employment season applicable thereto;~~

~~(g) Number of part time employees as of the date of the application, and the number of hours per week each part time employee works;~~

~~(h) Where the business includes activities classified in two or more categories, the primary or prominent activity.~~

~~(2) License fee shall be computed on the basis of information contained~~

in the application, and no person shall knowingly sign or submit a business license application containing false information.

~~5.52.080 License Contents.~~ Licenses shall be issued to the applicant in the name of the business to be licensed and shall designate the nature of the business, the address, if any, of the business premises, and the date of issuance.

~~5.52.100 Annual tax schedule.~~ The annual tax for any business which is subject to Sections 5.52.010 to 5.52.140 shall be based upon the number of persons, whether as owners, managers or employees, who are working with or for the business on a full time, part time or seasonal basis within the district, shall be computed in accordance with the following schedule:

| <del>Number of</del><br><del>Persons Employed</del> | <del>Annual Rate</del> |
|---|------------------------|
| <del>1 person</del>                                 | <del>\$ 25.00</del>    |
| <del>2 to 3 persons, inclusive</del>                | <del>50.00</del>       |
| <del>4 to 6 persons, inclusive</del>                | <del>100.00</del>      |
| <del>7 to 10 persons, inclusive</del>               | <del>150.00</del>      |
| <del>11 to 15 persons, inclusive</del>              | <del>200.00</del>      |
| <del>16 persons or more</del>                       | <del>250.00</del>      |

~~The annual rate as above established shall be adjusted on a pro rata basis so that the total annual license fees to be realized from the imposition of the annual tax upon businesses within the off street parking district shall total fifteen thousand dollars. The annual rate shall be adjusted on the first day of July of each year based upon the previous year's applications for license so that the adjusted total fee collected will be not less than fifteen thousand dollars.~~

~~5.52.120 Computation of number of employees.~~ The computation for determining the number of persons, whether as owners, managers or employees, who are working with or for the business within the district shall be as follows:

~~(1) A person whether as owner, manager or employee, shall be considered as full time if he or she is regularly employed to work not less than thirty hours per week. Such owners, managers or employees shall be considered for the purposes of computing this tax as one person.~~

~~(2) A person shall be considered as a part time person, whether as owners, managers, or employees, if he or she is regularly employed to work less than thirty hours per week. If the business has one part time person, such person shall be considered the same as a full time person. If a business has more than one part time person, the hours per weeks for which all such part time persons are hired shall be added together and such total shall be divided by forty to arrive at the number of equivalent full time persons to be taken into consideration, but if the total hours are not evenly divisible by forty, the excess shall be counted as one additional person if such excess is at least thirty hours.~~

~~(3) A "seasonal person" means a person employed for a continuous period of not more than three months in contemplation of a season of activity which reoccurs annually in the normal course of such business or of the like businesses. The number of such seasonal persons to be taken into account for the purposes of computing the tax shall be that portion of the total number of seasonal persons which that number of whole months in the employment season bear to the total number of months in the license. The "employment season" means that period of time, to the nearest fifteen days, for which the business, or a like business would normally expect to employ the seasonal person, taking into~~

~~consideration past experiences, production capacity, material resources and marketing conditions in the license. For the purpose of determining the number of whole months in an employment season, a month shall consist of thirty consecutive days.~~

~~5.52.131 Establishment of licensing year. For the purpose of applying the period for which license is to be paid the first of such year shall begin September 1, 1973, and end on August 31, 1974, and each licensing year thereafter shall begin on September 1st of said year and terminate on the 31st day of August of the following year.~~

~~5.52.132 Application of license fee previously paid. All persons required to pay a license fee as provided for in this chapter shall be responsible for payment of the fee as provided for in Ord. 3769 and the full amount of the fee for the year ending August 31, 1974. Any moneys previously paid on the account of license fees hereunder shall be applied against the required license fees, and licenses shall be responsible only for the difference between the amount previously paid and the amount of the license fee as herein established.~~

~~5.52.140 Evidence of doing business. In the trial of any alleged violation of Sections 5.52.010 to 5.52.130, evidence that the defendant or defendant's employer made a public representation, by way of advertisements by newspaper, radio, television or other similar media or by signs, notices or lettering conspicuously displayed for public view, that such business or occupation was being conducted, expressly or impliedly offering to sell goods or services in the course of such business to the public or any segment thereof, shall constitute prima facie evidence that the defendant was transacting the business suggested by such public representation, within the district on the date or dates during which such representations were made.~~

~~5.52.150 Returns Submittal. Returns shall be submitted prior to the beginning of the tax year and shall be signed by any owner or manager of the business activity. The returns shall be submitted on forms prepared by the city recorder and shall specify the corporate name or the name or assumed business name (if any) under which the business is conducted, the nature and class of the business, the name of the corporate officers, or the owner of the business, the location, and the number of persons, whether as owners, managers or employees working for the business in the district. Such returns shall be confidential and the contents thereof shall not be revealed except for purposes of administering or enforcing this chapter. It is unlawful for any person to knowingly submit a return containing a material false representation.~~

~~5.52.160 Issuance of license Tax year specified. Upon receipt of a return duly signed and executed as prescribed in Section 5.52.150, together with the payment of the required tax, the city recorder shall issue a license showing the name and nature of the business, the location of the business premises, the name of the corporate officers or business owners, and the period for which the tax is paid. The tax year shall be from August 1st to July 31st, and the amount due for each such tax year shall be set forth in Sections 5.52.100 through 5.52.130. A business starting within the district during the tax year shall pay that part of the tax for said year which is proportional to the unexpired year, prorated to the first day of the calendar month within which the business was commenced. The incidence of the tax is on the particular business activity and not to the premises, and if the business moves from the original location to another location within the district, its tax for the new location shall be~~

deemed paid.

~~5.52.170 Proceeds of tax. All money received under Sections 5.52.010 through 5.52.160 shall be for capital improvement and investment in and for the operation and maintenance of off street parking facilities in the assessment district in which the taxpaying businesses are situated and for payment of off street parking bonds and establishment of off street parking lots.~~

~~5.52.180 Regulation of on street parking meters. Parking meters for on street parking will be removed within the area of the parking district, except that the city council shall have the right to establish parking meters for short term parking and loading zones in such areas as they shall designate. The term of parking in any instance as established by a parking meter shall not exceed twenty four minutes.~~

~~5.52.190 Violation Penalty. (1) Any person violating any provisions of this chapter is, upon conviction thereof, punishable as provided in Section 1.04.010 of this code.~~

~~(2) Every full business day during which any business activity continues to be conducted in violation of this chapter is a separate offense and every day during which any person conducts or transacts business in the course of an activity for which the tax herein required has not been paid is a separate offense by such person.~~

~~(3) The remedies specified in subsection (2) shall not be deemed exclusive and, at the option of the city, amounts due and payable hereunder by way of taxes may be collected as prescribed by statute from the owner or owners of the business involved, by action at law in any court of competent jurisdiction in the state; and interest shall accrue on unpaid taxes at the rate of six percent per year from the date thereof.~~

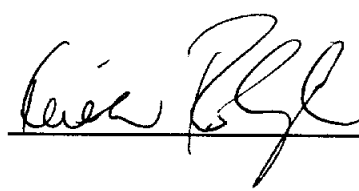
Section 2: Emergency Clause

Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.


Passed by Council: 10/28/92

Approved by Mayor: 10/28/92

Effective Date: 10/28/92

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Deputy City Recorder